

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

MARINE COATINGS & LININGS, L.L.C.

AI # 25350

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

* Settlement Tracking No.
* SA-WE-09-0069
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* Enforcement Tracking No.
* WE-CN-09-0100
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SETTLEMENT

The following Settlement is hereby agreed to between Marine Coatings & Linings, L.L.C. (“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

The Respondent is a limited liability company that owns and/or operates a barge repair and painting business, which is located in Belle Chasse, Plaquemines Parish, Louisiana (“the Facility”).

II

On September 17, 2009, the Department issued to Respondent a Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. WE-CN-09-0100, which was based upon the following findings of fact:

The Respondent owns and/or operates a barge repair and painting business, which is located at 638 Bayou Road in Belle Chasse, Plaquemines Parish, Louisiana. The Respondent was granted coverage under Louisiana Pollutant Discharge Elimination System (LPDES) Multi-Sector General Permit (MSGP) for Storm Water Discharges Associated with Industrial Activities LAR050000, and

was specifically assigned permit number LAR05N697. The current LPDES MSGP became effective on May 1, 2006, and has an expiration date of April 30, 2011. Under the terms and conditions of LPDES MSGP LAR05N697, the Respondent is authorized to discharge storm water associated with industrial activities into waters of the state.

An inspection conducted by the Department on or about October 30, 2008, and a subsequent file review conducted by the Department on or about April 21, 2009, revealed that the Respondent is operating and discharging without a permit. Specifically, there is an unpermitted 500 gallon per day sewage treatment plant (STP) discharging into a nearby ditch, thence into the Harvey Canal, waters of the state. All unauthorized discharges from the STP are violations of La. R.S. 30:2075, La. R.S. 30:2076(A)(1)(a), La. R.S. 30:2076(A)(3), LAC 33:IX.501.A, LAC 33:IX.501.C, LAC 33:IX.501.D, and LAC 33:IX.2311.A.1.

An inspection conducted by the Department on or about October 30, 2008, revealed that the Respondent is not estimating and recording storm water flow as required by LPDES MSGP LAR05N697. Failure to estimate and record storm water flow is a violation of LPDES MSGP LAR05N697 (Sections 5.3.2 and 9.1.1), La. R.S. 30:2076 (A)(3), LAC 33:IX.501.A, and LAC 33:IX.2701.A.

An inspection conducted by the Department on or about October 30, 2008, revealed that the Respondent failed to sample for Total Suspended Solids (TSS) as required by LPDES MSGP LAR05N697. Specifically, the Respondent is required to sample for TSS quarterly during the second and fourth years of the permit. The Respondent failed to sample for TSS during the second year of the permit (2007). Each failure to sample is a violation of LPDES MSGP LAR05N697 (Sections 5.4.1, 6.R.5, and 9.1.1), La. R.S. 30:2076 (A)(3), LAC 33:IX.501.A, and LAC 33:IX.2701.A.

An inspection conducted by the Department on or about October 30, 2008, revealed that the Respondent failed to provide defined discharge point(s) to direct the flow of storm water into waters of the state. Failure to provide defined discharge point(s) is a violation of LPDES MSGP LAR05N697 (Sections 4.2.2.3.7 and 9.1.1), La. R.S. 30:2076 (A)(3), LAC 33:IX.501.A, and LAC 33:IX.2701.A.

An inspection conducted by the Department on or about October 30, 2008, revealed that the Respondent failed to perform "Good Housekeeping" procedures as required by LPDES MSGP LAR05N697. Specifically, the inspection revealed diesel spillage stains on the soil around the diesel storage tank and the air compressors. Failure to perform "Good Housekeeping" procedures is a violation of LPDES MSGP LAR05N697 (Sections 4.2.7.2.1.1 and 9.1.1), La. R.S. 30:2076 (A)(3), LAC 33:IX.501.A, and LAC 33:IX.2701.A.

A file review conducted on or about April 21, 2009, revealed that the Respondent failed to submit quarterly Discharge Monitoring Reports (DMRs) during the second year of the permit (2007). Each failure to submit a DMR is a violation of LPDES MSGP LAR05N697 (Sections 7.1 and 9.1.1), La. R.S. 30:2076 (A)(3), LAC 33:IX.501.A, LAC 33:IX.2701.A, and LAC 33:IX.2701.L.4.a.

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 THREE THOUSAND THREE HUNDRED AND NO/100 DOLLARS (\$3,300.00), of which Eight Hundred Ninety-Three and 01/100 Dollars (\$893.01) 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).

V

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.

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 Plaquemines 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 an original proof-of-publication affidavit and an original public notice 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.

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

MARINE COATINGS & LININGS, L.L.C.

BY: Richard E. Johnson
(Signature)

Richard E Johnson
(Print)

TITLE: Member

THUS DONE AND SIGNED in duplicate original before me this 10 day of September, 20 10, at Harvey, LA.

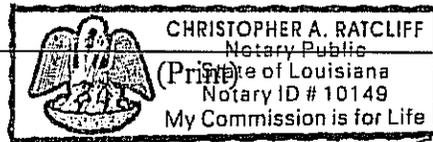
Vicki L. Pollard
Bar # NOTARY PUBLIC ID # 211496
 **VICKI L. POLLARD**
ATTORNEY NOTARY
LBN 24606
STATE OF LOUISIANA
LIFETIME COMMISSION

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Peggy M. Hatch, Secretary

BY: [Signature]
Beau James Brock, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 19th day of January, 20 11, at Baton Rouge, Louisiana.

Christopher A. Ratcliff
NOTARY PUBLIC (ID # 10149)



Approved: Paul D. Miller
Paul D. Miller, P.E., Assistant Secretary