

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

EAGLE US 2 LLC

AI # 1255, 8989, 8990

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

* Settlement Tracking No.
* SA-WE-14-0071
*
* Enforcement Tracking No.
* WE-CN-13-00537
*
* Docket No. 2015-9733-EQ
*

SETTLEMENT

The following Settlement is hereby agreed to between Eagle US 2 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 facilities located in Calcasieu Parish, Louisiana (“the Facilities”).

II

On May 2, 2014, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty (CONOPP), Enforcement No. WE-CN-13-00537, which was based upon the following findings of fact:

“The Respondent owns and/or operates an organic/inorganic chemical production facility within the Lake Charles Complex (LCC) located at 1300 PPG Drive in Westlake, Calcasieu Parish, Louisiana. The Respondent also owns and/or operates two brine mining facilities known as the Starks facility located at 1043 Highway 109 in Starks, Calcasieu Parish, Louisiana; and the Sulphur facility located at 2190 West Burton Street in Sulphur, Calcasieu Parish, Louisiana.

LPDES Permit LA0000761 for the Lake Charles Complex, LPDES Permit LAG480545 for the Starks brine facility, and LPDES Permit LAG480546 for the Sulphur brine facility were effectively transferred from PPG Industries, Inc. to the Respondent on January 28, 2013. The Department's approval for the permit transfers, in part, was [based] upon the Respondent's agreement to assume responsibility for the LPDES permits including any prior violations of the permit and/or water quality regulations by PPG Industries, Inc. LPDES Permit LA0000761 was effective on October 1, 2007, and expired on December 24, 2013, but is administratively continued. Both LPDES Permit LAG480545 and LPDES Permit LAG480546 were issued effective on January 23, 2006, then reissued effective on September 30, 2011, and will expire on November 30, 2015. Under the terms and condition of LPDES Permit LA0000761, the Respondent is authorized to discharge process wastewater and other various wastewaters from multiple outfalls into Bayou D'Inde, the Calcasieu Ship Channel, Bayou Verdine, or the Main Stem of the Calcasieu River, all waters of the state. Under the terms and condition of LPDES Permit LAG480545, the Respondent is authorized to discharge treated sanitary wastewater and storm water runoff to local drainage, thence to Gum Creek, thence to the Sabine River, all waters of the state. Under the terms and condition of LPDES Permit LAG480546, the Respondent is authorized to discharge treated sanitary wastewater and storm water runoff to local drainage, thence to Bayou D'Inde, all waters of the state.

Inspections on April 27, 2011 (followed up on May 18, 2011), and November 29, 2012, and a subsequent file review on March 27, 2014, conducted by the Department for the Respondent's facility at the Lake Charles Complex [Agency Interest (AI) No. 1255] revealed the following permit limitation exceedances, as reported by the Respondent on Discharge Monitoring Reports (DMRs) and Noncompliance Reports (NCRs):

Date	Outfall	Parameter	Permit Limit	Sample Value
April 2009	201A	Tetrachloroethylene monthly avg	0.81 lb/d	3.92 lb/d
		Tetrachloroethylene daily max	2.54 lb/d	19.62 lb/d
		1,1,1-Trichloroethane monthly avg	0.34 lb/d	5.66 lb/d
		1,1,1-Trichloroethane daily max	0.91 lb/d	28.30 lb/d
		Trichloroethylene monthly avg	0.40 lb/d	3.34 lb/d
		Trichloroethylene daily max	1.07 lb/d	16.69 lb/d
October 2009	101A	TSS daily max	4,277 lb/d	4,620 lb/d
May 2010	101A	TSS daily max	4,277 lb/d	4,794 lb/d
	201A	TSS monthly avg	4,678 lb/d	4,873 lb/d
January 2011	001A	pH range excursion, > 60 minutes monthly total	0 #/mo	1 #/mo
March 2011	004A	pH range excursion, > 60 minutes monthly total	0 #/mo	1 #/mo
April 2011	001A	pH range excursion, > 60 minutes monthly total	0 #/mo	1 #/mo
June 2011	101A	Total Mercury daily max	0.33 lb/d	0.47 lb/d
October 2011	101A	TSS daily max	4,277 lb/d	6,307 lb/d
March 2012	002A	pH max	9.0 s.u.	9.71 s.u.
	101A	Total Mercury daily max	0.33 lb/d	0.44 lb/d
January 2013	004A	Oil and Grease daily max	15 mg/L	113 mg/L
	201A	Total Zinc daily max	36.53 lb/d	208.32 lb/d
May 2013	001A	pH range excursion, > 60 minutes monthly total	0 #/mo	1 #/mo
November 2013	001A	BOD daily max	18,579 lb/d	22,580 lb/d
December 2013	002A	pH max	9.0 s.u.	9.2 s.u.
February 2014	001A	pH range excursion, > 60 minutes monthly total	0 #/mo	1 #/mo

