

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

SYNGENTA CROP PROTECTION, INC.

AI # 2367

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

- * **Settlement Tracking No.**
- * **SA-AE-08-0004**
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- * **Enforcement Tracking No.**
- * **AE-PP-07-0096**
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SETTLEMENT

The following Settlement is hereby agreed to between Syngenta Crop Protection, 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 who owns and/or operates a facility that manufactures and formulates pesticides and specialty chemicals located at 3905 Louisiana Highway 75 in St. Gabriel, Iberville Parish, Louisiana ("the Facility").

II

On August 30, 2007, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. AE-PP-07-0096, which was based upon the following findings of fact:

On or about March 27, 2007, a file review of St. Gabriel Plant, owned and/or operated by Syngenta Crop Protection, Inc. (Respondent), was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Air Quality Regulations. The facility is located at 3905 Louisiana Highway 75 in St. Gabriel, Iberville Parish, Louisiana. This is

approximately 0.5 miles south of the intersection of Louisiana Highway 74 and River Road in Iberville Parish. The Environmental Operations (EO) of this facility currently operates under Title V Permit No. 2718-V1 AA issued on October 2, 2006. At the time of the incident the facility was operating under Title V Permit No. 2718-V1, issued May 4, 2006.

The following violations were noted during the course of the file review:

In a report to the Department dated September 15, 2006, in accordance with General Condition XI of Permit No. 2718-V1, the Respondent stated that at approximately 3:55 a.m. on September 10, 2006, a release of vaporizing toluene (CAS Number 108-88-3) occurred at the Respondent's facility. The report stated that the release occurred when an operator opened/misaligned a manual block valve on a process decanter. The report stated that the estimated quantity of the release over the 50.083 hour duration was 8,260 pounds of toluene lost to the air. The Reportable Quantity for a toluene is 100 pounds. In the letter to the Department dated September 15, 2006, the Respondent stated that the release was due to operator error and was preventable. The Respondent's failure to diligently maintain air pollution controls in proper working order is a violation of LAC 33:III.905, La. R.S. 30:2057 (A)(1), and La. R.S. 30:2057 (A)(2). 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." In addition, according to a report to the Department dated September 15, 2006, the Respondent stated that the release exceeded the Title V Permit No. 2718-V1 for point source GRP096 Cat Feed Surge Tank and Ancillary Equipment (CFS). The Emission Point CFS was permitted to emit a maximum of 10.12 lbs/hr toluene. Each exceedence of this is a violation of LAC 33:III.501.C.4, La. R.S. 30:2057 (A)(1), and La. R.S. 30:2057 (A)(2).

On or about June 5, 2007, a file review was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Air Quality Regulations. The Hydrogen Cyanide (HCN) Facility located at the St. Gabriel Plant operates under permit Title V Air Permit 2898-V0, issued on November 28, 2005.

The following violations were noted during the course of the file review:

- A. According to the 2006 Annual Compliance report to the Department dated March 28, 2007, the Respondent stated that the maximum threshold quantity of HCN for Source ID GRP028 was exceeded by

70,000 lbs (35 tons) in April of 2006. According to Title V Air Permit 2898-V0, the annual maximum for the HCN Production Facility (GRP028) (Specific Requirement 88) is 5.25 tons/yr. This is a violation of LAC 33:III.501.C.4, La. R.S. 30:2057 (A)(1), and La. R.S. 30:2057 (A)(2).

- B. According to the 2006 Annual Compliance report to the Department dated March 28, 2007, the Respondent stated that the semi-annual LDAR report required by NSPS Subpart VV was not submitted by the required date. The report was due by January 31, 2006, and was submitted on July 7, 2006. This is a violation of 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 TWO THOUSAND NINE HUNDRED THIRTY-SEVEN AND NO/100 DOLLARS (\$2,937.00) of which Nine Hundred Thirty-Seven and 42/100 Dollars (\$937.42) represents DEQ'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 DEQ 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), the 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 Iberville 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.

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.

SYNGENTA CROP PROTECTION, INC.

BY: W. Ralph Caddell
(Signature)

W. Ralph Caddell
(Print)

TITLE: Plant MANAGER

THUS DONE AND SIGNED in duplicate original before me this 5th day of June, 20 08, at St. Gabriel, Louisiana.

Annette A Murnane
NOTARY PUBLIC (ID # 039746)

Annette A Murnane
(Print)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Harold Leggett, Ph.D., Secretary

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

THUS DONE AND SIGNED in duplicate original before me this 10th day of November, 20 07, at Baton Rouge, Louisiana.

J. R.
NOTARY PUBLIC (ID # 40539)

Jed R. Brayle, II
(Print)

Approved: Peggy M. Hatch
Peggy M. Hatch, Assistant Secretary