

STATE OF LOUISIANA

 ORIGINAL

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

IMPERIAL SUGAR COMPANY

AI # 1276

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

* Settlement Tracking No.
* SA-WE-11-0063
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* Enforcement Tracking No.
* WE-CN-10-02032
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SETTLEMENT

The following Settlement is hereby agreed to between Imperial-Savannah, LP, formerly known as Imperial Sugar Company, (“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 until December 31, 2010, owned and/or operated a sugar refinery located in Gramercy, St. James Parish, Louisiana (“the Facility”).

II

On December 23, 2010, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. WE-CN-10-02032, which was based upon the following findings of fact:

The Respondent owns and/or operates a sugar refinery located at 1230 South Fifth St. in Gramercy, St. James Parish, Louisiana. The Respondent is authorized to discharge certain qualities and quantities of process wastewater, boiler blow down, cooling tower blow down water treatment

plant backwash, process lab wastewater, treated sanitary wastewater, and storm water runoff into Colonial Sugar Canal (a/k/a Hot Water Ditch); thence into the Blind River Water Basin, all waters of the state, under authority of Louisiana Pollutant Discharge Elimination System (LPDES) permit LA0000604, which became effective on January 1, 2005, and which expired on December 31, 2010. The Respondent was granted an extension to reapply for LPDES permit LA0000604 until September 30, 2009. A renewal application was received on or about September 29, 2009, and was determined to be administratively complete on October 2, 2009; therefore LPDES permit LA0000604 has been administratively continued. On December 12, 2010, LPDES permit LA0000604 was issued to the Louisiana Sugar Refining, LLC, with an effective date of February 14, 2011.

A file review conducted on or about December 23, 2010, revealed that the Dissolved Oxygen numerical criterion for Subsegment 040403 (Blind River-From headwaters to Amite River Diversion Canal (Scenic)) is 3.0 mg/L. The pH numerical criterion for Subsegment 040403 is 8.5 standard units. The wastewater from the Respondent's facility is discharged into Subsegment 040403.

On or about December 21, 2010, an investigation conducted by employees of the Department, in response to a complaint from the St. James Parish Office of Emergency Preparedness, revealed that a large area of the surface of Colonial Sugar Canal, as well as Sawmill Ditch and the ditch adjacent to U.S. Highway 61, was covered with whitish foam. This foam was emanating from Respondent's permitted waste water outfall #001. Respondent's discharge of foaming or frothing materials of a persistent nature is in violation of Permit #LA0000604, Part 1; LAC 33:IX.1113.B.1.b and B.7; and La. R.S. 30:2076(A)(1)(a) and (b), and 2076(A)(3).

Field readings taken during the investigation described above revealed that the dissolved oxygen in Colonial Sugar Canal at the facility outfall was 2.0 mg/l, and dissolved oxygen in the Highway 61 ditch was 2.0 mg/l. Respondent's discharge of waste water caused the dissolved oxygen

levels in these water bodies to fall below the applicable numerical criterion of 3.0 mg/l specified for these water bodies by LAC 33:1123, Table 3, in violation of LAC 33:IX.1113.C.3 and La. R.S. 30:2076(A)(1)(a) and (b) and 2076(A)(3).

Field readings taken during the investigation described above revealed that the pH of the water in Colonial Sugar Canal at the Respondent's outfall was 9.0 standard units. Respondent's discharge of waste water caused the pH of the receiving stream to exceed the applicable numerical criterion of 8.5 standard units specified for that water body by LAC 33:1123, Table 3, in violation of LAC 33:IX.1113.C.3 and La. R.S. 30:2076(A)(1)(a) and (b) and 2076(A)(3).

III

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

IV

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 TEN THOUSAND SEVEN HUNDRED SEVENTY AND NO/100 DOLLARS (\$10,770.00), of which Four Thousand Seven Hundred Seventy and No/100 Dollars (\$4,770.00) 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).

V

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.

VI

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.

VII

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 on disputed issues of material fact or of law arising from the Consolidated Compliance Order & Notice of Potential Penalty. 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.

VIII

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in St. James 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.

IX

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).

X

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

XI

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.

IMPERIAL SUGAR COMPANY

BY: [Signature]
(Signature)

H.P. Mechler

(Printed)

TITLE: **Senior Vice President**

THUS DONE AND SIGNED in duplicate original before me this 16th day of December, 20 11, at 3:30 pm Sugar Land, TX

[Signature]
NOTARY PUBLIC (ID # _____)



(stamped or printed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY

Peggy M. Hatch Secretary

BY: [Signature]
Cheryl Sonnier Nolan, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 19th day of April, 20 12, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 20590)
La. Bar Roll #

Life Commission
[Signature]
(stamped or printed)

Approved: [Signature]
Cheryl Sonnier Nolan, Assistant Secretary