

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	* Settlement Tracking No.
	* SA-WE-07-0053
LOUISIANA PIGMENT COMPANY, LP	*
	* Enforcement Tracking No.
AI # 11496	* WE-CN-00-0144
	* WE-CN-00-0144A
	* WE-CN-01-0391
PROCEEDINGS UNDER THE LOUISIANA ENVIRONMENTAL QUALITY ACT	*
LA. R.S. 30:2001, <u>ET SEQ.</u>	* Docket No. 2005-4158-EQ
	* 2005-4170-EQ

SETTLEMENT

The following Settlement is hereby agreed to between Louisiana Pigment Company, LP ("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 titanium dioxide production facility located in Westlake, Calcasieu Parish, Louisiana ("the Facility").

II.

Matters Resolved and Compromised

This Settlement resolves and compromises the claims of the Department, on behalf of the State of Louisiana, that are alleged by the Department in a Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. WE-CN-00-0144 issued to the Respondent on June 8, 2000; an Amended Consolidated Compliance Order and Notice of Potential Penalty,

Enforcement No. WE-CN-00-0114A issued to the Respondent on November 8, 2000; and a Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. WE-CN-01-0391 issued to the Respondent on July 31, 2001, as set forth in Paragraphs III through V of this Settlement. In addition, the violations revealed by the inspections conducted by the Department on or about June 8, 2006, June 12, 2007, and a subsequent file review conducted by the Department on or about November 16, 2007, all of which were self-reported by the Respondent on its DMRs and Non-Compliance Reports (NCRs) for the monitoring periods of June 2001 through March 2007, as set forth in Paragraph IV of this Settlement Agreement, are resolved and compromised by this Settlement Agreement. Further, the potential permit deviations self-reported by Respondent, as set forth in Paragraph V of this Settlement Agreement, are resolved and compromised by this Settlement Agreement.

III.

On June 8, 2000, the Department issued a Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. WE-CN-00-0144, to Respondent, which was based upon the following findings of fact:

Respondent owns and/or operates a titanium dioxide production facility located in Westlake, Calcasieu Parish, Louisiana. Respondent is authorized to discharge certain quantities and/or qualities of wastewater to the Calcasieu River and Ship Channel under the terms and conditions of National Pollutant Discharge Elimination System (NPDES) permit LA0080829 which was effective on September 29, 1992, and expired on October 15, 1994, but was administratively continued due to Respondent's timely submittal of its permit renewal application. In accordance with the NPDES assumption by the state, NPDES permit LA0080829

became a Louisiana Pollutant Discharge Elimination System (LPDES) permit on or about August 1, 1997. Respondent is also authorized to discharge under the terms and conditions of Louisiana Water Discharge Permit System (LWDPS) permit WP2363 which was issued on July 11, 1995.

Respondent was issued Warning Letter WE-L-98-0355 by the Department on or about October 30, 1998, for excursions and sampling deficiencies.

A file review by the Department revealed that Respondent failed to sample its outfalls at the frequency specified in its permit. Specifically, the following sampling deficiencies were noted:

