

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

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Settlement Tracking No.

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SA-SE-10-0003

MOTIVA ENTERPRISES, L.L.C.

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AI # 2719

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Enforcement Tracking No.

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SE-PP-09-0210

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PROCEEDINGS UNDER THE LOUISIANA

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ENVIRONMENTAL QUALITY ACT

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LA. R.S. 30:2001, ET SEQ.

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SETTLEMENT

The following Settlement is hereby agreed to between Motiva Enterprises, 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 corporation that owns and/or operates a refinery at the intersection of La. Highway 44 and La. Highway 70 in Convent, St. James Parish, Louisiana ("the Facility").

II

On July 23, 2009, the Department issued Notice of Potential Penalty SE-PP-09 0210 to the Respondent, which was based upon the following findings of fact:

On or about December 30, 2008, an inspection of Motiva Enterprises, owned and/or operated by Motiva Enterprises, L.L.C. (Respondent), was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Solid Waste Regulations. The facility is located at the intersection of La. Highway 44 and La. Highway 70 in Convent, St. James Parish, Louisiana.

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

- A. The facility failed to perform groundwater monitoring for all parameters at the Biosludge Landfarm as specified in LAC 33:VII.805, in violation of LAC 33:VII.709.E and section 521.F.5.c and Appendix S, Table 4 of the permit, P-0246R1. Specifically, groundwater analyses completed since 2004 have not included Biological Oxygen Demand (BOD), nitrate, selenium, and vanadium. On or about May 4, 2009, the Respondent submitted preliminary sample results which included all the sampling parameters required by the permit.
- B. The facility failed to perform groundwater monitoring for all parameters at the Waste Water Treatment Unit as specified in LAC 33:VII.805, in violation of LAC 33:VII.709.E and section 521.F.5.c and Appendix M, Table 4 of the permit, P-0126R1. Specifically, groundwater analyses completed since 2004 have not included Total Dissolved Solids (TDS), toluene, and xylenes. On or about May 6, 2009, the Respondent submitted preliminary sample results which included all the sampling parameters required by the permit.

III

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties. Respondent specifically asserts that it performed appropriate groundwater monitoring for some of the parameters at issue and that toluene and xylenes were monitored and reported to the DEQ via Motiva's Annual Hazardous Waste Groundwater Report.

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, TWO THOUSAND SEVEN HUNDRED AND NO/100 DOLLARS (\$2,700.00) of which Two Hundred Ninety-Nine and 21/100 Dollars (\$299.21) 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 inspection report(s), 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.

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 St. James Parish, Louisiana as well as in a newspaper of general circulation in that parish. 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 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).

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.

Parish of Ascension

MOTIVA ENTERPRISES, L.L.C.

BY: David G. Brignac
(Signature)

David G. Brignac
(Print)

TITLE: General Manager - Motiva Convent Refinery

THUS DONE AND SIGNED in duplicate original before me this 18th day of March, 20 10, at Convent, Louisiana.

Benjamin Wilson Faulkner
NOTARY PUBLIC (ID # 65769)

Benjamin Wilson Faulkner
(Print)

my commission expires at my death.

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Peggy M. Hatch, Secretary

BY: Paul D. Miller
Paul D. Miller, P.E., Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 28th day of July, 20 10, at Baton Rouge, Louisiana.

Christopher A. Ratcliff
NOTARY PUBLIC (ID # 10149)

Christopher A. Ratcliff
(Print)

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