

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

FIRESTONE POLYMERS, LLC

AI # 1244

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

* Settlement Tracking No.
* SA-WE-09-0059
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* Enforcement Tracking No.
* WE-CN-08-0109
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* Docket No. 2009-7956-EQ
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SETTLEMENT

The following Settlement is hereby agreed to between Firestone Polymers, 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 synthetic rubber manufacturing facility located in Sulphur, Calcasieu Parish, Louisiana (“the Facility”).

II

On May 29, 2008, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. WE-CN-08-0109, which was based upon the following findings of fact:

The Respondent owns and/or operates a synthetic rubber manufacturing facility which is located at 1801 La. Highway 108 East, in Sulphur, Calcasieu Parish, Louisiana. The Respondent was issued Louisiana Pollutant Discharge Elimination System (LPDES) permit LA0003824 with an effective date of April 1, 1999 and an expiration date of March 31, 2004. LPDES permit

LA0003824 was administratively continued until it was reissued with an effective date of July 1, 2006, and an expiration date of June 31, 2011. LPDES permit LA0003824 authorizes the Respondent to discharge treated process wastewater, sanitary wastewater, and first flush storm through Outfall 001, the intermittent discharge of nonprocess area stormwater runoff through Outfalls 003 and 004 thence into Bayou D'Inde, waters of the state.

An inspection conducted by the Department on or about December 18, 2001, revealed that the Respondent failed to calibrate its refrigerated composite sampler thermometer (serial number 99187949) for Outfall 001 on a yearly basis. The thermometer for Outfall 001 was due to be calibrated by July 19, 2001. However, the inspection revealed that the Respondent performed the calibration check against a traceable thermometer on December 18, 2001. This is in violation of LPDES permit LA0003824 (Part III, Sections A.2. and C.5.b), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2701.A, and LAC 33:IX.2701.E.

Inspections conducted by the Department on or about December 18, 2001, and June 2, 2003 through June 4, 2003, revealed the following operations and maintenance deficiencies and that the Respondent failed to use approved laboratory procedures as follows:

- A. The inspection conducted on or about December 18, 2001 revealed the Respondent exceeded the BOD₅ sample holding time on July 5, 2001.
- B. The inspection conducted on or about June 02, 2003 through June 4, 2003 revealed the Respondent exceeded the holding times for TSS samples collected on July 3, 2002, and for BOD₅ samples collected on April 30, 2002 and July 13, 2002. This is in violation of LPDES permit LA0003824 (Part III, Sections A.2 and C.5.a), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2701.A, and LAC 33:IX.2701.J.4.

An inspection conducted by the Department on or about December 18, 2001, revealed the Respondent failed to collect a grab sample at Outfall 001 on December 26, 2000, for the Oil and Grease parameter. Each failure to sample the effluent as required is in violation of LPDES permit LA0003824 (Part I, and Part III, Sections A.2), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, and LAC 33:IX.2701.A.

An inspection conducted by the Department on or about June 2, 2003 through June 4, 2003, revealed small spills observed around the Respondent's oil car unloading area. At the time of the inspection, the Respondent's facility representative stated to the inspector that the stormwater generated from this area is treated on-site at the wastewater treatment unit.

An inspection conducted by the Department on or about June 2, 2003 through June 4, 2003, revealed that the Respondent failed to properly maintain records of instrumentation used to perform the compliance testing. Specifically, the Respondent was not maintaining records of the adjustments made during instrument calibration and the time at which the instruments were being calibrated. The Respondent's failure to properly maintain records is a violation of LPDES permit LA0003824 (Part III, Sections A.2 and C.4), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2701.A, LAC 33:IX.2701.J.3, and LAC 33:IX.6515.A.2.

An inspection conducted by the Department on or about June 2, 2003 through June 4, 2003, and a subsequent file review conducted by the Department on May 28, 2008, revealed the Respondent submitted incomplete Discharge Monitoring Reports for Outfall 004. Specifically, the Respondent sampled Outfall 004 on July 13, 2002, and September 16, 2002; however, the TOC and Oil and Grease results from September 16, 2002, were not reported on the DMR for the 3rd quarter of

2002. The Respondent's failure to submit complete DMRs is a violation of LPDES permit LA0003824 (Part III, Section C.8), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2701.A, and LAC 33:IX.2701.L.4.b.

