

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

ALLIED SHIPYARD, INC.

AI # 25395, 1438

PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT

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

* Settlement Tracking No.

* SA-MM-20-0035

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* Enforcement Tracking Nos.

* MM-CN-08-0035

* MM-CN-10-01900

* MM-CN-11-00986

* MM-CN-12-01015

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* Docket Nos. 2014-11991-EQ

* 2011-15900-EQ

*

SETTLEMENT

The following Settlement is hereby agreed to between Allied Shipyard, 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 owns and/or operates full service ship repair and fabrication facilities located in Lafourche Parish, Louisiana (“the Facilities”).

II

On May 11, 2009, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. MM-CN-08-0035 (Exhibit 1).

On July 6, 2011, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. MM-CN-10-01900 (Exhibit 2).

On September 8, 2011, the Department issued to Respondent a Consolidated Compliance

Order & Notice of Potential Penalty, Enforcement No. MM-CN-11-00986 (Exhibit 3).

On July 29, 2013, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. MM-CN-12-01015 (Exhibit 4).

III

In response to the Consolidated Compliance Orders and Notices of Potential Penalty, Enforcement Nos. MM-CN-10-01900 and MM-CN-12-01015, Respondent made timely requests 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 FIFTY-SEVEN THOUSAND SEVEN HUNDRED AND NO/100 DOLLARS (\$57,700.00), of which Five Thousand Four Hundred Forty-Nine and 58/100 Dollars (\$5,449.58) 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 Consolidated Compliance Orders and 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.

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 Lafourche 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 over a three-year period; thirty-five monthly installments of \$1,602.77 and a final installment of \$1,603.05. The first payment is due 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.

ALLIED SHIPYARD, INC

BY: [Signature]
(Signature)

GAVIN P. CALLAIS
(Printed)

TITLE: PRESIDENT

THUS DONE AND SIGNED in duplicate original before me this 13th day of NOVEMBER, 20 20, at LAROSE, LOUISIANA.

[Signature]
NOTARY PUBLIC (ID # 22014)

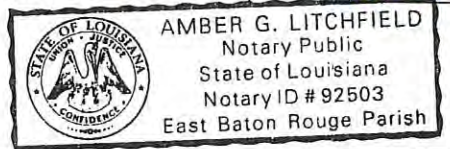
LEE A. CALLAIS
(stamped or printed)

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

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

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

[Signature]
NOTARY PUBLIC (ID # 92503)



(stamped or printed)

Approved: [Signature]
Lourdes Iturralde, Assistant Secretary

BOBBY JINDAL
GOVERNOR



HAROLD LEGGETT, PH.D.
SECRETARY

State of Louisiana

DEPARTMENT OF ENVIRONMENTAL QUALITY
~~OFFICE OF ENVIRONMENTAL COMPLIANCE~~

May 11, 2009

CERTIFIED MAIL (7004 2510 0005 5763 6616)
RETURN RECEIPT REQUESTED

ALLIED SHIPYARD, INC.

c/o Gavin P. Callais
Agent of Service
114 W. 110th St.
Cut Off, LA 70345

**RE: CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. MM-CN-08-0035
AGENCY INTEREST NO. 25395**

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 **ALLIED SHIPYARD, INC. (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 Richard LeBlanc at (225) 219-3774.

Sincerely,

A handwritten signature in black ink, appearing to read "L. Iturralde".

Lourdes Iturralde
Administrator
Enforcement Division

LI/RDL/sea
Alt ID Nos. LAR05N224, 1560-00119,
1560-00119
Attachment



c: Allied Shipyard, Inc.
P.O. Box 1240
Larose, LA 70373

Lee A. Calais
189 Industrial Park Rd.
Lockport, LA 70374

Ms. Carol Peters-Wagnon
U.S. Environmental Protection Agency, Region 6

STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

IN THE MATTER OF

ALLIED SHIPYARD, INC.
LAFOURCHE PARISH
ALT ID NOS. LAR05N224, 1560-00119,
1560-00119

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ENFORCEMENT TRACKING NO.

MM-CN-08-0035

AGENCY INTEREST NO.

25395

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

CONSOLIDATED
COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **ALLIED SHIPYARD, INC. (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 full service ship repair and fabrication facility located at 20837 Louisiana Highway 1 South in Golden Meadow, Lafourche Parish, Louisiana. The facility operated under Air Permit No. 1560-00119-01, issued on November 30, 2005. The

facility currently operates under Air Permit No. 1560-00119-02, issued on April 20, 2007. On or about May 24, 2006, the Respondent was re-issued Louisiana Pollutant Discharge Elimination System (LPDES) Multi-Sector General Permit LAR05N224 to discharge stormwater associated with industrial activities from the Golden Meadow Facility. In addition, the Respondent was issued LPDES permit LA0118699 on or about February 1, 2004, authorizing the discharge of treated sanitary wastewater to Bayou Lafourche, waters of the state.

II.

On or about February 28, 2007, March 7, 2007, and March 20, 2008, inspections of the Respondent's facility were conducted 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 violations were noted during the course of the inspections:

- A. During the course of the inspection conducted on February 28, 2007, the inspector noted that the facility's wind measuring device was broken. A representative at the facility stated that the device had been broken for at least two months, and New Orleans area weather reports were being used for determining wind speed and direction. The Respondent's failure to maintain instrumentation equipped to measure wind direction and velocity on a structure at least 25 feet in height, unobstructed from wind currents is a violation of Specific Requirement No. 32 of Air Permit No. 1560-00119-01, LAC 33:III.501.C.4, LAC 33:III.905, and La. R.S. 30:2057(A)(2).
- B. During the course of the inspection conducted on February 28, 2007, the inspector observed a painter applying coating to the hull of a vessel with no containment in place. This is a violation of LAC 33:III.905 and La. R.S. 30:2057(A)(2).
- C. During the course of the inspection conducted on February 28, 2007, the inspector noted that the screens failed to cover three sides of the sandblasting and painting operations. Several of the screens were in poor condition. This is a violation of Specific Requirement No. 31 of Air Permit No. 1560-00119-01, LAC 33:III.501.C.4, LAC 33:III.905, and La. R.S. 30:2057(A)(2).