Each exceedance of an effluent limitation is a violation of LPDES permit LA0000761 (Part I and Part III, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A.

A file review conducted by the Department on March 27, 2014, for the Respondent's Starks brine facility (AI No. 8989) revealed the following:

- A. The following permit limitation exceedances, were reported by the Respondent on Discharge Monitoring Reports (DMRs) and Noncompliance Reports (NCRs):

Date	Outfall	Parameter	Permit Limit	Sample Value
2 nd half 2012	001	TSS monthly avg	30 mg/L	64 mg/L
		TSS daily max	45 mg/L	64 mg/L
		pH max	9.0 s.u.	9.57 s.u.
1 st half 2013	001	pH min	6.0 s.u.	2.9 s.u.

Each exceedance of an effluent limitation is a violation of LPDES permit LAG480545 (Part I, Section B and Part III, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A.

B. The Respondent failed to submit DMRs as required by the permit. Specifically, the Respondent failed to submit DMRs for the 2nd semiannual monitoring periods of 2009 and 2010. Each failure to submit a DMR is a violation of LPDES permit LAG480545 (Part I, Section C.7 and Part III, Sections A.2 and D.4), La. R.S. 30:2076 (A) (3), and LAC 33:IX.2701.L.4.a.

A file review conducted by the Department on March 27, 2014, for the Respondent's Sulphur brine facility (AI No. 8990) revealed the following:

A. The following permit limitation exceedances, were reported by the Respondent on Discharge Monitoring Reports (DMRs) and Noncompliance Reports (NCRs):

Date	Outfall	Parameter	Permit Limit	Sample Value
2 nd half 2012	01A	TSS monthly avg	30 mg/L	182 mg/L
		TSS daily max	45 mg/L	182 mg/L
		Fecal coliform monthly avg	200 col/100 mL	>200 col/100 mL

Each exceedance of an effluent limitation is a violation of LPDES permit LAG480546 (Part I, Section B and Part III, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A.

B. The Respondent failed to submit DMRs as required by the permit. Specifically, the

Respondent failed to submit DMRs for the 2nd semiannual monitoring periods of 2009 and 2010. Each failure to submit a DMR is a violation of LPDES permit LAG480546 (Part I, Section C.7 and Part III, Sections A.2 and D.4), La. R.S. 30:2076 (A) (3), and LAC 33:IX.2701.L.4.a.

Inspections on April 27, 2011 (followed up on May 18, 2011), and November 29, 2012, and a subsequent file review on March 27, 2014, conducted by the Department revealed that the Respondent caused and/or allowed an unauthorized discharge to waters of the state at the facilities associated with AI Nos. 1255 and 8990. Specifically, releases of brine from broken/faulty pipelines at the following locations entered waters of the state:

Date	Location	Gallons
6/25/09	At LCC facility, transfer line	7,650
3/6/13	10" line, underwater at on-site fresh water pond, at Sulphur facility (pond drained and material recovered; pond refilled with fresh water)	120,000

The file review revealed that the Respondent reported the above incidents in a timely manner, and promptly cleaned up, removed, and remediated affected areas. Each unauthorized discharge to waters of the state is a violation of LPDES Permit LA0000761 (Part I, and Part III, Section A.2), La.R.S. 30:2076(A)(1)(a), and LAC 33:IX.501.C.

