

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

MARINE COATINGS & LININGS, L.L.C.

AI # 25350

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

* Settlement Tracking No.
* SA-MM-20-0052
*
* Enforcement Tracking Nos.
* MM-CN-10-00209
* MM-CN-13-00617
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SETTLEMENT

The following Settlement is hereby agreed to between Marine Coatings & Linings, 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 facility located in Belle Chasse, Plaquemines Parish, Louisiana (“the Facility”).

II

On February 22, 2012, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. MM-CN-10-00209 (Exhibit 1).

On July 8, 2014, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. MM-CN-13-00617 (Exhibit 2).

The following violations, although not cited in the foregoing enforcement action(s), are included within the scope of this settlement:

On July 16-17, 2014, the Department conducted an inspection of the facility in response to a

citizen complaint. The Department noted inadequate containment methods were being used to control dust during sandblasting of equipment on land; only one wall of screens was being used at a time. This is a violation of LAC 33:III.1305.A.3, which requires that adequate containment methods be used during sandblasting operations. In addition, sandblasting dust was entering the waterway from sandblasting activities occurring on the dry dock over waters of the state. This is a violation of LAC 33:III.1329.E, which states that blasting material or visible floating solids shall be prevented from reaching waters of the state.

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 THIRTY THOUSAND AND NO/100 DOLLARS (\$30,000.00), of which Four Thousand Eighty-Eight and 79/100 Dollars (\$4,088.79) 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 Orders & Notices 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 over a three-year period in twelve (12) consecutive quarterly payments of Two Thousand Five Hundred and No/100 Dollars (\$2,500.00). The first payment is due 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.

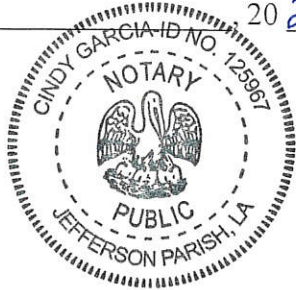
MARINE COATINGS & LININGS, L.L.C.

BY: [Signature]
(Signature)

Ryan Johnson
(Printed)

TITLE: Owner- Managing Member

THIS DONE AND SIGNED in duplicate original before me this 23rd day of August, 20 21, at Harvey, Louisiana.



[Signature]
NOTARY PUBLIC (ID # 125967)

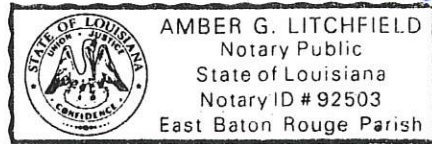
Cindy Garcia
(stamped or printed)

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

BY: [Signature]
Lourdes Iturralde, Assistant Secretary
Office of Environmental Compliance

THIS DONE AND SIGNED in duplicate original before me this 17th day of September, 20 21, at Baton Rouge, Louisiana.

NOTARY PUBLIC (ID # 92503)



(stamped or printed)

Approved: [Signature]
Lourdes Iturralde, Assistant Secretary



BOBBY JINDAL
GOVERNOR

PEGGY M. HATCH
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

EDMS
Michelle
Bernie
Dawn

February 22, 2012

CERTIFIED MAIL (7005 1820 0002 2361 81 19)
RETURN RECEIPT REQUESTED

MARINE COATINGS & LININGS, L.L.C.
c/o Richard E. Johnson
Agent of Service of Process
638 Bayou Road
Belle Chasse, Louisiana 70037

RE: CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. MM-CN-10-00209
AGENCY INTEREST NO. 25350

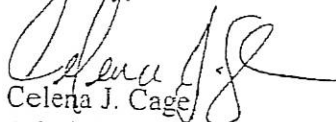
Dear Sir:

Pursuant to the Louisiana Environmental Quality Act (La. R.S. 30:2001, et seq.), the attached **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is hereby served on **MARINE COATINGS AND LININGS, L.L.C. (RESPONDENT)** for the violations described therein.

