

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

MOSAIC FERTILIZER, LLC

AI # 2532

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

* Settlement Tracking No.
* SA-HE-21-0089
*
* Enforcement Tracking No.
* HE-PP-20-00749
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SETTLEMENT

The following Settlement is hereby agreed to between Mosaic Fertilizer, 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 phosphatic fertilizer manufacturing plant located in St. James Parish, Louisiana (“the Facility”).

II

On January 27, 2021, the Department issued to Respondent a Notice of Potential Penalty, Enforcement Tracking No. HE-PP-20-00749 (Exhibit 1).

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 THOUSAND AND NO/100 DOLLARS (\$5,000.00), of which One Thousand Five Hundred Forty and 89/100 Dollars (\$1,540.89) 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 inspection report, 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 La. R. S. 30:2025(E) of the Act.

VIII

As required by law, the Department has submitted this Settlement Agreement to the Louisiana Attorney General for approval or rejection. The Attorney General's concurrence is appended to this Settlement Agreement.

IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in St. James Parish, Louisiana. The advertisement, in form and wording 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.

X

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).

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.

MOSAIC FERTILIZER, LLC

BY: Ryuk
(Signature)

Ron Yasurak
(Printed)

TITLE: General Manager

THUS DONE AND SIGNED in duplicate original before me this 28th day of April, 20 22, at Convent, Louisiana

Jackie M. McCreary
NOTARY PUBLIC (ID # _____)

Jackie M. McCreary
State of Louisiana - Bar No. 28676
My commission is issued for life

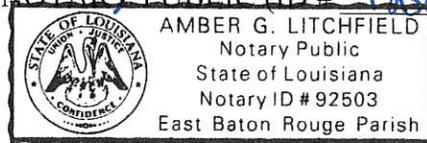
(stamped or printed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Chuck Carr Brown, Ph.D., Secretary

BY: Celena J. Cage
Celena J. Cage, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 13th day of July, 20 22, at Baton Rouge, Louisiana.

Amber G. Litchfield
NOTARY PUBLIC (ID # 92503)



(stamped or printed)

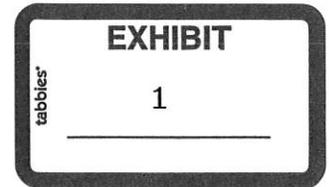
Approved: Celena J. Cage
Celena J. Cage, Assistant Secretary

JOHN BEL EDWARDS
GOVERNOR



CHUCK CARR BROWN, PH.D.
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE



JAN 27 2021

CERTIFIED MAIL (7019 2970 0000 6037 4388)
RETURN RECEIPT REQUESTED

MOSAIC FERTILIZER, LLC
c/o CT Corporation System
Agent for Service of Process
3867 Plaza Tower Dr.
Baton Rouge, LA 70816

**RE: NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. HE-PP-20-00749
AGENCY INTEREST NO. 2532**

Dear Sir/Madam:

On or about June 30, 2020, an inspection of **MOSAIC FERTILIZER, LLC – UNCLE SAM PLANT**, a phosphatic fertilizer manufacturing plant, owned and/or operated by **MOSAIC FERTILIZER, LLC (RESPONDENT)**, was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Hazardous Waste Regulations. The facility is located at 7250 La. Hwy. 44, near the community of Uncle Sam in St. James Parish, Louisiana. The Respondent is registered with the Department as a large quantity generator of hazardous waste and operates under EPA identification number LAD059545756.

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 inspection:

- A. The Respondent failed to determine if generated solid waste is a hazard, in violation of LAC 33:V.1103. Specifically, the June 30, 2020 inspection revealed the Respondent failed to determine if three (3) one (1)-gallon paint cans and three (3) fifty-five (55)-gallon drums contained hazardous waste. When questioned whether the three (3) one (1)-gallon paint cans, located in the paint shop, contained waste or were currently in use, a representative of the Respondent stated that he was not sure. The three (3) one (1)-gallon paint cans were later found to contain hazardous waste, as indicated in correspondence dated July 10, 2020, in which a representative of the Respondent stated that the one (1)-gallon paint cans were emptied into the appropriate collection drums (dried paint waste and liquid paint waste) and that the emptied cans would be