Outfall #	Monitoring Period	Comments
201	01/01/97-01/31/97	Only 3 of required weekly samples analyzed for 201 parameters
003	01/01/97-01/31/97	Only 3 of required weekly samples analyzed for 003 parameters
004	01/01/97-01/31/97	Only 4 of required daily samples analyzed for COD and Oil & Grease
003	02/01/97-02/28/97	Only 3 of required weekly samples analyzed for 003 parameters
004	02/01/97-02/28/97	Only 3 of required daily samples analyzed for COD and Oil & Grease; Only 3 of required weekly samples analyzed for pH; Only 2 of required weekly samples analyzed for metals
003	03/01/97-03/31/97	Only 2 of required weekly samples analyzed for 003 parameters
004	03/01/97-03/31/97	Only 4 of required daily samples analyzed for COD and Oil & Grease; Only 3 of required weekly samples analyzed for pH; Only 3 of required weekly samples analyzed for metals
003	04/01/97-04/30/97	Only 2 of required weekly samples analyzed for 003 parameters
004	04/01/97-04/30/97	Only 4 of required daily samples analyzed for COD and Oil & Grease; Only 3 of required weekly samples analyzed for pH; Only 3 of required weekly samples analyzed for metals
003	05/01/97-05/31/97	Only 1 of required weekly samples analyzed for 003 parameters
004	05/01/97-05/31/97	Only 2 of required daily or weekly samples analyzed for 004 parameters
003	06/01/97-06/30/97	Only 2 of required weekly samples analyzed for 003 parameters
004	06/01/97-06/30/97	Only 2 of required daily or weekly samples analyzed for 004 parameters
003	07/01/97-07/31/97	Only 2 of required weekly samples analyzed for 003 parameters
004	07/01/97-07/31/97	Only 4 of required daily samples analyzed for COD and Oil & Grease; Only 3 of required weekly samples analyzed for pH; Only 3 of required weekly samples analyzed for metals
005	07/01/97-07/31/97	Only 3 of required weekly samples analyzed for 005 parameters
003	08/01/97-08/31/97	Only 2 of required weekly samples analyzed for 003 parameters
004	08/01/97-08/31/97	Only 2 of required daily or weekly samples analyzed for 004 parameters
003	09/01/97-09/30/97	Only 3 of required weekly samples analyzed for 003 parameters
004	09/01/97-09/30/97	Only 3 of required weekly samples analyzed for metals
005	09/01/97-09/30/97	Only 3 of required weekly samples analyzed for 005 parameters
003	10/01/97-10/31/97	Only 2 of required weekly samples analyzed for 003 parameters
004	10/01/97-10/31/97	Only 2 of required daily or weekly samples analyzed for 004 parameters

003	11/01/97-11/30/97	Only 2 of required weekly samples analyzed for 003 parameters
004	11/01/97-11/30/97	Only 2 of required daily or weekly samples analyzed for 004 parameters
005	11/01/97-11/30/97	Only 3 of required weekly samples analyzed for 005 parameters
003	12/01/97-12/31/97	Only 3 of required weekly samples analyzed for 003 parameters
005	12/01/97-12/31/97	Only 3 of required weekly samples analyzed for 005 parameters
003	01/01/98-01/31/98	Only 3 of required weekly samples analyzed for 003 parameters
003	02/01/98-02/28/98	Only 3 of required weekly samples analyzed for 003 parameters
004	02/01/98-02/28/98	Only 3 of required daily or weekly samples analyzed for 004 parameters
005	02/01/98-02/28/98	Only 2 of required weekly samples analyzed for 005 parameters
003	03/01/98-03/31/98	Only 2 of required weekly samples analyzed for 003 parameters
004	03/01/98-03/31/98	Only 3 of required daily or weekly samples analyzed for 004 parameters
005	03/01/98-03/31/98	Only 2 of required weekly samples analyzed for 005 parameters
003	04/01/98-04/30/98	Only 2 of required weekly samples analyzed for 003 parameters
004	04/01/98-04/30/98	Only 2 of required daily or weekly samples analyzed for 004 parameters
005	04/01/98-04/30/98	Only 3 of required weekly samples analyzed for 005 parameters
005	05/01/98-05/31/98	Only 1 of required weekly samples analyzed for 005 parameters
201	05/01/98-05/31/98	Only 3 of required weekly samples analyzed for 201 parameters
003	06/01/98-06/30/98	Only 1 of required weekly sample analyzed for 003 parameters
004	06/01/98-06/30/98	Only 1 of required daily or weekly sample analyzed for 004 parameters
005	06/01/98-06/30/98	Only 2 of required weekly samples analyzed for 005 parameters
004	07/01/98-07/31/98	Only 2 of required daily or weekly samples analyzed for 004 parameters
005	07/01/98-07/31/98	Only 3 of required weekly samples analyzed for 005 parameters
004	08/01/98-08/31/98	Only 1 of required daily or weekly samples analyzed for 004 parameters
005	08/01/98-08/31/98	Only 3 of required weekly samples analyzed for 005 parameters
003	09/01/98-09/30/98	Only 2 of required weekly samples analyzed for 003 parameters
004	09/01/98-09/30/98	Only 3 of required weekly samples analyzed for metals
003	10/01/98-10/31/98	Only 3 of required weekly samples analyzed for 003 parameters
004	10/01/98-10/31/98	Only 2 of required daily or weekly samples analyzed for metals; No composite 24 hour sample taken
005	10/01/98-10/31/98	Only 2 of required weekly samples analyzed for 005 parameters
003	11/01/98-11/30/98	Only 2 of required weekly samples analyzed for 003 parameters
004	11/01/98-11/30/98	Only 3 of required daily or weekly samples analyzed for 004 parameters
005	11/01/98-11/30/98	Only 3 of required weekly samples analyzed for 005 parameters
003	12/01/98-12/31/98	Only 2 of required weekly samples analyzed for 003 parameters
004	12/01/98-12/31/98	Only 3 of required daily samples analyzed for COD and Oil & Grease; Only 3 of required weekly samples analyzed for pH Only 2 samples of required weekly analyzed for metals
003	01/01/99-01/31/99	Only 2 of required weekly samples analyzed for 003 parameters
004	01/01/99-01/31/99	Only 4 of required daily samples analyzed for COD and Oil & Grease; Only 3 samples analyzed for metals
101	01/01/99-01/31/99	No composite 24 hour sample taken
002	02/01/99-02/28/99	Continuous flow not monitored
004	02/01/99-02/28/99	Only 1 of required daily or weekly samples analyzed for 004 parameters
003	03/01/99-03/31/99	Only 3 of required weekly samples analyzed for 003 parameters
004	03/01/99-03/31/99	Only 2 of required daily samples analyzed for COD and Oil & Grease; Only 2 of required weekly samples analyzed for pH; Only 1 of required weekly sample analyzed for metals
005	04/01/99-04/30/99	Only 2 of required weekly samples analyzed for 005 parameters
003	05/01/99-05/31/99	Only 2 of required weekly samples analyzed for 003 parameters
004	05/01/99-05/31/99	Only 1 of required daily or weekly samples analyzed for 004 parameters; 24 hour sample discarded

