STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	**Settlement Tracking No.**
	*	**SA-WE-16-0018**
EAST WEST COPOLYMER LLC	*	
	*	**Enforcement Tracking No.**
AI # 1395	*	**WE-CN-13-01210**
	*	
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT	*	**Docket No. 2016-2935-EQ**
LA. R.S. 30:2001, ET SEQ.	*	

SETTLEMENT

The following Settlement is hereby agreed to between East West Copolymer LLC ("Respondent") and the Department of Environmental Quality ("DEQ" or "the Department"), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. ("the Act").

I

Respondent is a limited liability company that owns and/or operates a facility located in Baton Rouge, East Baton Rouge Parish, Louisiana ("the Facility").

II

On January 16, 2015, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. WE-CN-13-01210, which was based upon the following findings of fact:

"The Respondent owns and/or operates a synthetic rubber manufacturing facility which is located at 1836 Shada Avenue in Baton Rouge, East Baton Rouge Parish, Louisiana. The Respondent was issued Louisiana Pollutant Discharge Elimination System (LPDES) permit LA0000914 on July 17, 2007, with an effective date of September 1, 2007, and an expiration date of

August 31, 2012. LPDES permit LA0000914 was modified by the Department on April 22, 2008, with an effective date of June 1, 2008. The Respondent submitted a permit renewal application for LPDES permit LA0000914 to the Department on March 2, 2012, and LPDES permit LA0000914 was administratively continued. The Department reissued LPDES permit LA0000914 on October 31, 2013, with an effective date of December 1, 2013, and an expiration date of November 30, 2018. The Department issued a modification to LPDES permit LA0000914 to reflect the Respondent's name change from Lion Copolymer, LLC to East West Copolymer LLC on June 6, 2014, with an effective date of April 16, 2014. LPDES permit LA0000914 authorizes the Respondent to discharge treated process wastewater and process area stormwater, sanitary wastewater, non-process area stormwater runoff, utility wastewater including cooling water and well water, resin bed regeneration water, and commingled first flush wastewaters (the first 0.1 to 0.6 inches of effluent from the collection basins) from Outfalls 010, 014, and 020 (Outfall 001); the combined discharge of stormwater, well water, and condensate (Outfalls 010 and 014); the combined discharge of stormwater, well water, power plant blowdown and condensate (Outfall 020); and well water and stormwater runoff from the fire water reserve area (Outfall 015) into Monte Sano Bayou, thence into the Mississippi River, waters of the state.

Inspections conducted by the Department on or about June 14, 2012, and September 26, 2013, and a subsequent file review conducted by the Department on or about December 22, 2014, revealed that the Respondent exceeded effluent limitations. These effluent exceedances, as reported by the Respondent on Discharge Monitoring Reports (DMRs) and Non-Compliance Reports (NCRs), are summarized below:

Date	Outfall	Parameter	Permit Limit	Sample Value
12/2010	015A	pH – Instantaneous Maximum	9 SU	9.4 SU
03/2011	020A	pH – Instantaneous Maximum	9 SU	9.8 SU
04/2011	001A	Total Suspended Solids Daily Maximum	1875 lb/d	2295 lb/d
	015A	pH – Instantaneous Maximum	9 SU	9.5 SU
07/2011	001A	BOD_5 Daily Maximum	1050 lb/d	1921 lb/d
12/2011	001A	Total Suspended Solids Daily Maximum	1875 lb/d	2759 lb/d
01/2012	001A	Total Suspended Solids Daily Maximum	1875 lb/d	2634 lb/d
01/2013	010A	Total Organic Carbon Daily Maximum	50 mg/L	158 mg/L
		Total Organic Carbon Daily Maximum	50 mg/L	90.7 mg/L
04/2013	001A	pH Range Excursions > 60 Minutes Monthly Total	0 occur/mo	1 occur/mo
		pH Range Excursions Monthly Total Accumulation	446 Min	640 Min
07/2013	010A	Total Organic Carbon Daily Maximum	50 mg/L	90.5 mg/L
11/2013	001A	Total Suspended Solids Monthly Average	1248 lb/d	1348 lb/d
		Total Suspended Solids Daily Maximum	1875 lb/d	6179 lb/d
11/2013	001A	Total Suspended Solids Daily Maximum	1875 lb/d	3350 lb/d
12/2013	001A	Total Suspended Solids Daily Maximum	1875 lb/d	1958 lb/d
06/2014	001A	pH Range Excursions > 60 Minutes Monthly Total	0 occur/mo	1 occur/mo
		pH Range Excursions Monthly Total Accumulation	446 Min	1080 Min
1st Half of 2014	001S	Fecal Coliform Monthly Average	200 col/100mL	750 col/100mL
		Fecal Coliform Monthly Average	200 col/100mL	>2000 col/100mL
		Fecal Coliform Daily Maximum	400 col/100mL	750 col/100mL
		Fecal Coliform Daily Maximum	400 col/100mL	>2000 col/100mL
08/2014	015A	pH – Instantaneous Maximum	9 SU	9.3 SU
10/2014	010A	Oil and Grease Daily Maximum	15 mg/L	28 mg/L

Each effluent exceedance is a violation of LPDES permit LA0000914 (Part I, Pages 2, 4, 6, and 7 of 7 prior to December 1, 2013, Part I, Page 2 of 9 after December 1, 2013, and Part III, Section A.2), La. R.S. 30:2076(A)(3) and LAC 33:IX.501.A.