- D. During the course of the inspection conducted on February 28, 2007, the inspector observed a bulk sand truck offloading sand into a sand hopper with no visible emission control in place. Dust from the hopper hatch was observed drifting offsite. ~~This is a violation of LAC 33:III.1305.A, LAC 33:III.905, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).~~
- E. During the course of the inspection conducted on March 7, 2007, the inspector observed sandblasting without adequate containment. Dust was observed drifting offsite and across Louisiana Highway 1. This is a violation of LAC 33:III.1305.A, LAC 33:III.905, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- F. During the course of the inspection conducted on March 7, 2007, the inspector noted blasting screens that had holes or tears greater than one foot in length. The screens failed to cover three sides of the sandblasting and painting operations. This is a violation of Specific Requirement No. 31 of Air Permit No. 1560-00119-01, LAC 33:III.501.C.4, LAC 33:III.905, and La. R.S. 30:2057(A)(2).
- G. During the course of the inspection conducted on March 7, 2007, the inspector noted open containers of waste paint and cleaning solvent at the facility. This is a violation of LAC 33:III.2113.A.2, LAC 33:III.2113.A.3, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- H. During the course of the inspection conducted on March 7, 2007, the inspector observed an area outside of a warehouse at the north end of the facility where spent solvent and waste paint was spilled on to the ground. No visible spill prevention or mitigation was noted. This is a violation of LAC 33:III.2113.A.1 and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- I. During the course of the inspection conducted on March 7, 2007, the inspector noted a new wind measuring device was installed, and the facility was in the process of preparing a document to record the information required by Specific Requirement No. 32 of Air Permit No. 1560-00119-01. The Respondent's failure to have the required records available for review is a violation of Specific Requirement No. 32 of Air Permit No. 1560-00119-01, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).
- J. During the course of the inspection conducted on March 20, 2008, the inspector noted open solvent and paint cans throughout the yard at the facility. This a violation of LAC 33:III.2113.A.2, LAC 33:III.2113.A.3, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

K. During the course of the inspection conducted on March 20, 2008, the inspector noted that the wind detector was not working at the time of the visit. The Respondent's failure to maintain instrumentation equipped to measure wind direction and velocity on a structure at least 25 feet in height, unobstructed from wind currents is a violation of Specific Requirement No. 30 of Air Permit No. 1560-00119-02, LAC 33:III.501.C.4, LAC 33:III.905, and La. R.S. 30:2057(A)(2).

L. During the course of the inspection conducted on March 20, 2008, the inspector noted the fence line had screens which, according to the facility's representative, are used during sandblasting or painting operations. These screens had large holes and tears. The screens were blowing in the wind and were not tied down. This is a violation of LAC 33:III.905 and La. R.S. 30:2057(A)(2).

III.

On or about March 20, 2008, and May 7, 2008, the Department conducted compliance inspections on the Respondent's facility in response to a citizen's complaint. The Inspections noted that the Respondent failed to provide adequate secondary containment for diesel containers located at the facility. Specifically, the containment wall contained cracks throughout. The Respondent's failure to implement an adequate Spill Prevention and Control (SPC) plan is a violation of LPDES permit LA0118699 (Part II, Section J.1), La. R.S. 30:2076(A)(3), LAC 33:IX.501.A, LAC 33:IX.905.B, and LAC 33:IX.907.

IV.

On or about September 26, 2008, the Department conducted a file review for the Respondent's Golden Meadow Facility. The file review revealed the following violations of LPDES permit LAR05N224 and the Water Quality Regulations:

A. The Respondent failed to sample the effluent for Total Suspended Solids (TSS) from Outfall 002 for the first quarter monitoring period of 2007. Each failure to sample the effluent is a violation of LPDES permit LAR05N224 (Part I, Section B and Part III, Sections A.2 and C.2), La. R.S. 30:2076(A)(3), LAC 33:IX.501.A;

and LAC 33:IX.2701.A.

- B. The Respondent experienced permit limit exceedances during the third and fourth quarters of 2007. Specifically, for the third quarter of 2007, the Respondent submitted a TSS reading of 522 mg/L, but have a permit limit of 100mg/L. In addition, for the fourth quarter of 2007, the Respondent submitted a TSS reading of 328 mg/L. Each effluent exceedance constitutes a violation of LPDES permit LAR05N224 (Part I, Section B and Part III Section A.2), La. R.S. 30:2076(A)(1), La. R.S. 30:2076(A)(3), LAC 33:IX.501.A, LAC 33:IX.501.D, and LAC 33:IX.2701.A.

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 ensure compliance with all applicable state and federal Air Quality Regulations, including but not limited to, LAC 33:III.1305, LAC 33:III.905, LAC 33:III.2113, and Air Permit No. 1560-00119-02.

II.

To immediately take, upon receipt of this **COMPLIANCE ORDER**, any and all steps necessary to meet and maintain compliance with the permit limitations and conditions contained in LPDES permit LAR05N224, including, but not limited to sampling the effluent and providing adequate secondary containment to prevent potential discharges to waters of the state

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 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

Attention: **Richard LeBlanc**

Enforcement Tracking No. MM-CN-08-0035

Agency Interest No. 25395

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-08-0035

Agency Interest No. 25395

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 that 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 Richard LeBlanc at (225) 219-3774 within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

III.

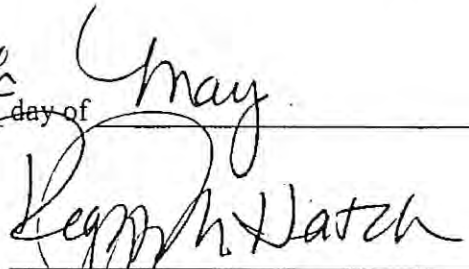
The Department is required by La. R.S. 30:2025(E)(3)(a) to consider the gross revenues of the Respondent and the monetary benefits of noncompliance to determine whether a penalty

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 11th day of May, 2009.



Peggy M. Hatch
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: Richard LeBlanc

BOBBY JINDAL
GOVERNOR



PEGGY M. HATCH
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

July 6, 2011

CERTIFIED MAIL (7004 2510 0005 5753 4806)
RETURN RECEIPT REQUESTED

ALLIED SHIPYARD, INC.
c/o Gavin P. Callais
Agent for Service of Process
114 W. 110th Street
Cut Off, Louisiana 70345

**RE: CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. MM-CN-10-01900
AGENCY INTEREST NO. 1438**

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 **ALLIED SHIPYARD, INC. (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 Sarah Acosta at (225) 219-3779.

Sincerely,

A handwritten signature in black ink, appearing to read "Celeria J. Cage".

Celeria J. Cage
Administrator
Enforcement Division

CJC/SEA/mrb/svm
Alt ID Nos. 1560-00118, LA0118702, LAR05N227, & LAD 008 195 968
Attachment

c: Allied Shipyard, Inc.
Barry Callais
P. O. Box 1240
Larose, Louisiana 70373

Post Office Box 4312 • Baton Rouge, Louisiana 70821-4312 • Phone 225-219-3715 • Fax 225-219-3708

www.deq.louisiana.gov



STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

IN THE MATTER OF

ALLIED SHIPYARD, INC.
LAFOURCHE PARISH
ALT ID NOS. 1560-00118, LA0118702,
LAR05N227, & LAD 008 195 968

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

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* ENFORCEMENT TRACKING NO.
*
* MM-CN-10-01900
*
* AGENCY INTEREST NO.
*
* 1438
*

CONSOLIDATED

COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **ALLIED SHIPYARD, INC. (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 full service ship repair and fabrication facility located at 310 Ledet Lane in Larose, Lafourche Parish, Louisiana. The facility currently operates under Air Permit No. 1560-00118-02, issued on April 23, 2007. The Respondent has notified the Department as a small quantity generator of hazardous waste facility with the EPA I.D. number LAD 008 195 968. The Respondent was authorized under Louisiana Pollutant Discharge Elimination System (LPDES) Multi-Sector General Permit (MSGP) LAR050000 and specifically assigned permit number LAR05N227 on or about May 24, 2006. LPDES permit LAR05N227 expired on April 30, 2011, but was administratively continued until the Respondent was re-authorized on or about May 27, 2011. LPDES permit LAR05N227 will expire on May 3, 2016. In addition, the Respondent was issued LPDES permit LA0118702 on January 23, 2004, with an effective date of February 1, 2004. LPDES permit

LA0118702 expired on January 31, 2009, but was administratively continued until it was re-issued on September 25, 2009, with an effective date of November 1, 2009, and an expiration date of October 31, 2014. Under the terms and conditions of LPDES permit LAR05N227, the Respondent is authorized to discharge storm water associated with industrial activities from Outfalls 001, 002, and 003 to the Intracoastal Canal Waterway, waters of the state. Under the terms and conditions of LPDES permit LA0118702, the Respondent is authorized to discharge treated sanitary wastewater from Outfalls 001 and 002 to the Intracoastal Waterway, waters of the state.

