

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

KENCOIL, INC.

AI # 31214

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

* Settlement Tracking No.
* SA-WE-17-0037
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* Enforcement Tracking No.
* WE-CN-14-00199
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SETTLEMENT

The following Settlement is hereby agreed to between Kencoil, 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 Plaquemines Parish, Louisiana (“the Facility”).

II

On November 20, 2014, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. WE-CN-14-00199, which was based upon the following findings of fact:

“The Respondent owns and/or operates an electric motor manufacturer and repair facility located at 2805 Engineers Road in Belle Chasse, Plaquemines Parish, Louisiana. The facility discharges washwater, treated sanitary wastewater, and industrial stormwater into unnamed ditch, thence to Concord Canal, all waters of the state.”

On or about December 12, 2013, an inspection was conducted by the Department. The inspection revealed the following violation(s):

“The Respondent caused and/or allowed the discharge of stormwater associated with industrial activities without a permit. Specifically, the Respondent failed to meet the conditional exclusion requirements for the no exposure of industrial activities and materials to stormwater (product containers with operational taps and valves were in a non-covered area, greasy bearings and residual resin were found in the lay down area). (La. R.S. 30:2076(A)(1)(a) and LAC33:IX.501.D)

An application for coverage under the Multi-Sector General Permit (MSGP) was submitted to the Department on or about March 21, 2014, and coverage under the MSGP was issued by the Department on June 17, 2014. The Respondent built coverings so the facility would meet the eligibility requirements for exclusion from LPDES stormwater permitting. On August 26, 2014, a Notice of Termination for LPDES Permit LAR04P768 and a No Exposure Certification form were received by the Department. On September 24, 2014, termination of coverage under the MSGP was issued by the Department.”

On or about September 23, 2014, a file review was conducted by the Department. The file review revealed the following violation(s):

“The Respondent failed to comply with LPDES permit LA0100625. Specifically, between January 2010 - April 2014, the Respondent reported exceedences of permit effluent limitations for Fecal Coliform, TSS, BOD₅, TOC, and Oil & Grease. (LA0100625 (Effluent Limitations and Monitoring Requirements and Standard Conditions, Section A.2), La. R.S. 30:2076 (A)(3), and LAC33:IX.501.A) **See Attached Table 1**

The Respondent failed to comply with LPDES permit LA0100625. Specifically, the Respondent failed to submit Discharge Monitoring Reports (DMRs) for the following monitoring

periods: November – December 2012 for Outfall 002 and March – April 2010 for Outfalls 001 and 002. (LA0100625 (Submittal/Action Requirements and Standard Conditions, Section A.2), La. R.S. 30:2076 (A)(3), and LAC33:IX.2701.L.4.a)”

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 Seven Hundred Twenty-Four and 55/100 Dollars (\$724.55) 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 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.

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 Plaquemines 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 in six (6) installments. The first installment of \$1,000.00 is due

within ten (10) days from notice of the Secretary's signature, and five installments of \$800.00 will be due monthly thereafter. 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.

KENCOIL, INC.

BY: [Signature]
(Signature)

Frank DiVincenti
(Printed)

TITLE: HSE mgr.

THUS DONE AND SIGNED in duplicate original before me this 27 day of December, 20 17, at Belle Chasse, LA.

THIS DOCUMENT WAS NOT PREPARED OR EXAMINED BY THE NOTARY NAMED ABOVE AND THE NOTARY ATTESTS ONLY TO THE SIGNATURE OF THE PARTIES HEREIN

[Signature]
NOTARY PUBLIC (ID # _____)
JOHNE PIVACH
NOTARY PUBLIC
BAR NO. 35283
PARISH OF PLAQUEMINES, STATE OF LA
MY COM (stamped or printed) FOR LIFE

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Chuck Carr Brown, Ph.D., Secretary

BY: [Signature]
Loures 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]
Loures Iturralde, Assistant Secretary

Kencoil, Inc.
 AI: 31214
 LA0100625

Table 1
Effluent Limitation Excursions

Date	Outfall	Parameter	Limit	Reported Value
March – April 2014	002	TSS	30 mg/L Mo. Avg.	52 mg/L
		TSS	45 mg/L Daily Max.	54 mg/L
	001	BOD ₅	30 mg/L Mo.Avg.	31 mg/L
Jan. – Feb. 2014	001	Fecal Coliform	200 col./100 mL Mo. Avg.	340 col./100 mL
		Fecal Coliform	400 col./100 mL Daily Max.	340 col./100 mL
Nov. – Dec. 2013	002	BOD ₅	30 mg/L Mo.Avg.	38 mg/L
		BOD ₅	45 mg/L Daily Max	59 mg/L
		Fecal Coliform	400 col./100 mL Mo. Avg.	4000 col./100 mL
May – June 2010	002	Fecal Coliform	200 col./100 mL Mo. Avg.	240 col./100 mL
Jan. – Feb. 2010	002	TSS	45 mg/L Daily Max.	123 mg/L
		BOD ₅	45 mg/L Daily Max.	171 mg/L
		Oil and Grease	15 mg/L	32.4 mg/L
		TOC	50 mg/L	111 mg/L