STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	**Settlement Tracking No. SA-AE-16-0001**
INSULATION TECHNOLOGIES, INC.	*	
AI # 183518	*	**Enforcement Tracking No. AE-PP-13-00136 AE-P-14-00573**
PROCEEDINGS UNDER THE LOUISIANA ENVIRONMENTAL QUALITY ACT LA. R.S. 30:2001, ET SEQ.	*	**Docket No. 2015-2642-EQ**

SETTLEMENT

The following Settlement is hereby agreed to between Insulation Technologies, 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 contracted to perform lead abatement activities for a facility located in New Orleans, Orleans Parish, Louisiana ("the Facility").

II

On December 10, 2013, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. AE-PP-13-00136, which was based upon the following findings of fact:

"On or about August 20, 2012, an inspection of the **KAREN SCHWARTZ PROPERTY**, (the site) owned and/or operated by Karen Schwartz, was 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 4108-10 St. Claude Avenue in New Orleans, Orleans Parish, Louisiana. Karen Schwartz contracted **INSULATION TECHNOLOGIES, INC. (RESPONENT)** to perform

interior and exterior lead abatement activities at the site. Leaaf Environmental, LLC (Leaaf) was contracted to perform post-abatement clearance activities at the site.

On or about August 16, 2012, the Department received the Respondent's Initial Lead Project Notification Form LPF-3 (LPN) dated August 14, 2012, and the associated fee was submitted to the Department via check number 26389 that was dated August 14, 2012. The LPN listed the start date as August 20, 2012, and the completion date as August 31, 2012, and the abatement method to be used was critical barriers, containment, and wet wiping. According to the Department's letter dated August 17, 2012, the Department had received the Respondent's LPN, LPN03812, and the Respondent was approved to begin on August 20, 2012.

The Department's inspectors met with Mr. Jeffrey Robinson and Mr. Kevin Marks, Representatives of the Respondent, during the site visit that was conducted on or about August 20, 2012. At this time, the Representatives of the Respondent told the inspector that chemical stripping would be used as an abatement methodology. According to the inspector's report, the inspector informed the Representatives of the Respondent that an amended LPN needed to be submitted to the Department to include chemical stripping as an abatement method.

According to the inspector, during a telephone conversation with Mr. Robinson on or about October 3, 2012, Mr. Robinson stated that Hurricane Isaac delayed the project. According to the inspector's report, during this conversation, Mr. Robinson was informed that an amended LPN needed to be filed to change the completion date of the project.

According to Leaaf's Lead Wipe Clearance Report dated November 15, 2012, twelve (12) floor samples, one (1) exterior floor surface sample, three (3) window sill samples, and three (3) window trough samples were collected on November 7, 2012. According to the sample results, one (1) sample collected from the front window sill along the left side of the Main Room located on the

first floor and one (1) sample collected from the window trough along the left wall of the first floor bedroom were less than the clearance levels, and all other sample results exceeded the clearance levels.

In an e-mail dated November 13, 2012, the inspector requested a status of the lead abatement project at the site. According to Mr. Robinson's response e-mail dated December 3, 2012, the project was ongoing. He also stated that the base bid items had been completed, and clearance sampling results indicated that clearance levels had been exceeded. Therefore, the Respondent would begin its second cleaning of the interior floors and window sills. On or about December 3, 2012, the inspector forwarded an e-mail to the Respondent asking if an amended LPN had been submitted to the Department. Additionally, in this email, the inspector also stated that if the Respondent had not submitted an amended LPN to change the completion date, the Respondent would be conducting an abatement activity without the Department's authorization.

On or about December 6, 2012, the Department received an amended LPN that changed the completion date to December 31, 2012, but did not add chemical stripping as an abatement method. The Department received the fees associated with the amended LPN on February 8, 2013.

According to Leaaf's Lead Wipe Clearance Report dated December 17, 2012, twelve (12) floor samples, two (2) window sill samples, and two (2) window trough samples were collected on December 10, 2012. According to the sample results, eleven (11) of the floor samples exceeded the clearance levels, and all other samples were less than the clearance levels.

According to Leaaf's Lead Wipe Clearance Report dated December 28, 2012, eleven (11) floor samples were collected on December 18, 2012. According to the sample results, all eleven (11) floor samples exceeded the clearance level.

According to Leaff's Lead Wipe Clearance Report dated January 11, 2013, four (4) floor samples were collected on January 3, 2013. According to the sample results all four (4) floor samples were less than the clearance level. Leaaf reported that the interior floors, window sills, and window troughs had been cleaned in a manner as to allow them to pass wipe clearance testing required by LAC 33:III.Chapter 28.