II.

On or about September 7, September 14, September 16, October 1, and November 8, 2010, inspections of the Respondent's facility were performed to determine the degree of compliance with the Act, Air Quality, Water Quality, Solid Waste, and Hazardous Waste Regulations. On or about September 17 and September 30, 2010, incident investigations of the Respondent's facility were conducted in response to multiple citizen complaints of particulates leaving the facility. The Department issued a Notice of Deficiency (NOD) dated September 14, 2010, in response to the findings of the September 7, 2010, inspection. The NOD states the area of concern as failure to control particulate emissions as required by LAC 33:III.1305. On or about October 7, 2010, the Respondent submitted a response to the NOD.

While the Department's investigation is not yet complete, the following violations were noted during the course of the inspections and a subsequent file review conducted on January 10, 2011, and June 28, 2011:

- A. During the course of the inspection conducted on September 7, 2010, the inspector noted sandblasting without adequate containment, and the blasting material was going offsite. This is a violation of LAC 33:III.1305.A, LAC 33:III.905, Air Permit No. 1560-00118-02, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- B. During the course of the inspection conducted on September 14, 2010, the inspector noted sandblasting without adequate containment and sand going offsite into the waterway. This is a violation of LAC 33:III.1305.A, LAC 33:III.905, LAC 33:III.1329.E, Air Permit No. 1560-00118-02, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- C. On or about September 14, 2010, an inspection of the Respondent's facility revealed the Respondent caused and/or allowed the deposition of regulated solid waste into waters of the state without a permit and/or

other authority from the Department, in violation of La. R.S. 30:2155, La. R.S. 30:2075, LAC 33:VII.315.C, and LAC 33:VII.315.L. Specifically, the facility disposed spent sand blasting material into the Intracoastal Waterway, waters of the state.

- D. During the course of the inspection conducted on September 16, 2010, the inspector noted spray painting without adequate containment. This is a violation of LAC 33:III.905, LAC 33:III.1305, Air Permit No. 1560-00118-02, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).
- E. On September 17, 2010, the inspector noted particulate matter being blown into the waterway on the east side of a dry dock. According to the inspector, the dry dock had cover on top and all sides except the east side. This is a violation of LAC 33:III.1305.A, LAC 33:III.905, LAC 33:III.1329.E, Air Permit No. 1560-00118-02, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- F. On or about September 17, 2010, an inspection of the Respondent's facility revealed the Respondent caused and/or allowed the deposition of regulated solid waste into the waters of the state without a permit and/or other authority from the Department, in violation of La. R.S. 30:2155, La. R.S. 30:2075, LAC 33:VII.315.C, and LAC 33:VII.315.L. Specifically, the inspector noted particulate matter being blown into the Intracoastal Waterway on the east side of a dry dock.
- G. On September 30, 2010, the inspector noted particulate matter was being emitted from a dry dock. Screens were in place on the facility's west side of the dock but not on the east end of the dock. According to the inspector, particulate was going offsite into the waterway. This is a violation of LAC 33:III.1305.A, LAC 33:III.905, LAC 33:III.1329.E, Air Permit No. 1560-00118-02, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- H. On or about September 30, 2010, an inspection of the Respondent's facility revealed the Respondent caused and/or allowed the deposition of regulated solid waste into the waters of the state without a permit and/or other authority from the Department, in violation of La. R.S. 30:2155, La. R.S. 30:2075, LAC 33:VII.315.C, and LAC 33:VII.315.L. Specifically, the inspector noted particulate matter going offsite into the Intracoastal Waterway.
- I. During the course of the inspection conducted on October 1, 2010, the inspector noted the facility's abrasive blasting Best Management Practices (BMP) Plan did not have a description of the facility that included an indication of any nearby recreational areas, residences, or other structures not owned or used solely by the facility, and their

distances and directions from the facility. This is a violation of LAC 33:III.1331.F.4 and La. R.S. 30:2057(A)(2).

- J. During the course of the inspection conducted on October 1, 2010, the inspector noted the facility's abrasive blasting BMP Plan did not have a description of any nearby waters of the state that may be affected, their distances and directions from the facility. This is a violation of LAC 33:III.1331.F.5 and La. R.S. 30:2057(A)(2).
- K. During the course of the inspection conducted on October 1, 2010, the inspector noted the facility's abrasive blasting BMP Plan did not have personnel training records. Each incident of the Respondent's failure to record personnel training is a violation of LAC 33:III.1331.F.9 and La. R.S. 30:2057(A)(2).
- L. During the course of the inspection conducted on October 1, 2010, the inspector noted the facility's BMP Plan did not have documentation of employee and contractor training, including dates, subjects and hours of training and a list of attendees with signatures. Each incident of the Respondent's failure to have required documentation is a violation of LAC 33:III.1331.H.2.b and La. R.S. 30:2057(A)(2).
- M. During the course of the inspection conducted on October 1, 2010, the inspector noted the facility did not have descriptions and diagrams showing the location of all blasting operations on site. According to the inspector, the facility conducts sandblasting of barges along the bulk head on the Intracoastal Waterway, and this area was not indicated on the site diagram as a sandblasting location. This is a violation of LAC 33:III.1333.A.3 and La. R.S. 30:2057(A)(2).
- N. During the course of the inspection conducted on October 1, 2010, the inspector noted the facility did not have, on site, the weight-percent of fines of the abrasive material purchased per the manufacturer. This is a violation of LAC 33:III.1333.A.4.a and La. R.S. 30:2057(A)(2).
- O. During the course of the inspection conducted on October 1, 2010, the inspector noted the facility did not have records of visual observations of particulate matter emissions, recorded at the commencement of, and prior to ending of, operations less than four hours in duration, and every four hours of operation greater than four hours in duration. Each incident of the Respondent's failure to record required information is a violation of LAC 33:III.1333.A.7.a and La. R.S. 30:2057(A)(2).
- P. During the course of the inspection conducted on October 1, 2010, the inspector noted the facility did not have records of wind direction recorded simultaneously with the observations required in

LAC 33:III.1333.A.7. Each incident of the Respondent's failure to record the wind direction is a violation of LAC 33:III.1333.A.7.b and La. R.S. 30:2057(A)(2).

