

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

J. RAY MCDERMOTT, INC.

AI # 691

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

* **Settlement Tracking No.**
* **SA-AE-06-0038**

* **Enforcement Tracking No.**
* **AE-CN-01-0221**
* **AE-CN-01-0221A**
* **AE-CN-01-0221B**

SETTLEMENT

The following Settlement is hereby agreed to between J. Ray McDermott, 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 steel structure fabrication facility near Amelia, Louisiana ("the Facility").

II

On March 31, 2003, the Department issued a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. AE-CN-01-0221, to Respondent, which was based upon the following findings of fact:

The Respondent owns and/or operates the East Fabrication Yard encompassing 815 acres near Amelia, Louisiana, where part of this facility is located in Assumption Parish and another

part in St. Mary Parish. The facility is currently operating under Permit No. 0200-00009-V0 issued on or about March 15, 2000.

On or about June 21, 2001, an inspection was performed to determine the degree of compliance with the Act and Air Quality Regulations. The Department was in receipt of the letter dated July 12, 2001, in response to the deficiencies found during the inspection. On October 22, 2002, the Department conducted a file review.

The following violations were noted during the course of the inspection and file review:

- A. On or about October 2, 2001, the Department received the semiannual monitoring report for the period encompassing January through June 2000. The report should have been submitted to the Department no later than September 30, 2000, as required by General Condition K of Air Permit Number 0200-00009-V0. This is a violation of Part 70 General Condition K of Air Permit Number 0200-00009-V0, LAC 33:III.501.C.4 and Section 2057(A)(2) of the Act.
- B. On or about October 2, 2001, the Department received the semiannual monitoring report for the period encompassing July through December 2000. The report should have been submitted to the Department no later than March 31, 2001, as required by General Condition K of Air Permit Number 0200-00009-V0. This is a violation of Part 70 General Condition K of Air Permit Number 0200-00009-V0, LAC 33:III.501.C.4 and Section 2057(A)(2) of the Act.
- C. On or about October 2, 2001, the Department received the semiannual monitoring report for the period encompassing January through June 2001. The report should have been submitted to the Department no later than September 30, 2001, as required by General Condition K of Air Permit Number 0200-00009-V0. This is a violation of Part 70 General Condition K of Air Permit Number 0200-00009-V0, LAC 33:III.501.C.4 and Section 2057(A)(2) of the Act.
- D. On or about October 2, 2001, the Department received the annual compliance certification report for the 2000 calendar year. The report should have been submitted to the Department no later than March 31, 2001, as required by General Condition M of Air Permit Number

0200-00009-V0. This is a violation of Part 70 General Condition M of Air Permit Number 0200-00009-V0, LAC 33:III.501.C.4 and Section 2057(A)(2) of the Act.

- E. On or about October 2, 2001, the Department received the semiannual monitoring reports and the annual compliance certification report for the 2000 calendar year. According to the reports, the Respondent failed to maintain the logbook for Emission Source No. 2-95. This is a violation of LAC 33:III.1305, State only Specific Condition No. 1 of Air Permit Number 0200-00009-V0, LAC 33:III.501.C.4 and Section 2057(A)(2) of the Act.

- F. On or about October 2, 2001, the Department received the semiannual monitoring reports and the annual compliance certification report for the 2000 calendar year. According to the reports, the Respondent failed to monitor and record the opacity regularly for Emission Source Nos. 1-99 through 13-99. Each failure to monitor & record opacity is a violation of LAC 33:III.1101, LAC 33:III.1513, State only Specific Condition No. 3 of Air Permit Number 0200-00009-V0, LAC 33:III.501.C.4 and Section 2057(A)(2) of the Act.

- G. On or about October 2, 2001, the Department received the semiannual monitoring report for the period encompassing January through June 2001. According to the report, the Respondent failed to maintain the logbook for Emission Source No. 2-95. This is a violation of LAC 33:III.1305, State only Specific Condition No. 1 of Air Permit Number 0200-00009-V0, LAC 33:III.501.C.4 and Section 2057(A)(2) of the Act.

- H. On or about October 2, 2001, the Department received the semiannual monitoring report for the period encompassing January through June 2001. According to the report, the Respondent failed to monitor and record the opacity regularly for Emission Source Nos. 1-99 through 13-99. Each failure to monitor and record opacity is a violation of LAC 33:III.1101, LAC 33:III.1513, State only Specific Condition 3 of Air Permit Number 0200-00009-V0, LAC 33:III.501.C.4 and Section 2057(A)(2) of the Act.

