

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

CARGILL, INCORPORATED

AI # 3577

PROCEEDINGS UNDER THE LOUISIANA

ENVIRONMENTAL QUALITY ACT

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

* Settlement Tracking No.
* SA-AE-14-0075
*
* Enforcement Tracking No.
* AE-CN-12-00087
*
* Docket No. 2013-8748-EQ
*

SETTLEMENT

The following Settlement is hereby agreed to between Cargill, Incorporated (“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 business corporation that owns and/or operates a grain elevator facility located in St. John the Baptist Parish, Louisiana (“the Facility”).

II

On May 2, 2012, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. AE-CN-12-00087, which was based upon the following findings of fact:

“The Respondent owns and/or operates Terre Haute Marine Facility (the facility), a grain elevator facility located at 2154 Louisiana Highway 44 in Reserve, St. John the Baptist Parish, Louisiana. The facility currently operates under Amended Air Permit No. 2580-00010-07 issued on December 17, 2004.

On or about March 15, 2011, an inspection of the Respondent's facility was conducted in response to a citizen's complaint regarding particulate emissions originating from the facility, and to determine the degree of compliance with the Act and the Air Quality Regulations. During the course of the inspection, the inspector noted as an area of concern the Respondent's failure to take all reasonable precautions to prevent particulate matter from becoming airborne. On or about March 17, 2011, the Department issued a Notice of Deficiency (NOD) for the area of concern noted during the March 15, 2011, inspection. The Department received the Respondent's response dated April 12, 2011, (the response) on or about April 14, 2011. According to the response, the facility has started adding soybean oil to the soybean meal on occasion to minimize dust during unloading operations. The response also stated that facility operators were informed that the Surge Bin doors are to be kept closed. On or about July 15, 2011, the Department issued a Deficiency Clear Letter (DCL) to the Respondent for the area of concern noted during the March 15, 2011, inspection and the NOD issued on or about March 17, 2011.

On or about August 23, 2011, an inspection of the Respondent's facility was conducted in response to a citizen's complaint regarding particulate emissions originating from the facility, and to determine the degree of compliance with the Act and the Air Quality Regulations. On or about August 31, 2011, the Department conducted a follow-up visit with the Respondent to discuss the areas of concern noted during the course of the August 23, 2011, inspection.

While the Department's investigation is not complete, the following violations were noted during the course of the August 23, 2011, inspection:

- A. The Respondent failed to take all reasonable precautions to prevent particulate matter from becoming airborne. Specifically, the inspector noted that grain dust was being emitted from

the facility's ship dock and being carried offsite into the adjacent neighborhood. This is a violation of LAC 33:III.1305.A, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

- B. The Respondent failed to use and diligently maintain control devices installed at the facility. Specifically, the inspector noted that the doors of Surge Bin 1 and Surge Bin 2 were open during operations allowing grain dust to be emitted and carried offsite into the adjacent neighborhood. This is a violation of LAC 33:III.905.A and La. R.S. 30:2057(A)(2).

On or about January 20, 2012, an inspection of the Respondent's facility was conducted in response to citizens' complaints regarding particulate emissions originating from the facility, and to determine the degree of compliance with the Act and the Air Quality Regulations.

While the Department's investigation is not complete, the following violations were noted during the course of the January 20, 2012, inspection:

- A. The Respondent failed to take all reasonable precautions to prevent particulate matter from becoming airborne. Specifically, the inspector noted that loading operations of soybean meal were being conducted at the time of the inspection, and dust emissions were observed leaving the facility towards the complainants' subdivision. This is a violation of LAC 33:III.1305.A, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- B. The inspector noted dust emissions being generated during soybean meal loading operations. The Respondent failed to add soybean oil to the soybean meal to minimize emissions prior to and/or during the loading activity, as stated in the Respondent's response dated April 12, 2011. This is a violation of LAC 33:III.905 which states, "When facilities have been installed on a property, they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled

by the facilities, even though the ambient air quality standards in affected areas are not exceeded.” Control equipment is defined by LAC 33:III.111 is “any device or contrivance, operating procedure or abatement scheme used to prevent or reduce air pollution.” This is also a violation of La. R.S.”

III

In response to the Consolidated Compliance Order & Notice of Potential Penalty, Respondent made a timely request for a hearing.

IV

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

V

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of EIGHT THOUSAND FIFTY-FIVE AND 80/100 DOLLARS (\$8,055.80), of which One Thousand Fifty-Five and 80/100 Dollars (\$1,055.80) 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 Order & 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 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 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 Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

XI

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

XII

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

XIII

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

CARGILL, INCORPORATED

BY: Math Wallace
(Signature)

MATTHEW WALLACE
(Printed)

TITLE: PLANT MANAGER

THUS DONE AND SIGNED in duplicate original before me this 11th day of February, 20 15, at Reserve, La.

George Nolley
NOTARY PUBLIC (ID # 9883)

George Nolley
(stamped or printed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Peggy M. Hatch Secretary

BY: Peggy M. Hatch

THUS DONE AND SIGNED in duplicate original before me this 22 day of April, 20 15, at Baton Rouge, Louisiana.

Dwana King
NOTARY PUBLIC (ID # 20593)
Dr. Ben Hall #
Life Commission

Dwana King
(stamped or printed)

Approved: Peggy M. Hatch