003	06/01/99-06/30/99	Only 2 of required weekly samples analyzed for 003 parameters
004	06/01/99-06/30/99	Only 3 of required daily or weekly samples analyzed for 004 parameters

For the period prior to August 1, 1997, Respondent's failure to sample is in violation of LWDPs permit WP2363 (Pages 2, 3, 5, 6, 7, and 8 of 8), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, and LAC 33:IX.2355.A. For the period beginning August 1, 1997, Respondent's failure to sample is in violation of LPDES permit LA0080829 (Pages 4, 6, 8, 10, 12, 13, and 14 of Part I and Page 1 of Part III, Section A, Item 2), LWDPs permit WP2363 (Pages 2, 3, 5, 7, and 8 of 8), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, and LAC 33:IX.2355.A.

A file review conducted by the Department revealed the following excursions for the period of May 1997 through the present reported by Respondent to the Department:

Parameter	Permit Limit	Sample Result	# Excursions Reported	Outfall #
May 1997				
Total Suspended Solids (TSS)	2,366 lbs/day (max.)	2,900 lbs/day	1	002
September 1997				
Total Organic Carbon (TOC)	50 mg/L (max.)	62.55 mg/L	2	101
May 1998				
Total Vanadium	0.400 mg/L (max.)	0.4667 mg/L	1	001
Total Zirconium	0.7 lbs/day (max.)	1.6276 lbs/day	1	001
Total Zirconium	0.100 mg/L (max.)	0.3960 mg/L	1	001
September 1998				
Total Residual Chlorine (TRC)	0.1 mg/L (max.)	0.8 mg/L	1	101
November 1998				
COD	100 mg/L (max.)	157 mg/L	1	004
TRC	0.1 mg/L (max.)	0.45 mg/L	3	101
July 1999				
pH	6.0 S.U. - 9.0 S.U.	4.48 S.U.	1	001
January 2000				
TRC	0.1 mg/L (max.)	0.16 mg/L	1	101
February 2000				
TRC	0.1 mg/L (max.)	0.17 mg/L	1	101

For the period prior to August 1, 1997, these excursions are in violation of LWDPs permit WP2363 (Part I, Pages 2, 4, 5, and 7 of 8), 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.2355.A. For the period beginning August 1, 1997, these excursions are in violation of LPDES permit LA0080829 (Pages 2, 3, 4, 8, 12, and 13 of Part I and Page 1 of Part III, Section A, Item 2), LWDPs permit WP2363 (Part I, Pages 2, 4, 5, and 7 of 8), 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.2355.A.