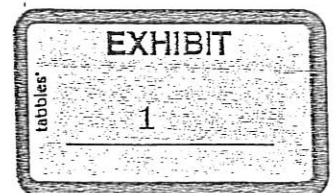
Compliance is expected within the maximum time period established by each part of the **COMPLIANCE ORDER**. The violation cited in the **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** could result in the issuance of a civil penalty or other appropriate legal actions.

Any questions concerning this action should be directed to Michelle McCarthy at (225) 219-4468.

Sincerely,


Celena J. Cage
Administrator
Enforcement Division

CJC/MMM/BKB/mmm
Alt ID No. 2240-00335
Attachment



STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

IN THE MATTER OF

MARINE COATINGS & LININGS, L.L.C.
PLAQUEMINES PARISH
ALT ID NO. 2240-00335

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

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*
* ENFORCEMENT TRACKING NO.
*
* MM-CN-10-00209
*
* AGENCY INTEREST NO.
*
* 25350
*

CONSOLIDATED
COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **MARINE COATINGS AND LININGS, L.L.C. (RESPONDENT)** by the Louisiana Department of Environmental Quality (the Department), under the authority granted by the Louisiana Environmental Quality Act (the Act), La. R.S. 30:2001, et seq., and particularly by La. R.S. 30:2025(C), 30:2050.2 and 30:2050.3(B).

FINDINGS OF FACT

I.

The Respondent owns and/or operates Marine Coatings & Linings, L.L.C., a sandblasting and painting facility. The facility is located at 638 Bayou Road in Belle Chasse, Plaquemines Parish, Louisiana. The facility currently operates under Air Permit No. 2240-00335-02 issued on or about June 17, 2009. The Respondent was issued Louisiana Pollutant Discharge Elimination System (LPDES) permit LA0123170 on or about July 10, 2010, with an effective date of August 1, 2010, and an expiration date of July 31, 2015. Under the terms and conditions of LPDES permit LA0123170, the Respondent is authorized to discharge treated sanitary wastewater into the Bayou Barataria Drainage Canal, waters of the state, and facility ballast

water, dry dock ballast water, and void water to the Gulf Intracoastal Waterway, waters of the state.

II.

On or about August 11, 2009, an inspection of the Respondent's facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations in response to a citizen complaint received by the Department regarding particulate matter leaving the site. While the Department's investigation is not yet complete, the following violations were noted during the course of the inspection:

- A. During the course of the inspection, the inspector noted that there was particulate matter entering the Harvey Canal. While screens were erected around the long sides of the barge sandblasting area, it was noted that no screens were erected around the front and rear of the barge being sandblasted. According to section 3.1.2 of the facility's best management practices (BMP) plan, developed on or about May 2008, screens shall be utilized at the facility to prevent excessive sandblasting dust from entering the waterway. The Respondent's failure to use adequate containment during sandblasting over the Harvey Canal, as specified in the facility's BMP, is a violation of Specific Condition 11 of State Air Permit No. 2240-00335-02, LAC 33:III.501.C.4, LAC 33:III.1329.E, La R.S.30:2057(A)(1), and 30:2057(A)(2).
- B. The facility is required to prevent blasting material or visible floating solids from reaching the waters of the state to the maximum extent possible as specified in the facility's BMP. The inspector's observation of particulate matter entering the Harvey Canal during sandblasting activities represents a failure of the facility to prevent blasting material from entering the waters of the state and is a violation of Specific Condition 17 of State Air Permit No. 2240-00335-02, LAC 33:III.501.C.4, LAC 33:III.1329.E, La R.S. 30:2057(A)(1), and 30:2057(A)(2).
- C. It was noted during the course of the inspection that the facility failed to erect screens around the front and rear of a barge during sandblasting activities. The inspector also noted that visible emissions were leaving the facility and entering the air and the neighboring waterway. This failure to employ adequate containment during abrasive blasting is a violation of LAC 33:III.1305.A.3, La R.S. 30:2057(A)(1), and 30:2057(A)(2).

