

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

<b>IN THE MATTER OF:</b>	* Settlement Tracking No.
	* SA-AE-09-0058
<b>TOTAL PETROCHEMICALS USA, INC.</b>	*
	* Enforcement Tracking No.
<b>AI # 1607</b>	* AE-CN-04-0263, AE-CN-05-0160,
	* AE-CN-05-0160A
<b>PROCEEDINGS UNDER THE LOUISIANA</b>	*
<b>ENVIRONMENTAL QUALITY ACT</b>	* Docket No. 2007-0811-EQ
<b>LA. R.S. 30:2001, <u>ET SEQ.</u></b>	* For AE-CN-05-0160 only

SETTLEMENT

The following Settlement is hereby agreed to between Total Petrochemicals USA, Inc. ("Respondent") and the Department of Environmental Quality ("LDEQ" 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 styrene monomer production plant facility located in or near Carville, Iberville Parish, Louisiana ("the Facility").

II

On May 13, 2005, the LDEQ issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement (CONOPP) No. AE-CN-04-0263, which was based upon the following findings of fact:

The Respondent owns and/or operates the Styrene Monomer Plant, a styrene monomer production plant located at 6325 Louisiana Highway 75 near Carville in Iberville Parish, Louisiana. The facility operated under Title V Permit No. 1280-00013-V0 issued on February 11, 2003, at the

time of the inspection. The facility currently operates under Title V Permit No. 1280-00013-V1 issued on January 14, 2005.

On or about June 4 and 8, 2004, an inspection of the Respondent's facility and a file review on or about April 21, 2005, were conducted to determine the degree of compliance with the Act and the Air Quality Regulations.

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

- A. The facility was required to comply with a streamlined leaks monitoring program under 40 CFR 63 Subpart H as specified by Part 70 Specific Condition No. 2 of Title V Permit No. 1280-00013-V0. According to the facility's Title V Annual Compliance Certification for the 2003 calendar year dated March 16, 2004, and correspondence dated June 11, 2004, one or more unsealed pipe(s) and/or line(s) were found at the facility during the 2003 calendar year. Each of the Respondent's failures to equip each open-ended valve or line with a cap, blind flange, plug, or a second valve, without exemption under 40 CFR 63.162(b), 40 CFR 63.167(d), or 40 CFR 63.167(e), is a violation of 40 CFR 63.167(a)(1), which language has been adopted as a Louisiana regulation in LAC 33:III.5122, Part 70 Specific Condition No. 2 of Title V Permit No. 1280-00013-V0, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.
- B. According to the facility's Title V Annual Compliance Certification for the 2003 calendar year dated March 16, 2004, and correspondence dated June 11, 2004, the Respondent allowed the facility's 600 gallon M-1360AR Gasoline Storage Tank (Emission Point No. 124-95) to emit volatile organic compounds (VOCs) above its maximum permitted annual rate during the 2003 and 2004 calendar years. Under Title V Permit No. 1280-00013-V0, the gasoline storage tank was permitted to emit 0.162 tons of VOCs per year. In correspondence dated April 25, 2005, the Respondent notified the Department that the Respondent allowed 0.1840 tons of VOCs to be emitted from the gasoline storage tank during the 2003 calendar year. In correspondence dated April 20, 2005, the Respondent notified the Department that the Respondent allowed 0.1768 tons of VOCs to be emitted from the gasoline storage tank during the 2004 calendar year. According to General Condition II of Title V Permit No. 1280-00013-V0, each of the Respondent's failures to operate the facility in accordance with all terms and conditions of Title V Permit No. 1280-00013-V0 is a violation of LAC 33:III.501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act. The Respondent submitted a permit modification application on or about March 5, 2004,

to reconcile this gasoline storage tank's increased emissions. The Department issued Title V Permit No. 1280-00013-V1 on January 14, 2005, to increase the tank's emission rate.

On December 18, 2006, the LDEQ issued to Respondent a Consolidated Compliance Order Notice of Potential Penalty, Enforcement Tracking No. AE-CN-05-0160, which was based upon the following findings of fact:

The Respondent owns and/or operates the Styrene Monomer Plant located at 6325 Louisiana Highway 75 in or near Carville, Iberville Parish, Louisiana. The facility operated under Title V Permit No. 1280-00013-V0 from the date it was issued, February 11, 2003, until Title V Permit No. 1280-00013-V1 was issued on January 14, 2005. The facility currently operates under Title V Permit No. 1280-00013-V2 issued on March 20, 2006, and an Administrative Amendment issued on April 28, 2006.

