

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

LOUISIANA PROTEINS INC.

AI # 17581

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

- * **Settlement Tracking No.**
- * **SA-MME-10-0010**
- *
- * **Enforcement Tracking No.**
- * **MM-CN-09-0002**
- * **MM-CN-09-0002A**
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SETTLEMENT

The following Settlement is hereby agreed to between Louisiana Proteins Inc. (“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 owns and/or operates a rendering plant located in Shreveport, Caddo Parish, Louisiana (the “Facility”).

II

On April 21, 2009, the Department issued to Respondent a Consolidated Compliance Order and Notice of Potential Penalty (CONOPP), Enforcement No. MM-CN-09-0002, which was based upon the following findings of fact:

The Respondent owns and/or operates a rendering plant (the facility) located at 509 Fortson Street in Shreveport, Caddo Parish, Louisiana. The Respondent operates the facility under Air Permit No. 0500-00116-01 issued on March 17, 2008. The Respondent transported unprocessed chicken parts to a nearby landfill for disposal. The Respondent caused and/or allowed the disposal

of regulated solid waste at the facility. The Respondent has not notified the Department as a solid waste transporter and also does not have a permit or other authority from the Department to dispose of solid waste at the facility.

On or about January 7, 2009 through January 9, 2009, January 14, 2009 and January 15, 2009, inspections were conducted in response to citizen's complaints to determine the degree of compliance with the Act and Air Quality Regulations.

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

- A. A review of facility records required to be maintained by the Respondent in accordance with Air Permit No. 0500-00116-01 revealed that the Respondent failed to record preventative maintenance activities that were to be performed on the packed tower at the prescribed frequency. In particular, the Malfunction Abatement Plan in Section 1.0 requires that "Preventative maintenance will be recorded on the attached Preventative Maintenance Log (Exhibit 1)." The Respondent's Preventative Maintenance Log did not indicate a record of any maintenance activities being performed on the packed tower for the packing, spray nozzles, mist eliminator, fan, or recycle pump at the prescribed frequency. The Respondent did not record that preventative maintenance activities were performed after September 2008, until January 11, 2009, subsequent to the inspections on January 7, 2009 through January 9, 2009. Each failure to record on the Preventative Maintenance Log, preventative maintenance activities performed on the packed tower at the prescribed frequency as required by Air Permit No. 0500-00116-01 is a violation Specific Requirement No. 30 of Air Permit No. 0500-00116-01, LAC 33:III.501.C.4 and La. R.S. 30:2057(A)(2).
- B. During the January 14, 2009 inspection, a strong cooking odor was noted as originating from the Respondent's facility. The inspection revealed that the ozone generator was operating during the cooking process, but no ozone was being produced, as was demonstrated by the failure of the sniffer tube to detect any ozone. The Respondent's failure to maintain the ozone generator in proper working order during the cooking process resulted in the odor. This is a violation of LAC 33:III.905 which states, "When facilities have been installed on a property, they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities, even though the ambient air quality standards in affected areas are not exceeded." Control equipment as defined by LAC 33:III.111 is "any device or contrivance, operating procedure or abatement scheme used to prevent or reduce air pollution." This is also a violation of La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

- C. A review of the facility's records obtained during the January 15, 2009 inspection revealed that the Raw Material Handling Report for January 2009, did not include all required information. In particular, there were occurrences in which the quantity (lbs) of raw material or the time that the material was unloaded was not indicated on the report. According to the Raw Material Handling and Diversion Plan in Air Permit No. 0500-001216-01, the time that the material is completely unloaded shall be recorded on the Raw Material Handling Report. In addition, according to the Packed Bed Scrubber Operation Report for January 2009, there were occurrences in which the sniffer tube was not being checked for odor every two (2) hours as required. The Air Pollution Control Equipment Operating and Training Procedures Plan requires that the sniff tube shall be monitored for odor every two (2) hours and a log of these observations shall be recorded on the Packed Bed Scrubber Operations Report. Each failure to record the quantity (lbs) of raw material and the time that the material was unloaded on the Raw Material Handling Report is a violation of Specific Requirement No. 31 of Air Permit No. 0500-00116-01, LAC 33:III.501.C.4 and La. R.S. 30:2057(A)(2). Each failure to check the sniff tube for odors and record the sniff tube check observations every (2) hours on the Packed Bed Scrubber Operation Report is a violation of Specific Requirement No. 29 of Air Permit No. 0500-00116-01, LAC 33:III.501.C.4 and La. R.S. 30:2057(A)(2).

