

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

**CERRO FLOW PRODUCTS, INC.
AI # 40993**

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

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* **Enforcement Tracking No.**
* **AE-CN-03-0164**
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SETTLEMENT

The following Settlement is hereby agreed to between Cerro Flow Products, 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, which owns and/or operates a copper tubing manufacturing facility located at 5007 Hazel Jones Road in Bossier City, Bossier Parish, Louisiana (“the Facility”).

Prior to January 1, 2004, Respondent operated under the name “Cerro Copper Tube Co.”.

II

On August 26, 2003, the Department issued a Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. AE-CN-03-0164 (the “Compliance Order”) to Respondent, which was based upon the following findings of fact:

The Respondent owns and/or operates a copper tubing manufacturing facility located at 5007 Hazel Jones Road in Bossier City, Bossier Parish, Louisiana. The facility operated under Air Permit Number 0400-00051-V1 issued on January 8, 2001, and which expired on September 4, 2003.

On or about May 23, 2003, and June 23, 2003 respectively, a file review and an inspection of the Respondent's facility were performed to determine the degree of compliance with the Act and Air Quality Regulations.

- A. The Department received the Respondent's semiannual monitoring report dated June 19, 2002, for the period encompassing July through December 2001. The Respondent failed to submit the semiannual monitoring report to the Department by March 31, 2002. This is a violation of Part 70 General Condition K of Air Permit Number 0400-00051-V1, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.
- B. The Department had no record of receipt of the Respondent's 2001 annual compliance certification. The Respondent failed to submit the 2001 annual compliance certification to the Department by March 31, 2002. This is a violation of Part 70 General Condition M of Air Permit Number 0400-00051-V1, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.
- C. The Department had no record of receipt of the Respondent's semiannual monitoring reports for the periods encompassing January through June 2002 and July through December 2002. The Respondent has since submitted the January through June 2002 and July through December 2002 semiannual monitoring reports, dated August 15, 2003, and June 26, 2003, respectively, to the Department. The Respondent failed to submit the semiannual monitoring report to the Department by September 30, 2002, for the period encompassing January through June 2002 and by March 31, 2003, for the period encompassing July through December 2002. Each failure to submit the semiannual monitoring report to the Department by the required date is a violation of Part 70 General Condition K of Air Permit Number 0400-00051-V1, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.
- D. The Department had no record of receipt of the Respondent's 2002 annual compliance certification. The Respondent failed to submit the 2002 annual compliance certification to the Department by March 31, 2003. This is a violation of Part 70 General Condition M of Air Permit Number 0400-00051-V1, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.
- E. The Respondent failed to submit an application for renewal of Air Permit Number 0400-00051-V1 at least six (6) months prior to the date of the permit expiration. Failure to submit the Title V permit renewal application at least six (6) months prior to the date of expiration is a

violation of LAC 33:III.507.E.4, Part 70 General Condition A of Air Permit Number 0400-00051-V1, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.

The Compliance Order provided interim limitations, which authorized the Respondent's continued operation upon the expiration of Air Permit Number 0400-00051-V1 on September 4, 2003, despite the Respondent's failure to timely file its renewal application.

The Respondent submitted the annual compliance certifications for 2001 and 2002 on or about September 9, 2003.

III

In response to the Consolidated Compliance Order and Notice of Potential Penalty, Respondent has not requested a hearing.

IV

Respondent neither admits nor 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 FOUR THOUSAND AND NO/100 DOLLARS (\$4,000.00) of which FOUR HUNDRED THIRTY-ONE AND 94/100 (\$431.94) represents DEQ'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 DEQ 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 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.

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 LSA- 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 Bossier Parish. 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 a proof-of-publication affidavit 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. Penalties are to be made payable to the Department of Environmental Quality and mailed to the attention of Darryl Serio, Office of Management and Finance, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303.

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/her respective party, and to legally bind such party to its terms and conditions.

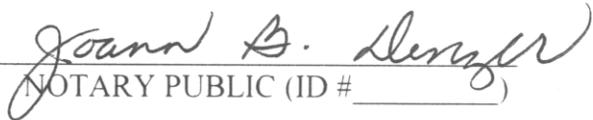
CERRO FLOW PRODUCTS, INC.

BY: 
(Signature)

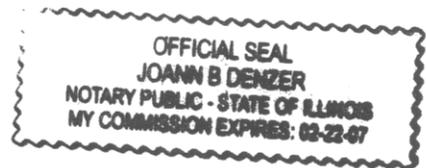
1) J COUNTRY MAN
(Printed or Typed)

TITLE: VP FINANCE

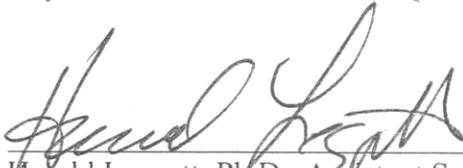
THUS DONE AND SIGNED in duplicate original before me this 2ND day of
July, 20 04, at St. Clair Cty., IL


NOTARY PUBLIC (ID # _____)

Joann B. Denzer
(Printed or Typed)



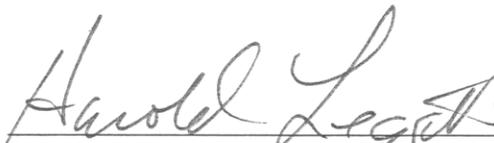
STATE OF LOUISIANA
Mike D. McDaniel, Ph.D., Secretary
Department of Environmental Quality

BY: 
Harold Leggett, Ph.D., Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 11th day of
October, 20 04, at Baton Rouge, Louisiana.


NOTARY PUBLIC (ID # 18075)

Christopher A. Rateliff
(Printed or Typed)

Approved: 
Harold Leggett, Ph.D., Assistant Secretary



CHARLES C. FOTI, JR.
ATTORNEY GENERAL

State of Louisiana
DEPARTMENT OF JUSTICE
P.O. BOX 94005
BATON ROUGE
70804-9005

September 28, 2004

Mike D. McDaniel, Secretary
La. Department of Environmental Quality
Office of the Secretary
P.O. Box 4301
Baton Rouge, LA 70821-4301

Re: AG Review of DEQ Settlement;
Cerro Flow Products, Inc.
AE-CN-03-0164

Dear Secretary McDaniel:

Pursuant to the authority granted to me by Art. IV, Sec. 8 of the state constitution and R.S. 30:2050.7(E)(2)(a), I approve the above referenced settlement.

Sincerely,

By: 
CHARLES C. FOTI, JR.
Attorney General

CCF/mlc