- I. On or about March 12, 2002, the Department received the annual compliance certification report for the 2001 calendar year. According to the report, the Respondent failed to maintain the logbook for Emission Source No. 2-95. This is a violation of LAC 33:III.1305, State only Specific Condition No. 1 of Air Permit Number 0200-00009-V0, LAC 33:III.501.C.4 and Section 2057(A)(2) of the Act.

- J. On or about March 12, 2002, the Department received the annual compliance certification report for the 2001 calendar year. According to the report, the Respondent failed to monitor and record the opacity regularly for Emission Source Nos. 1-99 through 13-99. Each failure to monitor and record opacity is a violation of LAC 33:III.1101, LAC 33:III.1513, State only Specific Condition No. 3 of Air Permit Number 0200-00009-V0, LAC 33:III.501.C.4 and Section 2057(A)(2) of the Act.

On October 29, 2004, the Department issued an Amended Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. AE-CN-01-0221A, to the Respondent amending the original Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. AE-CN-01-0221, to read as follows:

The Department hereby amends Paragraphs II.E through II.J of the Findings of Fact to read as follows:

- “E. On or about October 2, 2001, the Department received the semiannual monitoring reports and the annual compliance certification report for the 2000 calendar year. According to the reports, the Respondent failed to maintain the logbook for Emission Source Number 2-95. This is a violation of Part 70 Specific Condition Number 1 of Air Permit Number 0200-00009-V0, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act..
- F. On or about October 2, 2001, the Department received the semiannual monitoring reports and the annual compliance certification report for the 2000 calendar year. According to the reports, the Respondent failed to monitor and record the opacity regularly for Emission Source Numbers 1-99 through 13-99. Each failure to monitor and record opacity is a violation LAC 33:III.1101, LAC 33:III.1513, Part 70 Specific Condition Number 3 of Air Permit Number 0200-00009-V0, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.
- G. On or about October 2, 2001, the Department received the semiannual monitoring reports and the annual compliance certification report for the 2000 calendar year. According to the report, the Respondent failed to maintain the logbook for Emission Source Number 2-95. This is a

violation of Part 70 Specific Condition 1 of Air Permit Number 0200-00009-V0, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.

- H. On or about October 2, 2001, the Department received the semiannual monitoring report for the period encompassing January through June 2001. According to the report, the Respondent failed to monitor and record the opacity regularly for Emission Source Numbers 1-99 through 13-99. Each failure to monitor and record opacity is a violation LAC 33:III.1101, LAC 33:III.1513, Part 70 Specific Condition Number 3 of Air Permit Number 0200-00009-V0, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.
- I. On or about March 12, 2002, the Department received the annual compliance certification report for the 2001 calendar year. According to the report, the Respondent failed to maintain the logbook for Emission Source Number 2-95. This is a violation of Part 70 Specific Condition Number 1 of Air Permit Number 0200-00009-V0, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.
- J. On or about March 12, 2002, the Department received the annual compliance certification report for the 2001 calendar year. According to the report, the Respondent failed to monitor and record the opacity regularly for Emission Source Numbers 1-99 through 13-99. Each failure to monitor and record opacity is a violation LAC 33:III.1101, LAC 33:III.1513, Part 70 Specific Condition Number 3 of Air Permit Number 0200-00009-V0, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.”

The Department hereby adds paragraphs III. and IV. to the Findings of Fact to read as follows:

“III.

On or about June 11, 2004, a file review of the facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations.

While the Department’s investigation is not yet complete, the following violation was noted during the course of the file review:

The Respondent’s facility is subject to 40 CFR Part 63 Subpart B-Requirements for Control Technology Determinations for Major Sources

in Accordance With Clean Air Act Sections, Sections 112(g) and 112(j). Amendments to Section 112(g) and 112(j), adopted by EPA on March 5, 2002, required any facility or source, whose Part 63 source category Maximum Achievable Control Technology (MACT) standard had not been promulgated by May 15, 2002, to submit a Part 1 application by that date instead of the Title V application or significant permit modification required prior to the amendments. The Department received the Respondent's Part 1 application on May 13, 2004. This is a violation of 40 CFR 63.52(a)(1) which language has been adopted as a Louisiana regulation in LAC 33:III.5122. This is also a violation Part 70 Specific Condition Number 1 of Title V Permit Number 0200-00009-V0, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.

IV.

On or about June 28, 2004, an inspection was performed to determine the degree of compliance with the Act and the Air Quality Regulations.

