

**STATE OF LOUISIANA**

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**IN THE MATTER OF:**

\* **Settlement Tracking No.**  
\* **SA-AE-08-0021**

**LAKE AREA EQUIPMENT  
MAINTENANCE, INC.**

\*  
\* **Enforcement Tracking No.**  
\* **AE-P-05-0021**

**AI # 99106**

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

\* **Docket No. 2005-3591-EQ**  
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**SETTLEMENT**

The following Settlement is hereby agreed to between Lake Area Equipment Maintenance, 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 sandblasting and painting facility located at 5015 Jerry Street in Lake Charles, Calcasieu Parish, Louisiana ("the Facility").

**II**

On May 3, 2005, the Department issued to Respondent a Penalty Assessment, Enforcement No. AE-P-05-0021, in the amount of \$11,473.70, which was based upon the following findings of fact:

The Respondent owns and/or operates a sandblasting and painting facility located at 5015 Jerry Street in Lake Charles, Calcasieu Parish, Louisiana. The facility is located on three areas of

fenced property bounded by undeveloped land on the north and east and residential property on the west and south. The facility is currently operating under Air Permit No. 0520-00311-00.

On or about June 13, 2003, a file review of the Respondent's facility was performed to determine the degree of compliance with the Act and Air Quality Regulations.

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

- A. The Respondent failed to submit a timely and complete permit application to the Office of Environmental Services, Permits Division, prior to the operation of the facility. This is a violation of LAC 33:III.501.C.1 and Section 2057(A)(2) of the Act. Additionally, the Respondent failed to obtain an air permit prior to construction, modification, and/or operation of the facility which ultimately may result in an initiation or an increase in emission of air contaminants. This is a violation of LAC 33:III.501.C.2 and Sections 2057(A)(1) and 2057(A)(2) of the Act.
- B. The Respondent failed to take all reasonable precautions to prevent particulate matter from becoming airborne during sandblasting operations. This is a violation of LAC 33:III.1305.

On or about July 9, 2003, a Compliance Order (CO), Enforcement Tracking No. AE-C-03-0118, was issued to the Respondent for failing to submit a timely and complete permit application prior to the operation of the facility and for failing to take all reasonable precautions to prevent particulate matter from becoming airborne during sandblasting operations as required by LAC 33:III.1305.A.

On or about August 12, 2003, the Department received a response dated July 25, 2003, from the Respondent. The response contained comments relating to the CO. In the response, the Respondent presented details of the history of the events surrounding the violations cited in the CO and the actions taken to correct the violations.

On or about February 15, 2004, a file review of the Respondent's facility was performed to determine the degree of compliance with the Act and Air Quality Regulations.

During the course of the review it was noted that on the morning of January 5, 2004, a complainant met with members of the Department at the Southwest Regional Office to discuss complaints concerning painting and sandblasting operations at the facility. At the time of the meeting, the complainant provided video footage alleging that the Respondent was painting and/or powder coating with their shop doors open, thereby failing to take reasonable precautions to prevent particulate matter from becoming airborne. The video also contained additional video footage, which according to the complainant, was taken on September 8, 2003, September 10, 2003, and December 7, 2003, and shows incidents of particulate matter originating and blowing from the east side of the main shop where the sandblasting operation is located. During this meeting, representatives of the Department collected five samples from the complainant's vehicle for sample comparison. The five samples collected from the vehicle included small red fibers, orange powder, blue fibers, white powder, and dust. The complainant provided a copy of the videotape viewed on January 5, 2004, to the Southwest Regional Office on January 14, 2004.

In response to the meeting on the morning of January 5, 2004, representatives of the Department conducted an investigation of the Respondent's facility on January 6, 2004. At the time of the investigation, representatives of the Department videotaped the powder coating and sandblasting operations in progress at the facility. The powder coating and sandblasting operations videotaped at the time of this inspection were representative of normal operations and exhibited no visible emissions or areas of concern. In addition, samples were collected from the facility to be compared to the samples taken from the complainant's vehicle on January 5, 2004. The samples collected from the facility for comparison sampling included the colors Just Orange, Bengal Red,

Appliance White, and the most recent color of blue used by the Respondent in powder coating operations. A sample of dust from within the sandblasting chamber was also collected for comparison to the dust collected from the complainant's vehicle.

According to the Chain of Custody form, the color and dust samples collected from the complainant's vehicle and from the Respondent's facility were relinquished by Southwest Regional Office staff and received by Air Toxics Laboratory staff via a Chain of Custody form at 1:57 p.m. on January 6, 2004. Southwest Regional Office staff received the sample results from the Air Toxics Laboratory on February 12, 2004. Of the five samples collected from the complainant's vehicle on January 5, 2004, one color sample indicated that the white powder collected from the complainant's vehicle (Sample No. 368-010504-02) was similar to the comparison color sample of Appliance White (Sample No. 368-010604-02) taken from the facility.

