

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

LULA-WESTFIELD, L.L.C.

AI # 42344

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

- * Settlement Tracking No.
- * SA-AE-09-0071
- *
- * Enforcement Tracking Nos.
- * AE-CN-08-0032
- * AE-CN-08-0032A
- * AE-CN-08-0032B
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- *

SETTLEMENT

The following Settlement is hereby agreed to between Lula-Westfield, L.L.C. ("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 sugar cane crushing and sugar cane syrup processing facility, hereafter sugar mill, located in Paincourtville, Assumption Parish, Louisiana ("the Facility").

II

On September 17, 2008, the Department issued to Respondent a Compliance Order and Notice of Potential Penalty (CONOPP), Enforcement Tracking No. AE-CN-08-0032, based upon the following findings of fact:

The Respondent owns and/or operates the Westfield Factory, a sugar mill, located at 451 Louisiana Highway 1005 in Paincourtville, Assumption Parish, Louisiana.

The Respondent currently operates under Title V Permit No. 0200-00004-V2 issued on May 3, 2006.

On or about May 1, 2008, a file review was made due to a referral from the Office of Environmental Assessment.

The following violations were noted at the time of the file review:

- A. On or about November 28, 2006, the Respondent conducted compliance tests on EQT7 (Boiler 7). The following table summarizes the performance test data excess submitted to the Department on or about April 19, 2007:

Emission Point	NOx Compliance Test Results (lbs/hr*)	NOx Permitted limits (lbs/hr*)
EQT 7 (Boiler 7)	62.33	47.32(avg)/ 52.50(max)
	*lbs/hr- pounds per hour	*avg-average max-maximum

On or about April 18, 2008, the Department issued a Compliance Test Review Letter approving the stack test methods and data analysis conducted by the Respondent on or about November 28, 2006, for EQT 7. Each instance of operating emission point EQT 7 above permitted NOx maximum emission rate(s), as stated in Title V Permit No. 0200-00004-V2, is a violation of LAC 33:III.501.C.4, La R.S. 30:2057(A)(1) and 30:2057(A)(2).

- B. Specific Requirement 7 of Title V Permit No. 0200-00004-V2 states, "Conduct a performance/emissions test: Due within 180 days after the permit renewal is issued, or within 60 days after achieving normal production rate, whichever is earliest. The stack test's purpose is to demonstrate compliance with the emission limits of this permit. The test can be performed on any of the two of the three boilers S-1, S-2 or S-4." Currently there is no evidence that performance emissions testing was conducted on S-1, S-2 or S-4 as required by Specific Requirement 7 of Title V Permit No. 0200-00004-V2. This is a violation of LAC 33:III.501.C.4, La R.S. 30:2057(A)(1) and 30:2057(A)(2).

On or about December 19, 2007, an inspection was conducted to determine compliance with the Air Quality regulations and the Act.

The following violation was noted at the time of the inspection:

During the course of the inspection, a Method 9 Visible Emissions Survey was conducted on EQT007 (Boiler No. 7). The average opacity over two 6 consecutive minute periods was 52 percent according to the data presented in the table below:

Time:sec*	0	15	30	45
Visible Emissions Opacity Percentage				
13:28	55%	55%	50%	55%
13:29	60%	55%	55%	50%
13:30	50%	45%	60%	55%
13:31	55%	50%	50%	55%
13:32	55%	50%	50%	50%
13:33	45%	50%	55%	55%
13:40	50%	50%	55%	60%
13:41	55%	50%	45%	55%
13:42	60%	55%	55%	45%
13:43	45%	45%	45%	50%
13:44	50%	55%	50%	50%
13:45	60%	50%	50%	50%
Average Visible Emissions Observation Opacity				52%
Time/sec - Time vertical / seconds horizontal in table				

Specific Requirement No. 91 of Title V Permit No. 0200-00004-V2 states “opacity greater than or equal to 20 percent, except during the cleaning of a fire box or building of a new fire, soot blowing or lancing, charging of an incinerator, equipment changes, ash removal or rapping of precipitators, which may have an opacity in excess of 20 percent for not more than one six-minute period in any 60 consecutive minutes.” The two six minute readings 52 percent average opacity as recorded in the Method 9 Visible Emissions Survey conducted by the Surveillance Division on December 19, 2007, is a violation of Specific Requirement No. 91 of Title V Permit No. 0200-00004-V2, LAC 33:III.501.C.4, LAC 33:III.1101.B, La R.S. 30:2057(A)(1) and 30:2057(A)(2).