On or about January 30, 2013, the inspector received the Respondent's abatement report. According to the abatement report and the Respondent's e-mail dated February 21, 3013, the project start date was August 20, 2012, and the project end date was December 30, 2012. This report also stated that the Respondent used chemical stripping on interior door framing, window panels, and any associated wood work and friction surfaces on interior walls facing St. Claude of the first and second floor.

While the investigation by the Louisiana Department of Environmental Quality (the Department) is not yet complete, the following violation was noted during the course of the inspection:

> The Respondent submitted an initial LPN dated August 14, 2012, accompanied by the appropriate fees. The initial LPN listed the completion date as August 31, 2012, and did not list chemical stripping as an abatement method. According to the Respondent's abatement report that the Department received on or about January 30, 2013, and the Respondent's e-mail dated February 21, 2013, the project end date was December 30, 2012, and chemical stripping was used as an abatement method. Additionally, according to Leaaf's Lead Wipe Clearance Report dated January 11, 2013, post-abatement clearance testing activities were conducted on January 3, 2013. The Department received the Respondent's amended LPN on December 6, 2012, to amend the completion date to December 31, 2012; however, the Department did not receive the appropriate fees until February 8, 2013. In accordance with LAC 33:III.2811.E.4.a, the notification must be accompanied by the appropriate fees, and according to LAC 33:III.2811.E.4.d, the failure to submit a complete and accurate notification or failure to submit the appropriate fees will cause the notification to be rejected and constitute a failure to notify. The Respondent's failure to notify the Department when operations stopped for a day or more during the project time noted on the LPN or to notify when a project is postponed is a violation of LAC

33:III.2811.E.4.b and La. R.S. 30:2057(A)(2)."

On December 18, 2014, the Department issued to Respondent a Penalty Assessment, Enforcement No. AE-P-14-00573, which was based upon the following findings of fact:

"The Respondent was contracted by Karen Schwartz to perform interior and exterior lead abatement activities at the Karen Schwartz Property located at 4108-10 St. Claude Avenue in New Orleans, Orleans Parish, Louisiana.

On or about August 20, 2012, an inspection of the Karen Schwartz Property was performed to determine the degree of compliance with the Act and the Air Quality Regulations.

While the investigation by the Department is not yet complete, the following violation was noted during the course of the inspection:

> The Respondent submitted an initial lead project notification (LPN) dated August 14, 2012, accompanied by the appropriate fees. The initial LPN listed the completion date as August 31, 2012, and did not list chemical stripping as an abatement method. According to the Respondent's abatement report that the Department received on or about January 30, 2013, and the Respondent's e-mail dated February 21, 2013, the project end date was December 30, 2012, and chemical stripping was used as an abatement method. Additionally, according to the Lead Wipe Clearance Report submitted by Leaaf Environmental, LLC, dated January 11, 2013, post-abatement clearance testing activities were conducted on January 3, 2013. The Department received the Respondent's amended LPN on December 6, 2012, to amend the completion date to December 31, 2012; however, the Department did not receive the appropriate fees until February 8, 2013. In accordance with LAC 33:III.2811.E.4.a, the notification must be accompanied by the appropriate fees, and according to LAC 33:III.2811.E.4.d, the failure to submit a complete and accurate notification or failure to submit the appropriate fees will cause the notification to be rejected and constitute a failure to notify. The Respondent's failure to notify the Department when operations stopped for a day or more during the project time noted on the LPN or to notify when a project is postponed is a violation of LAC 33:III.2811.E.4.b and La. R.S. 30:2057(A)(2).

On December 10, 2013, the Department issued a Notice of Potential Penalty (NOPP), Enforcement Tracking No. AE-PP-13-00136, to the Respondent.

A civil penalty under Section 2025(E) and 2050.3 of the Act may be assessed for the

violations described herein.

Having considered the factors set forth in Section 2025(E)(3) of the Act, and in light of all facts and circumstances presently known, a civil penalty would be appropriate, equitable, and justified.

A penalty in the amount of **$1,068.56** is hereby assessed together with legal interest as allowed by law and all costs of bringing and prosecuting this enforcement action accruing after the date of issuance."

III

In response to the Penalty Assessment, 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 ONE THOUSAND FORTY-EIGHT AND 56/100 DOLLARS ($1,048.56), of which Nine Hundred Twenty-Eight and 56/100 ($928.56) 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), the Penalty Assessment, 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.

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 Orleans 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.

INSULATION TECHNOLOGIES, INC.

BY: _____
(Signature)

_____
(Printed)

TITLE: _____

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20 _____, at _____.

_____
NOTARY PUBLIC (ID #_____)

_____
(stamped or printed)

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 _____ day of _____, 20_____, at Baton Rouge, Louisiana.

_____
NOTARY PUBLIC (ID # _____)

_____
(stamped or printed)

Approved: _____
Lourdes Iturralde, Assistant Secretary