An inspection conducted by the Department on or about November 19, 1998, revealed that Respondent had deficient self-monitoring. Specifically, on October 4, 1998, at Outfall 004, a grab sample was used instead of a 24-hour composite. Respondent's insufficient self-monitoring is in violation of LPDES permit LA0080829 (Pages 12 and 13 of Part I and Page 1 of Part III, Section A, Item 2), LWDPs permit WP2363 (Part I, Page 7 of 8), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2355.A, and LAC 33:IX.2355.J.1.

A file review and inspections conducted by the Department on or about November 19, 1998, and December 14, 1999, revealed that Respondent had improper operation and maintenance on the following dates:

- A. On or about May 13, 1998, at Outfall 101, exceedances of zirconium and vanadium were reportedly caused by a torn filter cloth from the filter press.
- B. On or about September 24, 1998, at Outfall 101, an exceedance of Total Residual Chlorine was reportedly caused by a plugged tubing line.
- C. On or about November 19, 1998, at Outfall 002, the temperature in the composite sampler compartment was recorded as 13 degrees Celsius.
- D. On or about February 18, 1999, at Outfall 002, the flow indicator was not functioning.

E. On or about December 14, 1999, the verification of constant dry weight was not being properly recorded in the lab for TSS and Oil and Grease samples.

Respondent's improper operation and maintenance is in violation of LPDES permit LA0080829 (Page 1 of Part III, Section A, Item 2 and Page 2 of Part III, Section B, Item 3), LWDP permit WP2363 (Page 5 of Part III, Section B, Item 1), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2355.A, and LAC 33:IX.2355.E.

A file review conducted by the Department revealed that Respondent submitted untimely Discharge Monitoring Reports (DMRs) for the months of September 1998 and October 1998. Respondent's untimely submittal of DMRs is in violation of LPDES permit LA0080829 (Page 17 of Part I and Page 1 of Part III, Section A, Item 2), LWDP permit WP2363 (Part II, Page 3 of 12, Section A, Item 13), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, and LAC 33:IX.2355.A.

On November 8, 2000, the Department issued an Amended Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. WE-CN-00-0144A to Respondent amending Paragraphs III and IV of the Findings of Fact in Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. WE-CN-00-0144, to read as follows:

"III.

A file review by the Department revealed that Respondent failed to sample its outfalls as required by the permit. Specifically, the following sampling deficiencies were noted:

Outfall #	Monitoring Period	Comments
004	06/01/97-06/30/97	Only 2 of required weekly samples analyzed for 004 parameters
004	10/01/98-10/31/98	No composite 24 hour sample taken
101	01/01/99-01/31/99	No composite 24 hour sample taken

For the period prior to August 1, 1997, Respondent's failure to sample is in violation of LWDP permit WP2363 (Part I, Pages 2 and 7 of 8), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, and

LAC 33:IX.2355.A. For the period beginning August 1, 1997, Respondent's failure to sample is in violation of LPDES permit LA0080829 (Pages 4, 12, and 13 of Part I and Page 1 of Part III, Section A, Item 2), LWDPs permit WP2363 (Part I, Pages 2 and 7 of 8), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, and LAC 33:IX.2355.A.

IV.