An inspection on or about May 10 and 17, 2005, and a file review on or about August 14, 2006, of the Respondent's facility were performed to determine the degree of compliance with the Act and the Air Quality Regulations.

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

- A. According to Tables 1 and 2 and Part 70 Specific Condition No. 2 of Title V Permit No. 1280-00013-V0, as well as Table X and Part 70 Specific Condition No. 1 of Title V Permit No. 1280-00013-V1, the facility's Process Fugitives (Emission Point No. 146-02) were subject to applicable requirements of 40 CFR 63 Subpart H - National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks. In a letter dated June 15, 2005, in response to Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. AE-CN-04-0263, the Respondent notified the Department that nine open-ended lines, each with no cap, blind flange, plug, or second valve, were found at the facility during the 2004 calendar year. The Respondent notified the Department that an open-ended line with no cap, blind flange, plug, or second valve was found at the facility during the 2004 calendar year in the facility's 2004 Title V Annual Compliance Certification as well. The facility's 2005 Title V Annual Compliance Certification notified the Department that 14 open-ended lines,

each with no cap, blind flange, plug, or second valve, were found at the facility during the period encompassing January through April 2005. In addition, Part 70 General Condition R Quarterly Deviation Report dated May 12, 2005, notified the Department that an open-ended line with no cap, blind flange, plug, or second valve was found at the facility during the period encompassing January through March 2005. Each failure to equip an open-ended valve or line with a cap, blind flange, plug, or a second valve, except as provided in 40 CFR 63.162(b) and 40 CFR 63.167(d) and (e), on or after February 11, 2003, and prior to January 14, 2005, is a violation of 40 CFR 63.167(a)(1) which language has been adopted as a Louisiana Regulation under LAC 33:III.5122, Tables 1 and 2 and Part 70 Specific Condition Nos. 1 and 2 of Title V Permit No. 1280-00013-V0, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act. Each failure to equip an open-ended valve or line with a cap, blind flange, plug, or a second valve, except as provided in 40 CFR 63.162(b) and 40 CFR 63.167(d) and (e), on or after January 14, 2005, and prior to March 20, 2006, is a violation of 40 CFR 63.167(a)(1) which language has been adopted as a Louisiana Regulation under LAC 33:III.5122, Table X and Part 70 Specific Condition No. 1 of Title V Permit No. 1280-00013-V1, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act. The June 15, 2005, letter noted that the Respondent provided refresher training to employees, updated computer-based training for open-ended line compliance standards, and planned to implement a procedure in which supervisors are responsible to ensure that plugs, caps, and blind flanges are reinstalled prior to returning the associated equipment to its intended service as corrective actions.

- B. According to Tables 1 and 2 of Title V Permit No. 1280-00013-V0, the facility's HS-1301 AR Boiler (Emission Point No. 145-02-D) was subject to applicable requirements of 40 CFR Part 60 Subpart A – General Provisions. In the facility's 2004 Title V Annual Compliance Certification, in its 40 CFR Part 60 Subpart Db Semiannual Report dated January 28, 2005, and in a letter dated March 20, 2006, the Respondent notified the Department that the oxygen analyzer of the continuous emissions monitoring system (CEMS) associated with Emission Point No. 145-02-D did not meet the oxygen calibration performance specification during autocalibration on December 18, 2004. In the letter, the Respondent notified the Department that the calibration problem was not investigated and remedied on that date. The failure of an owner and operator of a CEMS installed in accordance with the provisions of 40 CFR Part 60 to adjust the zero and span whenever either the 24-hour zero drift or the 24-hour span drift exceeded two times the limit of the applicable performance specification in appendix B of 40 CFR Part 60 is a violation of 40 CFR 60.13(d)(1) which language has been adopted as a Louisiana Regulation in LAC 33:III.3003, Tables 1 and 2 and Part 70 specific Condition No. 1 of Title V Permit No. 1280-00013-V0, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act. The March 20, 2006, letter noted that the

autocalibration of the CEMS was within the calibration performance specifications on December 19, 2004, and that new alarm procedures were implemented to prevent future recurrences.

