

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

AIR ENVIRONMENTAL SERVICES INC.

AI # 3043, 36995, 111249

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

* Settlement Tracking No.
* SA-AE-20-0086
*
* Enforcement Tracking No.
* AE-PP-17-00947
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SETTLEMENT

The following Settlement is hereby agreed to between Air Environmental Services 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 was contracted to perform asbestos renovation activities on facilities located in Orleans Parish and Jefferson Parish, Louisiana (“the Facilities”).

II

On June 7, 2019, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. AE-PP-17-00947 (Exhibit 1).

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 SEVEN THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$7,500.00), of which Eight Hundred Forty-Six and 07/100 Dollars (\$846.07) 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 Orleans and Jefferson 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.

AIR ENVIRONMENTAL SERVICES INC.

BY: _____

(Signature)

Chip Pierrotti

(Printed)

President

TITLE: _____

THUS DONE AND SIGNED in duplicate original before me this 27 day of January, 20 21, at 10:35 am.

Robert O. Shamburger

NOTARY PUBLIC (ID # 68752)

Robert O. Shamburger
Notary Public ID# 68752
East Baton Rouge Parish
My Commission is for Life

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

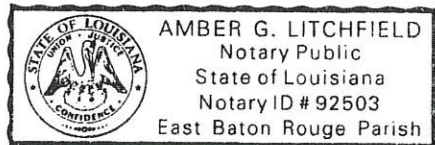
BY: _____

Lourdes Iturralde, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 9th day of November, 20 21, at Baton Rouge, Louisiana.

Amber G. Litchfield

NOTARY PUBLIC (ID # 92503)



(stamped or printed)

Approved: _____

Lourdes Iturralde, Assistant Secretary

JOHN BEL EDWARDS
GOVERNOR



CHUCK CARR BROWN, Ph.D.
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

June 7, 2019

CERTIFIED MAIL (7016 0910 0000 2672 5183)
RETURN RECEIPT REQUESTED

AIR ENVIRONMENTAL SERVICES INC.

c/o Chip Pierrotti
Agent for Service of Process
11862 Cloverland Court
Baton Rouge, Louisiana 70809

**RE: NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. AE-PP-17-00947
AGENCY INTEREST NOS. 3043, 36995, and 111249**

Dear Sir:

On or about July 26, 2016, January 4, 2017, and June 13, 2017, inspections of **OCHSNER MEDICAL CENTER, OCHSNER MAIN CAMPUS-BRENT HOUSE** (Ochsner Main Campus – Brent House), AI Nos. 3043 and 36995, a medical facility, owned and/or operated by Ochsner Health System were performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Air Quality Regulations. The facility is located at 1514 Jefferson Highway in New Orleans, Orleans Parish, Louisiana. **AIR ENVIRONMENTAL SERVICES INC. (RESPONDENT)**, AI No. 99313, was contracted to perform asbestos renovation activities on the second and third floors of Ochsner Main Campus – Brent House.

While the investigation by the Louisiana Department of Environmental Quality (the Department) is not yet complete, the following violations were noted during the course of the inspections and subsequent file review conducted on March 21, 2019:

- A. According to the July 26, 2016, January 4, 2017, and June 13, 2017, inspection reports, the Respondent failed to notify the Department's southeast regional office by fax or email within 24 hours after the conclusion of the renovation projects on the second and third floors of Ochsner Main Campus – Brent House. Each failure to provide a completion notification is a violation of LAC 33:III.5151.F.3.m and La. R.S. 30:2057(A)(2).



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- B. According to the January 4, 2017 inspection, the Respondent failed to provide emergency notification by phone, fax, email, or voicemail to the Department's southeast regional office within four (4) hours of learning of the incident that required emergency response action, demolition, or renovation operations. According to the AAC-2(a), the Respondent began asbestos renovation activities on the second floor of Ochsner Main Campus – Brent House, on December 23, 2016, which was marked as an emergency. The AAC-2(a) was postmarked on December 28, 2016. This is a violation of LAC 33:III.5151.F.2.e and La. R.S. 30:2057(A)(2).

On or about July 19, 2017, an inspection of **EAST JEFFERSON HIGH SCHOOL**, AI No. 111249, a local education agency, owned and/or operated by Jefferson Parish School Board was performed to determine the degree of compliance with the Act and the Air Quality Regulations. The facility is located at 400 Phlox Avenue in Metairie, Jefferson Parish, Louisiana. The Respondent was contracted to perform asbestos renovation activities.

While the investigation by the Department is not yet complete, the following violation was noted during the course of the inspection and subsequent file review conducted on March 21, 2019:

- C. The Respondent failed to notify the Department's southeast regional office by fax or email within 24 hours after the conclusion of the renovation project. Failure to provide a completion notification is a violation of LAC 33:III.5151.F.3.m and La. R.S. 30:2057(A)(2).

Pursuant to La. R.S. 30:2050.3(B), you are hereby notified that the issuance of a penalty assessment is being considered for the violations described herein. Written comments may be filed regarding the violations and the contemplated penalty. If you elect to submit comments, it is requested that they be submitted within ten (10) days of receipt of this notice.

