

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

QUALITY SHIPYARDS, L.L.C.

AI # 9899, 11053

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

* Settlement Tracking No.
* SA-AE-15-0029
*
* Enforcement Tracking No.
* AE-CN-09-0107
*
* Docket No. 2014-9917-EQ
*

SETTLEMENT

The following Settlement is hereby agreed to between Quality Shipyards, 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 formerly owned and/or operated a marine vessel maintenance facility and marine fabrication facility located in Houma, Terrebonne Parish, Louisiana (“the Facilities”). Respondent sold its Yard I (AI No. 11053) effective on or about March 26, 2013, and also sold its Yard II (AI No. 9899) effective on or about June 30, 2013.

II

On May 24, 2013, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty (CONOPP), Enforcement No. AE-CN-09-0107, which was based upon the following findings of fact:

“The Respondent owns and/or operates Yard II (facility), AI No. 9899, a marine vessel maintenance facility located at 3201 Earhart Drive in Houma, Terrebonne Parish, Louisiana. The

facility operates under Air Permit No. 2880-00056-01 issued on September 22, 1995.

On June 19, 2012, and April 17, 2013, file reviews of the Respondent's facility were conducted to determine the degree of compliance with the Act and the Air Quality Regulations.

While the review is not yet complete, the following violations were noted during the course of the file reviews:

- A. According to Specific Condition No. 2 of Air Permit No. 2880-00056-01, "a report shall be submitted to the Air Quality Division listing the annual emissions of toxic air pollutants, speciated by pollutant, by February 15 for the previous calendar year." The Respondent failed to submit the following reports, including speciated pollutants, by the due date:

Calendar Year	Due Date	Report Dated	Postmarked Date	Department Receipt Date	Speciated by Pollutant
2008	2/15/2009	2/15/2009	3/26/2009	4/1/2009	No
2009	2/15/2010	2/12/2010	3/10/2010	3/18/2010	Yes
2010	2/15/2011	4/4/2011	-	5/3/2011	Yes
2011	2/15/2012	2/17/2012	2/28/2012	3/2/2012	Yes

Each event of the Respondent's failure to submit an annual emissions report according to the requirements of Specific Condition No. 2 of Air Permit No. 2880-00056-01 is a violation of Specific Condition No. 2 of Air Permit No. 2880-00056-01, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

- B. According to the Respondent's annual emissions reports, the facility exceeded permitted emissions limits during the 2007, 2008, 2009, 2010, and 2011 calendar years. The Respondent reported the following emissions exceedances:

Pollutant	Permitted Limit (tons)	Emissions Reported (tons)				
		2007	2008	2009	2010	2011
Ethyl Benzene	0.124	0.555	0.658	0.329	-	0.429
Methyl Ethyl Ketone	3.824	8.873	6.655	7.949	4.7894	7.579
Xylene	1.878	2.127	2.973	-	-	2.659
Methyl Isobutyl Ketone	0.083	-	-	2.218	-	-

Each event of an exceeded permit limit of each pollutant is a violation of Air Permit No. 2880-00056-01, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

- C. In correspondence dated June 27, 2012, the Respondent stated that abrasive blasting is not conducted in a fully enclosed or surrounded structure. The facility does not have a best management practices (BMP) plan. This is a violation of LAC 33:III.1329, and La. R.S. 30:2057(A)(2).
- D. In correspondence dated June 27, 2012, the Respondent stated that the facility does not maintain the records required by LAC 33:III.1333. This is a violation of LAC 33:III.1333 and La. R.S. 30:2057(A)(2).

The Respondent owns and/or operates Yard I (facility), AI No. 11053, a marine fabrication facility located at 940 Louisiana Highway 182 in Houma, Terrebonne Parish, Louisiana. The facility operated under Air Permit No. 2880-00425-00 issued on August 19, 2011, and rescinded on January 18, 2013.

On or about June 23, 2008, the Department conducted an inspection of the facility to determine the degree of compliance with the Act and the Air Quality Regulations. On June 19, 2012, and April 17, 2013, file reviews of the facility were conducted.

While the review is not complete, the Department noted the following violations during the course of the inspection and subsequent file reviews:

- A. During the course of the inspection, the inspector noted that the Respondent was conducting spray painting activities without containment. The inspector noted that paint overspray was becoming airborne and going offsite. The Respondent's failure to take all reasonable precautions to prevent particulate matter from becoming airborne is a violation of LAC 33:III.1305, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- B. The Respondent failed to submit a timely and complete permit application prior to construction, reconstruction, or modification. Specifically, in correspondence dated August 19, 2011, the Respondent stated that the facility was acquired in 1965. On or about October 29, 2010, the Department received the Respondent's Air Permit Application dated October 28, 2010. This is a violation of LAC 33:III.501.C.1, and La. R.S. 30:2057(A)(2).

- C. The Respondent operated the facility without an air permit. Specifically, in correspondence dated August 19, 2011, the Respondent stated that the facility was acquired in 1965. On August 19, 2011, the Department issued the facility's initial Air Permit No. 2880-00425-00. The Respondent's failure to operate the facility under an appropriate air permit is violation of LAC 33:III.501.C.2 and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- D. In correspondence dated June 27, 2012, the Respondent stated that abrasive blasting is not conducted in a fully enclosed or surrounded structure. The facility does not have a best management practices (BMP) plan. This is a violation of LAC 33:III.1329, and La. R.S. 30:2057(A)(2).
- E. In correspondence dated June 27, 2012, the Respondent stated that the facility does not maintain the records required by LAC 33:III.1333. This is a violation of LAC 33:III.1333 and La. R.S. 30:2057(A)(2)."

III

In response to the CONOPP, 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 THIRTY-TWO THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$32,500.00), Seven Hundred Fifteen and 46/100 Dollars (\$715.46) 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),

permit record(s), the CONOPP 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 Terrebonne 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.

QUALITY SHIPYARDS, L.L.C.

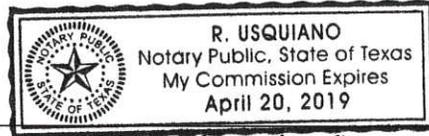
BY: [Signature]
(Signature)

Bruce D. Lundston
(Printed)

TITLE: Vice President

THUS DONE AND SIGNED in duplicate original before me this 5th day of NOVEMBER, 20 15, at HOUSTON, TEXAS.

[Signature]
NOTARY PUBLIC (ID # _____)



(stamped or printed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY

Chuck Carr Brown, Ph.D., Secretary

BY: [Signature]

THUS DONE AND SIGNED in duplicate original before me this 19th day of January, 20 16, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 20590)

See Bar Roll #
File commission

[Signature]
(stamped or printed)

Approved: [Signature]
D. Chance McNeely, Assistant Secretary