While the Department's investigation is not yet complete, the following violation was noted during the course of the inspection:

According to Table 2 of Title V Permit Number 0200-00009-V0, the Emission Inventory is to be submitted by March 31 of each year for the preceding calendar year. The Respondent's Emission Inventory Statement (EIS) for the year 2003, dated April 5, 2004, was received on April 7, 2004. This is a violation of Part 70 Specific Condition 1 of Title V Permit Number 0200-00009-V0, LAC 33:III.501.C.4, LAC 33:III.919.A, and Section 2057(A)(2)."

The Department incorporates all of the remainder of the original Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. AE-CN-01-0221 and Agency Interest No. 691 as if reiterated herein.

This Amended Compliance Order & Notice of Potential Penalty is effective upon receipt.

On November 15, 2005, the Department issued an Amended Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. AE-CN-01-0221B, to the Respondent

amending the Amended Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. AE-CN-01-0221A, to read as follows:

The Department hereby adds Paragraph V to the Findings of Fact to read as follows:

“V.

On or about November 3, 2005, a file review of the facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations. The Respondent submitted an application for renewal and modification of the Title V Permit Number 0200-00009-V1 on September 14, 2004. The Respondent requested a modification to be allowed to perform shipbuilding and/or repair operations at the facility which are currently prohibited by Facility Specific Requirement Number 5 of the administratively continued permit. According to correspondence from the Respondent dated November 3, 2005, the facility started construction of a barge in early August 2005. The facility plans to begin painting the barge in late November 2005. While the Department’s investigation is not yet complete, the following violation was noted during the course of the review:

The facility has conducted shipbuilding operations by constructing a barge. This is a violation of Facility Specific Requirement Number 5 of Title V Permit Number 0200-00009-V1, LAC 33:III501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act.”

II.

The Department hereby adds Paragraph III to the Compliance Order portion to read as follows:

“III.

To protect air quality, the Respondent is required to comply with the following:

- A. If the Respondent chooses to emit any air contaminant in the State of Louisiana from its East Fabrication Yard, the following interim limitations shall apply:

The Respondent shall operate according to the limitations and conditions specified in Title V Permit Number 0200-00009-V1 with the exception of Facility Specific Requirement Number 5. If the Respondent chooses to conduct shipbuilding and repair operations at the facility, the Respondent shall comply with 40 CFR 63 Subpart II National Emission Standards for Shipbuilding and Repair (Surface Coating) during such shipbuilding and repair operations.

The interim limitations shall remain in effect until the Title V Permit renewal is issued or unless otherwise notified by the Department. The Respondent shall at all times properly operate and maintain all facilities and systems of control (and related appurtenances) which are installed or used by the Respondent to achieve compliance with the conditions of the interim limitations.

- B. If the Respondent does not choose to emit any air contaminant in the state of Louisiana from its East Fabrication Yard, the Respondent shall, within thirty (30) days after receipt of the Compliance Order, provide written documentation to the Department that no activities exist at the Respondent's facility resulting in any unauthorized discharges to the air."

The Department incorporates all of the remainder of the Amended Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. AE-CN-01-0221A, and Agency Interest No. 691 as if reiterated herein.

This Amended Compliance Order & Notice of Potential Penalty is effective upon receipt.

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 TEN THOUSAND SIX HUNDRED AND NO/100 DOLLARS (\$10,600.00) of which One Thousand Ninety-three and 50/100 Dollars (\$1,093.50) represents DEQ's enforcement costs, in settlement of the claims set forth in this Agreement, including any and all allegations of violations and/or claims at issue in the Compliance Order[✱] referenced herein. 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).

V

Respondent further agrees that the Department may consider the inspection report(s), the Consolidated Compliance Order & Notice of Potential Penalty, Amended Consolidated Compliance Order & Notice of Potential Penalty (0221A), Amended Consolidated Compliance Order & Notice of Potential Penalty (0221B), 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 Assumption Parish and St. Mary Parish, Louisiana. The advertisements, 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 proof-of-publication affidavits 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 notices.

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

J. RAY MCDERMOTT, INC.

BY: *Stephen E. Beanel*
(Signature)

STEPHEN E. BEANEL
(Print)

TITLE: General Manager

THUS DONE AND SIGNED in duplicate original before me this 20th day of March, 20 08, at Assumption Parish.

Roselyn Peltier
NOTARY PUBLIC (ID # ROSELYN PELTIER
JP-04-2)
Roselyn Peltier
(Print)

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 3rd day of July, 20 08, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 40839)
Le R. Boyle, Jr.
(Print)

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