

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

ECOLOGICAL TANKS, INC.

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

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* **Enforcement Tracking Nos.**
* **AE-NP-99-0143; AE-CN-01-0358**
*
* **Docket No. 2003-3160-EQ**
*
* **AI# 28079**

SETTLEMENT

The following Settlement is hereby agreed to between Ecological Tanks, 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 who owns and/or operates a fiberglass tank manufacturing facility located at or near 2247 Louisiana Highway 151 North in Downs ville, Ouachita Parish, Louisiana.

II

On or about the following dates, the Department issued the following enforcement actions and/or made certain findings of fact:

A. On or about July 31, 1997, a complaint investigation concerning open burning and odors was conducted at Respondent’s facility. As a result of this investigation, the Department requested that an Application for Approval of Emissions and an Emission Inventory Questionnaire (EIQ) be submitted. The Department received this information on or about January 28, 1998, with additional information submitted by Respondent on March 23 and November 9, 1998. The following violations

were noted during the course of the review of the permit application and EIQ:

1. The Respondent has been operating without a permit since 1995. Respondent failed to submit a timely and complete permit application as required by LAC 33:II.501.C.2.
2. The Respondent has been operating without a permit since 1995 and is a major source of Toxic Air Pollutants (TAPs). Respondent failed to obtain written authorization from the administrative authority prior to commencing construction as required by LAC 33:III.5111.A.
3. The Respondent has been operating without a permit since 1995 and is a major source of TAPs. Respondent did not submit completed annual reports to the administrative authority as required by LAC 33:III.5107.A.
4. The Respondent has been operating without a permit since 1995 and is a major source of TAPs. Respondent has not performed a Maximum Achievable Control Technology (MACT) Analysis as required by LAC 33:III.5109.A.

B. On or about July 29, 2003, the Department conducted a file review of Respondent's facility to determine the degree of compliance with the Act and the Air Quality Regulations. On or about December 31, 2002, the Department issued to Respondent Consolidated Compliance Order and Notice of Potential Penalty AE-CN-01-0358 based on the following violations uncovered by the file review:

1. The Respondent failed to submit the Title V annual compliance certification to the Department by March 31, 2002, for the period encompassing January through December 2001. The Respondent's failure to submit the Title V

annual compliance certification is a violation of Part 70 General Condition M of Air Permit Nos. 2160-00101-VO and 2160-00101-V1, LAC 33:III.501.C.4, and Section 2057 (A)(2) of the Act.

2. Air Permit No. 2160-00101-VO specifies an annual emission rate of 0.20 tons per year for dimethyl phthalate. The emission rate for dimethyl phthalate is listed under the VOC speciation on the Annual Emission Rates page of the air permit. Based on the information reported by the Respondent in the annual compliance report for calendar year 2001, dated April 26, 2002, emissions of dimethyl phthalate totaled approximately 4.2 tons during the time period for which the Respondent operated under Air Permit No. 2160-00101-VO in the year 2001. Therefore, the Respondent exceeded the permitted annual emission rate of 0.20 tons per year for dimethyl phthalate, listed under the VOC speciation on the Annual Emission Rates page of the air permit, in violation of General Condition II of Air Permit No. 2160-00101-VO, LAC 33:III.502.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act.

C. Based on further file review by the Department and correspondence and discussions between the Department and Respondent, the following violations were noted:

1. The Department received the Respondent's Title V annual compliance certification for the period encompassing January through December 2002, with a postmark date of June 13, 2003. The Respondent failed to submit the Title V annual compliance certifications to the Department by March 31, 2003. This is a violation of part 70 General Condition M of Air Permit No.

2160-00101-V1, LAC 33:501.C.4, and Section 2057(A)(2) of the Act.

2. The Department received the Respondent's Title V semiannual monitoring report for the period encompassing June through December 2002, with a postmark date of June 7, 2003. The Respondent failed to submit the Title V semiannual monitoring report to the Department by March 31, 2003. This is a violation of part 70 General Condition K of Air Permit No. 2160-00101-V1, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.
3. The Department received the Annual Emissions Inventory for 1997 with a signature date of March 25, 1999, and the Annual Emissions Inventory for 2002 with a signature date of May 31, 2003. The Respondent failed to submit the Annual Emissions Inventory for 1996, 1997, and 2002, by the required dates of March 31, 1997, March 31, 1998, and March 31, 2003, respectively. Each of the Respondent's failures to submit the Annual Emissions Inventory for 1996, 1997, and 2002 by the required dates is a violation of LAC 33:III.919.E and Section 2057(A)(2) of the Act. The Respondent's failure to submit the Annual Emissions Inventory for 2002 as required by LAC 33:III.919.E is also a violation of the State Only Specific Condition as it refers to Table 2 of Air Permit No. 2160-00101-V1 which requires compliance with LAC 33:III.919 and is a violation of LAC 33:III.501.C.4.

III

In response to the Consolidated Compliance Order and Notice of Potential Penalty AE-CN-01-0358, 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, the 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 Twelve Thousand and 00/100 (\$12,000.00) Dollars, of which Three Hundred Sixty-Eight and 36/100 (\$368.36) Dollars 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 Compliance Order and Notice of Potential Penalty, the Notice of Violation and 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 the 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.

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 Ouachita 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.

WITNESSES:

Maureen Jackson

Sherry Davis

RESPONDENT

BY: *Hubbard H. Donald*
(Signature)

HUBBARD H. DONALD
(Printed)

TITLE: PRESIDENT

THUS DONE AND SIGNED in duplicate original before me this 10th day of

October, 20 03, in Monroe, Louisiana

Laura J. Powell
NOTARY PUBLIC

WITNESSES:

Jette Kivalley

Joni Evans

STATE OF LOUISIANA

Hall Bohlinger, Secretary

Department of Environmental Quality

BY: *R. Bruce Hammatt*
R. Bruce Hammatt, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 13th day of

January, 20 04, in Baton Rouge, Louisiana.

APG
NOTARY PUBLIC

Approved: *R. Bruce Hammatt*
R. Bruce Hammatt, Assistant Secretary

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

ECOLOGICAL TANKS, INC.

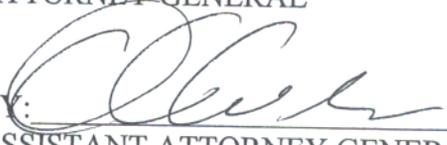
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This Settlement Agreement has been reviewed, and is concurred in, by the Attorney General, under the provisions of La. R.S. 30:2050.7.

RICHARD P. IEYOUB
ATTORNEY GENERAL

DATED: 12-30-03

BY: 
ASSISTANT ATTORNEY GENERAL