A file review conducted by the Department revealed the following excursions for the period of May 1997 through the present as reported by Respondent to the Department:

Parameter	Permit Limit	Sample Result	# Excursions Reported	Outfall #
May 1997				
Total Suspended Solids (TSS)	2,366 lbs/day (max.)	2,900 lbs/day	1	002
September 1997				
Total Organic Carbon (TOC)	50 mg/L (max.)	62.55 mg/L	2	101
May 1998				
Total Vanadium	0.400 mg/L (max.)	0.4667 mg/L	1	001
Total Zirconium	0.7 lbs/day (max.)	1.6276 lbs/day	1	001
Total Zirconium	0.100 mg/L (max.)	0.3960 mg/L	1	001
September 1998				
Total Residual Chlorine (TRC)	0.1 mg/L (max.)	0.8 mg/L	1	101
November 1998				
COD	100 mg/L (max.)	157 mg/L	1	004
TRC	0.1 mg/L (max.)	0.45 mg/L	3	101
January 2000				
TRC	0.1 mg/L (max.)	0.16 mg/L	1	101
Total Copper	0.035 mg/L (avg.)	0.0500 mg/L	0	004
February 2000				
TRC	0.1 mg/L (max.)	0.17 mg/L	1	101
March 2000				
Total Copper	0.035 mg/L (avg.)	0.0500 mg/L	0	004
April 2000				
Total Copper	0.035 mg/L (avg.)	0.0377 mg/L	0	004
May 2000				
Total Copper	0.035 mg/L (avg.)	0.500 mg/L	0	004

For the period prior to August 1, 1997, these excursions are in violation of LWDPs permit WP2363 (Part I, Pages 2, 4, 5, and 7 of 8), 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.2355.A. For the period beginning August 1, 1997, these excursions are in violation of LPDES permit LA0080829 (Pages 2, 3, 4, 8, 12, and 13 of Part I and Page 1 of Part III, Section A, Item 2), LWDP permit WP2363 (Part I, Pages 2, 4, 5, and 7 of 8), 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.2355.A.”

The Department hereby deletes Paragraph V of the Findings of Fact section of the Compliance Order.

The Department hereby amends Paragraphs VI and VII of the Findings of Fact in Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. WE-CN-00-0144, to read as follows:

“V.

A file review and inspections conducted by the Department on or about November 19, 1998, and December 14, 1999, revealed that Respondent had improper operation and maintenance on the following dates:

- A. On or about September 24, 1998, at Outfall 101, an exceedance of Total Residual Chlorine was reportedly caused by a plugged tubing line.
- B. On or about November 19, 1998, at Outfall 002, the temperature in the composite sampler compartment was recorded as 13 degrees Celsius.
- C. On or about February 18, 1999, at Outfall 002, the flow indicator was not functioning.
- D. On or about December 14, 1999, the verification of constant dry weight was not being properly recorded in the lab for TSS and Oil and Grease samples.

Respondent's improper operation and maintenance is in violation of LPDES permit LA0080829 (Page 1 of Part III, Section A, Item 2 and Page 2 of Part III, Section B, Item 3), LWDP permit

WP2363 (Page 5 of Part III, Section B, Item 1), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2355.A, and LAC 33:IX.2355.E.

VI.

A file review conducted by the Department revealed that Respondent submitted Discharge Monitoring Reports (DMRs) for the months of September 1998 and October 1998 in a timely manner as required; however, due to necessary corrections, revised DMRs were submitted to the Department later than the compliance schedule date. Respondent's failure to submit accurate DMRs by the compliance schedule date is in violation of LPDES permit LA0080829 (Page 17 of Part I and Page 1 of Part III, Section A, Item 2), LWDPs permit WP2363 (Part II, Page 3 of 12, Section A, Item 13), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, and LAC 33:IX.2355.A."

The Department incorporated all of the remainder of the original Consolidated Compliance Order and Notice of Potential Penalty, Enforcement Tracking No. WE-CN-00-0144.

The Amended Consolidated Compliance Order and Notice of Potential Penalty was effective upon receipt.

On July 31, 2001, the Department issued to Respondent a Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. WE-CN-01-0391, which was based upon the following findings of fact:

Respondent owns and/or operates a titanium dioxide production facility located at 3300 Bayou d'Inde Road in Westlake, Calcasieu Parish, Louisiana. Respondent is authorized to discharge certain quantities and/or qualities of wastewater to the Calcasieu Ship Channel under the terms and conditions of National Pollutant Discharge Elimination System (NPDES) permit LA0080829 which was effective on September 29, 1992, and expired on October 15, 1994, but

was administratively continued due to Respondent's timely submittal of its permit renewal application on February 16, 1994. In accordance with the NPDES assumption by the state, NPDES permit LA0080829 became a Louisiana Pollutant Discharge Elimination System (LPDES) permit on or about August 1, 1997. Respondent was also authorized to discharge under the terms and conditions of Louisiana Water Discharge Permit System (LWDPS) permit WP2363 which was issued on July 11, 1995 and expired July 10, 2000. Respondent submitted an updated LPDES permit application to the Department on or about June 13, 2000.