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- disposed of as solid waste. Regarding the three (3) fifty-five (55)-gallon drums, located in the hazardous waste storage area, two (2) drums were labeled as containing antifreeze and one (1) drum was labeled as containing resin. When questioned whether the three (3) fifty-five (55)-gallon drums contained waste, the representative of the Respondent stated that he was not sure. In the correspondence dated July 10, 2020, a representative of the Respondent stated that the three (3) fifty-five (55)-gallon drums had been sampled and the analytical results revealed that the three (3) fifty-five (55)-gallon drums contained non-hazardous solid waste. In a response to Warning Letter HE-L-20-00749 dated December 7, 2020, the Respondent provided waste profile sheets verifying that the three (3) fifty-five (55)-gallon drums contained non-hazardous waste. On or about December 8, 2020, a representative of the Respondent provided shipping manifests for the three (3) fifty-five (55)-gallon drums, which verified the proper disposition of the waste.
- B. The Respondent failed to mark containers of hazardous waste, located at or near the point of generation where the waste initially accumulates, either with the words "Hazardous Waste" or with other words that identify the contents of the containers, in violation of LAC 33:V.1109.E.4. Specifically, the June 30, 2020 inspection revealed that the three (3) one (1)-gallon paint cans located in the paint shop, which contains the satellite accumulation area for paint waste, contained hazardous waste and were not labeled. In correspondence dated July 10, 2020, a representative of the Respondent stated that the one (1)-gallon paint cans were emptied into the appropriate collection drums (dried paint waste and liquid paint waste) and that the emptied cans would be disposed of as solid waste.
- C. The Respondent failed to keep hazardous waste containers closed during storage, except when necessary to add or remove hazardous waste, as specified in LAC 33:V.2107.A, in violation of LAC 33:V.1109.E.4. Specifically, the June 30, 2020 inspection revealed that the three (3) one (1)-gallon paint cans located in the paint shop, which contains the satellite accumulation area for paint waste, were not properly closed. In correspondence dated July 10, 2020, a representative of the Respondent stated that the one (1)-gallon paint cans were emptied into the appropriate collection drums (dried paint waste and liquid paint waste) and that the emptied cans would be disposed of as solid waste.
- D. The Respondent failed to label or mark clearly universal waste batteries or a container in which the batteries are contained with any one of the following phrases: "Universal Waste – Battery(ies)," or "Waste Battery(ies)," or "Used Battery(ies)," in violation of LAC 33:V.3823.A.1. Specifically, the June 30, 2020 inspection revealed a waste battery was stored on the floor of the maintenance shop and was not labeled. In the response to Warning Letter HE-L-20-00749 dated December 7, 2020, the Respondent submitted a photograph of a storage pad labeled "Used Batteries." On or about December 8, 2020, a representative of the Respondent provided a photograph of a shipping manifest for the waste battery, which verified the proper disposition of the battery.
- E. The Respondent failed to clearly mark or label an aboveground container used to store used oil with the words "Used Oil," in violation of LAC 33:V.4013.D.1.

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- Specifically, the June 30, 2020 inspection revealed an unlabeled oil drip pan on the floor of the maintenance shop. In correspondence dated July 10, 2020, a representative of the Respondent submitted a photograph showing that the oil drip pan had been labeled as "Used Oil" and stated that the oil in the collection pan was emptied into the properly labeled used oil drum.
- F. The Respondent failed to notify the Office of Environmental Services within seven (7) days when the information submitted in the application for the identification number changed, in violation of LAC 33:V.1105.B. Specifically, a review of the facility's hazardous waste manifests during the June 30, 2020 inspection revealed the HW-1 Notification Form was missing the following hazardous waste codes: P051, P123, U002, U070, and U080. Additionally, the HW-1 Notification Form listed the site contact as Greg Davison. A representative of the Respondent stated that Mr. Davison was no longer employed at the facility. The Respondent submitted an updated HW-1 Notification Form, dated July 9, 2020, to the Office of Environmental Services. The updated HW-1 Notification Form, dated July 9, 2020, contained hazardous waste codes P051, P123, U002, U070, and U080, and current site contact.
- G. The Respondent failed to list names, addresses, and phone numbers of all persons qualified to act as emergency coordinator, and keep this list up to date, as specified in LAC 33:V.1513.B.4, in violation of LAC 33:V.1109.E.1.e. Specifically, the June 30, 2020 inspection revealed the contingency plan listed an emergency coordinator no longer employed at the facility. In correspondence dated July 10, 2020, the Respondent submitted an updated contingency plan reflecting the current emergency coordinator.

Pursuant to La. R.S. 30:2050.3(B), you are hereby notified that the issuance of a penalty assessment is being considered for the violation(s) described herein. Written comments may be filed regarding the violation(s) and the contemplated penalty. If you elect to submit comments, it is requested that they be submitted within ten (10) days of receipt of this notice.