D. On or about August 11, 2009, an inspection conducted by the Department in response to a citizen's complaint, revealed that the Respondent failed to properly implement (BMPs) as outlined in LPDES permit LA0123170. Specifically, the Respondent failed to use adequate containment while conducting sandblasting activities, resulting in debris from the sandblasting activities entering the Harvey Canal, waters of the state. The Respondent's failure to use adequate containment during sandblasting over the Harvey Canal is a violation of LPDES permit LA0123170 (Part II, Section N.4 and Part III, Section A.2), La. R.S. 30:2076 (A)(3), and LAC 33:IX.501.A. The Respondent's failure to properly implement BMPs is a violation of LPDES permit LA0123170 (Part II, Section O.3 and Part III, Section A.2), La. R.S. 30:2076 (A)(3), and LAC 33:IX.501.A.

III.

On or about February 21, 2011, a file review of the Respondent's facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations. While the Department's investigation is not yet complete, the following violation was noted during the course of the file review:

According to correspondence submitted to the Department dated January 8, 2010, the Respondent stated that the PM₁₀ emissions for the facility's spray painting operations were 26.75 tons per year (TPY). The facility's permitted limit for PM₁₀ is 20.59 tpy. The facility's exceedance of PM₁₀ is a violation of LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1), and 30:2057(A)(2).

COMPLIANCE ORDER

Based on the foregoing, the Respondent is hereby ordered:

I.

To immediately take upon receipt of this **COMPLIANCE ORDER**, any and all steps necessary to achieve and maintain compliance with the Act and the Air Quality Regulations including, but not limited to, steps to prevent blasting material or visible floating solids from reaching waters of the state during abrasive blasting, and to adhere to the permit limits and conditions of Minor Source Permit No. 2240-00335-02 at all times in accordance to LAC 33:III.1329.E and LAC 33:III.501.C.4.

II.

To immediately take, upon receipt of this **COMPLIANCE ORDER**, any and all steps necessary to meet and maintain compliance with the requirements set forth in LPDES permit LA0123170 and the Water Quality Regulations including, but not limited to, using adequate containment and properly implementing BMPs.

III.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, a written report that includes a detailed description of the circumstances surrounding the cited violation and actions taken or to be taken to achieve compliance with the Order Portion of this **COMPLIANCE ORDER**. This report and all other reports or information required to be submitted to the Enforcement Division by this **COMPLIANCE ORDER** shall be submitted to:

Office of Environmental Compliance
Post Office Box 4312
Baton Rouge, Louisiana 70821-4312
Attention: Michelle McCarthy
Enforcement Tracking No. MM-CN-10-00209
Agency Interest No. 25350

THE RESPONDENT SHALL FURTHER BE ON NOTICE THAT:

I.

The Respondent has a right to an adjudicatory hearing on a disputed issue of material fact or of law arising from this **COMPLIANCE ORDER**. This right may be exercised by filing a written request with the Secretary no later than thirty (30) days after receipt of this **COMPLIANCE ORDER**.

II.

The request for an adjudicatory hearing shall specify the provisions of the **COMPLIANCE ORDER** on which the hearing is requested and shall briefly describe the basis for the request. This request should reference the **Enforcement Tracking Number** and **Agency Interest Number**, which are located in the upper right-hand corner of the first page of this document and should be directed to the following:

Department of Environmental Quality
Office of the Secretary
Post Office Box 4302
Baton Rouge, Louisiana 70821-4302
Attn: Hearings Clerk, Legal Division
Re: Enforcement Tracking No. MM-CN-10-00209
Agency Interest No. 25350

III.

Upon the Respondent's timely filing a request for a hearing, a hearing on the disputed issue of material fact or of law regarding this **COMPLIANCE ORDER** may be scheduled by the Secretary of the Department. The hearing shall be governed by the Act, the Administrative Procedure Act (La. R.S. 49:950, et seq.), and the Department's Rules of Procedure. The Department may amend or supplement this **COMPLIANCE ORDER** prior to the hearing, after providing sufficient notice and an opportunity for the preparation of a defense for the hearing.

IV.