- C. According to Tables 1 and 2 of Title V Permit No. 1280-00013-V0, the entire facility was subject to applicable requirements of 40 CFR 61 Subpart FF – National Emission Standard for Benzene Waste Operations. In the facility's 2004 Title V Annual Compliance Certification, the Respondent notified the Department that the inspection of data from the facility's AI-5000 analyzer for its Vent Scrubber (Emission Point No. 111-93) to indicate whether or not the control device was operating properly was not performed as per 40 CFR 61.354(c). Each failure to inspect at least once each operating day the data recorded by the monitoring equipment (e.g., temperature monitor or flow indicator) to ensure that the control device is operating properly is a violation of 40 CFR 61.354(c) which language has been adopted as a Louisiana Regulation under LAC 33:III.5116, Tables 1 and 2 and Part 70 Specific Condition No. 1 of Title V Permit No. 1280-00013-V0, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.
- D. According to Table X of Title V Permit Nos. 1280-000132-V1 and 1280-000132-V2, the facility's HS-1301 AR Boiler (Emission Point No. 145-02-D) was and is subject to the applicable requirements of LAC 33:III.2201. In a letter dated August 1, 2005, and in the facility's Title V Semiannual Monitoring Form for the period encompassing January through June 2005, the Respondent notified the Department that it had failed to timely install and operate a carbon monoxide (CO) monitor for Emission Point No. 145-02-D, a boiler for which a chemical reagent is used to reduce emissions of nitrogen oxides (NOx). LAC 33:III.2201.H.7 requires the Respondent to provide a CO monitor in accordance with LAC 33:III.2201.H.1.b.iv for any affected point source that uses a chemical reagent for reduction of NOx, as part of the NOx monitoring system requirements. The failure to modify and/or install and bring into normal operation NOx control equipment and/or NOx monitoring systems in accordance with LAC 33:III Chapter 22, except as provided in LAC 33:III.2202, as expeditiously as possible, but no later than May 1, 2005, is a violation of LAC 33:III.2201.J.1, Table X of Title V Permit No. 1280-0001332-V1, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act. The aforementioned letter stated that the Respondent installed a portable CO monitor with internal logging capabilities and began operating it on July 27, 2005. Data from the CO monitor reportedly verified that CO emissions were below permitted emission limits. In addition, a letter dated September 20, 2005, noted that the Respondent installed the permanent CO monitor on August 25, 2005, and began operating it on September 19, 2005. According to the report of compliance demonstration results for the CO monitor dated December 5, 2005, the relative accuracy test and seven-day calibration drift test were performed during September 14-20, 2005, and on October 7, 2005.

The report noted that “Results of the certification tests indicate that the carbon monoxide CEMS on the HS-1301AR Boiler meet all of the requirements for certification.”

- E. According to Table X of Title V Permit Nos. 1280-000132-V1 and 1280-000132-V2, the facility’s HS-2104 EB Recovery Column Heater (Emission Point No. 145-02-I) was and is subject to the applicable requirements of LAC 33:III.2201. According to correspondence from the Respondent dated June 13, 2006, Emission Point No. 145-02-I “. . . was modified when a CEMS was installed on this equipment and the CEMS became fully operational on April 29, 2005. . . .” In a letter dated January 3, 2006, the Department notified the Respondent that the CO CEMS failed the relative accuracy test when performed on or about May 2-8, 2005, and September 14, 2005, because the result of 6.66% exceeded the less than or equal to 5% limit. A report of the re-test results dated March 16, 2006, noted that the relative accuracy re-test was performed on January 16, 2006. LAC 33:III.2201.A.3 states that “All affected facilities shall be in compliance as expeditiously as possible, but by no later than the dates specified in Subsection J of this Section.” The failure to complete all initial compliance testing, specified by LAC 33:III.2201.G, for equipment modified with NOx reduction controls or a NOx monitoring system to meet the provisions of LAC 33:III Chapter 22 within 60 days of achieving normal production rate or after the end of the shake down period, but in no event later than 180 days after initial start-up, except as provided in LAC 33:III.2202, is a violation of LAC 33:III.2201.J.2, Table X of Title V Permit No. 1280-000132-V1, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act. The March 16, 2006, report notified the Department that “Results of the tests indicate that the carbon monoxide CEMS of the HS-2104 Heater meets all of the requirements for certification.”
  
- F. In the facility’s addendum to its 2005 Title V Annual Compliance Certification, the Respondent notified the Department that the equipment operating under the facility’s Fired Equipment Emission Cap (Emission Point No. 145-02) emitted 0.40 tons of unpermitted ethylene during the period encompassing February through December 2005. The failure to submit a permit modification application and receive approval from the permitting authority prior to the construction, modification, and/or operation of a facility, which ultimately may have resulted in the initiation or increase in emission of air contaminants, is a violation of LAC 33:III.501.C.2 and Sections 2057(A)(1) and 2057(A)(2) of the Act.
  