Respondent was issued Consolidated Compliance Order and Notice of Potential Penalty WE-CN-00-0144 on or about June 8, 2000, for failure to sample, effluent violations, improper self-monitoring, improper operation and maintenance, and submittal of untimely DMRs. Respondent was ordered to: cease all unauthorized discharges to waters of the state, to meet and maintain compliance with LPDES permit LA0080829 and LWDPS permit WP2363, and prepare and submit to the Office of Environmental Compliance a written report describing the violations and the actions taken to achieve compliance with the Compliance Order. Respondent submitted a response to Consolidated Compliance Order and Notice of Potential Penalty WE-CN-00-0144 on or about July 12, 2000. Respondent was issued Amended Consolidated Compliance Order and Notice of Potential Penalty WE-CN-00-0144A on or about November 8, 2000. Amended Consolidated Compliance Order and Notice of Potential Penalty WE-CN-00-0144A is a final action of the Department and not subject to further review.

An inspection conducted by the Department on or about May 9, 2001, and a subsequent file review conducted by the Department on or about June 26, 2001, disclosed the following

permit excursions for the monitoring periods from December 2000 to April 2001 as reported to the Department by Respondent on DMRs:

Monitoring Period	Outfall	Parameter	Permit Limit	Sample Result
December 2000	001	Zirconium	0.100 mg/L (max)	0.1740 mg/L
January 2001	101	TRC	0.1 mg/L (max)	0.45 mg/L
March 2001	101	TRC	0.1 mg/L (max)	0.15 mg/L
April 2001	101	TRC	0.1 mg/L (max)	0.17 mg/L

These permit excursions are in violation of LPDES permit LA0080829 (Part I, Pages 2, 3, 4, and 5, 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.2355.A.

A file review conducted by the Department on or about June 26, 2001, indicated that Respondent failed to continuously monitor pH at Outfall 001 during the month of November 2000. Respondent's failure to properly monitor pH is in violation of LPDES permit (Part I, Pages 2 and 3 and Part III, Sections A.2 and C.6), La. R.S. 30:2076 (A)(3), LAC 33:IX.501.A, and LAC 33:IX.2355.A.

IV.

In addition to the violations included in the Paragraphs above, the following matters revealed by the inspections conducted by the Department on or about June 8, 2006, June 12, 2007, and a subsequent file review conducted by the Department on or about November 16, 2007, all of which were self-reported by the Respondent on its DMRs and Non-Compliance Reports (NCRs) for the monitoring periods of June 2001 through March 2007, are resolved and compromised by this Settlement Agreement:

An inspection conducted by the Department on or about June 12, 2007, revealed that the Respondent exceeded the holding time for the mercury sample collected at Outfall 004 on

September 7, 2006. The Respondent's exceedance of holding time(s) is in violation of Amended Consolidated Compliance Order and Notice of Potential Penalty WE-CN-00-0144A, Consolidated Compliance Order and Notice of Potential Penalty WE-CN-01-0391, LPDES permit LA0080829 (Part III, Sections A.2, and C.5) La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2701.A, LAC 33:IX.2701.E and LAC 33:IX.2701.J.4.

Inspections conducted by the Department on or about June 8, 2006, June 12, 2007, and a subsequent file review conducted by the Department on or about November 16, 2007, revealed the following effluent violations, as reported by the Respondent on its DMRs and Non-Compliance Reports (NCRs) for the monitoring periods of June 2001 through March 2007:

Date	Outfall	Parameter	Permit Limit	Sample Value
6/01	004A	Total Zirconium, daily maximum	0.1 mg/L	0.1093 mg/L
5/02	101A	Total Residual Chlorine	0.1 mg/L	2.5 mg/L
11/02	004A	Total Vanadium, daily maximum	0.4 mg/L	0.93 mg/L
		Total Zirconium, daily maximum	0.1 mg/L	0.34 mg/L
2/03	004A	Total Zirconium, daily maximum	0.1 mg/L	0.16 mg/L
8/03	004A	Total Copper, monthly average	0.035 mg/L	<0.075
		Total Copper, daily maximum	0.071 mg/L	mg/L 0.21 mg/L
8/05	101A	TOC, daily maximum	50 mg/L	94.52 mg/L
4/06	001A	Total Copper, monthly average	0.34 lbs/day	0.3675 lbs/day
6/06	004A	pH, minimum	6.0 s.u.	5.97 s.u.

Each of the above-noted effluent excursions is a violation of Amended Consolidated Compliance Order And Notice Of Potential Penalty WE-CN-00-0144A, Consolidated Compliance Order And Notice Of Potential Penalty WE-CN-01-0391, LPDES permit LA0080829 (Part I, Section A 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.

A file review conducted by the Department on or about November 16, 2007, revealed that the Respondent did cause or allow the unauthorized discharge of contaminated stormwater. Specifically, the following four (4) by-passes occurred:

DATE OF BYPASSES	LOCATION
October 30, 2002	Contaminated stormwater that discharged through Outfall 005
March 14, 2004	Contaminated stormwater that discharged through Outfall 005
May 1, 2004	Contaminated stormwater that discharged through Outfall 005
May 12 and 13, 2004	Contaminated stormwater that discharged through Outfall 005

These unauthorized discharges were from a location not specified in the permit and are in violation of Amended Consolidated Compliance Order and Notice of Potential Penalty WE-CN-00-0144A, Consolidated Compliance Order and Notice of Potential Penalty WE-CN-01-0391, LPDES permit LA0080829, (Part II, Section A.6, and Part III, Section A.2), La. R.S.30:2075, La. R.S.30:2076 (A) (1) (a), La. R.S.30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.501.D, and LAC 33:IX.2311.A.1. The failure to operate and maintain all facilities and systems of treatment and control is in violation of Amended Consolidated Compliance Order and Notice of Potential Penalty WE-CN-00-0144A, Consolidated Compliance Order and Notice of Potential Penalty WE-CN-01-0391, LPDES permit LA0080829 (Part III, Sections A.2 and B.3), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2701.A, and LAC 33:IX.2701.E.

The violations noted above which were revealed by the inspections conducted by the Department on or about June 8, 2006, June 12, 2007, and a subsequent file review conducted by the Department on or about November 16, 2007, although not included in the foregoing enforcement actions, are included within the scope of the settlement herein.

V.

The following permit deviations self-reported by Respondent that were not included in the foregoing enforcement actions are resolved and compromised by this Settlement Agreement:

- A. On or about October 2, 2001, the Respondent notified the Department of the analytical results of the 24-hour composite sample collected at Outfall 004 for on September 10, 2001 which was analyzed for metal parameters. The 24 hr. composite sample was analyzed twice for zirconium and the results were 0.114 mg/L and 0.083 mg/L. The average was 0.0985 mg/L, which is below the permit limit of 0.1 mg/L (max).
- B. On or about August 30, 2002, the Respondent submitted a revised June 2002 Discharge Monitoring Report to the Department to include minimum pH for Outfall 003 that was inadvertently omitted from the Discharge Monitoring Report submitted for June 2002 on July 12, 2002.
- C. On or about September 19, 2002, the Respondent submitted a revised July 2002 Discharge Monitoring Report to the Department to correct the result for total suspended solids for Outfall 001 as a laboratory error was discovered during an inspection by the Department.
- D. On or about November 20, 2002, the Respondent notified the Department of a mechanical malfunction in the automated continuous sampler for Outfall 004. The Respondent's automatic sampler at Outfall 004 collects several small samples that comprise the composite sample that is analyzed at the laboratory for TOC and various metals. Each small sample is called an aliquot. On November 20, 2002, the Respondent's automatic continuous sampler for TOC and total metals went off-line due to an unexpected equipment failure. The automatic sampler, which is equipped with a back-up battery, indicated that the first aliquot was properly collected and that the temperature of the sample was maintained at the proper temperature. Flow at Outfall 004 was stopped and ice was immediately packed around the sample to maintain the sample. The Respondent's personnel promptly determined the automatic sampler had burned a fuse and corrected the problem. The flow at Outfall 004 then resumed and the automatic sampler continued operation by collecting the remaining aliquots to complete the sample. This incident was reported to the Department as the Respondent initially believed the malfunction may have caused improper collection of the sample. However, further investigation by demonstrated that the sample was collected properly and temperatures were appropriately maintained for preservation of the sample. Hence, the corrective action taken by the Respondent allowed the automatic sampler to collect a representative sample even though a brief malfunction occurred. Based on the subsequent investigation, the Respondent believes the sample was properly collected, preserved, and tested; hence the Respondent asserts no exceedance occurred.

