

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	Settlement Tracking No.
	*	SA-AE-09-0028
BLUM ENTERPRISES, INC.	*	
	*	Enforcement Tracking No.
AI # 30068	*	AE-CN-08-0174
	*	
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT	*	
LA. R.S. 30:2001, <u>ET SEQ.</u>	*	

SETTLEMENT

The following Settlement is hereby agreed to between Blum Enterprises, Inc. ("Respondent") and the Department of Environmental Quality ("DEQ" or "the Department"), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. ("the Act").

I

Respondent is a corporation that owns and/or operates a steel fabrication and machine shop located in Baton Rouge, East Baton Rouge Parish, Louisiana ("the Facility").

II

On February 13, 2009, the Department issued to Respondent a Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. AE-CN-08-0174, which was based upon the following findings of fact:

The Respondent owns and/or operates a steel fabrication and machine shop located at 5655 Adams Avenue in Baton Rouge, East Baton Rouge Parish, Louisiana. The facility operates under Air Permit Number 0840-00172-00 dated July 15, 1998.

On or about September 19, 2002, a complaint inspection was performed to determine the degree of compliance with the Act and the Air Quality Regulations. The Department's inspector monitored sandblasting activities at the Respondent's facility, and consequently referred one area of concern to the Enforcement Division. The Department issued Consolidated Compliance Order and Notice of Potential Penalty, AE-CN-02-0268, on June 18, 2003, citing LAC 33:III.1305.

On or about November 1, 2007, a complaint inspection was performed to determine the degree of compliance with the Act and the Air Quality Regulations. The Department's inspector monitored sandblasting activities at the Respondent's facility, and consequently referred one area of concern to the Enforcement Division. On December 19, 2007, the Department offered Expedited Penalty Agreement, AE-XP-07-0350, to the Respondent, citing LAC 33:III.1305.

On or about June 20, 2008, an inspection of the Respondent's facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations in response to several complaints regarding overspray emissions of paint and dust from the facility.

The following violations were noted during the course of the inspection:

- A. The Respondent failed to take all reasonable precautions to prevent particulate matter from becoming airborne. This is a violation of the Specific Condition of Air Permit Number 0840-00172-00, LAC 33:III.501.C.4, LAC 33:III.1305, and La. R.S. 30:2057(A)(2).
- B. The Respondent failed to properly implement a Best Management Plan. This is a violation of LAC 33:III.1329.A.2 and La. R.S. 30:2057(A)(2).
- C. The Respondent performed abrasive blasting activities that allowed particulate emissions to leave the property and create a nuisance. This is a violation of LAC 33:III.1329.F and La. R.S. 30:2057(A)(2).
- D. The Respondent did not use and diligently maintain all emission control equipment in proper working order. This is a violation of LAC 33:III.1329.H and La. R.S. 30:2057(A)(2).

On or about August 5, 2008, an inspection of the Respondent's facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations in response to several complaints regarding overspray of paint and sandblasting emissions from the facility.

The following violations were noted during the course of the inspections:

- A. The Respondent had tears in tarps greater than six inches in length. Specifically, numerous tears were present in tarps used to confine emissions. This is a violation of LAC 33:III.1329.C.3 and La. R.S. 30:2057(A)(2). An inspection conducted on or about August 13, 2008, noted that this violation had been addressed.
- B. The Respondent failed to properly implement a Best Management Plan. This is a violation of LAC 33:III.1329.A.2 and La. R.S. 30:2057(A)(2).
- C. The Respondent did not diligently maintain all emission control equipment in proper working order. This is a violation of LAC 33:III.1329.H and La. R.S. 30:2057(A)(2).

III

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

IV

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of SIX THOUSAND AND NO/100 DOLLARS (\$6,000.00), of which Five Hundred Thirty and 43/100 Dollars (\$530.43) represents Department's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to the Department as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

V

Respondent further agrees that the Department may consider the inspection report(s), the Consolidated Compliance Order and Notice of Potential Penalty and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VI

This agreement shall be considered a final order of the secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

VII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in LSA- R. S. 30:2025(E) of the Act.

VIII

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in East Baton Rouge Parish, Louisiana. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted an

original proof-of-publication affidavit and an original public notice to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

IX

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Accountant Administrator, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

X

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XI

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his or her respective party, and to legally bind such party to its terms and conditions.

BLUM ENTERPRISES, INC.

BY: *Walter K...*
(Signature)

Walter K...
(Print)

TITLE: President

THUS DONE AND SIGNED in duplicate original before me this 27th day of August, 20 09, at Baton Rouge.

Pamela J. Brown
NOTARY PUBLIC (ID # 59733)

Pamela J. Brown
(Print)

Pamela J. Brown
NOTARY PUBLIC
Notary ID # 59733
East Baton Rouge Parish, Louisiana
Commissioned for LIFE

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Harold Leggett, Ph.D., Secretary

BY: *Peggy M. Hatch*

Peggy M. Hatch, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 18th day of November, 20 09, at Baton Rouge, Louisiana.

Christopher A. Ratcliff
NOTARY PUBLIC (ID # 101496)

Christopher A. Ratcliff
(Print)

Approved: *Peggy M. Hatch*
Peggy M. Hatch, Assistant Secretary