Inspections conducted by the Department on or about June 14, 2012, and September 26, 2013, and a subsequent file review conducted by the Department on or about December 22, 2014, revealed that effluent lethality had been exhibited to the *Daphnia pulex* (*D. pulex*) and *Pimephales promelas* (*P. promelas*) species at or below the effluent critical dilution of 82% prior to December 1,

2013. Specifically, the file review revealed lethal effects were exhibited to the test species in the following tests:

Monitoring Period	Test Species	Permit Limit	Result
3rd Qtr. 2010	*D. pulex* (lethal)	Pass	Failed
	P. promelas (lethal)	Pass	Failed
August 2010	*D. pulex* (lethal) – Retest 1	Pass	Failed
	P. promelas (lethal) – Retest 1	Pass	Failed
4th Qtr. 2010	*D. pulex* (lethal)	Pass	Failed
	P. promelas (lethal)	Pass	Failed
1st Qtr. 2011	*D. pulex* (lethal)	Pass	Failed
2nd Qtr. 2011	*D. pulex* (lethal)	Pass	Failed
4th Qtr. 2011	*D. pulex* (lethal)	Pass	Failed
	P. promelas (lethal)	Pass	Failed
1st Qtr. 2012	*D. pulex* (lethal)	Pass	Failed
	P. promelas (lethal)	Pass	Failed
3rd Qtr. 2012	*P. promelas* (lethal)	Pass	Failed
1st Qtr. 2013	*D. pulex* (lethal)	Pass	Failed
	P. promelas (lethal)	Pass	Failed
2nd Qtr. 2013	*D. pulex* (lethal)	Pass	Failed
3rd Qtr. 2013	*D. pulex* (lethal)	Pass	Failed
	P. promelas (lethal)	Pass	Failed

Each failure of a biomonitoring test and exhibition of lethal effects to aquatic species is a violation of LPDES permit LA0000914 (Part I, Pages 2 and 3 of 7, Part II, Section P.1, and Part III, Section A.2), La. R.S. 30:2076 (A)(3), and LAC 33:IX.501.A.

A file review conducted by the Department on or about December 22, 2014, revealed that the Respondent failed to sample in accordance with LPDES permit LA0000914. Specifically, the Respondent is required by LPDES permit LA0000914 to sample Total Suspended Solids (TSS) once per month for Outfall 020. As reported on the monthly DMR, the Respondent failed to sample TSS for the monitoring period of August 2012. The Respondent is required by LPDES permit LA0000914 to sample BOD_5 once per week for Outfall 001. As reported on the monthly DMR, the Respondent failed to sample BOD_5 once per week for the monitoring period of September 2013.

The Respondent is required by LPDES permit LA0000914 to sample Total Residual Chlorine once per quarter for Outfalls 010 and 014. As reported on the Quarterly DMRs, the Respondent failed to sample Total Residual Chlorine for the monitoring period of the third quarter of 2013. Each failure to sample is a violation of LPDES permit LA0000914 (Part I, Pages 2, 4, 5, and 7 of 7, and Part III, Sections A.2, and C.2), La. R.S. 30:2076 (A)(3), and LAC 33:IX.501.A.

An inspection conducted by the Department on or about October 30, 2014, and a subsequent file review conducted by the Department on or about December 22, 2014, revealed that the Respondent had the following unauthorized discharges:

Date	Specifics	Amount Discharged	Water Body
06/07/2010*	Lift station overflowed due to pump malfunctions caused by heavy rainfall – process wastewater bypassed treatment and discharged via the stormwater outfall	Unknown	Monte Sano Bayou
01/14/2011*	Pump failure – partially treated sewage flowed to ground and eventually offsite	Unknown	Monte Sano Bayou
05/10/2013*	Lift stations overflowed due to heavy rainfall – contact stormwater bypassed treatment and discharged via an adjacent outfall	Unknown	Monte Sano Bayou
05/22/2013*	Lift stations overflowed due to heavy rainfall – contact stormwater bypassed treatment and discharged via an adjacent outfall	Unknown	Monte Sano Bayou
06/13/2014**	Release of acrylonitrile to the stormwater drainage system due to a gasket failure	34 lbs	Monte Sano Bayou
08/18/2014*	Lift station overflowed due to pumpfailure – contact stormwater and sanitary sewer wastewater bypassed treatment and discharged via another outfall	Unknown	Monte Sano Bayou
08/25/2014*	Lift station overflowed due to pumpfailure – contact stormwater and sanitary sewer wastewater bypassed treatment and discharged via another outfall	Unknown	Monte Sano Bayou
10/08/2014*	Lift station overflowed due to pumpfailure – contact stormwater and sanitary sewer wastewater bypassed treatment and discharged via anotheroutfall	Unknown	Monte Sano Bayou

