

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

UNION CARBIDE CORPORATION

AI # 2083

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

* Settlement Tracking No.
* SA-AE-14-0054
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* Enforcement Tracking No.
* AE-PP-10-00049
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SETTLEMENT

The following Settlement is hereby agreed to between Union Carbide Corporation (“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 that owns and/or operates a facility located in Taft, St. Charles Parish, Louisiana (“the Facility”).

II

On April 15, 2010, the Department issued to Respondent a Notice of Potential Penalty, (NOPP), Enforcement No. AE-PP-10-00049, which was based upon the following findings of fact:

“On or about November 11, 2008, an investigation and subsequent file review of **ST. CHARLES OPERATIONS** owned and/or operated by **UNION CARBIDE CORPORATION (RESPONDENT)**, was performed in response to a reported release and to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Air Quality Regulations. The facility is located at 355 Louisiana Highway 3142 in Taft, St. Charles Parish, Louisiana. The

facility operates under multiple Title V Permits including Permit No. 373-V1 issued on July 5, 2007. This permit was modified and on June 13, 2008, Title V Permit No. 373-V2 was issued to the Respondent.

While the investigation by the Louisiana Department of Environmental Quality (the Department) is not yet complete, the following violations were noted during the course of the investigation and file review:

- A. According to an Unauthorized Discharge Notification Report dated November 4, 2008, and updated on November 24, 2008, the Respondent experienced an unauthorized release on October 28, 2008. At approximately 3:00 pm on October 28, 2008, a one-inch screwed vent valve assembly on a cycle gas heat exchanger piping was struck and knocked off while an operator was maneuvering a mobile manlift in the area. The cycle gas contained ethylene and ethylene oxide. Upon further analysis and investigation by the Respondent, it was discovered that the vent valve assembly was not fully threaded in the connection and was knocked off when the manlift bumped it. During the incident which lasted approximately four (4) hours, approximately 383 pounds (lbs) of ethylene and approximately 21 lbs of ethylene oxide were released into the air. The Oxide II Plant was immediately shutdown and the leaking equipment was depressurized to stop the leak and was removed from service for repair. The vent valve assembly has been replaced with a plug. The Respondent stated in the report that a survey would be conducted in the cycle gas system to ensure any other screwed connections were properly installed. This was a preventable release. The emissions are considered an unauthorized discharge and are a violation of Title Permit No. 373-V2, LAC 33:III.905, LAC 33:III.501.C.4, LAC 33:III.5109.A, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

On or about January 19, 2010, a file review of **ST. CHARLES OPERATIONS** owned and/or operated by **UNION CARBIDE CORPORATION (RESPONDENT)**, was performed in response to a reported release and to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Air Quality Regulations. The facility is located at 355 Louisiana Highway 3142 in Taft, St. Charles Parish, Louisiana. The facility operates under multiple Title V Permits including Permit Nos. 2421-V0 issued on November 10, 2005; 2422-V1 issued on

September 30, 2004, and 2656-V0 issued on March 13, 2006.

While the investigation by the Louisiana Department of Environmental Quality (the Department) is not yet complete, the following violations were noted during the course of the file review:

- A. According to the 2009 First Semiannual Monitoring Report dated September 30, 2009, there was evidence of a potential leak from a connector in heavy liquid service on January 20, 2009. However, it was not monitored within five (5) days or repaired in accordance with 40 CFR 63.169(a). This is a violation of 40 CFR 63.169(a) which language has been adopted as a Louisiana Regulation in LAC 33:III.5122. This is also a violation of Specific Requirement 161 of Title V Permit No. 2421-V0, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- B. According to the 2009 First Semiannual Monitoring Report dated September 30, 2009, the Respondent failed to perform the weekly visual inspections for two (2) pumps on February 11, 2009. This is a violation of 40 CFR 63.163(b)(3) which language has been adopted as a Louisiana Regulation in LAC 33:III.5122. This is also a violation of Specific Requirement 145 of Title V Permit No. 2421-V0, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).
- C. According to the 2009 First Semiannual Monitoring Report dated September 30, 2009, the Respondent discovered three (3) open-ended lines in Olefins I and II during the first half of 2009. Two (2) open-ended lines were discovered and corrected on February 5, 2009. The other open-ended line was discovered and corrected on June 15, 2009. An open-ended valve or line is a violation of 40 CFR 63.1033(b) which language has been adopted as a Louisiana Regulation in LAC 33:III.5122. This is also a violation of Title V Permit No. 2422-V1, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).
- D. According to the 2009 First Semiannual Monitoring Report dated September 30, 2009, the Olefin II Flare (EQT 22B) smoked during a partial unit shutdown on January 3, 2009. The smoking occurred for thirty (30) minutes within a 2-hour period. Flares shall be operated with no visible emissions excepts for periods not to exceed a total of five (5) minutes during any two (2) consecutive hours in accordance with 40 CFR 60.18(c)(1) and 40 CFR 63.11(b)(4). This is a violation of 40 CFR 60.18(c)(1) and 40 CFR 63.11(b)(4) which language has been adopted as a Louisiana Regulation in LAC 33:III.3003 and LAC 33:III.5122, respectively. This is also a violation of Title V Permit No. 2422-V1, LAC 33:III.501.C.4, LAC 33:III.905, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