Prior to the issuance of any additional appropriate enforcement action, you may request a meeting with the Department to present any mitigating circumstances concerning the violations. If you would like to have such a meeting, please contact Lauren Upton at 225-219-3093 within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

The Department is required by La. R.S. 30:2025(E)(3)(a) to consider the gross revenues of the Respondent and the monetary benefits of noncompliance in order to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current annual gross revenue statement along with a statement of the monetary benefits of noncompliance for the cited violations to the above named contact person within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**. Include with your statement of monetary benefits the method(s) you utilized to arrive at the sum. If you assert that no monetary benefits have been gained, you are to fully justify this statement. If the Respondent chooses not to submit the requested most current annual gross

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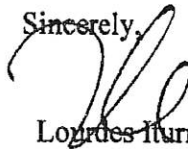
revenues statement within ten (10) days, it will be viewed by the Department as an admission that the Respondent has the ability to pay the statutory maximum penalty as outlined in La. R.S. 30:2025.

For each violation described herein, the Department reserves the right to seek civil penalties and the right to seek compliance with its rules and regulations in any manner allowed by law, and nothing herein shall be construed to preclude the right to seek such penalties and compliance.

The Department assesses civil penalties based on LAC 33:I.Subpart1.Chapter7. To expedite closure of this **NOTICE OF POTENTIAL PENALTY**, the Respondent may offer a settlement amount to resolve any claim for civil penalties for the violation(s) described herein. The Respondent may offer a settlement amount, but the Department is under no obligation to enter into settlement negotiations. The decision to proceed with a settlement is at the discretion of the Department. The settlement offer amount may be entered on the attached "**NOTICE OF POTENTIAL PENALTY REQUEST TO SETTLE**" form. The Respondent must include a justification of the offer. **DO NOT** submit payment of the offer amount with the form. The Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.

To reduce document handling, please refer to the Enforcement Tracking Number and Agency Interest Number on the front of this document on all correspondence in response to this action.

Sincerely,



Lourdes Iturralde
Assistant Secretary
Office of Environmental Compliance

LI/LAU/lau
Alt ID No. N/A
Attachment 1- Page No. 5

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
 OFFICE OF ENVIRONMENTAL COMPLIANCE
 ENFORCEMENT DIVISION
 POST OFFICE BOX 4312
 BATON ROUGE, LOUISIANA 70821-4312



**NOTICE OF POTENTIAL PENALTY
 REQUEST TO SETTLE (OPTIONAL)**

Enforcement Tracking No.	AE-PP-17-00947	Contact Name	Lauren Upton
Agency Interest (AI) No.	3043, 36995, 111249	Contact Phone No.	225-219-3093
Alternate ID No.	N/A		
Respondent:	Air Environmental Services Inc.	Facility Name:	See Attachment 1
	c/o Chip Pierrotti	Physical Location:	See Attachment 1
	Agent for Service of Process		
	11862 Cloverland Court	City, State, Zip:	See Attachment 1
	Baton Rouge, Louisiana 70809	Parish:	See Attachment 1

SETTLEMENT OFFER (OPTIONAL)

(check the applicable option)

_____ The Respondent is not interested in entering into settlement negotiations with the Department with the understanding that the Department has the right to assess civil penalties based on LAC 33:1.Subpart1.Chapter7.

_____ In order to resolve any claim for civil penalties for the violations in **NOTICE OF POTENTIAL PENALTY (AE-PP-17-00947)**, the Respondent is interested in entering into settlement negotiations with the Department and would like to set up a meeting to discuss settlement procedures.

_____ In order to resolve any claim for civil penalties for the violations in **NOTICE OF POTENTIAL PENALTY (AE-PP-17-00947)**, the Respondent is interested in entering into settlement negotiations with the Department and offers to pay \$ _____ which shall include LDEQ enforcement costs and any monetary benefit of non-compliance.

- Monetary component = \$ _____
- Beneficial Environmental Project (BEP) component (optional)= \$ _____
- **DO NOT SUBMIT PAYMENT OF THE OFFER WITH THIS FORM-** the Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.

_____ The Respondent has reviewed the violations noted in **NOTICE OF POTENTIAL PENALTY (AE-PP-17-00947)** and has attached a justification of its offer and a description of any BEPs if included in settlement offer.

CERTIFICATION STATEMENT

I certify, under provisions in Louisiana and United States law that provide criminal penalties for false statements, that based on information and belief formed after reasonable inquiry, the statements and information attached and the compliance statement above, are true, accurate, and complete. I also certify that I do not owe outstanding fees or penalties to the Department for this facility or any other facility I own or operate. I further certify that I am either the Respondent or an authorized representative of the Respondent.

Respondent's Signature	Respondent's Printed Name	Respondent's Title
Respondent's Physical Address	Respondent's Phone #	Date

MAIL COMPLETED DOCUMENT TO THE ADDRESS BELOW:

Louisiana Department of Environmental Quality
 Office of Environmental Compliance
 Enforcement Division
 P.O. Box 4312
 Baton Rouge, LA 70821
 Attn: Lauren Upton

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Attachment 1

AGENCY INTEREST NUMBER	FACILITY	PHYSICAL LOCATION	PARISH
3043 and 36995	Ochsner Medical Center, Ochsner Main Campus- Brent House	1514 Jefferson Highway, New Orleans, LA 70121	Orleans
111249	East Jefferson High School	400 Phlox Avenue, Metairie, LA 70001	Jefferson