* Discharged from an unauthorized location ** Unauthorized Discharge

The discharge of pollutants from a source or location not authorized by the permit is a violation of La. R.S. 30:2076 (A)(1)(a), and LAC 33:IX.501.D. The unauthorized discharge of pollutants into waters of the state is a violation of La. R.S. 30:2075. The failure to properly operate and maintain

equipment is a violation of LPDES permit LA0000914 (Part III, Sections A.2 and B.3.a),La. R.S. 30:2076 (A)(3), and LAC 33:IX.2701.E."

The following violations, although not cited in the foregoing enforcement action(s), are included within the scope of this settlement:

An inspection conducted by the Department on or about August 26, 2015, and a subsequent file review conducted by the Department on or about March 28, 2016, revealed that the Respondent exceeded effluent limitations. These effluent exceedances, as reported by the Respondent on DMRs and NCRs, are summarized below:

Date	Outfall	Parameter	Permit Limit	Sample Value
04/2015	001A	Total Suspended Solids Daily Maximum	1875 lb/d	7263 lb/d
05/2015	001A	Total Suspended Solids Daily Maximum	1875 lb/d	11603 lb/d
07/2015	001A	Total Suspended Solids Daily Maximum	1875 lb/d	2491 lb/d
10/2015	001A	Total Suspended Solids Daily Maximum	1875 lb/d	2557 lb/d
01/2016	020A	pH – Instantaneous Maximum	9 SU	9.4 SU

Each effluent exceedance is a violation of LPDES permit LA0000914 (Part I, Pages 2 and 9 of 9, and Part III, Section A.2), La. R.S. 30:2076(A)(3) and LAC 33:IX.501.A.

A file review conducted by the Department on or about March 28, 2016, revealed that the Respondent failed to sample in accordance with LPDES permit LA0000914. Specifically, the Respondent is required by LPDES permit LA0000914 to sample BOD_5 once per week for Outfall 001. As reported on the monthly DMR, the Respondent failed to sample BOD_5 for one week in July of 2015. The Respondent is required by LPDES permit LA0000914 to sample Total Organic Carbon once per month for Outfall 010. As reported on the monthly DMR, the Respondent failed to sample Total Organic Carbon for the monitoring period of July 2015. Each failure to sample is a violation of LPDES permit LA0000914 (Part I, Pages 2 and 6 of 9, and Part III, Sections A.2, and C.2), La. R.S. 30:2076 (A)(3), and LAC 33:IX.501.A.

A file review conducted by the Department on or about March 28, 2016, revealed that effluent lethality had been exhibited to the *Pimephales promelas* (*P. promelas*) species at or below the effluent critical dilution of 86% for the third quarter of 2015. The failure of a biomonitoring test and exhibition of lethal effects to aquatic species is a violation of LPDES permit LA0000914 (Part I, Page 2 of 9, Part II, Section P.1, and Part III, Section A.2), La. R.S. 30:2076 (A)(3), and LAC 33:IX.501.A.

A file review conducted by the Department on or about March 28, 2016, revealed that the Respondent had the following unauthorized discharges:

Date	Specifics	Amount Discharged	Water Body
09/01/2015*	Lift station overflowed due to pump malfunction – contact stormwater and sanitary wastewater bypassed treatment and discharged via the stormwater outfall	Unknown	Monte Sano Bayou
09/21/2015*	Lift station overflowed due to blocked line – contact stormwater and untreated wastewater was discharged	Unknown	Monte Sano Bayou

* Discharged from an unauthorized location

The discharge of pollutants from a source or location not authorized by the permit is a violation of La. R.S. 30:2076 (A)(1)(a), and LAC 33:IX.501.D. The failure to properly operate and maintain equipment is a violation of LPDES permit LA0000914 (Part III, Sections A.2 and B.3.a),La. R.S. 30:2076 (A)(3), and LAC 33:IX.2701.E.

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 EIGHTEEN THOUSAND SIX HUNDRED FIFTY AND NO/100 DOLLARS ($18,650.00), of which One Thousand Three Hundred Eighty-Five and 39/100 Dollars ($1,385.39) 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 East Baton Rouge Parish, Louisiana. The advertisement, in form and wording approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted an original proof-of-publication affidavit and an original public notice to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

XI

Payment is to be made within thirty (30) 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.

EAST WEST COPOLYMER LLC

BY: _____
(Signature)

_____
(Printed)

TITLE: _____

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20 _____, at _____.

_____
NOTARY PUBLIC (ID #_____)

_____
(stamped or printed)

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

BY: _____
Lourdes Iturralde, Assistant Secretary
Office of Environmental Compliance

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

_____
NOTARY PUBLIC (ID # _____)

_____
(stamped or printed)

Approved: _____
Lourdes Iturralde, Assistant Secretary