BOBBY JINDAL
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Scott
Dawn

State of Louisiana

DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

October 5, 2012

CERTIFIED MAIL 7004 2510 0006 3853 7429
RETURN RECEIPT REQUESTED

STOLTHAVEN NEW ORLEANS, L.L.C.
c/o S. Ault Hootsell, III
Agent for Service of Process
365 Canal Street, Suite 2000
New Orleans, LA 70130

RE: AMENDED NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. WE-PP-12-01045A
AGENCY INTEREST NO. 87738

Dear Sir:

Pursuant to the Louisiana Environmental Quality Act (La. R.S. 30:2001, et seq.), the attached **AMENDED NOTICE OF POTENTIAL PENALTY** is hereby served on **STOLTHAVEN NEW ORLEANS, L.L.C. (RESPONDENT)** for the violations described therein.

Any questions concerning this action should be directed to Scott B. Pierce at (225) 219-3723.

Sincerely,

for

Celena J. Cage
Administrator
Enforcement Division

CJC/SBP/sbp
Alt ID No. LA0114405
Attachment

STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY

OFFICE OF ENVIRONMENTAL COMPLIANCE

IN THE MATTER OF	*	
	*	
STOLTHAVEN NEW ORLEANS, L.L.C.	*	**ENFORCEMENT TRACKING NO.**
PLAQUEMINES PARISH	*	
ALT ID NOS. LA0114405	*	**WE-PP-12-01045A**
	*	
	*	**AGENCY INTEREST NO.**
	*	
PROCEEDINGS UNDER THE LOUISIANA	*	**87738**
ENVIRONMENTAL QUALITY ACT,	*	
La. R.S. 30:2001, ET SEQ.	*	

AMENDED NOTICE OF POTENTIAL PENALTY

The Louisiana Department of Environmental Quality (the Department) hereby amends the **NOTICE OF POTENTIAL PENALTY, ENFORCEMENT TRACKING NO. WE-PP-12-01045** issued to **STOLTHAVEN NEW ORLEANS, L.L.C. (RESPONDENT)** on September 27, 2012, in the above-captioned matter as follows:

I.

The Department hereby amends the body of the Notice of Potential Penalty to read as follows:

"On or about October 4, 2012, a file review of the **Stolthaven New Orleans LLC - SHVNN** Facility, owned and/or operated by **STOLTHAVEN NEW ORLEANS, L.L.C. (RESPONDENT)**, was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Water and Air Quality Regulations. The facility is a bulk liquid storage and transfer facility and a centralized waste treatment facility which is located at 2444 English Turn Road, Braithwaite, Plaquemines Parish, Louisiana.

The Respondent was issued Louisiana Pollutant Discharge Elimination System (LPDES) permit LA0114405 with an effective date of July 1, 2007, and an expiration date of June 30, 2012. The Respondent submitted a timely permit renewal application on or about December 11, 2011, and LPDES permit LA0114405 has been administratively continued. Under the terms and condition of LPDES

permit LA0114405, the Respondent is authorized to discharge treated wastewater from Outfalls 001, 002, 003, and 005 directly to the Mississippi River and from Outfalls 005-012 to the Braithwaite Canal via local drainage, all waters of the state.

On August 27, 2012, the National Weather Service issued a public advisory to Southeast Louisiana to expect 6 to 12 feet of storm surge, and on the same day the Department contacted the Respondent to determine if pre-hurricane procedures had been implemented and whether any assistance from the Department was needed. The Respondent indicated that pre-hurricane procedures were implemented and that no assistance from the Department was needed.

On or about August 27, 2012, the Declaration of Emergency and Administrative Order-Hurricane Isaac was issued, which allowed facilities located within the emergency areas to discharge certain types of wastewater that would normally require an LPDES permit from the Department, provided that certain terms and conditions of Declaration of Emergency and Administrative Order-Hurricane Isaac were met.

On or about September 1, 2012, the Respondent submitted an online notification to the Department regarding a spill incident which occurred as a result of Hurricane Isaac, which made landfall in Plaquemines Parish, Louisiana, on August 28, 2012. The Respondent stated that during Hurricane Isaac, the facility was inundated with flood waters from the storm surge resulting in tank H-30-6 being damaged allowing octene to be released at the facility. The Respondent initially reported worst-case estimates for release amounts.

On or about September 4, 2012, the Respondent verbally notified the DPS Hazardous Materials Hotline that unknown amounts of lube oil (reported as Ultra-S4) and an oil additive (reported as Vivatech) were released from tank failures during the hurricane. The Respondent further reported that the octene release previously reported on September 1, 2012, had discharged offsite due to flooding at the facility. On or about September 5, 2012, and September 11, 2012, the Respondent submitted written reports to the Department for the octene and Ultra-S4/Vivatech releases, respectively.

On or about September 11, 2012, and September 13, 2012, the Respondent verbally notified the DPS Hazardous Materials Hotline regarding various potential tank releases due to damage from the hurricane's storm surge. On or about September 18, 2012, and September 19, 2012, the Respondent submitted amended written reports to update the previously reported estimated release quantities for octene, Ultra-S4, and Vivatech, as well as a comprehensive list of the materials stored onsite at the time of the hurricane along with their calculated quantities released during the incident.

While the investigation by the Louisiana Department of Environmental Quality (the Department) is not yet complete, the following violation(s) were noted during the course of the file review:

According to the written reports dated September 5, 2012; September 11, 2012; and October 4, 2012, the Respondents stated that octene, Ultra S-4, and Vivatech were released as a result of tank failures caused by the storm surge of Hurricane Isaac on August 29, 2012, and that a portion of the released materials was discharged offsite with the facility's storm water. According to the final written report dated October 4, 2012, the Respondent stated that the final estimated quantities released were as follows:

Material/Pollutant	Quantity Released
C12-C14 Fatty Alcohol (Lauryl Myristyl Alcohol)	283 gallons
Octene	80,467 gallons
Alcohols, C10-16 (Safol 23)	937 gallons
Soapstocks, Soybean	2,051 gallons
Ultra S-4	6,168 gallons
Diethanolamine	76,998 gallons
Vivatec	2,906 gallons

On or about September 5, 2012, the Respondent notified the Department that the discharges to waters arising from the abovementioned incident were a result of upset conditions in accordance with the Declaration of Emergency and Administrative Order-Hurricane Isaac, and reserved the right to claim an affirmative defense. However, the written reports submitted detailing this incident did not specify or give mention to any measures taken prior to hurricane landfall to minimize the volume and duration of the unauthorized discharges. Each unauthorized discharge to waters of the state is a violation of La. R.S. 30:2075. At the time of the written reports, contaminated storm water remaining onsite after the storm surge receded had been pumped into temporary holding tanks awaiting discharge to the water treatment plant or other appropriate disposal method."

The Department incorporates all of the remainder of the original **NOTICE OF POTENTIAL PENALTY, ENFORCEMENT TRACKING NO. WE-PP-12-01045** and **AGENCY INTEREST NO. 87738** as if reiterated herein.

II.

This **AMENDED NOTICE OF POTENTIAL PENALTY** is effective upon receipt.

Baton Rouge, Louisiana, this 05 day of October, 2012.

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
Post Office Box 4312
Baton Rouge, LA 70821-4312
Attention: Scott B. Pierce