- Q. During the course of the inspection conducted on October 1, 2010, the inspector noted the piles of spent blasting material not far from the property line near residential homes. The piles were not covered or wetted. This is a violation of LAC 33:III.1329.G and La. R.S. 30:2057(A)(2).
- R. Specific Requirement No. 33 of Air Permit No. 1560-00118-02 states, "Permittee shall install instrumentation equipped to measure wind direction and velocity on a structure at least 25 feet in height, unobstructed from wind currents." During the course of the inspection conducted on October 1, 2010, the inspector noted the control panel for the weather station could not initially be found, and once it was located was found to be covered in dust and not operational. This is a violation of Specific Requirement No. 33 of Air Permit No. 1560-00118-02, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).
- S. During the course of the inspection conducted on October 1, 2010, the inspector noted a truck delivering abrasive blasting material into the hopper. During the delivery, dust was observed escaping the vent at the top of the hopper and becoming airborne. According to the inspector, there were no controls in place to prevent the dust from becoming airborne. This is a violation of LAC 33:III.1305.A, LAC 33:III.905, Air Permit No. 1560-00118-02, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- T. During the course of the inspection conducted on October 1, 2010, the inspector noted several waste paint drums and buckets were open. This is a violation of LAC 33:III.2113.A.2, Specific Requirement No. 28 of Air Permit of 1560-00118-02, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- U. Inspections conducted by the Department on or about September 14, 2010, and October 1, 2010, revealed that the Respondent failed to properly implement Best Management Practices (BMPs). Specifically, the facility did not have any containment around the perimeter of a barge that was being sand blasted over open water and abrasive blasting material was piled on top of a containment wall with the potential to fall into waters of the state. The inspections also revealed that abrasive blasting material had spilled over the side of a barge into the Intracoastal Canal. The failure to properly implement BMPs is a violation of LPDES permit LA0118702 (Part II, Section O and Part III, Section A.2), La. R.S. 30:2076 (A) (3), and LAC 33:IX.501.A.

- V. During the course of inspections conducted on October 1, 2010, and November 8, 2010, the inspector noted the Respondent failed to determine if solid wastes generated at its facility were hazardous wastes, in violation of LAC 33:V.1103.B. Specifically, the Respondent failed to determine whether the following solid wastes generated at the facility were a hazardous waste:
- 1) a sheen and/or emulsification observed in the vicinity of the "Hazardous Waste and Used Oil Storage Area";
 - 2) approximately three (3) inches of contaminated rainwater observed within the "Hazardous Waste and Used Oil Storage Area" secondary containment system.
- W. During the course of inspections conducted on October 1, 2010, and November 8, 2010, the inspector noted that the Respondent failed to submit an Exception Report explaining that the Respondent had failed to receive a completed copy of manifest document number 003331646, in violation of LAC 33:V.1111.C.3.
- X. During the course of inspections conducted on October 1, 2010, and November 8, 2010, the inspector noted the Respondent failed to mark containers of paint waste "Hazardous Waste" or with other words that identify the contents of the containers, in violation of LAC 33:V.1109.E.4. Specifically, the Respondent failed to label approximately ten (10) 55-gallon containers storing hazardous waste as required.
- Y. During the course of inspections conducted on October 1, 2010, and November 8, 2010, the inspector noted the Respondent failed to label or clearly mark a container storing used oil with the words "Used Oil," in violation of LAC 33:V.4013.D.1. Specifically, the Respondent failed to label approximately thirty-four (34) 55-gallon containers storing Used Oil as required.
- Z. During the course of inspections conducted on October 1, 2010, and November 8, 2010, the inspector noted the Respondent failed to conduct weekly inspections of areas where Hazardous Wastes/Used Oil Storage Area containers are stored, as specified in LAC 33:V.2107.A, in violation of LAC 33:V.1109.E.7.a.
- AA. During the course of inspections conducted on October 1, 2010, and November 8, 2010, the inspector noted the Respondent failed to sufficiently close a container storing hazardous waste, as specified in LAC 33:V.2107.A, in violation of LAC 33:V.1109.E.7.a. Specifically, approximately ten open 5-gallon and 55-gallon containers holding

spent paint cleaning solvent waste paint and/or waste paint related materials were not closed during storage.

BB. An inspection conducted by the Department on or about October 1, 2010, revealed that the facility failed to implement their Storm Water Pollution Prevention Plan (SWP3). Specifically, the facility had several drums which were not labeled and some buckets with no lids containing what appeared to be used oil. In addition, the facility is not performing the required monthly site inspections and has not conducted an annual comprehensive site evaluation since 2008. Each failure to implement the SWP3 is a violation of LPDES permit LAR05N227 (Sections 4.2.7.2.1, 4.2.9.1, 6.R.4.3.3, 6.R.4.5, 6.R.4.7, and 9.1.1), La R.S. 30:2076 (A) (3), and LAC 33:IX.501.A.

CC. An inspection conducted by the Department on or about October 1, 2010, and a subsequent file review conducted on or about June 28, 2011, revealed that the Respondent exceeded the effluent limitations contained in LPDES permits LA0118702 and LAR05N227. These effluent exceedances, as reported by the Respondent on Discharge Monitoring Reports (DMRs), are summarized below:

DATE	OUTFALL	PARAMETER	PERMIT LIMIT	SAMPLE VALUE
LPDES Permit LA0118702				
10/1/2006 to 10/30/2006	002 *	Fecal Coliform Weekly Average	400 col/100ml	TNTC
03/01/2009 to 03/31/2009	002 *	BOD ₅ Weekly Average	45 mg/L	68 mg/L
		Fecal Coliform Weekly Average	400 col/100ml	>6,000 col/100ml
09/01/2009 to 09/30/2009	002 *	Fecal Coliform Weekly Average	400 col/100ml	1,030 col/100ml
LPDES Permit LAR05N227				
07/01/2007 to 09/30/2007	002	TOC Daily Maximum	50 mg/l	185 mg/L

* These violations were improperly submitted on quarterly DMRs; however, enough information was submitted that the Department was able to determine the month the violation occurred.

Each Fecal Coliform and BOD₅ exceedance is a violation of LPDES permit LA0118702 (Part I, page 3 of 3; Part II, Section H; and Part III, Section A.2), La. R.S. 30:2076 (A) (3), and LAC 33:IX.501.A. Each TOC exceedance is a violation of LPDES permit LAR05N227 (Sections 6.R.5 and 9.1.1), La. R.S. 30:2076 (A) (3), and LAC 33:IX.501.A.

DD. A file review conducted by the Department on or about June 28, 2011, revealed that the Respondent failed to submit DMRs required by LPDES permit LA0118702. Specifically, the Respondent failed to

submit the Outfall 001 DMRs for the first semi-annual monitoring period of 2008 and the second semi-annual monitoring period of 2010. In addition, the Respondent failed to submit the Outfall 002 monthly DMRs for October 2010 through March 2011. The failure to submit a DMR prior to November 1, 2009, is a violation of LPDES permit LA0118702 (Part II, Section Q and Part III, Sections A.2 and D.4), La. R.S. 30:2076 (A) (3), and LAC 33:IX.2701.L.4.a. Each failure to submit a DMR on or after November 1, 2009, is a violation of LPDES permit LA0118702 (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.