On or about January 23, 2009, and February 3, 2009, inspections were conducted by the Department that revealed the following violations:

- A. The Respondent failed to notify the Office of Environmental Services in writing within thirty (30) days after becoming subject to the regulations for transporting solid waste, in violation of LAC 33:VII.401.A.1. Specifically, the Respondent transported a load of unprocessed chicken taken from a hopper.
- B. The Respondent caused and/or allowed the deposition of regulated solid waste without a permit and/or other authority from the Department, in violation of La. R.S. 30:2155, and LAC 33:VII.315.C. Specifically, the solid waste consisted of grease from processed chicken. The unauthorized disposal occurred on or about January 23, 2009, toward the back of the property. As of February 3, 2009, the area of unauthorized disposal has been remedied and this violation has been addressed.
- C. The Respondent failed to transport solid waste material in a covered vehicle, in violation of LAC 33:VII.505.A.2.b. Specifically, chicken waste was transported to the landfill in an uncovered truck.

On September 9, 2009, the Department issued to Respondent an Amended Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. MM-CN-09-0002A, amending Consolidated Compliance Order and Notice of Potential Penalty No. MM-CN-09-0002 as follows:

“The Department hereby amends paragraph II of the Findings of Fact portion of Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. MM-CN-09-0002, to remove paragraph II.B in its entirety.

The Department hereby amends paragraph III.B of the Findings of Fact portion of Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. MM-CN-09-0002, which shall read as follows:

- ‘B. An area of spilled grease from processed chicken was discovered toward the back of the property during the January 23, 2009 inspection. Based on observations of the material and information obtained at the time of the inspection, the spill had occurred at an earlier time. As of February 3, 2009, the release of grease from processed chicken had been remedied. In accordance with Section 6.0 (Rendering Plant), paragraph 2 of the Raw Material Handling and Diversion Plan, spilled materials will be cleaned up promptly. The Respondent’s failure to promptly clean up the grease is a violation of Specific Requirement No. 31 of Air Permit No. 0500-00116-01, LAC 33:III.501.C.4 and La. R.S. 30:2057(A)(2).’

The Department hereby amends paragraph I of the Order portion of Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. MM-CN-09-0002, which shall read as follows:

‘I.

To immediately take, upon receipt of this Compliance Order, any and all steps necessary to achieve and maintain compliance with Air Permit No. 0500-00116-01 and the Air Quality Regulations, including but not limited to, recording packed tower preventative maintenance activities performed at the scheduled frequencies as required by the Malfunction and Abatement Plan and ensure that spills are cleaned up promptly as required by the Raw Material Handling and Diversion Plan. In the event the Respondent believes that complete correction of the above-cited deficiencies is not physically possible within thirty (30) days, the Respondent shall submit, within thirty (30) days, a comprehensive plan for the expeditious elimination and prevention of such noncompliance. Such

plan shall provide for specific corrective actions taken and shall include a critical path schedule.’

The Department hereby removes paragraph III of the Order portion of Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. MM-CN-09-0002, in its entirety.”

The Department incorporated all of the remainder of the original Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. MM-CN-09-0002 and Agency Interest No. 17581 as if reiterated therein.

III

In response to the Consolidated Compliance Order and Notice of Potential Penalty and the Amended Consolidated Compliance Order and Notice of Potential Penalty, Respondent made timely requests 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 EIGHT THOUSAND SEVEN HUNDRED AND NO/100 DOLLARS (\$8,700.00), of which Three Thousand Five Hundred Fifty-Four and 14/100 Dollars (\$3,554.14) 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 above referenced enforcement actions 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 Caddo 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 in two (2) equal payments of FOUR THOUSAND THREE HUNDRED FIFTY AND NO/100 DOLLARS (\$4,350.00). The first payment is to be made by October 31, 2010 and the second payment is to be made by November 30, 2010. If payments are not received by those dates, 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.

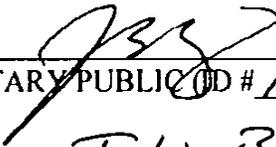
LOUISIANA PROTEINS INC.

BY: 
(Signature)

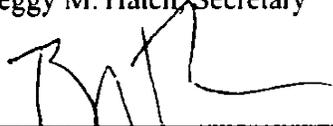
MEL ROSHANRAYAN
(Print)

TITLE: V. P. - OPERATIONS

THUS DONE AND SIGNED in duplicate original before me this 14th day of May, 20 10, at Baton Rouge, Louisiana.


NOTARY PUBLIC (ID # 12044)
JOHN B KING
(Print)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Peggy M. Hatch, Secretary

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

THUS DONE AND SIGNED in duplicate original before me this 17th day of September, 20 10, at Baton Rouge, Louisiana.


NOTARY PUBLIC (ID # 10144)
Christopher A Rateliff
(Print)

Approved: 
Paul D. Miller, P.E, Assistant Secretary