STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	**Settlement Tracking No.**
	*	**SA-AE-12-0079**
SETTOON CONSTRUCTION, INC.	*	
	*	**Enforcement Tracking No.**
AI # 44914	*	**AE-CN-06-0021**
	*	
PROCEEDINGS UNDER THE LOUISIANA ENVIRONMENTAL QUALITY ACT LA. R.S. 30:2001, ET SEQ.	* * *	

SETTLEMENT

The following Settlement is hereby agreed to between Settoon Construction, 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 facility located in Pierre Part, St. Martin Parish, Louisiana ("the Facility"), at which sandblasting operations are sometimes conducted.

II

On April 9, 2006, the Department issued to Respondent a Consolidated Compliance Order and Notice of Potential Penalty, Enforcement Tracking No. AE-CN-06-0021, which was based upon the following findings of fact:

The Respondent owns and/or operates a sandblasting facility located at 1081 Louisiana Highway 70 near Pierre Part, St. Martin Parish, Louisiana. The facility is currently operating under Air Permit No. 0200-00040-00, issued on July 5, 2001.

On or about June 21, 2001, the Department received a complaint that led to an inspection of the Respondent's facility. The inspection was performed to determine the degree of compliance with the Act and Air Quality Regulations. During the course of the inspection, the inspector noted as an area of concern the failure to take all reasonable precautions to prevent particulate matter from becoming airborne during sandblasting operations. On or about August 28, 2002, the Department issued Consolidated Compliance Order & Notice of Potential Penalty (CONOPP), Enforcement Tracking No. AE-CN-01-0219, citing the Respondent for the abovementioned area of concern. The CONOPP also ordered the Respondent to immediately take any and all steps necessary to achieve and maintain compliance with all applicable federal and state Air Quality Regulations, including but not limited to employing adequate containment methods during sandblasting or other similar operations. Consolidated Compliance Order & Notice of Potential Penalty AE-CN-01-0219 is a final action of the Department and not subject to further review.

On or about December 23, 2005, an inspection of the facility was performed to determine the degree of compliance with the Act and Air Quality Regulations in response to a citizen complaint alleging that the facility was sandblasting in the open and causing air quality problems.

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

> At the time of the inspection, the Respondent was sandblasting a large tank. The Respondent had placed a screen on the south side of the tank; however, the screen was not secured properly at the bottom and had holes in it at the time. This failure to employ adequate containment methods during sandblasting is a violation of Consolidated Compliance Order and Notice of Potential Penalty, Enforcement Tracking No. AE-CN-01-0219, LAC 33:III.1305, LAC 33:III.905, and Sections 2057(A)(1) and 2057(A)(2) of the Act.

Subsequent to this inspection, Respondent submitted documentation to the Department demonstrating that steps had been taken to correct the violations cited in the CONOPP.

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 FIVE HUNDRED DOLLARS ($3,500.00), of which Eight Hundred Four and 51/100 ($804.51) 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), 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 La. R. S. 30:2025(E) of the Act, to include the submission referenced in paragraph II.

VIII

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

SETTOON CONSTRUCTION, 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
Peggy M. Hatch Secretary

BY: _____
Cheryl Sonnier Nolan, 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: _____
Cheryl Sonnier Nolan, Assistant Secretary