EE. A file review conducted by the Department on or about June 28, 2011, revealed that the Respondent failed to sample. Specifically, the Respondent improperly submitted quarterly DMRs for sanitary Outfall 002 instead of monthly DMRs for numerous monitoring periods. Since the Respondent was required to sample monthly, three samples should have been taken per quarter. The Respondent reported that only one sample was taken for the entire quarter on the DMRs for sanitary Outfall 002 for the first quarter of 2007 and the fourth quarter of 2007 through the second quarter of 2010. In addition, the Respondent reported on the storm-water Outfall 001 DMR for the first quarter of 2007 that they failed to sample for TSS. Each failure to sample at sanitary Outfall 002 is a violation of LPDES permit LA0118702 (Part I, page 3 of 3; Part II, Section F; and Part III, Section A.2), La. R.S. 30:2076 (A) (3), and LAC 33:IX.501.A. The failure to sample at storm-water Outfall 001 is a violation of LPDES permit LAR05N227 (Sections 6.R.5 and 9.I.1), La. R.S. 30:2076 (A) (3), and LAC 33:IX.501.A.

FF. A file review conducted by the Department on or about June 28, 2011, revealed that the Respondent failed to follow approved testing procedures. Specifically, the laboratory data and chain of custody forms submitted by the Respondent showed that the holding time was exceeded for the pH sample collected on October 26, 2006, from sanitary Outfall 002. The failure to follow approved testing procedures is a violation of LPDES permit LA0118702 (Part II, Section F and Part III, Sections A.2 and C.5), La. R.S. 30:2076 (A) (3), and LAC 33:IX.2701.J.4.

GG. A file review conducted by the Department on or about June 28, 2011, revealed that the Respondent failed to properly report on the following occasions:

1. The Respondent reported no discharge on the DMRs for the second half of 2004 and the first half of 2005 for sanitary Outfall 001 and for November 2004 and December 2004 for sanitary Outfall 002,

but the Respondent signed and certified the DMRs before the respective monitoring periods were complete.

2. LPDES permit LA0118702 requires the Respondent to sample and submit DMRs on a monthly basis; however, the Respondent submitted one quarterly DMR in lieu of three monthly DMRs from April 2005 through September 2010.

Each failure to properly report prior to November 1, 2009, is a violation of LPDES permit LA0118702 (Part II, Section Q; and Part III, Sections A.2 and D.4), La. R.S. 30:2076 (A) (3), and LAC 33:IX.2701.L.4.d. Each failure to properly report on or after November 1, 2009, is a violation of LPDES permit LA0118702 (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.d.

HH. A file review conducted by the Department on or about June 28, 2011, revealed that the Respondent failed to submit complete and accurate sanitary DMRs on the following occasions:

OUTFALL	VIOLATION	DATES
002	Failed to report BOD ₅ , pH, TSS, flow, and Fecal Coliform	February 2004 and October 2004
002	Failed to report BOD ₅ , pH, TSS, flow (monthly average only), and Fecal Coliform	May and June of 2004
001	Incorrect monitoring period	The first half of 2007
002	Reported a flow, but failed to report BOD ₅ , pH, TSS, or Fecal Coliform	The first quarter of 2005, the second quarter of 2005, the third quarter of 2005, and the fourth quarter of 2005
002	Failed to report flow or a pH minimum value	The fourth quarter of 2006 and the first quarter of 2007
002	DMR reports sample values, but no flow is reported and no discharge is reported in the comments field	The second quarter of 2007
002	The first quarter of 2009 DMR is labeled as the fourth quarter of 2008 and is not signed. The sample was taken in March of 2009.	The first quarter of 2009

Each failure to submit a complete and accurate DMR prior to November 1, 2009, is a violation of LPDES permit LA0118702 (Part II, Section Q; and Part III, Sections A.2 and D.4), La. R.S. 30:2076 (A) (3), and LAC 33:IX.2701.L.4.d. Each failure to submit a complete and accurate DMR on or after November 1, 2009, is a violation of LPDES permit LA0118702 (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.d.8.

II. A file review conducted by the Department on or about June 28, 2011, revealed that the Respondent failed to submit original DMRs. Specifically, the Respondent submitted the following DMRs as copies: the second half of 2004 for sanitary Outfall 001; February 2004, March 2004, January 2005, February 2005, and March 2005 from sanitary Outfall 002; the third and fourth quarters of 2007 from storm water Outfall 002; and the second and third quarters of 2007 for storm water Outfall 003. Each failure to submit an original DMR for a sanitary outfall is a violation of LPDES permit LA0118702 (Part III, Section A.2), La. R.S. 30:2076 (A) (3), and LAC 33:IX.501.A. Each failure to submit an original DMR for a storm water outfall is a violation of LPDES permit LAR05N227 (Part III, Section 9.1.1), La. R.S. 30:2076 (A) (3), and LAC 33:IX.501.A.

JJ. A file review conducted by the Department on or about June 28, 2011, revealed that the Respondent failed sign and certify the December 2004 DMR for sanitary Outfall 002. The failure to sign and certify each DMR is a violation of LPDES LA0118702 (Part III, Sections A.2 and D.10), La. R.S. 30:2076 (A) (3), and LAC 33:IX.2701.K.1.

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 Regulations including, but not limited to, Air Permit No. 1560-00118-02, LAC 33:III.Chapter 13, LAC 33:III.905, and LAC 33:III.2113.

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 permits LA0118702 and LAR05N227 and the Water Quality Regulations including, but not limited to, properly implementing BMPs, properly implementing the SWP3, sampling the effluent as required, properly reporting, submitting complete and accurate DMRs, and submitting original DMRs.

III.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, properly completed Discharge Monitoring Reports (DMRs) for the monitoring periods of the last three years mentioned in Paragraph DD of the Findings of Fact portion of this Order. If you are submitting copies of DMRs, please be advised that each copy of the DMR shall be signed and dated with an original signature. 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."

IV.

To perform a waste determination, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, for the solid wastes described in Finding of Fact Paragraph II.A and on the contained rain water inside the secondary containment and to institute procedures to ensure that hazardous waste determinations, when necessary, are performed and documented in accordance with LAC 33:V.1103. The Respondent shall dispose of all solid and hazardous wastes at facilities authorized to receive those wastes within seven (7) days after receiving the results of required waste determinations. Additionally, the Respondent shall obtain and submit to the Enforcement Division documents verifying proper disposal of all solid and hazardous wastes addressed under this **COMPLIANCE ORDER**.

V.

To immediately cease, upon receipt of this **COMPLIANCE ORDER**, depositing or allowing the deposit of regulated solid waste of any kind at this site or any other site not permitted to receive such waste.

VI.

To immediately, upon receipt of this **COMPLIANCE ORDER**, institute policies and procedures to ensure a copy of each manifest is signed from the designated facility which received the waste. In the event the Respondent fails to receive a signed copy of the manifest from the destination facility, the Respondent shall submit an exception report as specified in LAC 33:V.1111.C.

VII.

To immediately, upon receipt of this **COMPLIANCE ORDER**, clearly mark all containers storing hazardous waste with the words "Hazardous Waste" and all hazardous waste satellite

accumulation containers with the words "Hazardous Waste" (or other words that identify the hazardous waste), in accordance with LAC 33:V.1109.E.1.d and LAC 33:V.1109.E.4, respectively.

VIII.

