

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

R. E. HEIDT CONSTRUCTION CO., INC.

AI # 9211

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

* Settlement Tracking No.
* SA-AE-17-0006
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* Enforcement Tracking No.
* AE-PP-10-00579
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SETTLEMENT

The following Settlement is hereby agreed to between R.E. Heidt Construction Co., L.L.C. f/k/a R.E. Heidt Construction Co., 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 limited liability company that owned and/or operated a facility located in Westlake, Calcasieu Parish, Louisiana (“the Facility”).

II

On May 16, 2011, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. AE-PP-10-00579, which was based upon the following findings of fact:

“On or about December 16, 2009 an inspection of the **WESTLAKE PLANT FACILITY (FACILITY)** owned and or operated by **R.E. HEIDT CONSTRUCTION CO, INC. (RESPONDENT)** was performed to determine the degree of compliance with the Act and the Air Quality Regulations. On or about May 5, 2011, a file review of the facility was conducted to

determine the degree of compliance with the Act and the Air Quality Regulations. The facility is located at 300 Ideal Cement Road, Westlake, Calcasieu Parish, Louisiana. The facility currently operates under State Air Permit No. 0520-00109-03, that was issued on or about June 1, 2006. On or about January 10, 2011, the facility submitted to the Department a permit modification application.

While the Department's investigation is not yet complete, the following violations were noted during the course of the inspection and subsequent file review:

- A. During the course of the inspection and subsequent file review, it was noted that the facility failed to maintain records of the rolling 12-month asphalt production totals for the period beginning on or about June 2006 and ending on or about November 2009. Each failure to maintain asphalt concrete production rate records is a violation of Specific Condition No. 11 of State Air Permit No. 0520-00109-03, LAC 33:III.501.C.4, and La R.S. 30:2057(A)(2).
- B. During the course of the inspection and subsequent file review, it was noted that the facility failed to submit annual reports of the total asphalt production for calendar years 2006, 2007, and 2008 by February 15 of each subsequent year. Each failure to submit annual reports of the total asphalt production to the Department in a timely manner is a violation of Specific Condition No. 12 of State Air Permit 0520-00109-03, LAC 33:III.501.C.4, and La R.S. 30:2057(A)(2).
- C. During the course of the inspection and subsequent file review, it was noted that the facility had failed to maintain records of daily visible emission checks of the baghouse vent for the period beginning on or about June 1, 2006 until the time of the inspection. Each failure is a violation of Specific Condition No. 6 and Specific Condition No. 1 of State Air Permit No. 0520-00109-03, a violation of LAC 33:III.501.C.4, and La R.S. 30:2057(A)(2).
- D. During the course of the inspection and subsequent file review, it was noted that the facility had failed to document maintenance inspections of the baghouse for the period beginning on or about June 1, 2006 until the time of the inspection. This failure to maintain maintenance documents is a violation of Specific Condition No. 8 of State Permit No. 0520-00109-03, LAC 33:III.501.C.4, and La R.S. 30:2057(A)(2).
- E. During the course of the inspection and subsequent file review, it was noted that the Fuel Oil Tank, EQT003, stored no. 4 oil instead of no. 2 oil as stated in State Air Permit 0520-00109-03. On or about January 10, 2011, the facility submitted to the Department, an application for permit modification in which

the type of oil to be used by this source was not specified. The operation of this source in a manner inconsistent with the operating permit is a violation of LAC 33:III.501.C.4, and La R. S. 30:2057(A)(2).

- F. During the course of the inspection and subsequent file review, it was noted that the facility possessed a separate No. 4 Fuel Tank Emission Point 9-94, with a capacity of approximately 10,000 gallons, which was not listed in State Air Permit No. 0520-00109-03. The construction and operation of the fuel tank prior to permit approval is a violation of LAC 33:III.501.C.2 and La R.S. 30:2057(A)(2).
- G. On or about January 10, 2011, the facility submitted to the Department an application for permit modification that included the previously unpermitted No. 4 Fuel Tank, Emission Point 9-94. The failure to submit a timely application prior to the construction and operation of the emission point is a violation of LAC 33:III.501.C.1 and La R.S. 30:2057(A)(2).
- H. During the course of the inspection and subsequent file review, it was noted that Asphalt Tank, EQT006, had a tank capacity of 20,000 gallons. This is 2,000 gallons more than the capacity of 18,000 gallons cited in State Air Permit No. 0520-00109-03. On or about January 10, 2011, the facility submitted to the Department an application for permit modification, in which the capacity of this tank was changed from 18,000 gallons to 20,000 gallons. This change did not represent a change in emissions. The operation of the emission source in a manner inconsistent with the operating permit is a violation of LAC 33:III.501.C.4 and La R.S. 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 SIX THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$6,500.00), of which Seven Hundred and 13/100 Dollars (\$700.13) 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

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.

IX

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

X

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).

XI

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XII

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.

R. E. HEIDT CONSTRUCTION CO., INC.
F/K/A R.E. HEIDT CONSTRUCTION CO.,
INC.

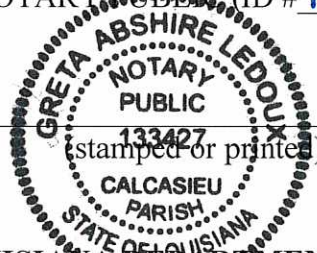
BY: [Signature]
(Signature)

Troy DeRoued
(Printed)

TITLE: CEO

THUS DONE AND SIGNED in duplicate original before me this 2nd day of January, 20 18, at Lake Charles, Louisiana.

Greta Abshire Ledoux
NOTARY PUBLIC (ID # 133427)



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 13th day of April, 20 18, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 19181)

Perry Theriot
(stamped or printed)

Approved: [Signature]
Lourdes Iturralde, Assistant Secretary