This **COMPLIANCE ORDER** shall become a final enforcement action unless the request for hearing is timely filed. Failure to timely request a hearing constitutes a waiver of the Respondent's right to a hearing on a disputed issue of material fact or of law under Section 2050.4 of the Act for the violation(s) described herein.

V.

The Respondent's failure to request a hearing or to file an appeal or the Respondent's withdrawal of a request for hearing on this **COMPLIANCE ORDER** shall not preclude the Respondent from contesting the findings of facts in any subsequent penalty action addressing the same violation(s), although the Respondent is estopped from objecting to this **COMPLIANCE ORDER** becoming a permanent part of its compliance history.

VI.

Civil penalties of not more than twenty-seven thousand five hundred dollars (\$27,500) for each day of violation for the violation(s) described herein may be assessed. For violations which occurred on August 15, 2004, or after, civil penalties of not more than thirty-two thousand five hundred dollars (\$32,500) may be assessed for each day of violation. The Respondent's failure or refusal to comply with this **COMPLIANCE ORDER** and the provisions herein will subject the Respondent to possible enforcement procedures under La. R.S. 30:2025, which could

result in the assessment of a civil penalty in an amount of not more than fifty thousand dollars (\$50,000) for each day of continued violation or noncompliance.

VII.

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

NOTICE OF POTENTIAL PENALTY

I.

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 violation(s) described herein. Written comments may be filed regarding the violation(s) 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.

II.

Prior to the issuance of additional appropriate enforcement action(s), you may request a meeting with the Department to present any mitigating circumstances concerning the violation(s). If you would like to have such a meeting, please contact Michelle McCarthy at (225) 219-4468 within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

III.

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 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 violation(s) 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 that statement.

IV.

This CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY is effective upon receipt.

Baton Rouge, Louisiana, this 22 day of February, 2011.



Cheryl Sonnier Nolan
Assistant Secretary
Office of Environmental Compliance

Copies of a request for a hearing and/or related correspondence should be sent to:

Louisiana Department of Environmental Quality
Office of Environmental Compliance
Enforcement Division
P.O. Box 4312
Baton Rouge, LA 70821-4312
Attention: Michelle McCarthy

BOBBY JINDAL
GOVERNOR



PEGGY M. HATCH
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

July 8, 2014

CERTIFIED MAIL (7004 2510 0006 3853 9577)
RETURN RECEIPT REQUESTED

MARINE COATINGS & LININGS, L.L.C.
c/o Richard E. Johnson
Agent for Service of Process
638 Bayou Road
Belle Chasse, LA 70037

RE: **CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. MM-CN-13-00617
AGENCY INTEREST NO. 25350**

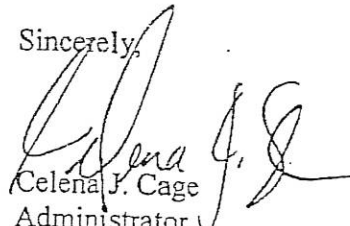
Dear Sir:

Pursuant to the Louisiana Environmental Quality Act (La. R.S. 30:2001, et seq.), the attached **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is hereby served on **MARINE COATINGS & LININGS, L.L.C. (RESPONDENT)** for the violations described therein.

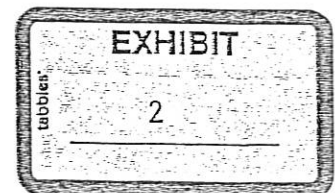
Compliance is expected within the maximum time period established by each part of the **COMPLIANCE ORDER**. The violations cited in the **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** could result in the issuance of a civil penalty or other appropriate legal actions.

Any questions concerning this action should be directed to Maggie Turner at (225) 219-4468.

Sincerely,


Celena J. Cage
Administrator
Enforcement Division

CJC/MBT/bkb/bst
Alt ID Nos. 2240-00335 and LA0123170
Attachment



STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

IN THE MATTER OF

MARINE COATINGS & LININGS, L.L.C.
PLAQUEMINES PARISH
ALT ID NOs. 2240-00335, LA0123170, and
LAR05N697

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

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ENFORCEMENT TRACKING NO.

