

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	Settlement Tracking No.
	*	SA-AE-09-0004
SHAW PROCESS FABRICATORS, INC.	*	
	*	Enforcement Tracking No.
AI # 8260	*	AE-CN-07-0207
	*	
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT	*	
LA. R.S. 30:2001, <u>ET SEQ.</u>	*	

SETTLEMENT

The following Settlement is hereby agreed to between Shaw Process Fabricators, 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 pipe-fabricating facility located at 800 New Natchitoches Road in West Monroe, Ouachita Parish, Louisiana ("the Facility").

II

On September 17, 2008, the Department issued to Respondent a Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. AE-CN-07-0207, which was based upon the following findings of fact:

The Respondent owns and/or operates a pipe-fabricating facility located at 800 New Natchitoches Road in West Monroe, Ouachita Parish, Louisiana. The facility currently operates under Air Permit No. 2160-00113-01 issued on April 17, 2002.

On or about October 18 through October 30, 2007, an inspection of the Respondent's facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations.

The following violations were noted during the course of the inspection:

- A. On or about March 14, 2007, the Department received the facility's 2006 annual paint, thinner, and solvent usage report postmarked on March 9, 2007. According to Specific Condition No. 4 of Air Permit No. 2160-00113-01, the Respondent is required to submit a report listing the annual amounts of paint, thinner, and solvent used and recovered, as well as emissions of speciated Toxic Air Pollutants (TAPs) to the Department by February 15 for the preceding calendar year. The failure to submit the facility's 2006 annual paint, thinner, and solvent usage report by February 15, 2007, is a violation of Specific Condition No. 4 of Air Permit No. 2160-00113-01, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).
- B. During the inspection, the inspector noted that on several days the painting operation exceeded the daily weighted average volatile organic compound (VOC) emission limitation. According to Specific Condition No. 6 of Air Permit No. 2160-00113-01, the Respondent shall comply with applicable provisions of LAC 33:III.2123.C. As per LAC 33:III.2123.C, the Respondent is required to keep the daily weighted average VOC emissions at or below 3.5 pounds per gallon of coating. On or about June 3, 2008, the Respondent submitted a spreadsheet containing the product usage date, name of product, gallons of product used, and the VOC and Hazardous Air Pollutant (HAP) content for each product for the year of 2007. The Respondent exceeded the daily weighted average VOC emission limitation as shown in the following table:

Usage Date	Usage (gals)	Paint Type	VOC Content (lbs/gal)
1/23/2007	0.1	Amercoat 65 Thinner	7.3
	2.0	Amerlock 2/400	1.5
Total Usage	2.1	VOC Daily Weighted Average	4.2
1/25/2007	0.1	Amercoat 930 Thinner	7.9
	3.0	Ameron Dimetcote 9 VOC	3.4
Total Usage	3.1	VOC Daily Weighted Average	3.6
3/13/2007	0.1	Amercoat 65 Thinner	7.3
	0.1	Amercoat 65 Thinner	7.3
	1.0	Amercoat 872	3.5
	1.0	Amercoat 873	3.5

Usage Date	Usage (gals)	Paint Type	VOC Content (lbs/gal)
	1.0	Amercoat 878	5.4
	2.0	Amerlock 2/400	1.5
Total Usage	5.2	VOC Daily Weighted Average	5.4
10/6/2007	2.0	Amercoat 320	2.0
	0.1	Amercoat 65 Thinner	7.3
Total Usage	2.1	VOC Daily Weighted Average	4.4

Each exceedance of the daily weighted average VOC emission limitation is a violation of Specific Condition No. 6 of Air Permit No. 2160-0011-01, LAC 33:III.501.C.4, LAC 33:III.2123.C, and La. R.S. 30.2057(A)(1) and 30.2057(A)(2).

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 TWO THOUSAND SEVEN HUNDRED AND NO/100 DOLLARS (\$2,700.00), of which One Thousand Ten and 74/100 Dollars (\$1,010.74) 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 Ouachita 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.

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.

SHAW PROCESS FABRICATORS, INC.

BY: [Signature]
(Signature)

Gerald George
(Print)

TITLE: G.M.

THUS DONE AND SIGNED in duplicate original before me this 18th day of July, 20 09, at Orachita Parish.

[Signature]
NOTARY PUBLIC (ID # 65778)

Christy Barnes
(Print)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Harold Leggett, Ph.D., Secretary

BY: [Signature]
Peggy M. Hatch, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 21st day of September, 20 09, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 10149)

Christopher A. Ratcliff
(Print)

Approved: [Signature]
Peggy M. Hatch, Assistant Secretary