To immediately, upon receipt of this **COMPLIANCE ORDER**, clearly mark all containers storing used oil with the words "Used Oil" and to institute procedures to ensure that all containers and aboveground storage tanks storing used oil are labeled in accordance with LAC 33:V.4013.D.1.

IX.

To immediately, upon receipt of this **COMPLIANCE ORDER**, institute policies and procedures to ensure to inspect at least weekly areas where Hazardous Waste containers are stored to ensure containers are not leaking and for deterioration of containers and the containment system caused by corrosion.

X.

To immediately, upon receipt of this **COMPLIANCE ORDER**, close all containers storing hazardous waste and to institute procedures to ensure that containers storing hazardous waste remain closed except when necessary to add or remove waste, in accordance with LAC 33:V.2107.A.

XI.

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: Sarah Acosta
Re: Enforcement Tracking No. MM-CN-10-01900
Agency Interest No. 1438

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-10-01900
Agency Interest No: 1438

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 Sarah Acosta at (225) 219-3779 within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

III.

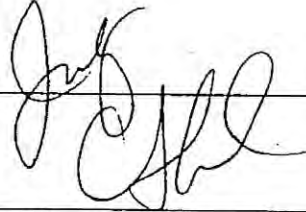
The Department is required by La. R.S. 30:2025(E)(3)(a) to consider the gross revenues of the Respondent and the monetary benefits of noncompliance to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current annual gross revenue statement 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 06 day of July, 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: Sarah Acosta

BOBBY JINDAL
GOVERNOR



PEGGY M. HATCH
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

EDMS
Sarah
Maggie
Dawn

September 8, 2011

CERTIFIED MAIL (7004 2510 0005 5753 2574)
RETURN RECEIPT REQUESTED

ALLIED SHIPYARD, INC.

c/o Gavin P. Callais
Agent for Service of Process
114 W. 110th Street
Cut Off, Louisiana 70345

**RE: CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. MM-CN-11-00986
AGENCY INTEREST NO. 1438**

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 **ALLIED SHIPYARD, INC. (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 Sarah Acosta at (225) 219-3779.

Sincerely,

Celena J. Cage
Administrator
Enforcement Division

CJC/SEA/mrb
Alt ID Nos. 1560-00118, LA0118702, and LAR05N227
Attachment



c: Allied Shipyard, Inc.
Barry Callais
P. O. Box 1240
Larose, Louisiana 70373

STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

IN THE MATTER OF

ALLIED SHIPYARD, INC.
LAFOURCHE PARISH
ALT ID NO. 1560-00118, LA0118702, and
LAR05N277

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

*	
*	
*	ENFORCEMENT TRACKING NO.
*	
*	MM-CN-11-00986
*	
*	AGENCY INTEREST NO.
*	
*	1438
*	

CONSOLIDATED

COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **ALLIED SHIPYARD, INC. (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 full service ship repair and fabrication facility located at 310 Ledet Lane in Larose, Lafourche Parish, Louisiana. The facility currently operates under Air Permit No. 1560-00118-02, issued on April 23, 2007. The Respondent was authorized under Louisiana Pollutant Discharge Elimination System (LPDES) Multi-Sector General Permit (MSGP) LAR050000 and specifically assigned permit number LAR05N227 on or about May 24, 2006. LPDES permit LAR05N227 expired on April 30, 2011, but was administratively continued until the Respondent was re-authorized on or about May 27, 2011. LPDES permit LAR05N227 will expire on May 3, 2016. In addition, the Respondent was issued LPDES permit LA0118702 on September 25, 2009, with an effective date of November 1, 2009, and an expiration date of October 31, 2014. Under the terms and conditions of LPDES permit LAR05N227, the Respondent is authorized to discharge storm water

associated with industrial activities from Outfalls 001, 002, and 003 to the Intracoastal Canal Waterway, waters of the state. Under the terms and conditions of LPDES permit LA0118702, the Respondent is authorized to discharge treated sanitary wastewater from Outfalls 001 and 002 to the Intracoastal Waterway, waters of the state.

II.

On or about April 19, 2011, an inspection of the Respondent's facility, in response to a citizen's complaint, was performed to determine the degree of compliance with the Act, Air Quality, and Water Quality Regulations

While the Department's investigation is not yet complete, the following violations were noted during the course of the inspection and a subsequent file review conducted on July 27, 2011:

- A. During the course of the inspection, the inspector observed workers at the facility sandblasting the end of a barge without containment. The work area extended over the water approximately 25 feet. The Respondent's failure to employ adequate containment methods during sandblasting operations is a violation of LAC 33:III.905.A, LAC 33:III.1305.A, Air Permit No. 1560-00018-02, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- B. During the course of the inspection, it was noted that the Respondent failed to properly implement Best Management Practices (BMPs). Specifically, facility workers were sandblasting the end of a barge during the inspection. There was no containment, be it curtain, net, etc., around the barge to prevent materials from entering waters of the state. The end of the barge extended over the Intracoastal Waterway by approximately 25 feet. The failure to properly implement BMPs is a violation of LPDES permit LA0118702 (Part II, Section N and Part III, Section A.2), La. R.S. 30:2076 (A) (3), and LAC 33:IX.501.A.

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 meet and maintain compliance with the requirements set forth in LPDES permits LA0118702 and LAR05N227 and the Water Quality Regulations including, but not limited to, properly implementing BMPs.

II.

To take, immediately upon receipt of this **COMPLIANCE ORDER**, any and all steps necessary to meet and maintain compliance with the Air Quality Regulations including, but not limited to, Air Permit No. 1560-00118-02, LAC 33:III.1305, and LAC 33:III.905.

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 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: Sarah Acosta

**Re: Enforcement Tracking No. MM-CN-11-00986
Agency Interest No. 1438**

THE RESPONDENT SHALL FURTHER BE ON NOTICE THAT:

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-11-00986
Agency Interest No. 1438**

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 Sarah Acosta at (225) 219-3779 within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

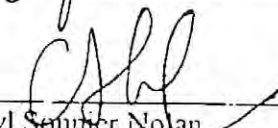
III.

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 September, 2011.


Cheryl Semmer 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: Sarah Acosta

BOBBY JINDAL
GOVERNOR



PEGGY M. HATCH
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

July 29, 2013

CERTIFIED MAIL (7003 2260 0000 5823 2118)
RETURN RECEIPT REQUESTED

ALLIED SHIPYARD, INC.
c/o Gavin P. Callais
Agent for Service of Process
114 W. 110th St.
Cut Off, LA 70345

**RE: CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. MM-CN-12-01015
AGENCY INTEREST NO. 25395**

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 **ALLIED SHIPYARD, INC. (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 Richard LeBlanc at (225) 219-3165.

Sincerely,

A handwritten signature in black ink, appearing to read "Celena J. Cage".

Celena J. Cage
Administrator
Enforcement Division

CJC/RDL/ARC
Alt ID No. LA0000876755, 1560-00119,
LAR05N224, LA0118699
Attachment



c: Allied Shipyard, Inc.
P.O. Box 1240
Larose, LA 70373

**STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE**

IN THE MATTER OF

**ALLIED SHIPYARD, INC.
LAFOURCHE PARISH
ALT ID NO. LA0000876755, 1560-00119,
LAR05N224, LA0118699**

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

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ENFORCEMENT TRACKING NO.