MM-CN-13-00617

AGENCY INTEREST NO.

25350

CONSOLIDATED
COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **MARINE COATINGS & LININGS, L.L.C. (RESPONDENT)** by the Louisiana Department of Environmental Quality (the Department), under the authority granted by the Louisiana Environmental Quality Act (the Act), La. R.S. 30:2001, et seq., and particularly by La. R.S. 30:2025(C), 30:2050.2 and 30:2050.3(B).

FINDINGS OF FACT

I.

The Respondent owns and/or operates a marine vessel repair, sandblasting, and painting facility located at 638 Bayou Road in Belle Chasse, Plaquemines Parish, Louisiana. The facility currently operates under Air Permit No. 2240-00335-02 issued June 17, 2009, and re-issued June 15, 2010. The Respondent was granted coverage under Louisiana Pollutant Discharge Elimination System (LPDES) Multi-Sector General Permit (MSGP) for Storm Water Discharges Associated with Industrial Activities LAR050000, and was specifically assigned permit number LAR05N697. The current LPDES MSGP became effective on May 4, 2011, and has an expiration date of May 3, 2016. Under the terms and conditions of LPDES MSGP LAR05N697, the Respondent is authorized to discharge storm water associated with industrial activities into waters of the state. The Department issued LPDES permit LA0123170 to the Respondent on July 10, 2010, with an effective date of August 1, 2010, and an

expiration date of July 31, 2015. Under the terms and conditions of LPDES permit LA0123170, the Respondent is authorized to discharge treated sanitary wastewater into Bayou Barataria Drainage Canal, and facility ballast water, dry dock ballast water, and void water into the Gulf Intracoastal Waterway, waters of the state.

II.

On or about February 22, 2012, the Department issued Consolidated Compliance Order and Notice of Potential Penalty MM-CN-10-00209 to the Respondent. Consolidated Compliance Order and Notice of Potential Penalty MM-CN-10-00209 is a final action of the Department and not subject to further review.

III.

On or about February 8, 2013, an inspection of the Respondent's facility was performed to determine the degree of compliance with the Act, the Air Quality, the Solid Waste, and the Water Quality Regulations. The inspection was conducted in response to a citizen's complaint regarding particulate matter from the facility's operations entering waters of the state. While the Department's investigation is not complete, the following violations were noted during the course of the inspection:

- A. During the course of the inspection, the inspector noted visible emissions from sandblasting activities occurring at two (2) locations at the facility. Screens were in place on only two (2) sides of the vessels being sandblasted and dust from blasting operations and visible floating solids were traveling to the levee area and to the Harvey Canal. The failure to use adequate containment during sandblasting operations is a violation of **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY MM-CN-10-00209**, Specific Requirement 48 of Air Permit No. 2240-00335-02, LAC 33:III.1305.A, LAC 33:III.905, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- B. According to section 3.1.2 of the facility's best management practices (BMP) plan, developed on or about May 2008, screens shall be utilized at the facility to prevent excessive sandblasting dust from entering the waterway. The inspector's observation of particulate matter entering the Harvey Canal during sandblasting operations due to inadequate containment represents a failure to implement the BMP plan. The Respondent's failure to implement the BMP plan is a violation of **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY MM-CN-10-00209**, Specific Requirement 8 of Air Permit No. 2240-00335-02, LAC 33:III.1329.A.2, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- C. The Respondent is required to minimize the amount of blasting material or visible floating solids that reach waters of the state to the maximum extent possible as specified in the facility's BMP plan. The inspection noted sandblasting dust and visible floating solids entering the Harvey Canal during the inspection due to inadequate containment. In

addition, the Respondent stated during the inspection that the waterway has to be dredged periodically to remove the solids that build-up due to facility operations. The Respondent's failure to minimize the particulates entering waters of the state to the maximum extent possible is a violation of **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY MM-CN-10-00209**, Specific Requirement 14 of Air Permit No. 2240-00335-02, LAC 33:III.1329.E, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

