

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

LOUISIANA PIGMENT COMPANY, L.P.

AI # 11496

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

* Settlement Tracking No.
* SA-AE-10-0076
*
* Enforcement Tracking No.
* AE-CN-08-0061
*
* Docket No. 2009-2293-EQ
*
*

SETTLEMENT

The following Settlement is hereby agreed to between Louisiana Pigment Company, L.P., (“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 partnership that owns and/or operates a chemical manufacturing facility located in Westlake, Calcasieu Parish, Louisiana (“the Facility”).

II

On January 23, 2009, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. AE-CN-08-0061, which was based upon the following findings of fact:

The Respondent owns and/or operates a chemical manufacturing facility known as the Titanium Dioxide Facility (the facility) located at or near 3300 Bayou D’Inde Road in Westlake, Calcasieu Parish, Louisiana. The facility operated under Title V Permit No. 0520-00142-V1 issued on May 13, 2003, and administratively amended on August 5, 2003; Title V Permit No. 0520-00142-

V2 issued on November 14, 2003, and administratively amended on December 9, 2003; Title V Permit No. 0520-00142-V3 issued on October 20, 2004; Title V Permit No. 0520-00142-V4 issued on July 25, 2005; Title V Permit No. 0520-00142-V5 issued on April 10, 2006; and currently operates under Title V Permit No. 0520-00142-V6 issued on September 18, 2007. The facility also operated under PSD Permit No. PSD-LA-553 (M-4) issued on November 14, 2003, which was administratively amended on December 9, 2003; PSD Permit No. PSD-LA-553 (M-5) issued on October 20, 2004; and currently operates under PSD Permit No. PSD-LA-553 (M-6) on July 25, 2005.

On or about March 29, 2007 through April 4, 2007, an inspection of the facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations.

The following violations were noted during the course of the inspection:

- A. The Respondent submitted an annual compliance certification dated March 31, 2006, indicating deviations that occurred in the first quarter of 2005. A review of the Department's files indicated that the Respondent failed to submit a quarterly deviation report for the first quarter of 2005 by June 30, 2005, in accordance with Specific Requirement 20 of Title V Permit No. 0520-00142-V3. The failure to submit the first quarterly deviation report for 2005 is a violation of Specific Requirement 20 of Title V Permit No. 0520-00142-V3, 40 CFR Part 70 General Condition R and/or Louisiana Air Emissions Permit General Condition XI, LAC 33:III.501.C.4 and La. R.S. 30:2057(A)(2).
- B. The Respondent submitted the quarterly deviation report for 2006 dated July 19, 2006. The report was due by June 30, 2006. The failure to submit the first quarterly deviation report for 2006 by June 30, 2006 is a violation of Specific Requirement 20 of Title V Permit No. 0520-00142-V4, LAC 33:III.501.C.4 and La. R.S. 30:2057(A)(2).

On or about April 14, 2008, a review of the Respondent's Compliance Test that was conducted on September 5 through 6, 2006, at the facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations.

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

The Respondent performed a compliance test for the Process Off-Gas Incinerator (Emission Point No. 88-90) on or about September 5 through 6, 2006, in accordance with Specific Requirement 127 of Title V Permit No. 0520-00142-V5. The Department received the results of the compliance test in a report dated November 6, 2006, from the Respondent. According to the results, the hydrochloric acid maximum pound per hour permit limit was exceeded during the test. The test results indicated an average emission rate of 2.49 pounds per hour which exceeds the maximum pound per hour limitation of 1.42 pounds per hour for the Process Off-Gas Incinerator (Emission Point No. 88-90) as listed in Title V Permit No. 0520-00142-V5. Each exceedance of the hydrochloric acid maximum pound per hour emission limit for the Process Off-Gas Incinerator (Emission Point No. 88-90) is a violation of General Condition III of Title V Permit No. 0520-00142-V5, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

On or about April 14, 2008, a review of the Respondent's Compliance Test that was conducted at the facility on December 3 through 10, 2007, was performed to determine the degree of compliance with the Act and the Air Quality Regulations.

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

The Respondent performed a compliance test for the Process Off-Gas Incinerator (Emission Point No. 88-90) on or about December 3, 2007 through December 10, 2007, in accordance with Specific Requirement 125 of Title V Permit No. 0520-00142-V6. The Department received the results of the compliance test in a report dated February 8, 2008, from the Respondent. According to the results, the particulate matter (PM₁₀) was 10.83 pound per hour during testing that was performed using the following scenario: "Maximum Rates with the DSU." This amount is above the maximum pound per hour permit limit of 9.54 pounds per hour as listed in Title V Permit No. 0520-00142-V6 and above the 9.60 pounds per hour listed in PSD-LA-553 (M-6). Each exceedance of the maximum pound per hour particulate matter (PM₁₀) limit for the Process Off-Gas Incinerator (Emission Point No. 88-90) is a violation of General Condition II of Title V Permit No. 0520-00142-V6 and General Condition III of PSD Permit No. PSD-LA-553 (M-6), LAC 33:III.501.C.4, La R.S. 30:2057(A)(1) and 30:2057(A)(2).

The Respondent submitted a permit modification application to the Department. Based on the Department's review of the application, Title V Permit No. 0520-00142-V6 was issued on

September 18, 2007, which revised the emissions limitations for hydrochloric acid for the Post Treatment Vent Mist Eliminator (Emission Point No. 95-31—EQT 71) and for hydrochloric acid for the Process Gas Incinerator (Emission Point No. 88-90—EQT 13).

III

In response to the 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.

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 THREE THOUSAND AND NO/100 DOLLARS (\$3,000.00), of which One Thousand Five and 66/100 Dollars (\$1,005.66) represents the Department's enforcement costs, in settlement of the claims set forth in this agreement.

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 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 La. 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 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.

LOUISIANA PIGMENT COMPANY

BY: _____
(Signature)

(Print)

TITLE: _____

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

NOTARY PUBLIC (ID # _____)

(stamped or printed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Peggy M. Hatch, Secretary

BY: _____
Cheryl Sonnier Nolan, 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 # _____)

(stamped or printed)

Preliminary Approval: 
Cheryl Sonnier Nolan, Assistant Secretary