MM-CN-12-01015

AGENCY INTEREST NO.

25395

**CONSOLIDATED
COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY**

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **ALLIED SHIPYARD, INC. (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 Allied Shipyard (the Site) located at 20837 Louisiana Highway 1 South in Golden Meadow, Lafourche Parish, Louisiana. The Respondent has notified the Department that the facility is a small quantity generator of hazardous waste and has been assigned EPA Identification No. LA0000876755. The facility currently operates under Minor Source Air Permit No. 1560-00119-02 issued on April 20, 2007. On May 4, 2011, the Respondent was re-issued Louisiana Pollutant Discharge Elimination System (LPDES) Multi-Sector General Permit LAR05N224 to discharge stormwater associated with industrial activities from the facility. The Respondent was issued LPDES Permit LA0118699 on February 1, 2004, authorizing the discharge of treated sanitary wastewater from the facility to Bayou Lafourche, waters of the state. The Respondent was re-issued LPDES Permit LA0118699 on September 17, 2009, with an effective date of November 1, 2009.

II.

On December 17, 2008, the Department issued Compliance Order & Notice of Potential Penalty (CONOPP) MM-CN-07-0070 to the Respondent in response to the findings of inspections conducted on or about February 28, 2007, March 7, 2007, and March 20, 2008. This CONOPP was received by the Respondent on December 20, 2008. The action was not appealed by the Respondent and is considered a final action by the Department. Additionally on or about May 11, 2009, the Department issued CONOPP MM-CN-08-0035 to the Respondent in response to the findings of inspections conducted on or about February 28, 2007, March 7, 2007, and March 20, 2008. This CONOPP was received by the Respondent on May 15, 2009. This action was not appealed by the Respondent and is considered a final action by the Department.

III.

On or about January, 24, 2011, May 10, 2012, and May 14, 2012, inspections were conducted by a representative of the Department to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Hazardous Waste Regulations, Air Quality Regulations and Water Quality Regulations. Additionally, the Department conducted a file review for the facility on or about June 12, 2013. While the investigation by the Department is not yet complete, the following violations were discovered during the course of the inspections and file review:

- A. The Respondent failed to label containers of hazardous waste with the words "Hazardous Waste," in violation of LAC 33:V.1109.E.1.d, LAC 33:V.1109.E.4, and Compliance Order & Notice of Potential Penalty MM-CN-07-0070. Specifically, during the inspection conducted on January 24, 2011, two (2) 55-gallon containers with no identification labels were observed near the center dry docking unit, four (4) 55-gallon containers with no identification labels were observed in the secondary containment along the side of the northern warehouse, and, six 55-gallon containers with no identification labels were observed in the secondary containment for diesel containers. According to the operation manager, the contents of the unmarked containers were hazardous wastes consisting of spent solvent/waste paint related material and/or used oil. During the inspections conducted on May 10, 2012, and May 14, 2012, three (3) 55-gallon containers with no identification labels were observed in the 180-day hazardous waste storage area. The contents of the drums were identified as hazardous waste paint related material. Two (2) 55-gallon drums of hazardous waste in the satellite accumulation area were also not labeled with the words "Hazardous Waste" or other words that specified the contents.

- B. The Respondent failed to label containers of used oil with the words "Used Oil," in violation of LAC 33:V.4013.D.1 and Compliance Order & Notice of Potential Penalty MM-CN-07-0070. Specifically, during the inspection conducted on January 24, 2011, two (2) 55-gallon containers with no identification labels were observed near the center dry docking unit, four (4) 55-gallon containers with no identification labels were observed in the secondary containment along side of the northern warehouse, and, six (6) 55-gallon containers with no identification labels were observed in the secondary containment for diesel containers. According to the operation manager, the contents of the above referenced unmarked containers were spent solvent/waste paint related material and/or used oil. This violation was also cited in the inspections conducted on May 10, 2012 and May 14, 2012.
- C. The Respondent failed to mark containers of hazardous waste with the accumulation start date, in violation of LAC 33:V.1109.E.1.c and Compliance Order & Notice of Potential Penalty MM-CN-07-0070. Specifically, during the inspection conducted on January 24, 2011, two (2) 55-gallon containers with no identification labels were observed near the center dry docking unit, four (4) 55-gallon containers with no identification labels were observed in the secondary containment along side of the northern warehouse, and, six (6) 55-gallon containers with no identification labels were observed in the secondary containment for diesel containers. According to the operation manager, the contents of the unmarked containers were spent hazardous solvent/waste paint related material and/or used oil. There was no accumulation start date marked on the sides of the containers.
- D. The Respondent failed to obtain a hazardous waste manifest with the handwritten signature of the owner or operator of the designated disposal facility and date of acceptance on the manifest, in violation of LAC 33:V.1111.C.3. Specifically, a copy of the manifest document number 001216937 GBF signed by the designated disposal facility was not available for review, during the inspections conducted on May 10, 2012, and May 14, 2012. More than twenty (20) months had passed since the date the waste was shipped off-site.
- E. The Respondent failed to keep containers of hazardous waste closed, as required by LAC 33:V.2107.A, in violation of LAC 33:V.1109.E.7.a and Compliance Order & Notice of Potential Penalty MM-CN-07-0070. Specifically, during the inspection conducted on January 24, 2011, open containers of hazardous spent solvent and hazardous paint waste were observed inside of a secondary containment structure near the center dry docking unit.

- F. The Respondent failed to conduct weekly inspections of the areas where hazardous waste containers are stored, in accordance with LAC 33:V.2109, in violation of LAC 33:V.1109.E.7.a. Specifically, at the time of the inspections conducted on May 10, 2012, and May 14, 2012, records of weekly inspections of the hazardous waste areas were not available for review.
- G. The Respondent failed to maintain a container storage area with a containment system that is operated in accordance with LAC 33:V.2111.A, in violation of LAC 33:V.1109.E.7. Specifically, at the time of the inspections conducted on May 10, 2012, and May 14, 2012, an accumulation of rain water mixed with paint resin and solvent was observed in the satellite accumulation area containment.
- H. The Respondent failed to make a hazardous waste determination on spilled materials trapped in the sumps of the containment area of the satellite accumulation area, in violation of LAC 33:V.1103. Specifically, at the time of the inspections conducted on May 10, 2012, and May 14, 2012, spilled material was trapped in the sumps of the containment area of the satellite accumulation area.
- I. The Respondent failed to properly manage and contain released used oil, in violation of LAC 33:V.4013.E. Specifically, during the inspection conducted on January 24, 2011, an oil stained area approximately 15 feet long and 4 feet wide was observed on the outside of the containment structure on the Louisiana Highway 1 side. A second oil stained area was observed on the Bayou Lafourche side. At the time of the inspections conducted on May 10, 2012, and May 14, 2012, oily water was observed coming from the cracks near the base of the containment wall in the used oil storage area.
- J. The Respondent failed to take all reasonable precautions to prevent particulate matter from becoming airborne. Specifically, blasting operations were observed without containment in place during the January 24, 2011, inspection. This is a violation of MM-CN-08-0035, Minor Source Air Permit No. 1560-00119-02 Specific Requirement 29, LAC 33:III.501.C.4, LAC 33:III.1305.A, LAC 33:III.905, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- K. The Respondent failed to maintain best practical housekeeping and maintenance practices. During the course of the January 24, 2011, May 10, 2012, and May 14, 2012, inspections, the following were observed: open containers of oily waste inside of the secondary containment area, accumulation of oily waste in and around the secondary containment with little or no attempt to mitigate the spills, leaking containment box for paint and solvent cans, and an accumulation of stormwater mixed with paint resin and solvent in the containment area. These are violations of MM-CN-08-0035, LAC 33:III.2113.A.1, LAC 33:III.2113.A.2, LAC 33:III.2113.A.3, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

