

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

C&C COATINGS, L.L.C.

AI # 12643

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

\* Settlement Tracking No.  
\* SA-MM-13-0052  
\*  
\* Enforcement Tracking No.  
\* MM-CN-09-0098  
\*  
\* Docket No. 2010-11381-EQ  
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SETTLEMENT

The following Settlement is hereby agreed to between C&C Coatings, L.L.C. (“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 Limited Liability Company that owned and/or operated a painting and sandblasting facility located in Harvey, Jefferson Parish, Louisiana (“the Facility”).

II

On March 19, 2010, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. MM-CN-09-0098, which was based upon the following findings of fact:

“The Respondent owns and/or operates a painting and sandblasting facility known to the Department as C & C Coatings, LLC, located at 2900 Peters Road, Harvey, Jefferson Parish, Louisiana. The facility has been assigned EPA identification number LAD985187137 and its operations are classified under Standard Industrial Classification (SIC) code number 3731. The operations at the facility consist of sandblasting and painting barges. The Respondent was issued

LPDES permit LA0121207 with the effective date of November 1, 2005, and which will expire on or about October 31, 2010. LPDES Permit LA0121207 authorizes the Respondent to discharge ballast water and storm water runoff from its facility to the Intracoastal Waterway via local drainage, all waters of the state. The Respondent currently operates under Minor Source Air Permit No. 1340-00197-04, issued on July 1, 2005.

The Respondent initiated operations at the 2900 Peters Road facility in Harvey, Louisiana in early 2004. The Respondent submitted correspondence, an HW-1 Notification of Hazardous Waste Activity Form and LPDES and air permit applications to the Department in 2004, signed by the owner, Mr. Anthony Cibilich, indicating that the Respondent's Peters Road facility operated under the name "C & C Marine and Repair LLC." The Department sent an invoice to the Respondent dated October 3, 2008, for environmental fees associated with the Respondent's Peters Road facility. The invoice accompanying the Respondent's payment of the aforementioned fees, and received by the Department on or about November 5, 2008, indicated the facility name of the Respondent's Peters Road facility as "C & C Coatings, LLC." LPDES Permit LA0121207, Minor Source Air Permit No. 1340-00197-04, and HW-1 Notification of Hazardous Waste Activity Form currently specify "C & C Marine and Repair, Inc." as the Permittee and/or operator rather than the correct name, "C & C Coatings, LLC."

The Respondent (C & C Marine and Repair, LLC) was issued Compliance Order & Notice of Potential Penalty MM-CN-04-0073 on or about May 18, 2005, noting the following areas of concern: operating without an LPDES permit for sandblasting and failure to submit an NOI to the Department. The Order required the Respondent to immediately cease all unauthorized discharges to the waters of the state, prepare and implement an SWP3 plan, and submit a written report to include the circumstances of the cited violations and the actions taken to achieve compliance. The Respondent

submitted a request for an Adjudicatory Hearing regarding Consolidated Compliance Order & Notice of Potential Penalty MM-CN-04-0073 in correspondence dated May 13, 2005. The Department denied the Respondent's request for an Adjudicatory Hearing in correspondence dated May 31, 2005. Compliance Order & Notice of Potential Penalty MM-CN-04-0073 is a final action of the Department and not subject to further review.

The Respondent (C & C Marine and Repair, LLC) was issued Amended Compliance Order & Notice of Potential Penalty MM-CN-04-0073A on or about October 16, 2008, noting the following areas of concern: unauthorized discharges of pollutants to the waters of the state from a location not specified by the permit, failure to implement Best Management Practices (BMP), and failure to submit Discharge Monitoring Reports (DMRs). Amended Compliance Order & Notice of Potential Penalty MM-CN-04-0073A is a final action of the Department and not subject to further review.

### **WATER QUALITY VIOLATIONS**

An inspection conducted by the Department on or about August 25, 2009, in response to a citizen's complaint, revealed that the Respondent did cause or allow the unauthorized discharge of paint and sandblast residue to waters of the state. The unauthorized discharge of a pollutant not specified by LPDES permit LA0121207 is a violation of Compliance Order & Notice of Potential Penalty MM-CN-04-0073, Amended Compliance Order & Notice of Potential Penalty MM-CN-04-0073A, La. R.S. 30:2075, La. R.S. 30:2076 (A) (1) (a), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.501.D, and LAC 33:IX.2311.A.1.