Inspections on April 27, 2011 (followed up on May 18, 2011), November 29, 2012, and February 16, 2014, and a subsequent file review on March 27, 2014, conducted by the Department revealed that the Respondent experienced releases of brine to the ground from broken/faulty pipelines at the following locations:

Date	Location	Gallons
6/23/09	At LCC facility, near North Liquification Unit, underground line	1,000
7/29/09	At LCC facility, transfer line	1,480
8/20/09	10" line at Sulphur facility	2,459

Date	Location	Gallons
11/2/09	16" line at Sulphur facility	31,300
11/9/09	16" line at Sulphur facility	3,440
11/19/09	16" line at Sulphur facility	470
2/18/10	16" line at Sulphur facility	~90
2/20/10	16" line at Sulphur facility	2,870
8/17/10	16" line at Sulphur facility	~4,367
4/13/11	two releases from 10" line at Sulphur facility	~727
8/25/11	16" line at Sulphur facility	~4,498
11/16/11	two releases at Sulphur facility: one from 10" line & one from 16" line	~886
1/30/12	10" line at Sulphur facility	~900
5/22/12	Brine line wash water released within containment area at Sulphur facility; tank being used to hold brine wash water during pigging of 16" line	~3,023
7/2/2012	10" line at Sulphur facility	~300
8/16/12	10" line at Sulphur facility	~7,500
9/18 – 9/20/12	Four releases from 16" line at Sulphur facility	~9,000
10/22/12	Four releases from 10" line at Sulphur facility	~4,700
12/1/12	Sulphur facility pipeline	~130
1/30/13	two releases from Sulphur facility pipeline	~240
2/1/13	16" line at Sulphur facility	~190
2/14 – 2/15/13	Three releases at Sulphur facility: two from 16" line & one from 10" line	~830
3/10/13	10" line at Sulphur facility	~5,000
4/10/13	16" line at Starks facility	~3,000
6/4/13	Sulphur facility pipeline	~230
8/2/13	10" line at Sulphur facility	~1,203
9/9 – 9/10/13	two releases at Sulphur facility: one from 10" line & one from 16" line	~2,466
2/16/14	pipeline at Sulphur facility	36,000

The file review revealed that the Respondent reported the above incidents in a timely manner, and promptly cleaned up, removed, and remediated affected soils.

Inspections on April 27, 2011 (followed up on May 18, 2011), November 29, 2012, and February 24, 2014, and a subsequent file review on March 27, 2014, conducted by the

Department revealed unauthorized discharges of pollutants to waters of the state from a source or location not authorized by the permit associated with AI No. 1255. Specifically, the Respondent allowed and/or caused the following unauthorized discharges to waters of the state:

Date	Substance Released	Amount	Cause	Discharge Route
4/14/09	NaOH	3,599 lbs.	pipeline leak	Plant ditch to PPG canal through Outfall 001
7/6/09	Oil	~100 gals.	Overfilled oil/water separator during heavy rain	Gate 15 drainage ditch
2/6/11	NaOH	45,200 lbs. (37,200 lbs. recovered)	transfer line rupture	Through Outfall 001
3/30/11	NaOH	61,500 lbs. (15,000 lbs. contained)	railcar loading rack overfill	Through Outfall 004
3/29/12	H ₂ SO ₄	1,625 lbs.	fork lift accident, tote spill	Nearby drainage ditch (ditch blocked off downstream)
4/21/12	NaOH	27,368 lbs. (small amount unrecovered)	valve bonnet leak	PPG Canal through Outfall 001
5/12/12	Oil	Unknown (oil sheen visible)	Oil/water separator	Main outfall canal near I-210 bridge
2/19/13	NaOH	2,500 lbs.	tank failure	Through process wastewater sewers
5/9/13	HCL	Unknown	Underground pipe leak	Ground, then to ditch 025, then to 401 ditch
2/19/14	NaOH	8,980 lbs.	Improper valve alignment at process equipment	Through process wastewater sewers