- E. According to the 2009 First Semiannual Monitoring Report dated September 30, 2009, during the monthly monitoring per 40 CFR 61.354(a)(1), one of the three (3) sample results was greater than 10 ppmw. Upon further investigation, it appears that the sample that exceeded the 10 ppmw was collected from the feed to the treatment process instead of the exit stream. The other two (2) sample results which were taken from the exit stream of the treatment process were below the 10 ppmw. Collecting samples from sites other than the exit of the treatment process is a violation of No. 2422-V1, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2). This is also a violation of 40 CFR 61.354(a)(1) which language has been adopted as a Louisiana Regulation in LAC 33:III.5116.
- F. According to the 2009 First Semiannual Monitoring Report dated September 30, 2009, the Olefin I Flare (EQT 11) smoked during a unit upset on June 14, 2009. The smoking occurred for thirty-nine (39) minutes within a 2-hour period and for fifty (50) minutes in a later 2-hour period. Flares shall be operated with no visible emissions excepts for periods not to exceed a total of five (5) minutes during any two (2) consecutive hours in accordance with 40 CFR 60.18(c)(1) and 40 CFR 63.11(b)(4). Each incident of flaring is a violation of 40 CFR 60.18(c)(1) and 40 CFR 63.11(b)(4) which language has been adopted as a Louisiana Regulation in LAC 33:III.3003 and LAC 33:III.5122, respectively. This is also a violation of Title V Permit No. 2422-V1, LAC 33:III.501.C.4, LAC 33:III.905, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- G. According to the 2009 First Semiannual Monitoring Report dated September 30, 2009, Tank 2310 vented to the atmosphere intermittently on April 22, 2009. It was determined that the flame arrestor to the flare was partially restricted with rust which caused back flow into the tank and resulted in the tank venting intermittently to the atmosphere. Emissions from Tank 2310 (EPN546/EQT184) are required to be vented through a closed vent system to a control device in accordance with 40 CFR 63.2346(a)(1). Emissions venting to the atmosphere from Tank 2310 is a violation of 40 CFR 63.2346(a)(1) which language has been adopted as a Louisiana Regulation in LAC 33:III.5122. This is also a violation of Specific Requirements 311 and 312 of Title V Permit No. 2656-V0, LAC 33:III.501.C.4, LAC 33:III.905, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).”

The following violations, although not cited in the foregoing enforcement action(s), are included within the scope of this settlement:

- A. According to the 2009 Second Semiannual Monitoring Report dated March 31, 2010, the Respondent discovered seven (7) open-ended lines during the

second half of 2009. The lines were plugged upon discovery. Each open ended line is a violation of 40 CFR 63.1033(b) which language has been adopted as a Louisiana Regulation in LAC 33:III.5122. Each open ended line is also a violation of Specific Requirement 472 of Title V Permit No. 2422-V1, LAC 33:III.501.C.4 and La. R.S. 30:2057(A)(2).

- B. According to the 2009 Second Semiannual Monitoring Report dated March 31, 2010, the Respondent failed to monitor numerous components during the fourth quarter of 2009. Upon discovery of the oversight all the required components were monitored. Each failure to monitor a component is a violation of 40 CFR 63.1025(b)(3)(ii) which language has been adopted as a Louisiana Regulation in LAC 33:III.5122; Specific Requirements 408, 482, and 485 of Title V Permit No. 2422-V1; LAC 33:III.501.C.4 and La. R.S. 30:2057(A)(2).
- C. According to the 2009 Second Semiannual Monitoring Report dated March 31, 2010, the Respondent failed to keep records to demonstrate compliance for the flare from September 24, 2009 until November 15, 2009. Failure to keep records is a violation of Specific Requirement 858 of Title V Permit No. 2656-V0, 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 THIRTY THOUSAND THREE HUNDRED FIVE AND 50/100 DOLLARS (\$30,305.50), of which One Thousand Seven Hundred Fifty-Three and 70/100 Dollars (\$1,753.70) 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).

V

Respondent further agrees that the Department may consider the permit record(s), the NOPP 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 La. 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 St. Charles 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.

UNION CARBIDE CORPORATION

BY: [Signature]
(Signature)

Jean M Algate
(Printed)

TITLE: Responsible Care Leader

THUS DONE AND SIGNED in duplicate original before me this 5th day of November, 20 14, at Hahnville, Louisiana

[Signature]
NOTARY PUBLIC (ID # 26988)

M. MICHELLE MARNEY
STATE OF LOUISIANA
NOTARY PUBLIC, LA BAR ROLL NO. 26988
MY COMMISSION EXPIRES ON [stamped or printed] LIFE

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Peggy M. Hatch, Secretary

BY: [Signature]
Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 11th day of Sept, 20 15, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 19181)

Perry Theriot
(stamped or printed)

Approved: [Signature]
Cheryl Sonnier Nolan, Assistant Secretary