- D. The inspection also noted the Respondent failed to review and update the facility's Sandblasting BMP plan every three (3) years as required. The BMP plan was last reviewed and updated in March of 2008. This is a violation of Specific Requirement 21 of Air Permit No. 2240-00335-02, LAC 33:III.1331.E, and La. R.S. 30:2057(A)(2). The Respondent submitted an updated BMP plan to the Department on September 25, 2013.
- E. The Respondent caused and/or allowed the deposition of solid waste in such a manner that it entered waters of the state, in violation of LAC 33:VII.315.L and La. R.S. 30:2075. Specifically, sand blast material was disposed into the Harvey Canal during blasting operations due to insufficient containment.

IV.

On or about September 18, 2013, an inspection of the Respondent's facility was performed to determine the degree of compliance with the Act, the Air Quality, the Solid Waste, and the Water Quality Regulations. The inspection was conducted in response to a citizen's complaint regarding particulate matter from the facility's operations entering waters of the state. While the Department's investigation is not complete, the following violations were noted during the course of the inspection:

- A. During the inspection, the Respondent was sandblasting a customer vessel at the facility. The inspector observed a work vessel with a plastic mesh to contain emissions placed on the side of the customer vessel. The work vessel extended approximately two thirds the length of the customer vessel. Containment was not provided at either end of the customer vessel and workers were sandblasting from the middle of the vessel towards the ends of the vessel. The inspector observed visible emissions from the sandblasting activities and blasting dust in the water. The failure to use adequate containment during sandblasting operations is a violation of **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY MM-CN-10-00209**, Specific Requirement 48 of Air Permit No. 2240-00335-02, LAC 33:III.1305.A, LAC 33:III.905, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- B. According to section 2.1.2 of the facility's BMP plan as revised March 2013, screens shall be utilized at the facility to prevent excessive sandblasting dust from entering the waterway. The inspector's observation of particulate matter entering the water during sandblasting operations due to inadequate containment represents a failure to implement the BMP plan. The Respondent's failure to implement the BMP plan is a violation of **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL**

PENALTY MM-CN-10-00209, Specific Requirement 8 of Air Permit No. 2240-00335-02, LAC 33:III.1329.A.2, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

- C. According to section 2.1.3 of the facility's BMP plan as revised March 2013, when blasting on the deck of a vessel, blasting will be from the outside edges of the vessel towards the middle of the vessel to reduce dust emissions that enter the water. The inspector's observation of sandblasting being conducted from the middle of the customer vessel to the outside edges of the vessel represents a failure to implement the BMP Plan. The Respondent's failure to implement the BMP plan is a violation of Specific Requirement 8 of Air Permit No. 2240-00335-02, LAC 33:III.1329.A.2, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- D. The Respondent is required to minimize the amount of blasting material or visible floating solids that reach waters of the state to the maximum extent possible as specified in the facility's BMP plan. The inspection noted sandblasting dust and visible floating solids entering the Harvey Canal during the inspection due to inadequate containment and operating procedures. The Respondent's failure to minimize the particulates entering waters of the state to the maximum extent possible is a violation of **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY MM-CN-10-00209**, Specific Requirement 14 of Air Permit No. 2240-00335-02, LAC 33:III.1329.E, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- E. The Respondent caused and/or allowed the deposition of solid waste in such a manner that it entered waters of the state, in violation of LAC 33:VII.315.L and La. R.S. 30:2075. Specifically, sand blast material was disposed into the Harvey Canal during blasting operations due to insufficient containment.

V.

The Respondent attended a meeting with the Department on September 26, 2013. During the meeting, the Respondent stated opacity readings had never been conducted at the facility. In addition, no one at the facility had been certified to take opacity readings. The Respondent's Sandblasting BMP plan received September 25, 2013, did not include provisions to document opacity readings or to ensure employees were trained to conduct opacity readings. This is a violation of Air Permit No. 2240-00335-02, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

VI.