The file review revealed that the Respondent reported the above incidents in a timely manner, and promptly cleaned up, removed, and remediated affected area. Each unauthorized discharge to waters of the state is a violation of LPDES Permit LA0000761 (Part I, and Part III, Section A.2), La.R.S. 30:2076(A)(1)(a), and LAC 33:IX.501.D.

An inspection on February 24, 2014, and a subsequent file review on March 27, 2014, conducted by the Department revealed that the Respondent failed to adequately implement the Storm Water Pollution Prevention Plan (SWPPP) associated with AI No. 1255. Specifically, the Respondent failed to adequately implement the SWPPP as follows:

Date	Substance Released to Ground	Amount	Failed SWPPP implementation
10/2/09	NaOH	194,756 lbs.	Bleed valve left open during loading operations
5/25/10	Oil	50 gals.	Release from failed seal on the oil pump for the North Dock refrigeration unit escaped containment.
6/22/12	Diesel	104 gals.	300-gal tank removed from containment area by forklift while being used as a temporary mobile storage tank for diesel spilled contents during forklift accident.
9/22-9/23/13	NaOH	3,104 lbs.	Leak from storage tank. Tank now out of service.
12/19/13	NaOH	7,834 lbs.	New valve replaced on caustic transfer header left open
2/19/14	NaOH	9,819 lbs.	Improper valve alignment at process equipment

The file review revealed that the Respondent reported the above incidents in a timely manner, and promptly cleaned up, removed, and remediated affected areas. Each failure to adequately implement the SWPPP is a violation of LPDES Permit LA0000761 (Part II, Section V.5.g and Part III, Section A.2), La. R.S. 30:2076 (A) (3), and LAC 33:IX.2701.A.

A file review conducted by the Department on March 27, 2014, revealed that the Respondent allowed and/or caused an unauthorized discharge associated with AI No. 1255, which caused an adverse impact to aquatic biota. Specifically, according to the Respondent, on April 6, 2011, an unauthorized discharge of chlorine into the process sewer during the Plant C Chlorine tower start-up resulted in four (4) dead redfish being observed in the facility discharge canal the following day; and on July 18, 2011, the discharge of high temperature water into the Powerhouse “C” ditch from an overflow of the condensate tanks, which received excess heated water for the cogeneration process caused the death of ninety-seven (97) redfish, sixty-six (66) black drum, and thirteen (13) blue crabs. Each unauthorized discharge is a violation of LPDES Permit LA0000761 (Part I, and Part III, Section A.2), La.R.S. 30:2076(A)(1)(a), and LAC 33:IX.501.C. This destruction of aquatic biota is a violation of La. R.S. 30:2076 (A)(3), LAC 33:IX.501.A, LAC 33:IX.1113.B.1.d, LAC 33:IX.1113.B.5, and LAC 33:IX.2701.A.”

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

A file review on June 9, 2015, conducted by the Department revealed that the Respondent experienced releases of brine to the ground from broken/faulty pipelines at the following locations on the following dates:

Date	Location	Lbs.
4/21/14	East of Km St., Sulphur, LA	79,898
7/4/14	100 yds. E. of Kim St., Sulphur, LA	49,980
8/18/14	At Sulphur Mines brine facility	19,808
8/18/14	From Starks brine line, 0.7 mi. from #7 Rd.	293
8/23/14	On site at Starks brine facility	3,822
10/16/14	500 yds. West of Landry St. in Sulphur, LA from 16" line	176,077
12/18/14	Old Spanish Trail Rd. near intersection with Lyons Ave – 16" pipeline	74,700
1/8/15	Between Crocker and Claiborne Streets, Sulphur, LA	33,640
2/11/15	On site at Lake Charles South Plant	102,000
2/13/15 – 2/15/15	12 different points along the 16" brine line from Sulphur Mines brine mining facility	520,000
5/7/15	10" line west of Jay Clophus St.	51,966

The file review revealed that the Respondent reported the above incidents in a timely manner, and promptly cleaned up, removed, and remediated affected soils. With regard to the 2/13/15 to 2/15/15 leaks, Respondent is conducting a RECAP Assessment per LAC 33:I.Chapter 13.

On December 15, 2015, a file review conducted by the Department for the Respondent's facility at the Lake Charles Complex [Agency Interest (AI) No. 1255] revealed the following permit limitation exceedances, as reported by the Respondent on Discharge Monitoring Reports (DMRs) and Noncompliance Reports (NCRs):

Date	Outfall	Parameter	Permit Limit	Sample Value
September 2014	201A	TSS daily max	15,981 lb/d	21,626 lb/d
		TSS monthly avg	5,280 lb/d	7,692.44 lb/d
		TSS daily max	15,987 lb/d	20,311 lb/d

Date	Outfall	Parameter	Permit Limit	Sample Value
April 2015	001A	pH range excursion, > 60 minutes monthly total	0 #/mo	1 #/mo
May 2015	002A	pH max	9.0 s.u.	9.5 s.u.
June 2015	001A	pH range excursion, > 60 minutes monthly total	0 #/mo	1 #/mo
August 2015	201A	TSS daily max	15,981 lb/d	28,560 lb/d

Each exceedance of an effluent limitation is a violation of LPDES permit LA0000761 (Part I and Part III, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A.

Since the issuance of the May 2, 2014 CONOPP, Enforcement Action No. WE-CN-13-00537, the status of the Lake Charles Complex, Starks facility, and Sulphur facility has changed. The Lake Charles Complex was re-issued LPDES Permit LA0000761 effective on April 3, 2014, and which will expire April 3, 2019. The LPDES Permit LAG480545, which the Starks facility operates under, and the LPDES Permit LAG480546, which the Sulphur facility operates under, both expired on November 30, 2015. Both permits have been administratively continued.

III

In response to the CONOPP, 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 Department agrees to accept, a payment in the amount of FORTY-ONE THOUSAND TWO HUNDRED AND NO/100 DOLLARS (\$41,200.00), of which One Thousand Five Hundred Seven and 15/100 Dollars (\$1507.15) 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).

Further, as part of this settlement agreement, Respondent has entered into Administrative Order on Consent Agreement (AOA), Enforcement Tracking No. WE-AOA-15-01293, with the Department. The AOA orders Respondent to replace the brine pipelines between the Sulphur Facility and the Lake Charles Complex with pipelines constructed of more corrosion resistant material.

VI

Respondent further agrees that the Department may consider the inspection report(s), permit record(s), the CONOPP 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.

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 Department 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 Department considered the factors for issuing civil penalties set forth in La. R. S. 30:2025(E) of the Act.

IX

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.

X

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 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.

XI

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).

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.

EAGLE US 2 LLC

BY: Curtis Brescher
(Signature)

Curtis Brescher
(Printed)

TITLE: Director of Operations

THUS DONE AND SIGNED in duplicate original before me this 5th day of January, 20 17, at Lake Charles, LA.

Beth Lee Mueller
NOTARY PUBLIC (ID # 68629)

Beth Lee Mueller
(stamped or printed)

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

BY: [Signature]
Lourdes Iturralde, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 5th day of April, 20 17, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 19181)

Perry Theriot
(stamped or printed)

Approved: [Signature]
Lourdes Iturralde, Assistant Secretary