

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

OMEGA NATCHIQ, INC.
AI # 24729

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

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* **Enforcement Tracking Nos.**
* **AE-CN-03-0321**
* **AE-CN-03-0321A**
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SETTLEMENT

The following Settlement is hereby agreed to between Omega Natchiq, 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, which owns and/or operates a steel fabricating facility located at 101 Irish Bend Road in New Iberia, Iberia Parish, Louisiana ("the Facility").

II

On December 16, 2003, the Department issued a Consolidated Compliance Order and Notice of Potential Penalty (CONOPP), Enforcement No. AE-CN-03-0321, which was based upon the following findings of fact:

The Respondent owns and/or operates a steel fabricating business located at 101 Irish Bend Road in New Iberia, Iberia Parish, Louisiana. The facility currently operates under Air Permit No. 1260-00085-01 issued on January 28, 1998.

On or about September 22, 2003, a file review of the Respondent's facility was performed to determine the degree of compliance with the Act and Air Quality Regulations. While the Department's investigation is not yet complete, the following violations were noted during the course of the inspection:

- A. The Department received a report from the Respondent concerning Specific Condition 3 of Air Permit No. 1260-00085-01 on or about August 4, 2003. Based on information disclosed in the report, the Respondent failed to comply with the maximum usage limits for thinner and solvent usage. Specific Condition No. 3 of Air Permit No. 1260-00085-01 limits the usage of thinners and solvents to 1,875 gallons per year and 5,900 gallons per year, respectively. The Respondent reported that the facility used 2,270 gallons of thinner and 22,961 gallons of solvent during the 2002 calendar year. Each exceedance of the permitted thinner and solvent maximum usage limits is a violation of Specific Condition No. 3 of Air Permit No. 1260-00085-01, LAC 33:III.501.C.4 and Section 2057(A)(2) of the Act.
- B. The Department received a report from the Respondent concerning Specific Condition 3 of Air Permit No. 1260-00085-01 on or about August 4, 2003. Based on information disclosed in the report, the Respondent failed to comply with the maximum usage limits for thinner and solvent usage. The additional usage of thinners and solvent during the 2002 calendar year resulted in an exceedance of the permitted Xylene emission limit as specified in Specific Condition No. 3 of Air Permit No. 1260-00085-01. The Respondent reported that the facility emitted 11.29 tons of Xylene in the 2002 calendar year. The Respondent's exceedance of the permitted toxic air pollutant (TAP) limit for Xylene is a violation of Specific Condition No. 3 of Air Permit No. 1260-00085-01, LAC 33:III.501.C.4, and Sections 2057(A)(1) and (A)(2) of the Act.
- C. The Department received a report from the Respondent concerning Specific Condition 3 of Air Permit No. 1260-00085-01 on or about August 4, 2003. Based on information disclosed in the report, the Respondent failed to comply with the maximum usage limits for thinner and solvent usage. The additional usage of thinners and solvent during the 2002 calendar year resulted in an exceedance of the volatile organic compound (VOC) and TAP emission limit for the facility. The facility is permitted to emit a total of 48.39 tons per year of VOC and 18.82 tons per year of TAPs. The Respondent reported that the facility emitted 59.21 tons of VOC and 30.78 tons of TAPs in the 2002 calendar year. Each

exceedance is a violation of Specific Condition No. 3 of Air Permit No. 1260-00085-01, LAC 33:III.501.C.4, and Sections 2057(A)(1) and (A)(2) of the Act.

- D. The Respondent failed to obtain a permit modification prior to modifying facility operations, which resulted in an increase in emissions of any toxic air pollutants. This is a violation of LAC 33:III.5111.A.2.a, LAC 33:III.501.C.2, and Section 2057(A)(2) of the Act.
- E. The Respondent failed to submit an annual Criteria Pollutant Emissions Inventory (EIS) for the 2002 calendar year. This is a violation of LAC 33:III.919.E and Section 2057(A)(2) of the Act.
- F. The Respondent failed to submit an annual Toxic Emission Data Inventory (TEDI) for the 2002 calendar year. This is a violation of LAC 33:III.5107.A.2 and Section 2057(A)(2) of the Act.

III

In response to the CONOPP, Enforcement No. AE-CN-03-0321, Respondent did not request a hearing.

IV

On or about August 9, 2004, the Department issued Amended Consolidated Compliance Order and Notice of Potential Penalty (ACONOPP), Enforcement No. AE-CN-03-0321A, which amended the order portion of CONOPP, Enforcement No. AE-CN-03-0321, to include the following:

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, the following interim limitations shall apply:
The Respondent shall operate under the terms and conditions as specified in the Title V Air Permit Application Revision dated April 19, 2004, and received by the Department on April 20, 2004, as well as additional information dated July 16, 2004, until issuance of an appropriate air permit or unless otherwise notified in writing 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 these interim limitations.

- B. If the Respondent does not choose to emit any air contaminant in the state of Louisiana, 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."

V

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

VI

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 FIVE THOUSAND AND NO/100 DOLLARS (\$5,000.00) of which Four Hundred Twenty And 17/100 Dollars (\$420.17) 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).

VII

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.

VIII

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.

IX

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.

X

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Iberia Parish. 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.

XI

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.

Penalties are to be made payable to the Department of Environmental Quality and mailed to the attention of Darryl Serio, Office of Management and Finance, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303.

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

OMEGA NATCHIQ, INC.

BY: [Signature]
(Signature)

Joey Zagar
(Printed or Typed)

TITLE: President

THUS DONE AND SIGNED in duplicate original before me this 15th day of October, 2002 at Lafayette, LA.

[Signature]
NOTARY PUBLIC (ID # 4835)
GERALD C. deLAUNAY
(Printed or Typed)

STATE OF LOUISIANA
Mike D. McDaniel, Ph.D., Secretary
Department of Environmental Quality

BY: [Signature]
Harold Leggett, Ph.D., Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 17th day of February, 2005 at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 20456)
Terl R. Boyle, II
(Printed or Typed)

Approved: [Signature]
Harold Leggett, Ph.D., Assistant Secretary



CHARLES C. FOTI, JR.
ATTORNEY GENERAL

State of Louisiana
DEPARTMENT OF JUSTICE
P.O. BOX 94005
BATON ROUGE
70804-9005

January 27, 2005

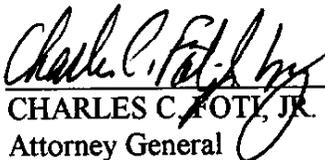
Mr. Louis E. Buatt, General Counsel
La. Department of Environmental Quality
Legal Affairs Division
P.O. Box 4302
Baton Rouge, LA 70821-4302

Re: AG Review of DEQ Settlement;
Omega Natchiq, Inc
AE-CN-03-0321, et al

Dear Mr. Buatt:

Pursuant to the authority granted to me by Art. IV, Sec. 8 of the state constitution and R.S. 30:2050.7(E)(2)(a), I approve the above referenced settlement.

Sincerely,

By: 
CHARLES C. FOTI, JR.
Attorney General

CCF/mlc