

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

AKM, L.L.C.

AI # 23773

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

* Settlement Tracking No.
* SA-AE-16-0036
*
* Enforcement Tracking No.
* AE-CN-11-01380
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* Docket No. 2013-15896-EQ
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SETTLEMENT

The following Settlement is hereby agreed to between AKM, L.L.C. (“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 limited liability company that owns and/or operates a sandblasting and painting facility located in Livingston Parish, Louisiana (“the Facility”).

II

On September 17, 2012, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. AE-CN-11-01380, which was based upon the following findings of fact:

“The Respondent owns and/or operates Nelson Service Company, a sandblasting and painting facility, located at 2450 Florida Boulevard SW in Denham Springs, Livingston Parish, Louisiana (the Facility). The Facility operates or has operated under the authority of the following Air Permits:

UNIT	PERMIT	ISSUE DATE	EXPIRATION DATE
Nelson Service Company	Air Permit No. 1740-00048-00	3/6/2009	-
Nelson Service Company	Air Permit No. 1740-00048-00AA	4/13/2010	-

On or about April 24, 2012, the Department conducted a file review to determine the Respondent's degree of compliance with the Act, the Air Quality Regulations, and all applicable permits from March 26, 2009 through April 24, 2012. While the review is not complete, the Department noted the following violations.

- A. During a compliance inspection conducted on or about October 10, 2006, in response to a citizen's complaint, the Respondent stated that the facility began operation in approximately 1983. In correspondence dated September 8, 2006, the Respondent submitted an initial application for a minor source air permit. Air Permit No. 1740-00048-00 was issued on or about March 6, 2009. The failure to receive an Air Permit prior to construction of any facility which will, or ultimately may, result in emission of air contaminants is a violation of LAC 33:III.501.C.1. and La. R.S. 30:2057(A)(2).

- B. During a compliance inspection conducted on or about October 10, 2006, in response to a citizen's complaint, this Respondent stated that the facility began operation in approximately 1983. In correspondence dated September 8, 2006, the Respondent submitted an initial application for a minor source air permit. Air Permit No. 1740-00048-00 was issued on or about March 6, 2009. The facility operated without an air permit from 1983 until on or about March 5, 2009. Operation of any facility, without a valid permit, which will, or ultimately may, result in emission of air contaminants is a violation of LAC 33:III.501.C.2, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

- C. The Respondent failed to submit the facility's Annual Emission Inventory for the years 2009, 2010, and 2011. The failure to submit the 2009 Annual Emission Inventory is a violation of LAC 33:III.919.A, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2). The failure to submit the 2010 and 2011 Annual Emission Inventory is a violation of Specific Requirement 52 of Air Permit No. 1740-00048-00, as amended, LAC 33:III.919.A, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).
- D. The Respondent failed to submit the facility's annual consumption of paints and thinners for the years 2009, 2010 and 2011. Each failure to report the consumption of paints and thinners for the previous calendar year is a violation of Specific Requirement 8 of Air Permit No. 1740-00048-00, as amended, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).
- E. An inspection conducted on or about July 12, 2011, in response to a citizen complaint revealed evidence of paint overspray on neighboring vehicles, light poles, and miscellaneous equipment in the form of paint specks. The failure to prevent particulate material from leaving the facility property is a violation of Specific Condition 18 of Air Permit No. 1740-00048-00, as amended, LAC 33:III.1305.A, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).”

III

In response to the Consolidated Compliance Order & Notice of Potential Penalty, Respondent made a timely request for a hearing.

IV

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

V

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 One Thousand Three Hundred Forty-Two Dollars and 54/100 Dollars (\$1,342.54) 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).

VI

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.

VII

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.

VIII

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.

IX

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.

X

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

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. 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).

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

AKM, L.L.C.

BY: [Signature]
(Signature)

JOHN GUZZARDO
(Printed)

TITLE: MANAGER

THUS DONE AND SIGNED in duplicate original before me this 7TH day of APRIL, 20 17, at PRAIRIEVILLE, LA.

[Signature]
NOTARY PUBLIC (ID #053036)

ALICE M. HUNTER
NOTARY PUBLIC
LOUISIANA ID 53036
ASCENSION PARISH
COMMISSIONED FOR LIFE

(stamped or printed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY

Chuck Carr Brown, Ph.D., Secretary

BY: [Signature]

Lourdes Iturralde, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 27th day of June, 20 17, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID #19181)

Perry Theriot
(stamped or printed)

Approved: [Signature]
Lourdes Iturralde, Assistant Secretary