Prior to the issuance of any additional appropriate enforcement action, you may request a meeting with the Department to present any mitigating circumstances concerning the violation(s). If you would like to have such a meeting, please contact William Heintz at (225) 219-9782 or William.Heintz@la.gov within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

The Department is required by La. R.S. 30:2025(E)(3)(a) to consider the gross revenues of the Respondent and the monetary benefits of noncompliance in order to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current annual gross revenue statement along with a statement of the monetary benefits of noncompliance for the cited violations to the above named contact person within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**. Include with your statement of monetary benefits the method(s) you utilized to arrive at the sum. If you assert that no monetary benefits have been gained, you are to fully justify this statement. If the Respondent chooses not to submit the requested most current annual gross revenues statement within ten (10) days, it will be viewed by the Department as an admission that the Respondent has the ability to pay the statutory maximum penalty as outlined in La. R.S. 30:2025.

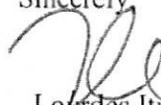
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For each violation described herein, the Department reserves the right to seek civil penalties and the right to seek compliance with its rules and regulations in any manner allowed by law, and nothing herein shall be construed to preclude the right to seek such penalties and compliance.

The Department assesses civil penalties based on LAC 33:I.Subpart1.Chapter 7. To expedite closure of this **NOTICE OF POTENTIAL PENALTY**, the Respondent may offer a settlement amount to resolve any claim for civil penalties for the violation(s) described herein. The Respondent may offer a settlement amount, but the Department is under no obligation to enter into settlement negotiations. The decision to proceed with a settlement is at the discretion of the Department. The settlement offer amount may be entered on the attached "**NOTICE OF POTENTIAL PENALTY REQUEST TO SETTLE**" form. The Respondent must include a justification of the offer. **DO NOT** submit payment of the offer amount with the form. The Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.

To reduce document handling, please refer to the Enforcement Tracking Number and Agency Interest Number on the front of this document on all correspondence in response to this action.

Sincerely,



Lourdes Iturralde
Assistant Secretary
Office of Environmental Compliance

LI/WJH/wjh
Alt ID No. LAD059545756



LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

ENFORCEMENT DIVISION

NOTICE OF POTENTIAL PENALTY

POST OFFICE BOX 4312

REQUEST TO SETTLE (OPTIONAL)

BATON ROUGE, LOUISIANA 70821-4312

Enforcement Tracking No.	HE-PP-20-00749	Contact Name	William Heintz
Agency Interest (AI) No.	2532	Contact Phone No.	(225) 219-9782
Alternate ID No.	LAD059545756		
Respondent:	MOSAIC FERTILIZER, LLC	Facility Name:	Mosaic Fertilizer, LLC – Uncle Sam Plant
	c/o CT Corporation System	Physical Location:	7250 Highway 44
	Agent for Service of Process		
	3867 Plaza Tower Dr.	City, State, Zip:	Uncle Sam, LA 70792
Baton Rouge, LA 70816	Parish:	St. James	

SETTLEMENT OFFER (OPTIONAL)

(check the applicable option)

_____	The Respondent is not interested in entering into settlement negotiations with the Department with the understanding that the Department has the right to assess civil penalties based on LAC 33:I.Subpart1.Chapter7.
_____	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (HE-PP-20-00749), the Respondent is interested in entering into settlement negotiations with the Department and would like to set up a meeting to discuss settlement procedures.
_____	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (HE-PP-20-00749), the Respondent is interested in entering into settlement negotiations with the Department and offers to pay \$ _____ which shall include LDEQ enforcement costs and any monetary benefit of non-compliance. <ul style="list-style-type: none"> • Monetary component = \$ _____ • Beneficial Environmental Project (BEP) component (optional)= \$ _____ • DO NOT SUBMIT PAYMENT OF THE OFFER WITH THIS FORM- the Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.
	The Respondent has reviewed the violations noted in NOTICE OF POTENTIAL PENALTY (HE-PP-20-00749) and has attached a justification of its offer and a description of any BEPs if included in settlement offer.

CERTIFICATION STATEMENT

I certify, under provisions in Louisiana and United States law that provide criminal penalties for false statements, that based on information and belief formed after reasonable inquiry, the statements and information attached and the compliance statement above, are true, accurate, and complete. I also certify that I do not owe outstanding fees or penalties to the Department for this facility or any other facility I own or operate. I further certify that I am either the Respondent or an authorized representative of the Respondent.

Respondent's Signature	Respondent's Printed Name	Respondent's Title
Respondent's Physical Address	Respondent's Phone #	Date

MAIL COMPLETED DOCUMENT TO THE ADDRESS BELOW:

Louisiana Department of Environmental Quality
Office of Environmental Compliance
Enforcement Division
P.O. Box 4312
Baton Rouge, LA 70821
Attn: William Heintz