

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

BOONE SERVICES, INC.

AI # 156216; 153967

PROCEEDINGS UNDER THE LOUISIANA ENVIRONMENTAL QUALITY ACT LA. R.S. 30:2001, ET SEQ.

- * Settlement Tracking No.
- * SA-AE-09-0046
- *
- * Enforcement Tracking No.
- * AE-PP-08-0078
- * AE-PP-08-0129
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SETTLEMENT

The following Settlement is hereby agreed to between Boone Services, 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 located in Baton Rouge, East Baton Rouge Parish, Louisiana (the "Facility").

II

On July 11, 2008, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. AE-PP-08-0078, which was based upon the following findings of fact:

On or about April 3, 2008, an inspection of Boone Services, Inc. (Respondent) was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Air Quality Regulations. The Respondent is located at 9143 S. Tigerbend Court in Baton Rouge, East Baton Rouge Parish, Louisiana. The Respondent was conducting a land clearing operation at Audubon Square Subdivision near Tigerbend Road in Baton Rouge, East Baton Rouge

Parish, Louisiana. On or about April 29, 2008, a file review of the Respondent was conducted. In a fax dated and received on April 18, 2007, by the Louisiana Department of Environmental Quality's (the Department), the Respondent stated that they were aware of the outdoor burning regulations located in LAC 33:III.1109.D.6. The letter also stated that the Respondent would comply with these rules and regulations. On or about January 15, 2008, the Department received a citizen's complaint regarding open burning at Audubon Square Subdivision. This incident was further investigated by the Department. On or about March 5, 2008, an inspector visited the site and discovered multiple piles of timber. The contractors at the site stated that these piles were going to be removed from the site and would not be burned.

The following violation was noted during the course of the inspection:

During the course of the inspection which was conducted on or about April 3, 2008, the inspector noted outdoor burning of land clearing debris within 1,000 feet (305 meters) of neighboring houses that are not located on the property on which the burning is conducted. This is a violation of LAC 33:III.1109.D.6.b and La. R.S. 30:2057(A)(2).

On August 28, 2008, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. AE-PP-08-0129, which was based upon the following findings of fact:

On or about July 23, 2008, an inspection of land clearing activity by Boone Services, Inc. (Respondent) was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Air Quality Regulations. The Respondent was conducting a land clearing operation at Arlington Creek Center near the intersection of Burbank Drive and Lee Drive in Baton Rouge, East Baton Rouge Parish, Louisiana.

The following violation was noted during the course of the inspection:

An inspection of the land clearing activity by the Respondent was conducted on July 23, 2008, between the hours of 6:30 a.m. and 7:00 a.m. During the course of the inspection, the inspector noted burn piles of debris at the site

were burning/smoldering. This is a violation of LAC 33:III.1109.D.6.e 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 TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00), of which Three Hundred Seventeen and 80/100 Dollars (\$317.80) 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 Notices 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.

BOONE SERVICES, INC.

BY: 
(Signature)

TRACY BOONE
(Print)

TITLE: CEO

THUS DONE AND SIGNED in duplicate original before me this 10TH day of DECEMBER, 20 09, at Baton Rouge, LA.

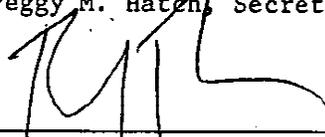

NOTARY PUBLIC (ID # _____)

James Galladora
Notary # 312

(Print) *My Commission is for life.*

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY

Peggy M. Hatch, Secretary

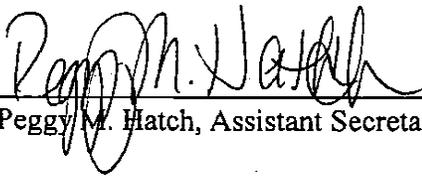
BY: 

Beau James Brock, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 30th day of August, 20 10, at Baton Rouge, Louisiana.


NOTARY PUBLIC (ID # 10149)

Christopher A. Ratcliff
(Print)

Approved: 
Peggy M. Hatch, Assistant Secretary