Inspections conducted by the Department on or about June 2, 2003 through June 4, 2003, June 16, 2004, January 30, 2007 through February 2, 2007, and a subsequent file review conducted on or about May 28, 2008, revealed that overflows had occurred, as reported by the Respondent. The overflows are as follows:

Date of Overflow	Overflow Location	Cause of Overflow	Receiving Stream	Overflow Amount
6/27/2002	Process wastewater area	Heavy Rain	West stormwater ditch via Outfall 003	Unknown
8/15/2002	Process wastewater area	Heavy Rain	West stormwater ditch via Outfall 003	Unknown
3/14/04	Process wastewater area	Heavy Rain	West stormwater ditch via Outfall 003	Unknown
1/30/2007	Boiler House Sump	Plugged line in an effluent pipe	East stormwater ditch	200 lbs. of lime

Each unauthorized discharge is a violation of LPDES permit LA0003824, (Part I, and Part III, Section A.2), La. R.S. 30:2075, La. R.S. 30:2076 (A) (1), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.501.D, and LAC 33:IX.2701.A. The failure to operate and maintain equipment is a violation of LPDES permit LA0003824 (Part III, Section A.2 and B.3.a), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2701.A, and LAC 33:IX.2701.E. On or about March 17, 2004, the Respondent submitted written notification to the Department which indicated that a third pump was ordered to handle additional water during heavy rainfall events.

An inspection conducted by the Department on June 14, 2006, and a subsequent file review conducted by the Department on or about May 28, 2008, revealed the Respondent was not properly operating and maintaining all facilities and systems of treatment and control as required by LPDES

permit LA0003824. On or about February 14, 2006, the Respondent submitted documentation to the Department indicating that the temperature recorder for Outfall 001 experienced erratic temperatures from January 22nd through January 27th and again from January 30th through February 1st. The Respondent also informed the Department that the January temperature data within the erratic temperature readings were omitted from the January 2006 DMR. The failure to properly operate and maintain all facilities and systems of treatment and control is a violation of LPDES permit LA0003824 (Part III, Sections A.2 and B.3.a), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, and LAC 33:IX.2701.A. and LAC 33:IX.2701.E.

An inspection conducted by the Department on or about June 14, 2006, revealed the Respondent failed to sample Outfall 001 for the BOD₅ parameter on September 20, 2005 and September 21, 2005 due to Hurricane Rita.

Inspections conducted by the Department on or about December 18, 2001, June 2, 2003, through June 4, 2003, June 16, 2004, June 14, 2006, and January 30, 2007 through February 2, 2007 and a subsequent file review conducted on or about May 28, 2008, revealed the following permit exceedances, as reported by the Respondent on Discharge Monitoring Reports (DMRs):

Date	Outfall	Parameter	Permit Limit	Sample Value
4/30/2000	001A	TSS Daily Maximum	1104 lbs/day	1180 lbs/day
9/30/2000	001A	TSS Daily Maximum	1104 lbs/day	1171 lbs/day
11/30/2001	001A	TSS Daily Maximum	1104 lbs/day	1115 lbs/day
5/31/2002	001A	BOD ₅ Daily Maximum	676 lbs/day	1113 lbs/day
9/30/2002	003Q	pH Minimum	6.0 S.U.	1.3 S.U.
	004Q	pH Maximum	9.0 S.U.	10.03 S.U.
12/31/2003	001A	TSS Daily Maximum	1104 lbs/day	2093 lbs/day
7/31/2005	001A	Temperature Daily Maximum	100 degrees	102 degrees
8/31/2005	001A	Temperature Daily Maximum	100 degrees	108 degrees
		COD Daily Maximum	3515 lbs/day	5660 lbs/day
		Oil & Grease Monthly Average	180 lbs/day	204 lbs/day
8/31/05	001A	Oil & Grease Daily Maximum	270 lbs/day	1045 lbs/day
10/31/2006	001A	BOD ₅ Daily Maximum	676 lbs/day	750 lbs/day
		TSS Daily Maximum	1272 lbs/day	1363 lbs/day