- G. In the facility’s addendum to its 2005 Title V Annual Compliance Certification, the Respondent notified the Department that the equipment operating under the facility’s Flare Emission Cap (Emission Point No. 150-02) emitted 0.23 tons of unpermitted ethylene during the period encompassing February through December 2005. The failure to submit a

permit modification application and receive approval from the permitting authority prior to the construction, modification, and/or operation of a facility, which ultimately may have resulted in the initiation or increase in emission of air contaminants, is a violation of LAC 33:III.501.C.2 and Sections 2057(A)(1) and 2057(A)(2) of the Act.

- H. In a letter dated March 20, 2006, the Respondent notified the Department that the facility's Reactor Feeder Heater HS-2101 emitted 0.01 tons of unpermitted benzene and 0.04 tons of unpermitted ethylene during the period encompassing January 1 through February 27, 2004. Each failure to submit a permit modification application and receive approval from the permitting authority prior to the construction, modification, and/or operation of a facility, which ultimately may have resulted in the initiation or increase in emission of air contaminants, is a violation of LAC 33:III.501.C.2, and Sections 2057(A)(1) and 2057(A)(2) of the Act. Emission Point No. 74-80 was reportedly shut down and demolished after the aforementioned unpermitted ethylene and benzene were emitted.

In a letter dated March 20, 2006, the Respondent notified the Department that the equipment operating under the facility's Flare Emission Cap (Emission Point No. 150-02) emitted 0.823 tons of ethylene during the 2004 calendar year. However, only 0.132 tons per year of ethylene emissions were permitted to be emitted from Emission Point No. 150-02 in Title V Permit No. 1280-00013-V0. The letter noted that the increased ethylene emissions were due to startups and shutdowns during commissioning of the Ethylbenzene III (EB III) unit which had been modified during a facility "modernization" project. In addition, the letter stated that "Most of these commissioning issues were resolved during the 180 day shakedown period following initial startup, thus the notification and permit modification required by Louisiana Air Permit General Condition IX were not triggered. However, a minor permit modification application was submitted on July 22, 2004 to install additional equipment in the EB III unit. Installation of this equipment began in January 2005 following issuance of the modified permit. Emissions levels are within the expected range since the 2004 shakedown period and the commissioning of this additional equipment in 2005."

On or about June 22, June 29, and July 10, 2006, an inspection of the Respondent's facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations.

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

According to Table X of Title V Permit No. 1280-00013-V2, the facility's HS-2103 BZ Recovery Column Heater (Emission Point No. 145-02-H) is subject to the applicable requirements of LAC 33:III.2201. In addition, Specific Requirement No. 301 of Title V Permit No. 1280-00013-V2 requires the facility to comply with the facility-wide averaging plan approved by the Department in accordance with the, applicable requirements of LAC 33:III.2201.E.1. During the inspection, the inspector noted that, during portions of May and June 2006, Emission Point No. 145-02-H operated outside of the operating parameters established during the compliance demonstration used to calculate the facility-wide averaging plan. Each failure to demonstrate compliance of an affected point source with its averaging plan by the methods specified in LAC 33:III.2201.E.1.c.i or in LAC 33:III.2201.E.1.c.ii is a violation of LAC 33:III.2201.E.1.c, Specific Requirement No. 301 and Table X of Title V Permit No. 1280-00013-V2, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act. In a letter dated August 31, 2006, the Respondent notified the Department that Emission Point No. 145-02-H was ". . . immediately returned to the conditions established during the initial compliance demonstration." In addition, the letter noted that a performance test to expand the operating window of Emission Point No. 145-02-H was conducted on August 21, 2006. The results of the test are currently under review by the Department.

