STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	**Settlement Tracking No.**
	*	**SA-HE-13-0049**
PPG INDUSTRIES, INC.	*	
	*	**Enforcement Tracking No.**
AI # 1255	*	**HE-CN-11-00508**
	*	
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT	*	**Docket No. 2013-8193-EQ**
LA. R.S. 30:2001, ET SEQ.	*	

SETTLEMENT

The following Settlement is hereby agreed to between Eagle US 2 LLC ("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 chemical production facility located in Lake Charles, Calcasieu Parish, Louisiana ("the Facility"). At the time of the alleged violations, the facility was owned and/operated by PPG, Industries, Inc.

II

On February 24, 2012, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty (CONOPP), Enforcement No. HE-CN-11-00508, which was based upon the following findings of fact:

"The Respondent owns and/or operates an organic and inorganic chemical production facility located at 1300 Columbia Southern Road in Lake Charles, Calcasieu Parish, Louisiana. The facility is a large quantity generator of hazardous waste and operates under the EPA Identification Number

LAD008086506. The facility is also a permitted hazardous waste treatment, storage, disposal (TSD) facility. The current hazardous waste operating permit LAD008086506-OP-RN-1 became effective on January 30, 2009.

On or about January 12, 2011, the Respondent submitted an unauthorized discharge notification report to the Department regarding the improper land disposal of hazardous waste. On or about January 12, 2011, the Department conducted an inspection of the Respondent's Lake Charles facility in response to the aforementioned unauthorized discharge notification. The inspection and a subsequent file review conducted by the Department on April 15, 2011, revealed the following violations:

A. The Respondent failed to determine whether a waste listed in LAC 33:V.4901 or LAC 33:V.4903 met the treatment standards for land disposal specified in LAC 33:V.2213, in violation of LAC 33:V.1103.B. Specifically, the Respondent failed to determine whether three (3) roll-off containers of hazardous waste filter cake (F025 and K028) sent for land disposal at the Chemical Waste Management Inc. (Agency Interest No. 742) permitted hazardous waste landfill in Carlyss, Louisiana met the treatment standard of 5.6 mg/kg for hexachlorobutadiene. The aforementioned waste loads were subsequently determined to have a hexachlorobutadiene concentration of 7.02 mg/kg.

B. The Respondent failed to test wastes to verify the waste met the treatment standards for land disposal specified in LAC 33:V.2213, in violation of LAC 33:V.2245.A. Specifically, the Respondent failed to chemically analyze three (3) roll-off containers of hazardous waste filter cake (F025 and K028) sent for land disposal at the Chemical Waste Management Inc. (Chem Waste) permitted hazardous waste landfill

in Carlyss, Louisiana to ensure that the waste met the treatment standard of 5.6 mg/kg for hexachlorobutadiene. The aforementioned waste loads were subsequently analyzed and determined to have a hexachlorobutadiene concentration of 7.02 mg/kg.

On or about May 25, 2011, Chemical Waste submitted an unauthorized discharge notification report to the Department regarding the improper land disposal of D008 characteristic hazardous waste (characteristically toxic for mercury) accepted for disposal in Chemical Waste's permitted hazardous waste landfill. After learning that the waste load in question failed to meet the land disposal restriction treatment standard, Chem Waste removed the waste load from the landfill on or about May 24, 2011. The Department conducted a file review of records pertaining to aforementioned notification on November 3, 2011, that revealed the following violations:

A. The Respondent failed to determine whether a waste listed in LAC 33:V.4901 or LAC 33:V.4903 met the treatment standards for land disposal specified in LAC 33:V.2213, in violation of LAC 33:V.1103.B. Specifically, the Respondent failed to determine whether a roll-off container of waste soil and debris contaminated with mercury (D009) met the treatment standard of 0.20 mg/l toxicity characteristic leaching procedure (TCLP) concentration for mercury. The aforementioned waste load was subsequently determined to have a mercury TCLP concentration of 0.273 mg/kg.

B. The Respondent failed to test wastes to verify the waste met the treatment standards for land disposal specified in LAC 33:V.2213, in violation of LAC 33:V.2245.A. Specifically, the Respondent failed to analyze and obtain the result to determine whether a roll-off container of waste soil and debris contaminated with mercury met the treatment standard of 0.20 mg/l toxicity characteristic leaching procedure (TCLP)

concentration for mercury prior to shipping the waste for land disposal at the Chemical Waste Management Inc. permitted hazardous waste landfill in Carlyss, Louisiana. The aforementioned waste load was subsequently determined to have a mercury TCLP concentration of 0.273 mg/kg.

C. The Respondent offered for transportation a characteristic hazardous waste for off-site disposal without preparing a Uniform Hazardous Waste Manifest, in violation of LAC 33:V.1107.A.1. Specifically, the Respondent offered for transportation and disposal a roll-off container of D008 characteristic waste (mercury contaminated debris and soil) without preparing a Uniform Hazardous Waste Manifest."

III

In response to the CONOPP, 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 FIFTY-FOUR THOUSAND AND NO/100 DOLLARS ($54,000.00), of which One Thousand Two Hundred Fifty-Three and 93/100 Dollars ($1,253.93) 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), permit record(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.

XI

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 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).

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.

EAGLE US 2 LLC

BY: _____
(Signature)

_____
(Printed)

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)

Approved: _____
Cheryl Sonnier Nolan, Assistant Secretary