

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

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|----------------------------------|----------------------------|
| IN THE MATTER OF: | * Settlement Tracking No. |
| | * SA-HE-09-0053 |
| LDH ENERGY OLEFINS LLC | * * |
| AI # 83718 | * Enforcement Tracking No. |
| | * HE-CN-07-0879A |
| PROCEEDINGS UNDER THE LOUISIANA | * * |
| ENVIRONMENTAL QUALITY ACT | * * |
| LA. R.S. 30:2001, <u>ET SEQ.</u> | * |

SETTLEMENT

The following Settlement is hereby agreed to between LDH Energy Olefins 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 fractionation plant that produces ethane, ethylene, propane, propylene, butanes, and natural gasoline located in Geismar, Ascension Parish, Louisiana (“the Facility”).

II

On September 22, 2008, the Department issued to Respondent an Amended Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. HE-CN-07-0879A, which was based upon the following findings of fact:

The Respondent owns and/or operates a fractionation plant that produces ethane, ethylene, propane, propylene, butanes, and natural gasoline located at 10334 Highway 75 in Geismar, Ascension Parish, Louisiana.

On or about June 29, 2007, and October 18, 2007, representatives of the Department performed an inspection of the facility and noted the following:

- A. The Respondent failed to label or mark clearly six (6) containers storing used oil located in the less than 90-day storage area with the words "used oil," in violation of LAC 33:V.4013.D.1. This violation was corrected during the inspection.
- B. The Respondent failed to label or clearly mark the process slop tank storing hazardous waste with the words "Hazardous Waste," in violation of LAC 33:V.1109.E.1.d.
- C. The Respondent failed to obtain a written assessment reviewed and certified by an independent, qualified, registered professional engineer attesting to the process slop tank system's integrity, in violation of LAC 33:V.1109.E.1.a.ii.
- D. The Respondent failed to completely empty and clean the process slop tank, which is subject to the exclusion of LAC 33:V.1109.E, once per year to a level sufficient to allow visual inspection of the tank's interior surface, in violation of LAC 33:V.1909.D.2.
- E. The Respondent failed to perform daily tank inspections as specified in LAC 33:V.4440.A, in violation of LAC 33:V.1109.E.1.a.ii.
- F. The Respondent stored hazardous waste in the process slop tank, from December 2003, through August 2004, without having interim status or a standard permit, in violation of LAC 33:V.303.B.
- G. The Respondent failed to keep a fractionation container holding hazardous waste closed during storage except when necessary to add or remove waste, as specified in LAC 33:V.2107.A, in violation of LAC 33:V.1109.E.1.a.i. This violation was

- corrected during the inspection.
- H. The Respondent failed to label or clearly mark a fractionation container storing hazardous waste with the date upon which the period of accumulation began, in violation of LAC 33:V.1109.E.1.c. This violation has been addressed. The container was shipped off site for disposal on or about October 2, 2007.
 - I. The Respondent failed to mark a five (5) gallon container accumulating D001 and F003 hazardous waste (natural gasoline waste and spent acetone) at or near the point of generation where the waste initially accumulates with the words "Hazardous Waste" or with other words that identify the contents of the containers, in violation of LAC 33:V.1109.E.4.
 - J. The Respondent failed to notify the receiving facility in writing of the appropriate treatment standards and any applicable prohibitions with the initial shipment of hazardous waste, as specified in LAC 33:V.2245.B, in violation of LAC 33:V.1109.E.1.e. Specifically, the Respondent failed to include F003 waste code (spent acetone) on the land disposal restriction notification.
 - K. The Respondent failed to include the description of the waste(s) (EPA hazardous waste number F003) required by Hazardous Materials regulations of the Louisiana Department of Public Safety and Corrections in LAC 33:V.Subpart 2.Chapter 101 on manifests 0001107483 and 00120271, in violation of LAC 33:V.1107.B.1.e.
 - L. The Respondent failed to store universal waste lamps in a closed container, in violation of LAC 33:V.3821.D.1. This violation was corrected during the inspection.
 - M. The Respondent failed to label or mark a container of universal waste lamps with one of the following phrases: "Universal Waste-Lamp(s)," "Waste Lamp(s)," or "Used

Lamps(s),” in violation of LAC 33:V.3823.A.6. This violation was corrected during the inspection.

- N. The Respondent failed to demonstrate the length of time that universal waste lamps had been accumulated from the date they became a waste, in violation of LAC 33:V.3825.C. This violation was corrected during the inspection.
- O. The Respondent failed to notify the administrative authority, within seven (7) days, of the facility’s name change in the application for the identification number, in violation of LAC 33:V.1105.B. This violation has been corrected.
- P. The Respondent failed to have its waste minimization plan certified by a Louisiana registered professional engineer (PE), as specified in LAC 33:V.2245.J, in violation of LAC 33:V.1109.E.1.e. This violation has been corrected.

The Amended Consolidated Compliance Order & Notice of Potential Penalty, HE-CN-07-0879A, amended paragraph II of the Findings of Fact by rescinding Section F. The rescinded portion of the Findings of Fact section reads as follows:

- F. The Respondent stored hazardous waste in the process slop tank, from December 2003, through August 2004, without having interim status or a standard permit, in violation of LAC 33:V.303.B.

The Department also amended the Order portion of the Compliance Order by rescinding paragraph II. The rescinded portion of the Compliance Order reads as follows:

“II.

To immediately institute procedures, upon receipt of this Compliance Order, to ensure that storage of hazardous waste does not occur (beyond ninety (90) days) at the facility until it is in receipt of interim status or a final permit.”

The Department incorporated all of the remainder of the original Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. HE-CN-07-0879,

and Agency Interest No. 83718, as if reiterated within the amended Consolidated Compliance Order & Notice of Potential Penalty.

III

In response to the amended 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. In agreeing to this settlement, Respondent makes no admission as to any liability nor any admission as to the Department's factual assertions or legal conclusions made in this matter. Respondent's factual and legal assertions contesting the Department's allegations are included in the Department's record of this matter.

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 TWELVE THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$12,500.00), of which Two Thousand Six Hundred Eight and 34/100 Dollars (\$2,608.34) 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), the Amended 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 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 Ascension 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.

X

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).

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.

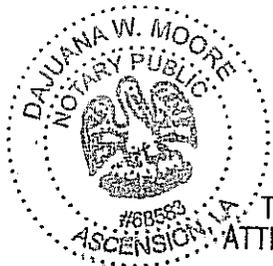
LDH ENERGY OLEFINS LLC

BY: [Signature]
(Signature)

Brad Burmaster
(Print)

TITLE: Vice President and General Manager,
LDH Energy Olefins LLC

THIS DONE AND SIGNED in duplicate original before me this 21 day of July, 20 10, at E. Baton Rouge.



[Signature]
NOTARY PUBLIC (ID # 68583)

Dajuana W. Moore, Notary No. 68583
(Print)

THIS DOCUMENT NOT
PREPARED BY
THE UNDERSIGNED NOTARY
ATTESTING TO SIGNATURES ONLY

**LOUISIANA DEPARTMENT OF
ENVIRONMENTAL QUALITY**
Peggy M. Hatch, Secretary

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

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

[Signature]
NOTARY PUBLIC (ID # 101491)

Christopher A. Rataliff
(Print)

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