STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	**Settlement Tracking No.**
	*	**SA-WE-16-0009**
MCMILLAN'S MECHANICAL &	*	
MACHINE CO., INC.	*	**Enforcement Tracking No.**
	*	**WE-CN-15-00088**
AI # 2029	*	
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT	*	
LA. R.S. 30:2001, ET SEQ.	*	

SETTLEMENT

The following Settlement is hereby agreed to between McMillan's Mechanical & Machine Co., 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 that owns and/or operates a hydraulic repair and machine facility located in Caddo Parish, Louisiana ("the Facility").

II

On September 11, 2015, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. WE-CN-15-00088, which was based upon the following findings of fact:

"The Respondent owns and/or operates a hydraulic repair and machine shop which is located at 214 Scott Street in Shreveport, Caddo Parish, Louisiana. The Respondent was issued Louisiana Pollutant Discharge Elimination System (LPDES) permit LA0121681 on December 8, 2005, with an

effective date of January 1, 2006, and an expiration date of December 31, 2010. The Respondent submitted a permit renewal application for LPDES permit LA0121681 to the Department on April 26, 2011. Since the permit renewal application was submitted after the permit expiration date, LPDES permit LA0121681 was not administratively continued. LPDES permit LA0121681 was reissued on October 25, 2011, with an effective date of December 1, 2011, and an expiration date of November 30, 2016. LPDES permit LA0121681 authorizes the Respondent to discharge equipment washwater to local drainage, thence into Cross Bayou (also known as Twelve Mile Bayou), thence into the Red River, waters of the state.

An inspection conducted by the Department on or about November 19, 2014, and a subsequent file review conducted by the Department on or about April 27, 2015, revealed that the Respondent failed to sample in accordance with LPDES permit LA0121681. Specifically, the Respondent is required by LPDES permit LA0121681 to sample once a month for COD, Oil and Grease, pH, and Total Suspended Solids. Additionally, the Respondent is required to monitor Oil and Grease visually and estimate flow on a monthly basis. The Respondent submitted Discharge Monitoring Reports (DMRs) to the Department on or about May 1, 2014, for the monthly monitoring periods of December 2011 through February 2014 stating that the discharge was not monitored. Each failure to sample, conduct visual inspections, and estimate flow are violations of LPDES permit LA0121681 (Effluent Limitations and Monitoring Requirements, Pages 1 and 2 of 2, and Standard Conditions for LPDES Permits, Sections A.2, C.2, and C.6), La. R.S. 30:2076 (A)(3), and LAC 33:IX.501.A.

An inspection conducted by the Department on or about November 19, 2014, and a subsequent file review conducted by the Department on or about April 27, 2015, revealed that the Respondent failed to submit DMRs in a timely manner. The Respondent is required to submit

monthly DMRs on a quarterly basis no later than the 28th day of the month following each calendar quarter. Specifically, the Respondent failed to submit monthly DMRs by the due dates for December 2011 through December 2013. Each failure to submit DMRs in a timely manner is a violation of LPDES permit LA0121681 (Renewal Application, Page 4 of 4, and Standard Conditions for LPDES Permits, Sections A.2 and D.4), La. R.S. 30:2076 (A)(3), and LAC 33:IX.2701.L.4.

A file review conducted by the Department on or about April 27, 2015, revealed that the Respondent did not submit an LPDES permit renewal application 180 days prior to the expiration date of LPDES permit LA0121681. LPDES permit LA0121681 expired December 31, 2010. The Respondent submitted an LPDES permit renewal application to the Department on or about April 26, 2011. The Respondent's failure to submit an LPDES permit renewal application 180 days prior to the expiration date of LPDES permit LA0121681 is a violation of LPDES permit LA0121681, (Standard Conditions for LPDES Permits, Sections A.2 and A.5.a), La. R.S. 30:2076 (A)(3), and LAC 33:IX.501.A.

A file review conducted by the Department on or about April 27, 2015, revealed that the Respondent was operating without a permit from January 1, 2011, through November 30, 2011. LPDES permit LA0121681 expired on December 31, 2010, and was not administratively continued. LPDES permit LA0121681 was reissued on October 25, 2011 with an effective date of December 1, 2011, and an expiration date of November 30, 2016. All unauthorized discharges from the Respondent's facility occurring between January 1, 2011, and November 30, 2011, are violations of La. R.S. 30:2075."

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 TWENTY EIGHT THOUSAND THREE HUNDRED NINETY-EIGHT AND NO/100 DOLLARS ($28,398.00), of which Seven Hundred Forty-Six and 46/100 Dollars ($746.46) 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)/permit record(s), the Consolidated Compliance Order & 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 La. R. S. 30:2025(E) of the Act.

VIII

As required by law, the Department has submitted this Settlement Agreement to the Louisiana Attorney General for approval or rejection. The Attorney General's concurrence is appended to this Settlement Agreement.

IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Caddo Parish, Louisiana. The advertisement, in form and wording 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.

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.

MCMILLAN'S MECHANICAL & MACHINE CO., INC.

BY: _____
(Signature)

_____
(Printed)

TITLE: _____

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20 _____, at _____.

_____
NOTARY PUBLIC (ID #_____)

_____
(stamped or printed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Chuck Carr Brown, Ph.D., Secretary

BY: _____
Lourdes Iturralde, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20_____, at Baton Rouge, Louisiana.

_____
NOTARY PUBLIC (ID # _____)

_____
(stamped or printed)

Approved: _____
Lourdes Iturralde, Assistant Secretary