Specific Requirement No. 301 of Title V Permit No. 1280-00013-V2 requires the facility to comply with the facility-wide averaging plan approved by the Department in accordance with the applicable requirements of LAC 33:III.2201.E.1. During the inspection discussed in Paragraph IV of the Findings of Fact portion of this Compliance Order, the inspector noted that the Respondent would submit an averaging plan required by LAC 33:III.2201.E.1.d, including a description of the actions that will be taken if any under-controlled unit is operated at more than ten percent above its averaging capacity. LAC 33:III.2201.E.1.d states that "Such actions may include a comparison of the total emissions from all units in the averaging plan to the total emissions that would result if the units in the plan were operated in accordance with Subsection D of this Section, other reviews, reporting,

and/or mitigating actions.” In a letter dated August 31, 2006, the Respondent notified the Department that “The compliance tool in place at the time of the inspection erroneously compared the facility wide 30 day rolling average emission factor to the emission factor derived from 2000 – 2001 averaging capacities. This error has been corrected to compare the actual 30 day rolling average emissions that would result if the values in Table D-1A [of LAC 33:III.2201.D.1] were applied to each of the affected units.” The Respondent submitted an example of the revised compliance tool with the letter, which is under the Department’s review.

On October 4, 2007, the LDEQ issued to Respondent an Amended Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. AE-CN-05-0160A, amending the Findings of Fact portion of Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. AE-CN-05-0160 as follows:

“1.

The Respondent owns and/or operates the Styrene Monomer Plant located at 6325 Louisiana Highway 75 in or near Carville, Iberville Parish, Louisiana. The facility operated under Title V Permit No. 1280-00013-V0 from the date it was issued, February 11, 2003, until Title V Permit No. 1280-00013-V1 was issued on January 14, 2005. The facility operated under Title V Permit No. 1280-00013-V2 issued on March 20, 2006, and an Administrative Amendment issued on April 28, 2006, until Title V Permit No. 1280-00013-V3 was issued on April 2, 2007. The facility currently operates under Title V Permit No. 1280-00013-V4 issued on June 28, 2007.”

The Department replaces Paragraphs II.F and II.G of the Findings of Fact portion of CONOPP, Enforcement Tracking No. AE-CN-05-0160, with Paragraph VI incorporated to the Findings of Fact portion of CONOPP, Enforcement Tracking No. AE-CN-05-0160:

## “VI.

In the facility’s addenda to its 2005 and 2006 Title V Annual Compliance Certifications, the Respondent notified the Department that the equipment operating under the facility’s Fired Equipment Emission Cap (Emission Point 145-02 and GRP 009) and the facility’s Flare Emission Cap (Emission Point 150-02 and GRP 013) emitted ethylene during the period encompassing February through December 2005 and during the 2006 calendar year. Neither Title V Permit No. 1280-00013-V1, nor Title V Permit No. 1280-00013-V2, which were the facility’s active permits during each respective period, speciate ethylene emission limits for any of the facility’s emission points. Ethylene is a highly reactive volatile organic compound (HRVOC) so its emissions would be expected to be speciated in a permit for a facility located in Iberville Parish because of its ozone nonattainment status. As a result, ethylene emissions from the facility appeared to be unpermitted. Upon further investigation, it was determined that the Respondent had applied for ethylene emissions from Emission Points 145-02 and 150-02 in a permit modification application dated March 6, 2004, for Title V Permit No. 1280-00013-V1 and in a permit modification application dated August 10, 2005, for Title V Permit No. 1280-00013-V2. The requested ethylene emissions had been included in the permitted total volatile organic compound (VOC) emission limits in each permit. In Title V Permit No. 1280-00013-V3 issued to the Respondent on April 2, 2007, ethylene emission limits are speciated for Emission Points 145-02 and 150-02.”

The Department replaced Paragraphs II.H of the Findings of Fact portion of CONOPP, Enforcement Tracking No. AE-CN-05-0160, with Paragraph VII incorporated to the Findings of Fact portion of CONOPP, Enforcement Tracking NO. AE-CN-05-0160:

## “VII.

Paragraph III of the Air Permit Briefing Sheet in the facility’s initial Title V permit, Title V

Permit No. 1280-00013-V0, explained that with the permit and the associated PSD permit the owner and/or operator of the facility “. . . proposes to modernize and expand the plant, thereby increasing the design throughput from 1.90 to 2.55 billion pounds of styrene monomer per year.” In the cover letter of the facility’s 2004 Annual Compliance Certification, the Respondent notified the Department that all emission limitations and permit conditions associated with the “modernization” project at the facility would not be met until completion of the project. The Respondent submitted supplemental permit application information dated August 1, 2002, stating that the facility’s post-“modernization” project operations would commence in April 2004.