Date	Outfall	Parameter	Permit Limit	Sample Value
3/31/2007	TX1Q	M. bahia Growth	Pass	Failed
		M. beryllina Growth	Pass	Failed
		M. beryllina Lethality	Pass	Failed
8/31/2007	001A	Ammonia Daily Maximum	185 lbs/day	227 lbs/day
		Ammonia Daily Maximum	185 lbs/day	215 lbs/day
10/31/2007	001A	Oil & Grease Daily Maximum	312 lbs/day	358 lbs/day
11/30/2007	001A	BOD ₅ Monthly Average	451 lbs/day	803 lbs/day
		BOD ₅ Daily Maximum	676 lbs/day	1639 lbs/day
12/31/2007	001A	BOD ₅ Monthly Average	451 lbs/day	576 lbs/day
		BOD ₅ Daily Maximum	676 lbs/day	1077 lbs/day
		TSS Daily Maximum	1272 lbs/day	1324 lbs/day
01/31/2008	001A	BOD ₅ Monthly Average	451 lbs/day	546 lbs/day
01/31/2008	001A	BOD ₅ Daily Maximum	676 lbs/day	1975 lbs/day
		COD Daily Maximum	3515 lbs/day	3603 lbs/day

Each effluent violation from April 2000 through August 2005 constitutes a violation of LPDES permit LA0003824 which became effective April 1, 2000 (Part I, Pages 2 and 4, Part II, Section L and Part III, Section A.2.), La. R.S. 30:2076 (A) (1), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.501.D, and LAC 33:IX.2701.A. Each effluent violation from October 2006 through December 2007 constitutes a violation of LPDES permit LA0003824 which was reissued with an effective date of July 1, 2006, (Part I, and Part III, Section A.2), La. R.S. 30:2076 (A) (1), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.501.D, and LAC 33:IX.2701.A. The Respondent's unauthorized discharges of sulfuric acid through Outfall 003 on September 12, 2002 and through Outfall 004 on September 16, 2002, as a result of power failures at the wastewater treatment plant is a violation of LPDES permit LA0003824, (Part I, and Part III, Section A.2), La. R.S. 30:2075, La. R.S. 30:2076 (A) (1), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.501.D, and LAC 33:IX.2701.A. The failure to operate and maintain equipment is a violation of LPDES permit LA0003824 (Part III, Section A.2 and B.3.a), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2701.A, and LAC 33:IX.2701.E.

A file review conducted by the Department on or about May 28, 2008, revealed the Respondent submitted incomplete noncompliance reports for effluent exceedances reported on DMRs for the monitoring periods of November 2007, December 2007 and January 2008. Specifically, the Respondent failed to report all BOD₅ sample values which exceeded the Daily Maximum permit limit of 676 lbs/day on noncompliance reports submitted to the Department for the aforementioned monitoring periods. This is in violation of LPDES permit LA0003824, (Part III, Sections A.2 and D.7), La. R.S. 30:2076 (A)(3), La. R. S. 30:2076 (D), LAC 33:IX.501.A, LAC 33:IX.2701.A, and LAC 33:IX.2701.L.7.

III

In response to the Consolidated Compliance Order & Notice of Potential Penalty, Respondent met with representatives of the Department and submitted a written report describing the facts and circumstances surrounding each of the alleged violations as well as the corrective actions taken by Respondent to address any instances of non-compliance. Respondent also made a timely request for a hearing.

IV

Respondent denies it committed any violations and 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 SIX THOUSAND FOUR HUNDRED AND NO/100 DOLLARS (\$6,400.00), of which Six Hundred Fifty-Two and 35/100 Dollars (\$652.35) represents 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), 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 or the Respondent to enforce this agreement.

VIII

This settlement is being made in the interest of settling the state's claims and in 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.

IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Calcasieu Parish, Louisiana. The advertisement, in form,

wording, and size approved by the Department, announced the availability of this proposed 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.

X

Payment is to be made within ten (10) days from notice to the Respondent 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).

XI

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

XII

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.

FIRESTONE POLYMERS, LLC

BY: [Signature]
(Signature)

Gene Lavergne
(Print)

TITLE: Plant Manager

THUS DONE AND SIGNED in duplicate original before me this 8th day of July, 20 10, at Sulphur, Louisiana

[Signature]
NOTARY PUBLIC (ID # 2040)

Brenda Courmier
(Print)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Peggy M. Hatch, Secretary

BY: [Signature]
Beau James Brock, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 26th day of October, 20 10, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 10149)

Christopher A. Ratchiff
(Print)

Approved: [Signature]
Paul D. Miller, P.E., Assistant Secretary