An inspection conducted by the Department on or about August 25, 2009, in response to a citizen's complaint, revealed that the Respondent failed to implement Best Management Practices to prevent sand blasting debris from entering waters of the state. The failure to properly implement the BMPs is a violation of Compliance Order & Notice of Potential Penalty MM-CN-04-0073, Amended Compliance Order & Notice of Potential Penalty MM-CN-04-0073A, LPDES Permit LA0121207

properly implement the BMPs is a violation of Compliance Order & Notice of Potential Penalty MM-CN-04-0073, Amended Compliance Order & Notice of Potential Penalty MM-CN-04-0073A, LPDES Permit LA0121207 (Part II, Section J, Sections L.4. and 5., and Section M.1 and 2 and Part III, Section A.2), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, and LAC 33:IX.2701.A.

An inspection conducted by the Department on or about August 25, 2009, in response to a citizen's complaint, revealed that the Respondent had record keeping deficiencies. Specifically, the BMP plan, sandblasting and painting records, training information and inventory records were not available for review. Failure to provide access to and/or copies of any records that must be kept under the conditions of the LPDES permit is in violation of LPDES permit LA0121207 (Part III, Section A.2 and Section C.3), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, and LAC 33:IX.2701.A.

A file review conducted on or about August 18, 2008, revealed that the Respondent failed to submit DMRs as required by the permit since the issuance of the permit. Each failure to submit DMRs is a violation of LPDES permit LA0121207 (Part II, Section A.10.D, and Part III, Sections A.2 and D.4) La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2701.A, and LAC 33:IX.2701.L.4.

### **AIR QUALITY VIOLATIONS**

On or about August 25, 2009, an inspection of the Respondent's facility was performed to determine the degree of compliance with the Act and Air Quality Regulations. While the Department's investigation is not yet complete, the following violations were noted during the course of the inspection:

- A. Shrouds were not in use during sandblasting and painting operations. The Respondent's failure to shroud equipment being sandblasted or painted is a violation of Specific Requirement Nos. 16 and 20 of Air Permit No. 1340-00197-04, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

- C. According to Air Permit No. 1340-00197-04, the facility is permitted to emit 31.05 tons per year (tpy) of volatile organic compounds (VOC). During the course of the inspection, the inspector noted that the Respondent failed to provide records of the facility's VOC emissions. The Respondent's compliance with the permitted VOC emissions limit could not be determined. This is a violation of Specific Requirement Nos. 24, 25, and 29 of Air Permit No. 1340-00197-04, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- D. According to Air Permit No. 1340-00197-04, the facility is permitted to emit 14.725 tpy of specified toxic air pollutants (TAP). During the course of the inspection, the inspector noted that the Respondent failed to provide records of the facility's TAP emissions. The Respondent's compliance with the permitted TAP emissions limit could not be determined. This is a violation of Specific Requirement Nos. 24, 26, and 29 of Air Permit No. 1340-00197-04, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- E. The Respondent failed to maintain a logbook showing the monthly records of the type and amounts of paints used at the facility. This is a violation of Specific Requirement Nos. 27 and 29 of Air Permit No. 1340-00197-04, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).
- F. The Respondent failed to calculate and record the VOC and TAP emissions monthly, and document the previous twelve (12) month consecutive totals of VOC and TAP emissions. This is a violation of Specific Requirement Nos. 28 and 29 of Air Permit No. 1340-00197-04, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).
- G. During the course of the inspection, the inspector noted that the facility failed to submit a report to the Department listing the annual VOC and TAP emissions, as well as the twelve (12) month consecutive total by March 31<sup>st</sup> of the following year for the calendar years 2005, 2006, 2007, and 2008. Each incident of the Respondent's failure to submit an annual emissions report is a violation of Specific Requirement Nos. 29 and 30 of Air Permit No. 1340-00197-04, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).
- H. Emissions were observed leaving the facility. At the time of the inspection, two rows of screens were in place. However, the screens were damaged and full sections were missing. The inspector noted that shrouds were not in place during sandblasting operations, nor were dust collectors present on the sand-hoppers. The Respondent's failure to take all reasonable precautions to prevent particulate matter from becoming airborne is a violation of LAC 33:III.1305.A, and La. R.S. 30:2057(A)(1) and (A)(2).