In a letter dated March 20, 2006, the Respondent notified the Department that the facility’s Reactor Feeder Heater, HS-2101, which was previously identified in Air Permit No. 1280-00013-02 as Emission Point 74-80, emitted 0.01 tons of benzene and 0.04 tons of ethylene during the period encompassing January 1 through February 27, 2004. In a meeting with Department representatives on January 10, 2007, representatives of the Respondent explained that the Reactor Feeder Heater was included in a permit application dated on or about February 4, 2002, for an initial Title V permit. In the application, the Respondent requested that the Reactor Feeder Heater be incorporated into the Fired Equipment Cap (Emission Point 145-02 and GRP 009). Additionally, the Respondent requested that the Fired Equipment operating under this cap be permitted to emit a total of 0.081 tons of benzene per year and 0.141 tons of ethylene per year. If authorized, the requested emission limits of these two pollutants would have been adequate to allow the Reactor Feeder Heater to emit the 0.01 tons of benzene and 0.04 tons of ethylene during 2004.

In the January 10, 2007, meeting, the Respondent’s representatives stated that the Respondent had submitted a revised permit application dated May 9, 2002, requesting to delete the Reactor Feeder Heater from the facility during the “modernization” project. Title V Permit No. 1280-00013-

V0, the Respondent's initial Title V permit, issued on February 11, 2003, contains no emission limits for the Reactor Feeder Heater. The March 20, 2006, letter noted that the Respondent shut down the Reactor Feeder Heater on or about February 27, 2004, and demolished it during the "modernization" project."

The Department hereby incorporates Paragraph VIII to the Findings of Fact portion of CONOPP, Enforcement Tracking No. AE-CN-05-0160:

"VIII.

In a meeting with Department representatives on January 10, 2007, representatives of the Respondent explained that the facility's current permit, Title V Permit No. 1280-00013-V2, authorized the removal of four existing boilers and the installation of a single replacement boiler. The Respondent's representatives stated that the replacement of the four existing boilers had not occurred. Title V Permit No. 1280-00013-V2 authorized emissions from the replacement boiler, but not the four existing boilers. However, the permit authorized the removal of the existing boilers; therefore, the existing boilers were permitted to remain at the facility after the permit was issued."

The Department hereby incorporates Paragraph IX to the Findings of Fact portion of CONOPP, Enforcement Tracking No. AE-CN-05-0160:

"IX.

On or about March 21, 2007, and April 4, 2007, the Department performed an inspection of the Respondent's facility, and on or about August 6, 2007, the Department performed a file review of the Respondent's facility, to determine the degree of compliance with the Act and the Air Quality Regulations.

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

- A. According to Part 70 Specific Condition 1.a of Title V Permit No. 1280-00013-V2, issued on March 20, 2006, the Respondent shall comply with a streamlined equipment leaks monitoring program. Part 70 Specific Condition 1.b states that the Respondent shall use leak definitions and monitoring frequency based on the overall most stringent program, which is identified as 40 CFR 63 Subpart H – National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks in Part 70 Specific Condition 1. In the facility’s Part 70 General Condition R Quarterly Report for the period encompassing April through June 2006 dated September 29, 2006, the facility’s 2006 Title V Annual Compliance Certification (ACC), and correspondence dated July 13, 2007, the Respondent notified the Department that one leaking valve in light liquid service was not reported on the semiannual consolidated fugitive leak report submitted on or about July 24, 2006. The failure to submit a semiannual report by August 15 to cover January 1 through June 30 that included any monitoring performed within the reporting period is a violation of Part 70 Specific Condition 1.c of Title V Permit No. 1280-00013-V2, LAC 33:III.501.C.4, and La. R.S. 30:2057 (A)(2). In addition, the Part 70 General Condition R Quarterly Report and the response to the March 21 through April 4, 2007, inspection dated April 20, 2007, noted that the leak was not repaired within the 15 day period required under 40 CFR 63 Subpart H for that component. The 2006 ACC and the inspection response letter notified the Department that the component was not identified as a “delay of repair” designee in the facility’s records. The failure to repair a leaking valve in light liquid service as soon as practicable, but not later than 15 calendar days after it is detected, except as provided in 40 CFR 63.171, is violation of 40 CFR 63.168(f)(1), which language has been adopted as a Louisiana Regulation in LAC 33:III.5122, Part 70 Specific Condition 1 of Title V Permit No. 1280-00013-V2, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2). The 2006 ACC and the inspection response letter noted that the Respondent has implemented improvements to the facility’s leak-tracking procedures and the tags used for leaking component identification.
- B. According to the facility’s 2006 ACC, the Part 70 General Condition R and State Only General Condition XI Report dated March 29, 2007, the response to the March 21 through April 4, 2007, inspection dated April 20, 2007, the facility’s Process Fugitives (Emission Point 146-02 and FUG 003) emitted 0.448 tons of toluene during the 2006 calendar year. The facility’s Process Fugitives are permitted to emit a maximum of 0.27 tons of toluene per year as specified in Title V Permit No. 1280-00013-V2. The failure to submit a permit application and receive approval from the permitting authority prior to the construction, modification, and/or operation of a facility, which ultimately may have resulted in an initiation or increase in emission of air contaminants, is a violation of LAC 33:III.501.C.1, LAC 33:III.501.C.2, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2). The ACC and the inspection response

