

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

* **Settlement Tracking No.**
* **SA-HE-07-0041**
*

ETHYL CORPORATION

* **Enforcement Tracking No.**
* **HE-CN-02-0305**
*

AI # 3085

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

* **Docket No. 2004-2310-EQ**
*

SETTLEMENT

The following Settlement is hereby agreed to between Ethyl Corporation ("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 formerly operated a chemical manufacturing facility in Baton Rouge, East Baton Rouge Parish, Louisiana ("the Facility").

II

On August 26, 2003, the Department issued a Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. HE-CN-02-0305, to Respondent, which was based upon the following findings of fact:

The Respondent continues to operate a groundwater remediation system at their former operations site located on Gulf States Road, 1 mile west of U.S. Interstate I-110 in Baton Rouge, East Baton Rouge Parish, Louisiana and bears the EPA identification number LAD 079 460 895.

The Respondent was issued Post-Closure Permit Number LAD 079 460 895 PC-1 for the closing of the hazardous waste management units at the facility located on Gulf States Road, 1.1 mile west of U.S. Interstate I-110 in Baton Rouge. This permit became effective on August 28, 1995. The Respondent made a request for a Class 2 Modification to the Post-Closure Permit on January 8, 1999. The request was for the inclusion of the T-5 and D-3 units and monitoring of semi-volatile organic compounds into the Post-Closure Permit. Based upon the Permit Division's review of the information supplied, the Class 2 Modification request was approved on July 29, 1999.

On or about June 26, 2002, representatives of the Environmental Technology Division, Geological Services Group 3 of the Department performed a site inspection of the facility. In addition to the inspection, a review of the Department's files, Post-Closure Permit, Section VI Groundwater Protection and the Class 2 Permit Modification by the Environmental Technology Division, Geological Services Group 3 has identified the following violations:

- A. The Respondent failed to resume pumping from sixteen (16) recovery wells after a shut down of the wells for a trial study period of six (6) months from November 8, 1996, through May 30, 1997, in violation of LAC 33:V.309.A, LAC 33:V.3321.F, and Permit Condition VI.B of the Post-Closure Hazardous Waste Permit.
- B. The Respondent failed to define the plume and has not submitted a plan for additional assessment to define the extent of the plume, in violation of LAC 33:V.309.A, LAC 33:V.3321.D, and Permit Condition VI.B of the Post-Closure Hazardous Waste Permit.

- C. The Respondent failed to maintain the structural and mechanical integrity of many of the monitoring and recovery wells in accordance with current standard environmental practices and in a manner that would prevent surface infiltration, in violation of LAC 33:V.309.A, LAC 33:V.3305.B, LAC 33:V.3315.C, and Permit Conditions VI.B, VI.C.2, and VI.G.3 of the Post-Closure Hazardous Waste Permit. Specifically, the inspector noted the lack of protective caps and posts, pads, shrouds, and/or annular space grout on several of the monitoring and recovery wells. Additionally, MW-15B did not have a cap and several of the inactive recovery wells that were functioning as monitoring wells were exposed to the atmosphere.
- D. The Respondent failed to submit a workplan for the installation of additional wells to establish the vertical point of compliance in the deeper zones, as required by the Schedule of Compliance, Condition II.E.21 of the Post-Closure Hazardous Waste Permit. The failure to submit the workplan within ninety (90) days after the submittal of the subsurface site investigation report that was received by the Department on August 3, 1999, is a violation of LAC 33:V.309.A and Permit Conditions II.E.21.k.1, VI.C.2 and VI.E of the Post-Closure Hazardous Waste Permit.
- E. The Respondent failed to maintain an up-to-date field log book or groundwater well sampling forms on site available for review at the time of the site inspection, in violation of LAC 33:V.309.A and Post-Closure Hazardous Waste Permit Condition VI.C.4.h.

- F. The Respondent failed to submit groundwater potentiometric maps for the 100-foot, 120-foot, 190-foot, 400-foot, and 600-foot zones with the semi-annual and annual reports for each sampling event at the facility, in violation of LAC 33:V.309.A and Post-Closure Hazardous Waste Permit Condition VI.G.4.
- G. The Respondent failed to graphically represent semi-volatile organic constituent values for M-09C, one of the 100-foot zone wells, and deeper zone wells for each sampling event in the semi-annual and annual reports, in violation of LAC 33:V.309.A and Post-Closure Permit Hazardous Waste Condition VI.G.6.
- H. The Respondent failed to maintain all sampling and analytical work records at the plant site for review during inspection, in violation of LAC 33:V.309.A and Post-Closure Hazardous Waste Permit Condition VI.G.7.
- I. The Respondent failed to analyze, at least annually, the point of compliance wells for LAC 33:V.3325.Table 4 constituents as required by LAC 33:V.3319.G, in violation of LAC 33:V.309.A, LAC 33:V.3319.G, and Post-Closure Hazardous Waste Permit Condition VI.I.1.
- J. The Respondent failed to provide facility maps showing horizontal and vertical extent of contamination for each monitored zone, potentiometric maps for each zone, or have the report of the total volume of liquid removed and mass of contaminants removed for each well, in violation of LAC 33:V.309.A and Post-Closure Hazardous Waste Permit Condition VI.J.1.

III

In response to the Consolidated Compliance Order and Notice of Potential Penalty, Respondent made a timely request for an Administrative Hearing, which was granted.

IV

The Respondent filed written denials for Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. HE-CN-02-0305, in letters dated September 29, 2003 (*EDMS Document No. 29328881*), attached herewith as Exhibit A, and February 6, 2004 (*EDMS Document No 30782807*), attached herewith as Exhibit B.

V

On October 2, 2008, the Respondent was issued Hazardous Waste Post-Closure Renewal Permit Number LAD079460895-PC-RN-1, which addressed some of the contested violations.

VI.

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

VII

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 THOUSAND AND NO/100 DOLLARS (\$50,000.00) of which Seven Thousand Nine Hundred Fifty-Nine and 17/100 Dollars (\$7,959.17) 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).

VIII

Respondent further agrees that the Department may consider the inspection report(s), the Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. HE-CN-02-0305, Respondent's response dated September 29, 2003 and February 6, 2004, the Post-Closure Permit Renewal (No. LADO79460895-PC-RN-1, dated October 2, 2008), 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.

IX

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.

X

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 LSA- R. S. 30:2025(E) of the Act.

XI

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, 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 a proof-of-publication affidavit 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.

XII

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 C).

XIII

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

XIV

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

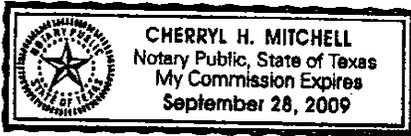
ETHYL CORPORATION

BY: *A. Choudhury*
(Signature)

AZEAR A. CHOUDHURY
(Print)

TITLE: PRESIDENT

THUS DONE AND SIGNED in duplicate original before me this 4th day of February, 2009, at Pasadena, Texas.



Cherryl H. Mitchell
NOTARY PUBLIC (ID # _____)

Cherryl H. Mitchell
(Print)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Harold Leggett, Ph.D., Secretary

BY: *Peggy M. Hatch*
Peggy M. Hatch, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 8th day of May, 2009, at Baton Rouge, Louisiana.

Christopher A. Rateliff
NOTARY PUBLIC (ID # 10149)

Christopher A. Rateliff
(Print)

Approved: *Peggy M. Hatch*
Peggy M. Hatch, Assistant Secretary