

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

WESTLAKE POLYMERS LLC

AI # 9061

PROCEEDINGS UNDER THE LOUISIANA ENVIRONMENTAL QUALITY ACT

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

* Settlement Tracking No.

* SA-AE-09-0050

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* Enforcement Tracking No.

* AE-CN-09-0028

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SETTLEMENT

The following Settlement is hereby agreed to between Westlake Polymers 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 low-density polyethylene production (LDPE) facility located in Sulphur, Calcasieu Parish, Louisiana ("the Facility").

II

On April 13, 2009, the Department issued to Respondent a Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. AE-CN-09-0028, which was based upon the following findings of fact:

The Respondent owns and/or operates a low-density polyethylene production (LDPE) facility known as the Polyethylene Manufacturing Complex (Polyethylene I and Polyethylene II) (the facility) located at or near 3525 Cities Service Highway in Sulphur, Calcasieu Parish, Louisiana. The

Respondent operates under Title V Permit No. 0520-00127-V1 issued on July 17, 2006.

On or about November 17, 2008 through November 20, 2008, an inspection of the Respondent's facility was performed to determine the degree of compliance with the Act and Air Quality Regulations.

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

The Respondent failed to document each inspection and test performed on process equipment. In particular, according to the Respondent's mechanical integrity records, only the most recent inspection record (April 18, 2008) was available for the relief valve XSV-1979. Each failure to document each inspection and test performed for relief valve XSV-1979 is a violation of 40 CFR 68.73(d)(4) which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, Specific Requirement No. 301 of Title V Permit No. 0520-00127-V1, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

On or about December 9, 2008, an investigation of the unauthorized discharge that occurred on or about November 16, 2008, at the Respondent's facility was performed to determine the degree of compliance with the Act and Air Quality Regulations.

The following violation was noted during the course of the investigation:

A review of Incident Report No. 08-07389 dated November 24, 2008, revealed a release of ethylene on November 16, 2008, which occurred when a vent opened while a compressor (C202-K) on K line in the Poly II Unit was being taken down. The release lasted for approximately ten (10) seconds. According to the Respondent's report approximately 492 pounds of ethylene was released. Based on phone conversations with a representative of the Respondent on December 9, 2008, the Department's investigation into the root cause of the release revealed that the bypass vent valve was not positioned properly. The failure of the bypass vent valve to be positioned properly led to the ethylene release. This is a violation of the Louisiana Air Quality Regulations, in particular LAC 33:III.905 which states, "When facilities have been installed on a property, they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities, even though the ambient air quality standards in affected areas are not exceeded." 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." This also constitutes a violation of La. R.S. 30:2057(A)(1) and 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 FIVE HUNDRED AND NO/100 DOLLARS (\$500.00), of which Three Hundred Forty-One and 92/100 Dollars (\$341.92) represents 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), 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.

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 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.

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.

WESTLAKE POLYMERS LLC

BY: WA Ahrens
(Signature)

WAYNE AHRENS
(Print)

TITLE: PLANT MANAGER

THUS DONE AND SIGNED in duplicate original before me this 14th day of January, 20 10, at Sulphur, Louisiana.

Tina M. Andrus
NOTARY PUBLIC (ID # 89050)

Tina Andrus
(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 26th day of April, 20 10, at Baton Rouge, Louisiana.

Christopher C. Ratchiff
NOTARY PUBLIC (ID # 10149)

Christopher A. Ratchiff
(Print)

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