letter noted that a permit modification application was submitted to the Department on or about February 14, 2007, to reconcile these emissions. The Department issued Title V Permit No. 1280-00013-V3 on April 2, 2007, based on the February 2007 application.

- C. As discussed in Paragraph IX.A above, the facility is subject to applicable portions of 40 CFR 63 Subpart H. In the facility's Part 70 General Condition R and State Only General Condition XI.C Quarterly Report for the period encompassing January through March 2007 dated June 15, 2007, the Respondent notified the Department that on March 19, 2007, two open-ended lines with no plugs were discovered on pumps in the Wastewater Treatment system. Each failure to equip an open-ended line with a cap, blind flange, plug, or a second valve, except as provided in 40 CFR 63.162(b) and 40 CFR 63.167(d) and (e), is a violation of 40 CFR 63.167(a)(1) which language has been adopted as a Louisiana Regulation in LAC 33:III.5122, Part 70 Specific Condition 1 of Title V Permit No. 1280-00013-V2, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2). According to the report, plugs were installed immediately after the open-ended lines were discovered."

The Department hereby amends Paragraph I of the Order portion of CONOPP, Enforcement Tracking No. AE-CN-05-0160, to read as follows:

"I.

To immediately take, after receipt of this Compliance Order, any and all steps necessary to ensure compliance with all terms and conditions of Title V Permit No. 1280-00013-V4, the Act, and the Air Quality Regulations including, but not limited to, 40 CFR 63.167(a)(1), 40 CFR 60.13(d)(1), 40 CFR 61.354(c), 40 CFR 63.168(f)(1), LAC 33:III.501.C.2, LAC 33:III.501.C.4, and all applicable portions of LAC 33:III.2201."

The Department hereby removes Paragraphs II and III of the Order portion of CONOPP, Enforcement Tracking No. AE-CN-05-0160, in their entirety.

The Department hereby amends Paragraph IV of the Order portion of CONOPP, Enforcement Tracking No. AE-CN-05-0160, to read as follows:

“IV.

To submit to the Enforcement Division, within thirty (30) days after receipt of this Compliance Order, a written report that includes a detailed description of the circumstances surrounding the cited violations and actions taken or to be taken to achieve compliance with the Order portion of this Compliance Order. The report shall include the date of each failure to inspect the data discussed in Paragraph II.C of CONOPP, Enforcement Tracking No. AE-CN-05-0160. In addition, the report shall include actions taken, if any, to prevent recurrence of such an event. . . .”

The Department incorporated all of the remainder of the original Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. AE-CN-05-0160, and Agency Interest No. 1607 as if reiterated therein.

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

1. 40 CFR 63.161 states, "Repaired means that equipment: (1) Is adjusted, or otherwise altered, to eliminate a leak as defined in the applicable sections of this subpart, and (2) Unless otherwise specified in applicable provisions of this subpart, is monitored as specified in §63.180 (b) and (c), as appropriate, to verify that emissions from the equipment are below the applicable leak definition." According to Respondent's settlement offer dated April 25, 2008, The Respondent failed to repair two (2) valves within 15 days as required by 40 CFR 63.168(f)(1). Specifically, the Respondent completed the physical repair but did not complete the verification monitoring. This is a violation of 40 CFR 63.168(f)(1), which language has been adopted as a Louisiana regulation in LAC 33:III.5122.
2. In the facility's 2007 Title V Annual Compliance Certification, Part 70 General Condition R Report for the 4th Quarter of 2007 dated March 27, 2008, and a letter dated April 25, 2008, the Respondent notified the Department that the facility's Process Superheater, HS-8201/8219 (Emission Point 145-02-O and EQT 038) exceeded its hourly maximum NOx emission limit on five occasions during the 2nd half of 2007 and the 1st quarter of 2008. According to the response letter dated August 1, 2008, there were 23 separate hours during which the permitted maximum pound per hour limit was exceeded. Each hour is a violation of Part 70 General Condition C of

