

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

* **Settlement Tracking No.**

* **SA-AE-09-0045**

**AIR PRODUCTS PERFORMANCE
MANUFACTURING, INC.**

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* **Enforcement Tracking No.**

AI # 13560

* **AE-CN-07-0184**

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**PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT**

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

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SETTLEMENT

The following Settlement is hereby agreed to between Air Products Performance Manufacturing, Inc. ("Respondent") and the Department of Environmental Quality ("LDEQ" 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 an alkoxyate production facility located at 474 West 19th Street in Reserve, St. John the Baptist Parish, Louisiana ("the Facility").

On November 19, 2007, the LDEQ received notification that Tomah Reserve, Inc. ("Tomah"), the prior owner and operator of the Facility, had merged into its parent company, Air Products Performance Manufacturing, Inc., on October 31, 2007.

II

On November 16, 2007, the LDEQ issued a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. AE-CN-07-0184 to Tomah, which was based upon the following findings of fact:

Tomah owned and/or operated the Reserve Plant (the Facility), an alkoxyate production facility located at 474 West 19th Street in Reserve, St. John the Baptist Parish, Louisiana.

The Facility primarily produces alkoxyated alcohols by combining alcohols and ethylene oxide, propylene oxide, or butylene oxide in the presence of a catalyst. The Facility currently operates under Air Permit No. 2580-00023-04, issued on November 16, 2006, and amended on February 28, 2007, and March 19, 2007.

On or about October 17, 2007, a file review was performed to determine the degree of compliance with the Act and the Air Quality Regulations.

The following violations were noted during the course of the review:

On or about October 11, 2007, the Department received a noncompliance report, dated October 4, 2007, from Tomah. The Department received a supplemental noncompliance report, dated October 17, 2007, from Tomah on or about October 17, 2007. According to these noncompliance reports, Tomah had exceeded the maximum permitted limits for the Facility's V-R122 Vent Scrubber (EQT074) as reflected in the following table:

Air Contaminant	2006 Actual Emissions		2007 Actual Emissions		Permitted Emission Rate	
	Avg. lb/hr	Total (tons)	Avg. lb/hr	Total (tons)	Max lb/hr	Tons / Year
Acetaldehyde	0.40	1.75	0.40	1.39	0.12	0.44
Dioxane	0.10	0.43	0.10	0.34	0.00	0.00
Methyl Isobutyl Ketone	1.36	5.95	1.84	6.41	0.02	0.09

**Note: 2007 Actual Emissions encompass January 1, 2007 through October 17, 2007*

Each exceedance of a permitted acetaldehyde limit, dioxane limit, or MIBK limit for the Vent Scrubber is a violation of Air Permit No. 2580-00023-04, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1) and La. R.S. 30:2057(A)(2).

By letter dated October 17, 2007, Tomah provided the LDEQ additional information regarding this situation. Therein, Tomah confirmed that a permit modification request to address this situation had been submitted to the Air Permits Division within the Department's Office of Environmental Services; provided a table of noncomplying emissions totals; and proposed a

corrective action plan to address this situation. Tomah also provided the LDEQ with immediate measures to be taken to reduce emissions of methyl isobutyl ketone (MIBK), dioxane and acetaldehyde. Finally, because time was needed for (a) Tomah to implement the proposed corrective action plan, and (b) the LDEQ to modify Tomah's Air Permit, as appropriate, Tomah formally requested the Department's issuance of a compliance order to facilitate a coordinated response to Tomah's anticipated continuing noncompliance with its limits for acetaldehyde, dioxane, and MIBK at Emission Point V-R122 in the Air Permit.

III

Respondent denies that it or Tomah committed any violations or that it is liable for any fines, forfeitures and/or penalties.

IV

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the LDEQ agrees to accept, a payment in the amount of FIVE THOUSAND THREE HUNDRED THIRTEEN AND NO/100 DOLLARS (\$5,313.00), of which Five Hundred Nineteen and 70/100 Dollars (\$519.70) 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 LDEQ as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

V

Respondent further agrees that the LDEQ may consider the noncompliance reports and letter referred to in section II above, the Consolidated Compliance Order and Notice of Potential Penalty and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the LDEQ against Respondent, and in any such action

Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VI

This agreement shall be considered a final order of the secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the LDEQ to enforce this agreement.

VII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the LDEQ considered the factors for issuing civil penalties set forth in LSA- R. S. 30:2025(E) of the Act.

VIII

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in St. John the Baptist Parish, Louisiana. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted an original proof-of-publication affidavit and an original public notice to the LDEQ and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

IX

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Accountant Administrator, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

X

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

XI

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his or her respective party, and to legally bind such party to its terms and conditions.

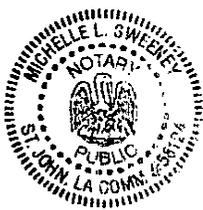
**AIR PRODUCTS PERFORMANCE
MANUFACTURING, INC.**

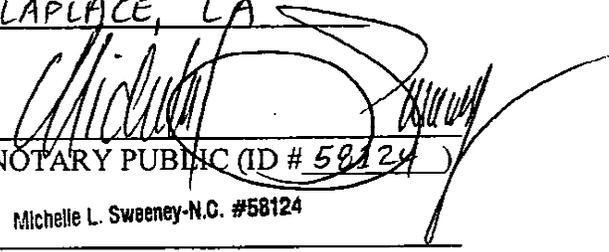
BY: 
(Signature)

ARTS WILLIAMS
(Print)

TITLE: PLANT MANAGER

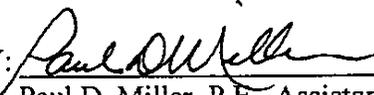
THIS DONE AND SIGNED in duplicate original before me this 25th day of
MARCH, 20 10, at LAPLACE, LA




NOTARY PUBLIC (ID # 58124)
Michelle L. Sweeney-N.C. #58124

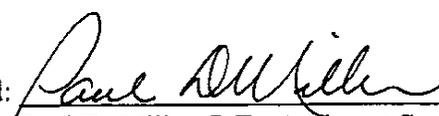
My Commission Is For Life (Print)

**LOUISIANA DEPARTMENT OF
ENVIRONMENTAL QUALITY**
Peggy M. Hatch, Secretary

BY: 
Paul D. Miller, P.E., Assistant Secretary
Office of Environmental Compliance

THIS DONE AND SIGNED in duplicate original before me this 28th day of
July, 20 10, at Baton Rouge, Louisiana.


NOTARY PUBLIC (ID # 10149)
Christopher A. Rateliff
(Print)

Approved: 
Paul D. Miller, P.E., Assistant Secretary