

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

TALEN'S MARINE AND FUEL, INC.

AI # 43462

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

* Settlement Tracking No.
* SA-WE-10-0009
*
* Enforcement Tracking No.
* WE-CN-04-1091
*
*
* Docket No. 2009-8278-EQ
*

SETTLEMENT

The following Settlement is hereby agreed to between Talen's Marine And Fuel, 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"). On or about August 6, 2008, Talen's Marine and Fuel, Inc. converted from a corporation to a limited liability company and changed its name to Talen's Marine and Fuel, L.L.C. As a result, Talen's Marine and Fuel, L.L.C. is now the correct name for Respondent in this matter.

I

The Respondent is a limited liability company that owns and/or operates a marine fuel dock with a mechanical sewage treatment plant that serves Talen's Marine and Fuel, L.L.C., which is located in Klondike, Cameron Parish, Louisiana ("the Facility").

II

On June 12, 2008, the Department issued to the Respondent a Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. WE-CN-04-1091, which was based upon the following findings of fact:

The Respondent owns and/or operates a marine fuel dock with a mechanical sewage treatment plant that serves Talen's Marine and Fuel, Inc., which is located at 2254 South Talen's Landing Road in Klondike, Cameron Parish, Louisiana. The Respondent was granted coverage under Louisiana Pollutant Discharge Elimination System (LPDES) General Permit LAG530000 on September 9, 1998, and was specifically assigned permit number LAG530796. The permit expired on November 18, 2002, and was administratively extended. Coverage under LPDES permit LAG530796 was reissued on or about December 20, 2004, and expired on November 30, 2007. Coverage under LPDES permit LAG530796 was reissued on or about January 11, 2008, with an effective date of December 1, 2007, and an expiration date of November 30, 2012. LPDES permit LAG530796 was terminated by the Department on or about March 19, 2008. The Respondent was issued LPDES permit number LA0118842 on or about January 27, 2004, with an effective date of February 1, 2004, and an expiration date of January 31, 2009. Under the terms and conditions of LPDES permit number LA0118842, the Respondent is authorized to discharge treated sanitary wastewater and treated bilge water into the Intracoastal Waterway, waters of the state.

An inspection conducted by the Department on or about March 28, 2003, revealed the Respondent failed to sample its effluent annually as required by LPDES permit LAG530796. Each failure to sample the effluent is a violation of LPDES permit LAG530796 (Part I, Section B, Schedule A, and Part III, Section A.2), La R.S. 30:2076 (A) (3), LAC 33:IX.501.A, and LAC 33:IX.2701.A.

An inspection conducted by the Department on or about March 28, 2003, revealed that the Respondent failed to properly operate and maintain its mechanical sewage treatment plant. Specifically, the receiving water was brown in color.

An inspection conducted by the Department on or about March 28, 2003, and a subsequent

file review conducted by the Department on or about March 10, 2008, revealed that the Respondent failed to submit annual Discharge Monitoring Reports (DMRs) as required by LPDES permit LAG530796. Specifically the Respondent failed to submit DMRs for the monitoring periods of 1998, 1999, 2000, 2001, 2002, and 2003. Each failure to submit DMRs is in violation of LPDES permit LAG530796 (Part I, Section C.6 and/or C.8, and Part III, Sections A.2 and D.4), La R.S. 30:2076 (A)(3), LAC 33:IX.501.A, LAC 33:IX.2701.A, and LAC 33:IX.2701.L.4.a.

A file review conducted by the Department on or about March 10, 2008, revealed that the Respondent failed to submit biannual Discharge Monitoring Reports (DMRs) for Outfall 001 and monthly Discharge Monitoring Reports (DMRs) for Outfall 002 as required by LPDES permit LA0118842. Specifically, the Respondent failed to submit biannual DMRs for Outfall 001 for the monitoring periods covering all of 2004, the first half of 2005, all of 2006, and all of 2007. The Respondent failed to submit monthly DMRs for Outfall 002 for the monitoring periods of February 2004 – March 2008. Each failure to submit DMRs is in violation of LPDES permit LAG530796 (Part I, Section C.6 and/or C.8, and Part III, Section A.2 and D.4), La R.S. 30:2076 (A)(3), LAC 33:IX.501.A, LAC 33:IX.2701.A, and LAC 33:IX.2701.L.4.a.

A file review conducted by the Department on or about March 10, 2008, revealed that the Respondent exceeded effluent limitations. These effluent exceedances, as reported by the Respondent on Discharge Monitoring Reports (DMRs), are summarized below:

DATE	OUTFALL NUMBER	PARAMETER	PERMIT LIMIT	SAMPLE VALUE
04/05-06/05	001	TSS, (weekly average) - mg/L	45.00	50.00
	001	Fecal Coliform (weekly average) - col./100mL	400.00	1100.00
	002	COD (monthly average) - mg/L	200.00	4710.00
	002	COD (daily maximum) - mg/L	300.00	4710.00
	002	Oil and Grease (daily maximum) - ug/L	15.00	84.70

Each effluent exceedance is a violation of LPDES permit LA0118842 (Part I, Page 2 and 3, and Part III, Section A.2), La. R.S. 30:2076 (A) (1), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, and LAC 33:IX.2701.A.