L. The Respondent failed to implement an adequate Spill Prevention and Control (SPC) plan. Specifically, the Respondent failed to provide adequate secondary containment for diesel containers. The January 24, 2011, May 10, 2012 and May 14, 2012 inspections observed leaks, cracks and oil saturated areas around the secondary containment structure for diesel fuel tanks. This is a violation of MM-CN-08-0035, LPDES Permit LA0118699 (Part II, Section I), La. R.S. 30:2076(A)(3) and LAC 33:IX.905.B.

M. The Respondent experienced permit limit exceedances. Specifically, the Respondent reported the following exceedances on discharge monitoring reports (DMRs) submitted to the Department for Outfall 001:

Monitoring Period	Parameter	Permit Limit	Reported Value
2008 2 nd Semiannual	Fecal Coliform	43 col/100ml	>6000 col/100ml
2009 1 st Semiannual	Fecal Coliform	43 col/100ml	>6000 col/100ml
2009 2 nd Semiannual	Fecal Coliform	43 col/100ml	1440 col/100ml
2010 1 st Semiannual	Fecal Coliform	43 col/100ml	50 col/100ml
2011 1 st Semiannual	Fecal Coliform	43 col/100ml	6000 col/100ml

Each effluent exceedance is a violation of LPDES Permit LA0118699 (Part I, page 2 of 2; Part III, Section A.2), La. R.S. 30:2076(A)(3) and LAC 33:IX.501.A.

N. The Respondent failed to submit DMRs to the Department. Specifically, the Respondent failed to submit DMRs for Outfall 002 for all quarterly monitoring periods in 2012 under LPDES Permit LAR05N224. Additionally, the Respondent failed to submit a DMR for Outfall 001 for the second semiannual monitoring period of 2010 under LPDES Permit LA0118699. Each failure to submit a DMR for Outfall 002 is a violation of LPDES Permit LAR05N224, La. R.S. 30:2076(A)(3) and LAC 33:IX.2701.L.4. The failure to submit a DMR for Outfall 001 is a violation of LPDES Permit LA0118699 (Part I, page 2 of 2; Part III, Section A.2 and C.2), La. R.S. 30:2076(A)(3) and LAC 33:IX.2701.L.4.

O. The Respondent failed to sample the effluent. Specifically, the Respondent failed to sample the effluent of Outfall 001 for the 2011 second semiannual monitoring period under LPDES Permit LA0118699. The failure to sample the effluent for Outfall 001 is a violation of MM-CN-08-0035, LPDES Permit LA0118699 (Part I, page 2 of 2; Part III, Section A.2 and C.2), La. R.S. 30:2076(A)(3) and LAC 33:IX.501.A.

P. The Department issued CONOPP MM-CN-07-0070 to the Respondent on December 17, 2008, with orders to immediately take any and all steps necessary to meet and maintain compliance with the Hazardous Waste Regulations. Based upon the findings of the January 24, 2011, May 10, 2012, and May 14, 2012 inspections, the Respondent failed to comply with CONOPP MM-CN-07-0070. Additionally, the Department issued CONOPP MM-CN-08-0035 to the Respondent on May 11, 2009, with orders to immediately take any and all steps necessary to ensure compliance with all applicable state and federal Air Quality Regulations, including but not limited to, LAC 33:III.1305, LAC 33:III.905, LAC 33:III.2113, and Minor Source Air Permit

No. 1560-00119-02; and orders to immediately take any and all steps necessary to meet and maintain compliance with the permit limitations and conditions contained in LPDES Permit LAR05N224, including, but not limited to, sampling the effluent and providing adequate secondary containment to prevent potential discharges to waters of the state. Based upon the findings of the January 24, 2011, May 10, 2012, and May 14, 2012 inspections, and the August 8, 2012 file review, the Respondent failed to comply with CONOPP MM-CN-08-0035. Each failure to take corrective action to comply with CONOPP MM-CN-07-0070 and CONOPP MM-CN-08-0035 is a violation of La. R.S. 30:2025(E)(2).

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 Hazardous Waste Regulations, Air Quality Regulations and Water Quality Regulations.

II.

To immediately mark, upon receipt of this **COMPLIANCE ORDER**, all containers of hazardous waste with the words, "Hazardous Waste."

III.

To immediately label, upon receipt of this **COMPLIANCE ORDER**, all containers of used oil with the words "Used Oil."

IV.

To immediately mark, upon receipt of this **COMPLIANCE ORDER**, all containers of hazardous waste with an accumulation start date.

V.

To immediately institute, upon receipt of this **COMPLIANCE ORDER**, that copies of hazardous waste manifests are obtained with the handwritten signature of the initial transporter and date of acceptance of the manifest, in accordance with LAC 33:V.1107.D.

VI.

To immediately take, upon receipt of this **COMPLIANCE ORDER**, any and all steps necessary to ensure that containers of hazardous waste are kept closed.

VII.

To immediately begin, upon receipt of this **COMPLIANCE ORDER**, conducting weekly inspections of the areas where hazardous waste containers are stored.

VIII.

To immediately take, upon receipt of this **COMPLIANCE ORDER**, any and all steps necessary to maintain all hazardous waste container storage areas with containment systems that are designed and operated in accordance with LAC 33:V.2111.B.

IX.

To make a hazardous waste determination, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, on the spilled materials trapped in the sumps of the containment area of the satellite accumulation area. The contaminated soil shall then be disposed of in accordance with either the Solid Waste or Hazardous Waste Regulations depending on the results of the determination.

X.

To excavate and containerize, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, all areas of visibly contaminated soils. The Respondent shall properly dispose of all contaminated soils in accordance with the Solid and Hazardous Waste Regulations.

XI.

To immediately take, upon receipt of this **COMPLIANCE ORDER**, any and all steps necessary to prevent particulate matter from becoming airborne by employing adequate containment methods during sandblasting or similar operations.

XII.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, DMRs for Outfall 002 for all four (4) quarterly monitoring periods in 2012 as required by LPDES Permit LAR05N224, and to submit a DMR for Outfall 001 for the second semiannual monitoring period of 2010 as required by LPDES Permit LA0118699.

XIII.

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: **Richard LeBlanc**
Re: **Enforcement Tracking No. MM-CN-12-01015**
Agency Interest No. 25395

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-12-01015**
Agency Interest No. 25395

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 Richard LeBlanc at (225) 219-3165 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 24 day of July, 2013.



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: Richard LeBlanc