Title V Permit No. 1280-00013-V4, LAC 33:III.501.C.4, LAC 33:III.905, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

3. According to a letter dated August 1, 2008, the HS-1301 BR (Emission Point 145-05-Q) exceeded its maximum permitted emission limits for carbon monoxide (CO) and nitrogen oxides 18 and 4-times, respectively, during the period encompassing September 2007 through January 2008. The CO exceedances are due to short term fluctuations not accounted for by AP-42 emission factors and the NO<sub>x</sub> exceedances are due to a calculation error in the permit application. Each exceedance is a violation of Part 70 General Condition C of Title V Permit No. 1280-00013-V4, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
4. According to a letter dated August 1, 2008, the Respondent failed to submit a semiannual report for the period encompassing February 23, 2007-August 22, 2007 containing the information in paragraphs (c)(2), (c)(3), and (c)(4) of 40 CFR 63.152. This is a violation of 40 CFR 63.152(c)(1), which language has been adopted as a Louisiana regulation in LAC 33:III.5122, and La. R.S. 30:2057(A)(2).
5. According to Respondent's revised settlement offer dated April 6, 2009, the daily calibration of the NO<sub>x</sub> CEMS for Heater HS-1301BR (145-05-Q) was not performed from September 12, 2008, until September 18, 2008, because the Respondent failed to manually initiate the autocalibration feature following Hurricane Gustav. This is a violation of 40 CFR 60.13(d)(1) as required by 40 CFR 60.48b(e) and which language has been adopted as a Louisiana regulation in LAC 33:III.3003; Part 70 General Condition C of Title V Permit No. 1280-00013-V4; LAC 33:III.501.C.4; and La. R.S. 30:2057(A)(2).
6. According to Respondent's revised settlement offer dated April 6, 2009, "On October 31, 2008 a failure within the distributed control system (DCS) occurred.... The DCS indication for analyzer AI-5000, located on the exhaust from AS-500R [Vent Scrubber EQT002], did not vary during the period of October 31, 2008 at 14:40 hours through November 5, 2008 at 07:10 hours. The analyzer was operating normally during this period; however, the DCS indication did not reflect the analyzer output." For each day that the Respondent failed to adequately inspect at least once each operating day the data recorded by the monitoring equipment to ensure that the control device was operating properly, it is a violation of 40 CFR 61.354(c), which language has been adopted as a Louisiana Regulation in LAC 33:III.5116; Specific Requirement 11 of Title V Permit No. 1280-00013-V4, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

7. According to Respondent's revised settlement offer dated April 6, 2009, the Respondent failed to have at least 90% data availability for November 2008 to demonstrate compliance with the recordkeeping requirements of 40 CFR 61 Subpart FF. This is a violation of Part 70 General Condition V of Title V Permit No. 1280-00013-V4, LAC 33:III.501.C.4; LAC 33:III.905, and La. R.S. 30:2057(A)(2).

### III

In response to the Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Number AE-CN-05-0160, 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 LDEQ agrees to accept, a payment in the amount of SIXTEEN THOUSAND AND NO/100 DOLLARS (\$16,000.00), of which Two Thousand Six Hundred Seventy and 48/100 Dollars (\$2,670.48) represents LDEQ'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 LDEQ 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 LDEQ may consider the inspection report(s), the reports and letters referred to above, the Consolidated Compliance Orders & Notices of Potential Penalties and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the LDEQ 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 LDEQ 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 LDEQ considered the factors for issuing civil penalties set forth in LSA- R. S. 30:2025(E) of the Act.

## IX

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 an original proof-of-publication affidavit and an original public notice to the LDEQ and, as of the date this Settlement is executed on behalf of the LDEQ, 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.

TOTAL PETROCHEMICALS USA, INC.

BY: Marcus E. Sedoux  
(Signature)

Marcus E. Sedoux  
(Print)

TITLE: Site Manager

THUS DONE AND SIGNED in duplicate original before me this 26 day of March, 20 10, at CHARVILLE, LA.

Annette M. Martin, Notary Public  
Louisiana Notary No. 83229  
My commission is for life.

Annette M. Martin  
NOTARY PUBLIC (ID #           )

ANNETTE M. MARTIN  
(Print)

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