

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

GEORGIA GULF LAKE CHARLES, LLC
AI # 4013

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

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* Enforcement Tracking No.
* AE-PP-04-0324
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SETTLEMENT AGREEMENT

The following Settlement is hereby agreed to between Georgia Gulf Lake Charles, 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 corporation that owns and operates a chemical manufacturing complex located at 1600 VCM Plant Road in Westlake, Calcasieu Parish, Louisiana (“the Facility”).

II.

On December 22, 2004, the Department issued a Notice of Potential Penalty, Enforcement No. AE-PP-04-0324, to Respondent, which was based upon the following findings of fact:

On or about October 26, 2004, a file review of the VCM Plant owned and/or operated by Georgia Gulf Lake Charles, LLC (Respondent) was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Air Quality

AE-PP-04-0324

Regulations. The facility is located at 1600 VCM Plant Road in Westlake, Calcasieu Parish, Louisiana. The facility operates under Air Permit No. 0520-00012-04 issued on December 23, 2002.

The following violation was noted during the course of the file review:

According to information provided by the Respondent in an unauthorized release report dated April 26, 2004, and the Vinyl Chloride Emissions Quarterly Report dated June 15, 2004, the Respondent reported a bypass of the thermal oxidizer process that occurred on April 21, 2004, as a result of loss of fuel gas. Emissions in excess of the reportable quantities for vinyl chloride (18.1 lbs.), ethylene dichloride (99.1 lbs.), and ethyl chloride (171.4 lbs.) were released as a result of the incident. The release began at 12:00 a.m. and ended at approximately 12:46 a.m. on April 21, 2004. As a result of this incident the 3-hour average exceeded the 10 ppm vinyl chloride standard as specified in 40 CFR 61.63(a). The 3-hour average was exceeded from the time period 10:00 p.m. on April 20, 2004, through 3:00 a.m. on April 21, 2004, with a resultant calculated exhaust gas concentration of 830 ppm. This is a violation of 40 CFR 61.63(a) which language has been adopted as a Louisiana regulation in LAC 33:III.5116, Specific Condition No. 1 of Air Permit No. 0520-00012-04, LAC 33:III.501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act.

III.

Respondent responded to the Notice of Potential Penalty in correspondence to the Department dated January 6, 2005, and later made a settlement offer of seven hundred fifty (\$750.00) dollars, which was accepted by the Department.

IV.

Respondent neither admits nor denies the Department's findings of fact, and 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 SEVEN HUNDRED FIFTY AND NO/100 DOLLARS (\$750.00), of which One Hundred Forty and 04/100 Dollars (\$140.04) represents DEQ's enforcement costs, in full and final settlement of any and all claims raised by DEQ in Enforcement Tracking No. AE-PP-04-0324. The Department consents not to initiate or maintain any administrative enforcement action, lawsuit, penalty, order, claim or other action against Respondent with respect to the matters resolved and settled herein. The total amount of money expended by Respondent on cash payments to DEQ as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

VI.

Neither by entering into this agreement nor by taking any action in accordance with it (including making the payments required by the agreement), shall Respondent be deemed to have admitted any liability for any purpose or any responsibility for, or wrongdoing relating to, the matters addressed in this agreement, or to have admitted any issues of law or fact relating to or arising out of the matters addressed in this agreement.

VII.

The Department may consider the inspection report(s), the 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.

VIII.

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. Respondent, however, expressly reserves the right to such review of the actions of the Department acting upon, interpreting, applying, and/or enforcing the terms of this agreement. Respondent further expressly reserves any and all rights, defenses, claims, demands, and causes of action which it may have with respect to any matter, action, event, claim or proceeding relating in any way to the matters addressed in this agreement against any person, firm, or corporation except as expressly provided herein.

IX.

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.

X.

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 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.

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 Darryl Serio, Office of Management and Finance, 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/her respective party, and to legally bind such party to its terms and conditions.

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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.

GEORGIA GULF LAKE CHARLES, LLC

BY: _____
(Signature)

(Printed or Typed)

TITLE: _____

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

NOTARY PUBLIC (ID # _____)

(Printed or Typed)

STATE OF LOUISIANA

Mike D. McDaniel, Ph.D., Secretary
Department of Environmental Quality

BY: _____
Harold Leggett, Ph.D., 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 # _____)

(Printed or Typed)

Approved:  _____
Harold Leggett, Ph.D., Assistant Secretary