- I. According to Specific Requirement No. 17 of Air Permit No. 1340-00197-04, the facility's total suspended particulate is limited to a maximum of 6.78 pounds per hour (lbs/hr). At the time of the inspection, the inspector noted that the Respondent failed to provide records to verify that the facility has been operating in compliance with the 6.78 lbs/hr total suspended particulate limit. This is a violation of Specific Requirement No. 17 of Air Permit No. 1340-00197-04, LAC 33:III.501.C.4, LAC 33:III.1311.B, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- J. Structures were not enclosed during sandblasting operations, nor had a best management practices (BMP) plan been developed for the facility. The Respondent's failure to fully enclose the item to be sandblasted or prepare and implement a BMP plan is a violation of LAC 33:III.1329.A, and La. R.S. 30:2057(A)(2).
- K. Visible floating solids were observed in the Harvey Canal. At the time of the inspection, a BMP plan had not been developed for the facility; therefore, the Respondent is required to prevent blasting material or visible floating solids from reaching waters of the state or minimized to the maximum extent possible in accordance with LPDES Permit No. LA0121207. The Respondent's failure to operate in accordance with LPDES Permit No. LA0121207 to prevent visible floating solids from reaching waters of the state is a violation of LAC 33:III.1329.E, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- L. Cans of paint were left open in multiple locations throughout the facility. The inspector also noted that information regarding the VOC and TAP contents of the paints was not made available. The Respondent's failure to maintain best practical housekeeping and maintenance practices at the highest possible standards to reduce the quantity of organic compounds emissions is a violation of LAC 33:III.2113.A.2, Specific Requirement No. 4 of Air Permit No. 1340-00197-04, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- M. The Respondent failed to provide recent calculations in order to verify compliance with the emission limits set forth by LAC 33:III.2123.C. The Respondent's failure to maintain records at the facility to verify compliance with or exemption from LAC 33:III.2123, is a violation of LAC 33:III.2123, and La. R.S. 30:2057(A)(2).

### **HAZARDOUS WASTE VIOLATIONS**

An inspection conducted by the Department on or about August 25, 2009, in response to a citizen's complaint, and a file review conducted on or about February 19, 2010, revealed the following violations:

- A. The Respondent failed to determine if solid waste generated at its facility was a hazardous waste, in violation of LAC 33:V.1103. Specifically, the Respondent failed to determine whether spent sandblasting media generated as a result of sandblasting painted metals at the facility was a hazardous waste. During its inspection, the Department observed this spent sandblasting media along the edge of the Harvey Canal. Additionally, the Department observed spent sandblasting media generated by the Respondent in the waters of the Harvey Canal.
- B. The Respondent failed to notify the Office of Environmental Services within seven (7) days of changes in the information submitted in its application for an EPA identification number, in violation of LAC 33:V.1105.B. Specifically, the Respondent failed to submit a revised HW-1 Form specifying the legal name of the facility as "C&C Coatings, L.L.C."

### **LAC 33: PART I. OFFICE OF THE SECRETARY VIOLATION**

A file review conducted by the Department on or about February 19, 2010, revealed that the Respondent failed to submit written notification and a Name/Ownership/Operator Change Form (NOC-1 Form) to the Office of Environmental Services within forty-five (45) days of the name change associated with its held LPDES and air permits. The failure to submit the written notification and NOC-1 Form is in violation of LAC 33:I.1901 and 1905."

### III

In response to the Consolidated Compliance Order & Notice of Potential Penalty, Respondent made a timely request for a hearing.

### IV

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

### V

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 FORTY THOUSAND AND NO/100 DOLLARS (\$40,000.00), of which Seven Hundred Fifty-Five

and 00/100 (\$755.00) represents the 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).

## VI

Respondent further agrees that the Department may consider the inspection report(s), the Consolidated Compliance Order & 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.

## VII

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.

## VIII

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 La. R. S. 30:2025(E) of the Act.

## IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Jefferson 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.

## X

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).

## XI

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

## XII

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.

C&C COATINGS, L.L.C.

BY: [Signature]

(Signature)

Anthony Cibulich

(Printed)

TITLE: Manager

THUS DONE AND SIGNED in duplicate original before me this 31 day of

JANUARY

, 20 14

, at BEUCE CHASSE, LA

[Signature]

NOTARY PUBLIC (ID # 14327)

**MARK A. PIVACH**

NOTARY PUBLIC, PARISH OF PLAQUEMINE, STATE OF LA

MY COMMISSION IS ISSUED FOR LIFE

BAR NO. 14327

(stamped or printed)

**LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY**

Peggy M. Hatch, Secretary

BY: [Signature]

Cheryl Sonnier Nolan, Assistant Secretary  
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 14<sup>th</sup> day of

April

, 20 14

, at Baton Rouge, Louisiana.

[Signature]  
NOTARY PUBLIC (ID # 19187)

Perry Theriot

(stamped or printed)

Approved: [Signature]

Cheryl Sonnier Nolan, Assistant Secretary