

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

FLAKEBOARD AMERICA LIMITED

AI # 43959

**PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT**

LA. R.S. 30:2001, ET SEQ.

* **Settlement Tracking No.**

* **SA-AE-13-0013**

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* **Enforcement Tracking No.**

* **AE-PP-11-00372**

* **AE-PP-11-00372A**

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SETTLEMENT

The following Settlement is hereby agreed to between Flakeboard America Limited (“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 particleboard manufacturing facility located in Simsboro, Lincoln Parish, Louisiana (“the Facility”).

II

On May 3, 2012, and November 26, 2012, respectively, the Department issued to Respondent Notice of Potential Penalty (NOPP), Enforcement No. AE-PP-11-00372, and Amended Notice of Potential Penalty, Enforcement No. AE-PP-11-00372A, which were based upon the following findings of fact:

The facility is located at 486 Duraflake Road, Simsboro, Lincoln Parish, Louisiana. The facility currently operates under Title V Permit No. 1720-00004-V6, issued on or about April 6, 2011. Previously, the facility operated under Title V Permit No. 1720-00004-V4, issued on or about January 11, 2007, and under Title V Permit No. 1720-00004-V5, issued on or about

October 20, 2009. The facility operates three thermal dryers (Core, Westec and Green) that reduce wood chips from 50% moisture to 2% moisture. The three dryers simultaneously vent to two Regenerative Catalytic Oxidizers (RCOs) that are mounted in parallel. The dryers are not emission sources, the RCOs are emission sources. On or about July 8, 2011, the facility was purchased by Roseburg Forest Products South Limited Partnership.

The following violations were noted during the course of the file review:

- A. In correspondence dated March 30, 2009, the Respondent submitted the facility's 2008 Annual Compliance Certification for the period encompassing January 1, 2008 through December 31, 2008. The Certification reported RCO temperature violations in degrees Fahrenheit, °F, shown in Table 1:

Table 1

Emission Source	EQT	Date	Duration, hours	Excursion
RCO No. 1	014	12/10/2008	30.0	Average combustion temperature less than 804°F
RCO No. 2	023			
RCO No. 1	014	12/12/2008	15.0	Average combustion temperature less than 804°F
RCO No. 2	023			

Each failure to maintain the average combustion temperature of each RCO above 804°F is a violation of Specific Requirement 59 and Specific Requirement 98 of Title V Permit No. 1720-00004-V4, LAC 33:III.905, LAC 33:III.501.C.4, La. R. S. 30:2057(A)(1) and La. R. S. 30:2057(A)(2).

- B. In correspondence dated March 30, 2010, the Respondent submitted the facility's 2009 Annual Compliance Certification for the period encompassing January 1, 2009 through December 31, 2009. The Certification reported that the facility failed to submit the facility's 2009 First Semiannual Monitoring Report for the period encompassing January 1, 2009 through June 30, 2009. In electronic correspondence dated April 3, 2011, the Respondent stated that the facility was

submitting the missing 2009 First Semiannual Monitoring Report. The failure to timely submit the monitoring report is a violation of Part 70 General Condition K, Specific Requirement 244 of Title V Permit No. 1720-00004-V4, LAC 33:III.501.C.4 and 30:2057(A)(2).

- C. During a Full Compliance Evaluation Air Inspection conducted on or about February 17, 2011, the inspector noted that the facility was neither conducting nor recording daily visual opacity inspections for the Ring Flaker Baghouse (EQT0036). In correspondence dated March 11, 2011, the facility submitted the 2011 Second Semiannual Deviation report for the period encompassing July 1, 2010 through December 31, 2010. The report stated that the facility conducted opacity inspections for the Ring Flaker Baghouse, but failed to record the inspections. The failures to conduct daily inspections of the Ring Flaker Baghouse are violations of Specific Requirement 164 and the failures to record the inspections are violations of Specific Requirement 163 of Title V Permit No. 1720-00004-V5, LAC 33:III.501.C.4, La. R. S. 30:2057(A)(1) and La. R. S. 30:2057(A)(2).
- D. In correspondence dated September 20, 2010, the Respondent submitted the facility's 2010 First Semiannual Monitoring Report for the period encompassing January 1, 2010 through June 30, 2010. The report stated that the facility failed to conduct the Continuous Monitoring System (CMS) semiannual thermocouple audit. The failure to complete the audit is a violation of Title V Permit No. 1720-00004-V5, LAC 33:III.501.C.4, and La. R. S. 30:2057(A)(2).
- E. In correspondence dated March 23, 2011, the Respondent submitted the facility's 2010 Annual Compliance Certification for the period encompassing January 1, 2010 through December 31, 2010. The Certification reported that the facility submitted a Construction Complete notification dated July 23, 2010 stating that construction of the Green Flaker System was completed on or about April 23, 2010. The failure to submit the Construction Complete notification within ten (10) days of completion is a violation of General Condition VI of Title V Permit No. 1720-00004-V5, LAC 33:III.501.C.4, and La. R. S. 30:2057(A)(2).

On November 26, 2012, the Department issued Amended Notice of Potential Penalty, Enforcement No. AE-PP-11-00372A to remove "Paragraph A of Enforcement Action AE-PP-00372 in its entirety."

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 FIVE THOUSAND AND NO/100 DOLLARS (\$5,000.00) of which Six Hundred Forty and 14/100 Dollars (\$640.14) 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 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

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

FLAKEBOARD AMERICA LIMITED

BY: Richard T. Weber
(Signature)

Richard T. Weber
(Printed)

TITLE: Government & Environmental Affairs mgr.

THUS DONE AND SIGNED in duplicate original before me this 29th day of July, 2013, at Fort Mill, SC.

Judy A. Herron
NOTARY PUBLIC (ID # _____)
My Commission Expires: 7/6/2016

Judy A. Herron
(stamped or printed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY

Peggy M. Hatch Secretary

BY: CSN
Cheryl Sonnier Nolan, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 1st day of Oct, 2013, at Baton Rouge, Louisiana.

On H
NOTARY PUBLIC (ID # 19181)

Perry Theriot
(stamped or printed)

Approved: CSN
Cheryl Sonnier Nolan, Assistant Secretary