

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

LOUISIANA CUSTOM COTE COMPANY

AI # 11994

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

- * **Settlement Tracking No.**
- * **SA-HE-08-0044**
- *
- * **Enforcement Tracking No.**
- * **HE-P-06-0306**
- *
- *
- * **Docket No. 2008-10156-EQ**
- *

SETTLEMENT

The following Settlement is hereby agreed to between Louisiana Custom Cote Company (“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 that owns and/or operates a painting facility located at 1405 Siracusa Road in Morgan City, St. Mary Parish, Louisiana (“the Facility”).

II

On September 10, 2007, the Department issued to Respondent a Penalty Assessment, Enforcement No. HE-P-06-0306, in the amount of \$14,085.06, which was based upon the following findings of fact:

The Respondent operates a painting facility located at 1405 Siracusa Road in Morgan City, St. Mary Parish, Louisiana. The facility is registered with the Department as a large quantity generator of hazardous waste and has been assigned EPA identification number LAD985182260.

On or about April 19, 2005, a representative of the Department performed an inspection of the facility and noted the following:

- A. The Respondent accepted hazardous waste from off-site locations for storage without first having received interim status or a standard permit, in violation of LAC: 33:V.303.B.
- B. The Respondent failed to label one hundred thirteen (113) containers holding hazardous waste spent solvent with the words "hazardous waste" and the date upon which accumulation began, in violation of LAC 33:V.1109.E.1.c. & d and LAC 33:2205.A.2.
- C. The Respondent failed to determine whether the waste paint cakes are hazardous, in violation of LAC 33:V.1103.
- D. The Respondent failed to keep three (3) 55-gallon containers holding hazardous waste spent solvent closed during storage, except when it is necessary to add or remove waste, in violation of LAC 33:V.2107.A.

On October 3, 2005, a Consolidated Compliance Order & Notice of Potential Penalty (CONOPP), Enforcement Tracking No. HE-CN-05-0150 was issued to the Respondent.

A penalty in the amount of \$14,085.06) was assessed together with legal interest as allowed by law and all costs of bringing and prosecuting this enforcement action accruing after the date of issuance.

III

In response to the Penalty Assessment, 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 TEN THOUSAND AND NO/100 DOLLARS (\$10,000.00), of which One Thousand One Hundred Eighty-five and 06/100 Dollars (\$1,185.06) 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 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 St. Mary 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

The Respondent has submitted to the DEQ three (3) payments of \$833.33 each toward the settlement agreement amount of \$10,000.00. Payment of the balance owed is to be made in eight (8) monthly installments of Eight Hundred Thirty-three and 33/100 Dollars (\$833.33) each with a final payment of Eight Hundred Thirty-three and 37/100 Dollars (\$833.37). Payments are due on the 15th of each consecutive month until paid in full. The next payment is due by the 15th of the month following notice of the Secretary's signature.

XI

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).

XII

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

XIII

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.

LOUISIANA CUSTOM COTE COMPANY

BY: C. J. Daigle
(Signature)

C. J. DAIGLE
(Print)

TITLE: V-P

THUS DONE AND SIGNED in duplicate original before me this 07 day of May, 20 09, at MORGAN CITY LA 70380

Billy Mayon
NOTARY PUBLIC (ID # 61610)

Billy Mayon
(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 4th day of September, 20 09, at Baton Rouge, Louisiana.

Christopher A. Retcliff
NOTARY PUBLIC (ID # 10149)

Christopher A. Retcliff
(Print)

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