A file review conducted by the Department on or about April 12, 2014, revealed that the Respondent failed to submit the monthly Discharge Monitoring Reports (DMRs) for Outfall 03B for the monitoring periods of April, May, and June of 2013, and the semiannual DMR for Outfall 002 for the first half of 2013. Each failure to submit a DMR is a violation of LPDES permit LA0123170 (Part II, Section P; and Part III, Sections A.2 and D.4), La. R.S. 30:2076 (A)(3), and LAC 33:IX.2701.L.4.a.

VII.

A file review conducted by the Department on or about April 12, 2014, revealed that the Respondent failed to submit the Daily Operating Logs for Outfall 03B for the monitoring periods of January, February, and March of 2013. Each failure to submit a Daily Operating Log is a violation of LPDES permit LA0123170 (Part II, Section K; and Part III, Section A.2), La. R.S. 30:2076 (A)(3), and LAC 33:IX.501.A.

VIII.

Inspections conducted by the Department on or about February 8, 2013, and September 17, 2013, in response to citizens' complaints, revealed that the Respondent failed to properly implement Best Management Practices (BMPs) as outlined in LPDES permit LA0123170. Specifically, the Respondent failed to use adequate containment while conducting sandblasting activities, resulting in debris from the sandblasting activities entering waters of the state. The Respondent's failure to properly implement BMPs is a violation of **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY MM-CN-10-00209**, LPDES permit LA0123170 (Part II, Sections N.4 and O; and Part III, Section A.2), La. R.S. 30:2076 (A)(3), and LAC 33:IX.501.A. The discharge of substances in concentrations sufficient enough to produce distinctly visible solids is a violation of La. R.S. 30:2076 (A)(1)(a) and LAC 33:IX.1113.B.3.

IX.

The Respondent submitted correspondence dated September 30, 2013, in response to a meeting with the Department conducted on September 26, 2013. The Respondent's letter outlined the proposed modifications to the facility. The Respondent submitted updates on the facility's progress by email on November 13, 2013, and January 8, 2014. The correspondence submitted on January 8, 2014, stated the following: the curtain system installation was completed and in use, four (4) facility employees had completed opacity training, all employees had been trained to use the new curtains, and the facility's sandblasting BMP plan was revised to include the new elements.

COMPLIANCE ORDER

Based on the foregoing, the Respondent is hereby ordered:

I.

To take, immediately upon receipt of this **COMPLIANCE ORDER**, any and all steps necessary to meet and maintain compliance with the Air Quality and Solid Waste Regulations.

II.

To immediately take, upon receipt of this **COMPLIANCE ORDER**, any and all steps necessary to meet and maintain compliance with the requirements set forth in LPDES permit LA0123170 and the Water Quality Regulations including, but not limited to, submitting DMRs, submitting Daily Operating Logs, and properly implementing BMPs.

III.

To immediately cease, upon receipt of this **COMPLIANCE ORDER**, depositing or allowing the deposit of regulated solid waste of any kind into waters of the state.

IV.

To remove, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, all spent blast material from the canal and properly dispose of the material in accordance with the Solid Waste Regulations and/or the Beneficial Use Plan approved by the Department on February 5, 2014. The Respondent shall submit copies of receipts or manifests to the Department as evidence of proper decontamination and/or removal and disposal of the material within forty-five (45) days after receipt of this **COMPLIANCE ORDER**.

V.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, the DMRs for the monitoring periods referenced in Paragraph VI of the Findings of Fact. If you are submitting copies of DMRs, please be advised that each copy of the DMR shall be signed and certified. If no sampling or monitoring was conducted during a monitoring period, the Respondent should indicate this in the space provided for "Comment and Explanation of Any Violations."

VI.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, a written report that includes a detailed description of the circumstances surrounding the cited violations and actions taken or to be taken to achieve compliance with the Order

Portion of this **COMPLIANCE ORDER**. This report and all other reports or information required to be submitted to the Enforcement Division by this **COMPLIANCE ORDER** shall be submitted to:

Office of Environmental Compliance
Post Office Box 4312
Baton Rouge, Louisiana 70821-4312
Attn: Maggie Turner
Re: Enforcement Tracking No. MM-CN-13-00617
Agency Interest No. 25350

THE RESPONDENT SHALL FURTHER BE ON NOTICE THAT:

I.