On November 7, 2008, the Department issued to Respondent a CONOPP, Enforcement Tracking No. AE-CN-08-0032A, to include interim limits as follows:

“On or about October 8, 2008, the Respondent submitted an interim authorization request for increased EQT7 NOx emissions until Title V Permit No. 0200-00004-V2 is modified. A Permit Modification Application, incorporating the increased NOx emissions from EQT7, was received by the Department on or about October 8, 2008.

To protect the air quality, the Respondent is required to comply with the following:

- A. If the Respondent chooses to emit any air contaminant in the State of Louisiana following interim limitations shall apply at the facility:

Emission Point	Pollutant	Emission Rate (AVG LB/HR)	Emission Rate (MAX LB/HR)	Emission Rate (Tons/Year)
EQT 7 (Boiler No. 7)	NOx	62.33	62.33	74.80

The Respondent shall also operate its facility in accordance with all other emission limitations, terms, and conditions stated in Title V Permit No. 0200-00004-V2 unless otherwise notified in writing by the Department. The Respondent shall at all times properly operate and maintain all facilities and systems of control (and related appurtenances) which are installed or used by the Respondent to achieve compliance with the conditions of these interim limitations.

- B. If the Respondent does not choose to emit any air contaminants in the State of Louisiana, the Respondent shall, within thirty (30) days after receipt of the Compliance Order, provide written documentation to the Department that no activities exist at the Respondent’s facility resulting in any unauthorized discharges to the air.”

On June 23, 2009, the Department issued to Respondent a CONOPP, Enforcement Tracking No. AE-CN-08-0032B, based upon the following findings of fact:

The Department hereby amends the Findings of Fact section to add a violation as follows:

“IV.

On or about October 8, 2008, the Respondent submitted a permit modification application based upon the NO_x exceedance results of the performance/emissions test for EQT7 conducted on or about November 28, 2006, and submitted to the Department on or about April 19, 2007. The Respondent failed to submit a Title V Permit Modification Application within 45 days of obtaining relevant test results. The failure to submit a permit modification application within 45 days of obtaining the results of a performance/emissions test is a violation of Title V Permit No. 0200-00004-V2, LAC 33:III.501.C.4, LAC 33:III.523.A, and La. R.S. 30:2057(A)(2).”

The following violations, although not cited in any enforcement action issued to the Respondent, are included herein and made a part of this settlement agreement.

On or about April 19, 2007, the Respondent submitted the NO_x exceedance results of the performance emissions test for EQT7 conducted on or about November 28, 2006, a period of 142 days following the test. The failure to submit the results of an emission compliance test within 60 days of the test date is a violation of Louisiana General Condition VIII, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

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 FOUR THOUSAND SIX HUNDRED AND NO/100 DOLLARS (\$4,600.00) of which One Thousand Three Hundred and No/100 Dollars (\$1,300.00) 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 Consolidated Compliance Orders and Notices 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. 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.

VIII

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

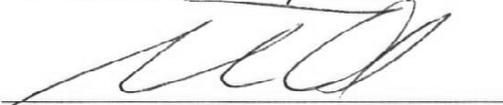
LULA-WESTFIELD, L.L.C.

BY: 
(Signature)

Michael J. Daigle
(Print)

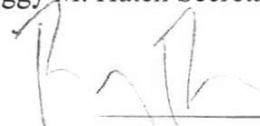
TITLE: C.E.O.

THUS DONE AND SIGNED in duplicate original before me this 9th day of June, 2010, at Pinecourtville, LA.

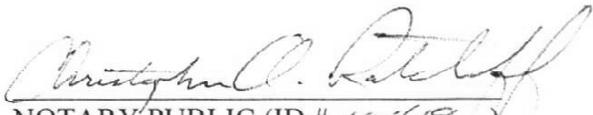

NOTARY PUBLIC (ID # 20530)

Thomas D. Daigle
(Print)

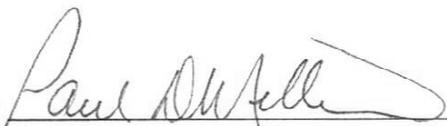
LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Peggy M. Hatch Secretary

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

THUS DONE AND SIGNED in duplicate original before me this 17th day of September, 2010, at Baton Rouge, Louisiana.


NOTARY PUBLIC (ID # 10149)

Christopher A. Ratcliff
(Print)

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