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

- A. According to sample results received from the Department's Air Toxics Laboratory on February 12, 2004, visual inspections by department representatives, and other documented evidence received as described in the foregoing paragraphs, a particulate sample taken from the complainant's vehicle on January 5, 2004, was similar to a comparison sample taken from the facility on January 6, 2004, thereby indicating that all reasonable precautions were not taken by the Respondent to prevent particulate matter from becoming airborne during painting and/or powder coating operations. This is a violation of the Facility Specific Requirements for Powder Coating and Metal Surface Painting (Subject Item Inventory ID's ARE 1 and ARE 2) contained within Air Permit No. 0520-00311-00, LAC 33:III.1305.A, LAC 33:III.501.C.4, Compliance Order, Enforcement Tracking No. AE-C-03-0118 issued on July 9, 2003, and Sections 2057(A)(1) and 2057(A)(2) of the Act.
- B. According to videotape provided by the complainant on January 14, 2004, the Respondent failed to prevent particulate matter from becoming airborne during sandblasting operations on or about September 8, 2003, September 10, 2003, and December 7, 2003. The video footage shows particulate matter originating and blowing from the east side of the main shop where the sandblasting operation is located. This is a violation of

the Facility Specific Requirement for Sandblasting (Subject Item Inventory ID ARE 3) contained within Air Permit No. 0520-00311-00, LAC 33:III.1305.A, LAC 33:III.501.C.4, Compliance Order, Enforcement Tracking No. AE-C-03-0118 issued on July 9, 2003, and Sections 2057(A)(1) and 2057(A)(2) of the Act.

On or about April 8, 2004, an inspection of Respondent's facility was performed to determine the degree of compliance with the Act and Air Quality Regulations.

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

According to the facility representative on site at the time of the inspection, records of the amounts of paints, solvents, and thinners used and recovered were not being kept. The failure to keep records of the amounts of paints, solvents, and thinners used and recovered for each month on site and available for review by the Department is a violation of Narrative Requirement No. 8 of Air Permit No. 0520-00311-00, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.

On or about April 20, 2004, a file review of the Respondent, was performed to determine the degree of compliance with the Act and Air Quality Regulations.

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

- A. According to videotape provided by the complainant on April 13, 2004, the Respondent failed to prevent particulate matter from becoming airborne on April 6, 2004. The video footage shows particulate matter generated from vehicle traffic in the parking lot. The Respondent's failure to take all reasonable precautions to prevent particulate matter from becoming airborne including, but not limited to, the application of a suitable dust suppressant on surfaces which can give rise to airborne dust is a violation of LAC 33:III.1305.A.2 and Sections 2057(A)(1) and 2057(A)(2) of the Act.
- B. According to videotape provided by the complainant on April 13, 2004, the Respondent failed to prevent particulate matter from becoming airborne during sandblasting operations on April 10, 2004. The video footage shows particulate matter originating and blowing from the east side of the main shop where the sandblasting operation is located. This is a violation of the Facility Specific Requirement for Sandblasting (Subject Item Inventory ID ARE 3) contained within Air Permit No. 0520-00311-00, LAC 33:III.1305.A, LAC 33:III.501.C.4, Compliance Order

Enforcement Tracking No. 0520-00311-00, LAC 33:III.1305.A, LAC 33:III.501.C.4 [sic], Compliance Order Enforcement Tracking No. AE-C-03-0118 issued on July 9, 2003, and Sections 2057(A)(1) and 2057(A)(2) of the Act.

On June 11, 2004, a Notice of Potential Penalty (NOPP), Enforcement Tracking No. AE-PP-04-0104, was issued to the Respondent.

On or about July 30, 2004, the Department received a response dated July 28, 2004, from the Respondent. The response contained comments related to the NOPP, Enforcement Tracking No. AE-PP-04-0104. In the response, the Respondent presented details of the history of the events surrounding the violations cited in the NOPP.

On or about September 20, 2004, the Department received a response dated September 13, 2004, from the Respondent. The response contained additional comments related to the NOPP, Enforcement Tracking No. AE-PP-04-0104. In the response, the Respondent presented additional details of the history of the events surrounding the violations cited in the NOPP and requested confidentiality of the Respondent's gross revenues. The confidentiality request was granted by the Department on October 29, 2004.

On or about August 11, 2004, an inspection of the Respondent's facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations.

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

At the time of the inspection, sandblasting operations were being conducted and particulate emissions were observed being emitted from the sandblasting wet scrubber vent. Facility personnel halted sandblasting operations and determined that some of the wet scrubber nozzles in the sandblasting chamber were plugged. Additionally, one of the two pumps supplying water to the wet scrubber was not operating because of a faulty electrical condition. The failure to diligently maintain air pollution control facilities in proper

working order is a violation of LAC 33:III.905, General Condition I of Air Permit No. 0520-00311-00, Compliance Order, Enforcement Tracking No. AE-C-03-0118, and Section 2057(A)(2) of the Act. Following the inspection, the wet scrubber nozzles and the electrical connection were repaired.

On January 3, 2005, a Notice of Potential Penalty (NOPP), Enforcement Tracking No. AE-PP-04-0274, was issued to the Respondent.

### III

In response to the Penalty Assessment, Enforcement Tracking No. AE-P-05-0021, 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 NINE THOUSAND ONE HUNDRED AND NO/100 DOLLARS (\$9,100.00) of which One Thousand Seven Hundred Ninety-three and 70/100 Dollars (1,793.70) 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 Penalty Assessment 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 Calcasieu 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 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. 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.

**LAKE AREA EQUIPMENT  
MAINTENANCE, INC.**

BY: *Albert V. Broussard*  
(Signature)

Albert V. Broussard  
(Print)

TITLE: Secretary Treasurer

THUS DONE AND SIGNED in duplicate original before me this 23<sup>rd</sup> day of  
June, 20 09, at Lake Charles, LA.

*Jack W. Caskey*  
NOTARY PUBLIC (ID #           )  
**Jack W. Caskey**  
**Notary ID #1890**

(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 21<sup>st</sup> day of  
September, 20 09, at Baton Rouge, Louisiana.

*Christopher A. Reduff*  
NOTARY PUBLIC (ID # 101497)

Christopher A. Reduff  
(Print)

Approved: *Peggy M. Hatch*  
Peggy M. Hatch, Assistant Secretary