III

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.

A file review conducted by the Department on or about June 30, 2009, revealed that the Respondent failed to sample Outfall 001 in accordance with LPDES permit LA0118842 for the second half of 2005, all of 2006, and all of 2007. Specifically, the Respondent is required by the permit to sample Outfall 001 biannually. According to DMRs submitted by the Respondent, during the aforementioned monitoring periods, no sampling or monitoring was conducted. Each failure to sample as required is a violation of LPDES permit LA0118842 (Part I, Page 2 of 3; and Part III, Sections A.2, and C.2), La. R.S. 30:2076 (A)(3), LAC 33:IX.501.A, and LAC 33:IX.2701.A.

A file review conducted by the Department on or about June 30, 2009, revealed that the Respondent failed to sample Outfall 002 in accordance with LPDES permit LA0118842 for the monthly monitoring periods of January 2005 through March 2005; and July 2005 through December of 2007. Specifically, the Respondent is required by the permit to sample Outfall 002 monthly. According to DMRs submitted by the Respondent, during the aforementioned monitoring periods, no sampling or monitoring was conducted. Each failure to sample as required is a violation of LPDES permit LA0118842 (Part I, Page 3 of 3; and Part III, Sections A.2, and C.2), La. R.S. 30:2076 (A)(3), LAC 33:IX.501.A, and LAC 33:IX.2701.A.

A file review conducted by the Department on or about June 30, 2009, revealed that the Respondent failed to submit monthly DMRs for Outfall 002 as required by LPDES permit LA0118842 for the monitoring periods of April and May 2008. Each failure to submit a DMR is a

violation of LPDES permit LAG530796 (Part II, Section L, and Part III, Sections A.2 and D.4), La R.S. 30:2076 (A)(3), LAC 33:IX.501.A, LAC 33:IX. 2701.A, and LAC 33:IX. 2701.L.4.a.

A file review conducted by the Department on or about June 30, 2009, revealed that the Respondent exceeded effluent limitations. These effluent exceedances, as reported by the Respondent on Discharge Monitoring Reports (DMRs), are summarized below:

DATE	OUTFALL NUMBER	PARAMETER	PERMIT LIMIT	SAMPLE VALUE
01/08-06/08	001*	BOD ₅ (weekly average)- mg/L	45.00	155.00
		Total Suspended Solids (weekly average)- mg/L	45.00	1180.00
		Fecal Coliform (weekly average)- col./100mL	400.00	58000.00
06/08	002*	COD (monthly average)- mg/L	200.00	5105.00
		COD (daily maximum)- mg/L	300.00	6850.00
		Oil and Grease (daily maximum)- ug/L	15.00	168.00
		pH, Minimum - S. U.	6.00	5.77
07/08-12/08	001	BOD ₅ (weekly average)- mg/L	45.00	200.00
		Total Suspended Solids (weekly average)- mg/L	45.00	340.00
		Fecal Coliform (weekly average)- col./100mL	400.00	220000.00

*Indicates Non-Compliance Report was not submitted

S.U.—Standard Units

Each effluent exceedance is a violation of LPDES permit LA0118842 (Part I, Page 2 and 3, and Part III, Section A.2), La. R.S. 30:2076 (A) (1), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, and LAC 33:IX.2701.A.

A file review conducted on or about June 30, 2009, revealed that the Respondent failed to submit non-compliance reports (NCRs) for the monitoring periods indicated by an asterisk (*) in the aforementioned table. Each failure to submit an NCR is a violation of LPDES permit LA0118842 (Part III, Sections A.2 and D.7), La. R.S. 30:2076(A)(3), LAC 33:IX.501.A, LAC 33:IX.2701.A, and LAC 33:IX.2701.L.7.

IV

In response to Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. WE-CN-04-1091, Respondent made a timely request for a hearing.

V

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

VI

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 TWENTY-TWO THOUSAND AND NO/100 DOLLARS (\$22,000.00), of which One Thousand Thirteen and 81/100 Dollars (\$1,013.81) 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).

VII

Respondent further agrees that the Department may consider the inspection report(s), the Consolidated Compliance Order and 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.

VIII

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.

IX

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.

X

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

XI

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).

XII

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XIII

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.

TALEN'S MARINE AND FUEL, L.L.C.

BY: _____
(Signature)

(Printed)

TITLE: _____

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20 _____, at _____.

NOTARY PUBLIC (ID # _____)

(stamped or printed)

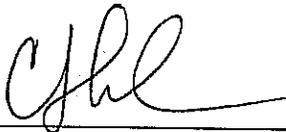
LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Peggy M. Hatch Secretary

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