- E. The Respondent revised subsequently submitted DMRs to correct Storet codes that were incorrectly provided by the Department in its permit. The Respondent was required to submit a request for a permit modification to the Department and did so on August 2, 2002.

- F. On or about September 15, 2006, the Respondent self reported to the Department of an exceedance of the daily maximums at Outfall 004 for chromium and silver in the 24-hour composite sample collected on September 7, 2006. The Respondent notified the Department via the internet (Incident Report Confirmation No. BSMW 3356) that the daily maximum permit limits for chromium and silver for Outfall 004 was exceeded in the 24-hour composite sample. At the time of notification to the Department, the Respondent was conducting an investigation into the exceedance. The investigation determined that interference necessitated a dilution of the sample. Elevated levels of manganese were present in the composite sample due to low pH from leachate water from Landfill Phase 3 and corrective action was taken by the Respondent to mitigate the effects of low pH. The sample matrix interference caused false positives and/or elevated results for chromium and silver. The sample was reanalyzed with a 20x dilution via EPA approved Method 200.8. The analysis of the diluted sample demonstrated that the results for these metals were not reportable as the constituents were within permit limits for that outfall. The DMR submitted for September 2006 included the correct results for chromium and silver and notes the cause for the incident report submitted to the Department on September 15, 2006.

The following violations which were revealed by the file review conducted by the Department on or about May 9, 2008, although not included in any enforcement actions, are included within the scope of the settlement herein.

Date	Outfall	Parameter	Sample Value	Permit Limit
9/2007	201A	Oil & Grease Daily Max	79.4 mg/L	15 mg/L
9/2007	004A	Oil & Grease Daily Max	65.3 mg/L	15 mg/L
11/2007	001A	Total Zirconium Daily Max	1.8350 lbs/day	1.51 lbs/day
1/2008	001A	Total Zirconium Daily Max	2.1003 lbs/day	1.51 lbs/day

VI.

In response to the Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. WE-CN-00-0144, and Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. WE-CN-01-0391, Respondent made a timely request for a hearing.

VII.

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties, but agrees to this Settlement in order to avoid the expense of litigation.

VIII.

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 ONE THOUSAND SIXTY AND NO/100 DOLLARS (\$1,260.00) represents the Department's enforcement costs, in settlement of the claims set forth in this Settlement 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).

IX.

Respondent further agrees that the Department may consider the inspection report(s), the Compliance Order and Notice of Potential Penalties, 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, but Respondent may present relevant mitigating factors for the Department's consideration.

X.

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.

XI.

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.

XII.

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.

XIII.

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 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).

XIV.

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

XV.

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.

LOUISIANA PIGMENT COMPANY, LP

BY: [Signature]
(Signature)

Tim Hall
(Print)

TITLE: Plant Manager

THUS DONE AND SIGNED in duplicate original before me this 29th day of April, 20 09, at Westlake, LA.

Claudia J. H. Bushnell
NOTARY PUBLIC (ID # 1691)

Claudia J. H. Bushnell
(Print)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY

Harold Leggett, Ph.D., Secretary

BY: [Signature]
Peggy M. Hatch, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 10th day of July, 20 09, at Baton Rouge, Louisiana.

Christopher A. Ratcliff
NOTARY PUBLIC (ID # 10149)

Christopher A. Ratcliff
(Print)

Approved: [Signature]
Peggy M. Hatch, Assistant Secretary