

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

ADVANCED BUILDING SERVICES, LLC

AI # 160309

PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT

LA. R.S. 30:2001, ET SEQ.

* Settlement Tracking No.

* SA-MME-12-0067

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* Enforcement Tracking Nos.

* MM-CN-08-0082

* HE-PP-10-01864

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SETTLEMENT

The following Settlement is hereby agreed to between Advanced Building Services, LLC (“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 Advanced Building Services located at 26360 Highway 15 in Ferriday, Concordia Parish, Louisiana (“the Facility”).

II

On March 5, 2009, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty (CONOPP), Enforcement No. MM-CN-08-0082, which was based upon the following findings of fact:

The Respondent owns and/or operates a facility known to the Department as Advanced Building Services located at 26360 Highway 15 in Ferriday, Concordia Parish, Louisiana. The Respondent has notified the Department as a Small Quantity Generator (SQG) of hazardous waste and has been assigned EPA Identification No. LAR000067447.

On or about August 29, 2008, an inspection was conducted by a representative of the Department which revealed the following violations:

- A. The Respondent failed to notify the Department as a generator of hazardous waste, in violation of LAC 33:V.1105.A. This violation has been addressed.
- B. The Respondent failed to mark containers of hazardous waste with the accumulation start date, in violation of LAC 33:V.1109.E.7.c. Specifically, containers of F005 and D001 hazardous waste (paint waste) were not labeled with an accumulation start date.
- C. The Respondent failed to mark a container of hazardous waste at or near the point of generation where the waste was initially accumulated with the words "Hazardous Waste" or with other words that identify the contents, in violation of LAC 33:V.1109.E.4. Specifically, the Respondent was storing waste paint and spent cleaning solvent (D001 and F005) in containers which were not labeled with the words "Hazardous Waste," or other words that identified the contents.
- D. The Respondent failed to keep a container of hazardous waste closed, as described in LAC 33:V.2107, in violation of LAC 33:V.1109.E.7.a.
- E. The Respondent was engaged in the open burning of solid waste, in violation of LAC 33:VII.315.M.

On May 13, 2011, the Department issued to Respondent a Notice of Potential Penalty (NOPP), Enforcement No. HE-PP-10-01864, which was based upon the following findings of fact:

On or about October 26, 2010, an inspection of Advance Building Services, owned and/or operated by Advance Building Services, L.L.C. (RESPONDENT), was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Hazardous Waste Regulations. The facility is located at 26360 Highway 15 in Ferriday, Concordia Parish, Louisiana.

On or about March 5, 2009, Consolidated Compliance Order & Notice of Potential

Penalty, MM-CN-08-0082, was issued to the Respondent. This action, received by the Respondent on March 11, 2009, was not appealed and is considered a final action by the Department.

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 inspection:

- A. The Respondent failed to mark containers of hazardous waste with the accumulation start date, in violation of LAC 33:V.1109.E.7.c and MM-CN-08-0082. Specifically, in the hazardous waste accumulation area, the two (2) drums of waste paint were not labeled with the accumulation date. This violation was addressed during the inspection on October 26, 2010, when the Respondent placed labels on the drums with the accumulation start date.
- B. The Respondent failed to keep a container of hazardous waste closed, as described in LAC 33:V.2107, in violation of LAC 33:V.1109.E.7.a and MM-CN-08-0082. Specifically, in the hazardous waste accumulation area, one (1) of the two (2) drums used to store hazardous waste was open. This violation was addressed during the inspection on October 26, 2010, when the Respondent closed the drum.
- C. The Respondent failed to label or clearly mark containers of hazardous waste with the words "Hazardous Waste", in violation of LAC 33:V.1109.E.1.d. Specifically, in the hazardous waste accumulation area, the two (2) drums of waste paint were not labeled or clearly marked with the words "Hazardous Waste". This violation was addressed during the inspection on October 26, 2010, when the Respondent labeled the drums with the words "Hazardous Waste".
- D. The Respondent failed to notify the Department within seven (7) days from the time that information submitted in the application for the identification number changed, in violation of LAC 33:V.1105.B. Specifically, the Respondent failed to submit an amended HW-1 form to include hazardous waste F003, D035, D005, D006, D007, D001, and D008 generated at the facility and to indicate a change in the hazardous waste contact. This violation was addressed on or about November 4, 2010, when a new HW-1 form was submitted with the updated information.

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 FOUR THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$4,500.00), of which FOUR HUNDRED EIGHTY-THREE AND 99/100 DOLLARS (\$483.99) 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), the CONOPP, the NOPP, 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

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Concordia Parish, Louisiana. The advertisement, in form, wording, and size 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.

IX

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).

X

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

XI

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.

ADVANCED BUILDING SERVICES, LLC

BY: Ricky Meaux
(Signature)

RICKY MEAUX
(Printed)

TITLE: CHIEF FINANCIAL OFFICER

THUS DONE AND SIGNED in duplicate original before me this 13 day of May, 20 13, at Lafayette, Louisiana.

Peggy Hardy
NOTARY PUBLIC (ID # PEGGY HARDY
ID# 7693)

(stamped or printed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Peggy M. Hatch Secretary

BY: Cheryl
Cheryl Sonnier Nolan, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 2nd day of Aug., 20 13, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 19181)

Perry Theriot
(stamped or printed)

Approved: Cheryl
Cheryl Sonnier Nolan, Assistant Secretary