The Respondent has a right to an adjudicatory hearing on a disputed issue of material fact or of law arising from this **COMPLIANCE ORDER**. This right may be exercised by filing a written request with the Secretary no later than thirty (30) days after receipt of this **COMPLIANCE ORDER**.

II.

The request for an adjudicatory hearing shall specify the provisions of the **COMPLIANCE ORDER** on which the hearing is requested and shall briefly describe the basis for the request. This request should reference the Enforcement Tracking Number and Agency Interest Number, which are located in the upper right-hand corner of the first page of this document and should be directed to the following:

Department of Environmental Quality
Office of the Secretary
Post Office Box 4302
Baton Rouge, Louisiana 70821-4302
Attn: Hearings Clerk, Legal Division
Re: Enforcement Tracking No. MM-CN-13-00617
Agency Interest No. 25350

III.

Upon the Respondent's timely filing a request for a hearing, a hearing on the disputed issue of material fact or of law regarding this **COMPLIANCE ORDER** may be scheduled by the Secretary of the Department. The hearing shall be governed by the Act, the Administrative Procedure Act (La. R.S. 49:950, et seq.), and the Department's Rules of Procedure. The Department may amend or supplement this **COMPLIANCE ORDER** prior to the hearing, after providing sufficient notice and an opportunity for the preparation of a defense for the hearing.

IV.

This **COMPLIANCE ORDER** shall become a final enforcement action unless the request for hearing is timely filed. Failure to timely request a hearing constitutes a waiver of the Respondent's right to a hearing on a disputed issue of material fact or of law under Section 2050.4 of the Act for the violation(s) described herein.

V.

The Respondent's failure to request a hearing or to file an appeal or the Respondent's withdrawal of a request for hearing on this **COMPLIANCE ORDER** shall not preclude the Respondent from contesting the findings of facts in any subsequent penalty action addressing the same violation(s), although the Respondent is estopped from objecting to this **COMPLIANCE ORDER** becoming a permanent part of its compliance history.

VI.

Civil penalties of not more than twenty-seven thousand five hundred dollars (\$27,500) for each day of violation for the violation(s) described herein may be assessed. For violations which occurred on August 15, 2004, or after, civil penalties of not more than thirty-two thousand five hundred dollars (\$32,500) may be assessed for each day of violation. The Respondent's failure or refusal to comply with this **COMPLIANCE ORDER** and the provisions herein will subject the Respondent to possible enforcement procedures under La. R.S. 30:2025, which could result in the assessment of a civil penalty in an amount of not more than fifty thousand dollars (\$50,000) for each day of continued violation or noncompliance.

VII.

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

NOTICE OF POTENTIAL PENALTY

I.

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 violation(s) described herein. Written comments may be filed regarding the violation(s) 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.

II.

Prior to the issuance of additional appropriate enforcement action(s), you may request a meeting with the Department to present any mitigating circumstances concerning the violation(s). If you would like to have such a meeting, please contact Maggie Blunschi at (225) 219-4468 within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

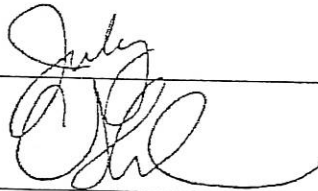
III.

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 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 violation(s) 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 that statement.

IV.

This **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is effective upon receipt.

Baton Rouge, Louisiana, this 08 day of July, 2014.


Cheryl Sonnier Nolan
Assistant Secretary
Office of Environmental Compliance

Copies of a request for a hearing and/or related correspondence should be sent to:

Louisiana Department of Environmental Quality
Office of Environmental Compliance
Enforcement Division
P.O. Box 4312
Baton Rouge, LA 70821-4312
Attention: Maggie Turner