

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

NORANDA ALUMINA LLC

AI # 1388

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

* Settlement Tracking No.
* SA-MM-16-0042
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* Enforcement Tracking No.
* MM-PP-16-00993
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SETTLEMENT

The following Settlement is hereby agreed to between Noranda Alumina 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 owned and/or operated an alumina extraction facility located in Gramercy, St. James Parish, Louisiana (“the Facility”) from approximately September 30, 2004 until October 28, 2016.

II

On October 28, 2016, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. MM-PP-16-00993, which was based upon the following findings of fact:

“On or about April 25, 2016, an inspection of **GRAMERCY WORKS**, an alumina extraction facility, owned and/or operated by **NORANDA ALUMINA LLC (RESPONDENT)**, was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Air, Waste, and Water Quality Regulations. Subsequent file reviews were conducted on

October 10, 2016, and October 17, 2016. The facility is located at 1111 Airline Highway in Gramercy, St. James Parish, Louisiana. The facility currently operates under the authority of the following Air, Waste, and/or Water Permits:

UNIT	MEDIA	PERMIT	ISSUE DATE
Bauxite Processing Area, Products Area , and Power Area	Air	2453-V5	08/11/2015
Red Mud Management Area	Air	2481-V4	07/05/2012
Cajunite Area	Air	2387-V2	06/30/2016
Prevention of Significant Deterioration Permit (PSD)	Air	PSD-LA-684(M-1)	02/15/2011
Facility	Water	LA0079961	09/22/2015
Standard Solid Waste Permit	Waste	P-0134	06/16/2011

On February 8, 2016, Noranda Aluminum, Inc. and all of its wholly owned direct and indirect subsidiaries, which includes Noranda Alumina LLC, filed for bankruptcy under Chapter 11 of the Bankruptcy Code.

While the investigation by the Louisiana Department of Environmental Quality (the Department) is not yet complete, the following violation(s) were noted during the course of the inspection and/or file reviews:

- A. The Respondent emitted an unauthorized pollutant, mercury, from February 9, 2016 through the issuance of the Title V Renewal Permit. In the Mercury Quantification Activities Report dated May 31, 2016, the Respondent reported potential annual emissions of mercury to be an estimated 1,378 lb./yr. In the Supplement to Application for Renewal & Revision of Permit No. 2453-V5 dated June 30, 2016, the Respondent proposed annual mercury emissions of 0.750 tons per year [~1500 lb./yr.]. The emission of an unpermitted pollutant is a violation of LAC 33:III.501.C.2 and La. R.S. 30:2057(A)(1) and 30:2057(A)(2). The Respondent was previously cited for unauthorized emission of mercury in Consolidated Compliance Order & Notice of Potential Penalty (CONOPP), Enforcement Tracking No. AE-CN-14-00502 issued on February 20, 2015.
- B. In the 2016 First Semiannual Monitoring Report dated September 27, 2016, and additional correspondence dated September 30, 2016, the Respondent reported the following deviations from permitted operating parameters:

	EMISSION POINT	PERMIT NUMBER	INCIDENT DATE (duration)	POLLUTANTS INVOLVED	OPERATING PARAMETER	DEVIATION OR REPORTED CAUSE	REGULATORY or PERMIT REQUIREMENTS
I.	EQT 0018 1-70 Kiln No. 3	2453-V5	02/18/2016- 03/09/2016 (480 hours)	PM	Kilovolts range of 12-45; Milliamps range of 100-1000	Low kilovolts & milliamps readings	40 CFR 64.6 (c)(2) Specific Requirement 145
II.	EQT 0018 1-70 Kiln No. 3	2453-V5	04/10/2016- 05/08/2016 (672 hours)	PM	Kilovolts range of 12-45; Milliamps range of 100-1000	Low kilovolts & milliamps readings	40 CFR 64.6 (c)(2) Specific Requirement 145

Each failure to operate according to permitted requirements is a violation of any applicable permit and associated requirement(s) listed above, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

C. In the 2016 First Semiannual Monitoring Report dated September 27, 2016, and additional correspondence dated September 30, 2016, the Respondent reported the following emission exceedances:

	EMISSION POINT	PERMIT NUMBER	INCIDENT DATE	POLLUTANTS	PERMITTED EMISSION LIMIT (max lb/hr)	EXCESS EMISSIONS	REPORTED CAUSE/DESCRIPTION
I.	EQT 0020 2-73 Kiln No. 2	2453-V5	01/26/2016- 01/29/2016 (72 hours)	PM	11.34	Not reported	Bank 2B out; Communication error
II.	EQT 0020 2-73 Kiln No. 2	2453-V5	02/13/2016- 04/10/2016 (1,368 hours)	PM	11.34	Not reported	Bank 2C out
III.	EQT 0018 1-70 Kiln No. 3	2453-V5	02/18/2016- 03/09/2016 (480 hours)	PM	9.22	Not reported	Bank 3B out; Low kilovolts & milliamps readings
IV.	EQT 0018 1-70 Kiln No. 3	2453-V5	04/10/2016- 05/08/2016 (672 hours)	PM	9.22	Not reported	Bank 3C out; Low kilovolts & milliamps readings
V.	EQT 0019 1-73 Kiln No. 1	2453-V5	05/20/2016- 06/30/2016 (984 hours)	PM	7.13	Not reported	Bank 1A out
VI.	EQT 0020 2-73 Kiln No. 2	2453-V5	05/14/2016- 05/19/2016 (120 hours)	PM	11.34	Not reported	Bank 2B out; Communication error
VII.	EQT 0019 1-73 Kiln No. 1	2453-V5	05/20/2016- 07/01/2016	PM	7.13	Not reported	Bank 1A went off-line
VIII.	EQT 0019 1-73 Kiln No. 1	2453-V5	07/26/2016- 09/27/2016	PM	7.13	Not reported	Bank 1B went off-line

Each emission exceedance is a violation of any applicable permit and associated requirement(s) listed above, LAC 33:III.501.C.4, and La. R.S. 30: 2057(A)(1) and 30:2057(A)(2).

- D. The Respondent caused and/or allowed the disposition of solid waste without a permit and/or the authority of the Department, in violation of La R.S. 30:2155, LAC 33:VII.315.C, LAC 33:VII.901.A, and items seven (7) and eight (8) of Standard Solid Waste Permit P-0134R1. Specifically, while a portable diesel tank was being filled on March 28, 2016, approximately one hundred (100) gallons of off-road diesel overflowed secondary containment and entered the facility's solid waste surface impoundment, known to the Department as Mud Lake No. 3. Mud Lake No. 3 is not permitted to receive diesel.
- E. The inspection conducted on or about April 25, 2016, revealed that the Respondent failed to analyze samples in accordance with approved Environmental Protection Agency (EPA) methods. Specifically, the inspection revealed that total mercury samples for Outfalls 004, 005 and 006 were being sampled by an unapproved method, Method SW846 7470A. The failure to analyze the total mercury samples in accordance with EPA approved methods is a violation of LPDES Permit No. LA0079961 (Part III, Sections A.2 and C.5.a), La. R.S. 30:2076(A)(3), LAC 33:IX.2701.E, and LAC 33:IX.4901).
- F. The inspection conducted on or about April 25, 2016, revealed that the facility's Stormwater Pollution Prevention Plan (SWPPP) was not implemented. Specifically, the diesel fuel station dike drain valve was in the open position. There was no discharge from the valve at the time of the inspection. However, pooled water containing a light rainbow sheen was present outside of the dike, near the drain valve. The failure to implement the SWPPP by failing to keep drains from diked areas in the closed position except during periods of supervised discharge is a violation of LPDES Permit LA0079961 (Part II, Section K.5.f and Standard Conditions for LPDES Permits, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.A.
- G. The inspection conducted on or about April 25, 2016, and subsequent file review on October 10, 2016, revealed that the effluent limitation for Biochemical Oxygen Demand (BOD5) was exceeded. The Respondent reported on its Discharge Monitoring Report (DMR) for May 2016 a value of 37.9 mg/L (monthly average) for BOD5 for Outfall 501. The permit limit is 30 mg/L (monthly average). The effluent limit exceedance is a violation of LPDES Permit No. LA0079961 (Part I, page 10 of 12; Part II, Section I; and Part III, Section A.2), La. R.S. 30:2076, and LAC 33:IX.501.A.
- H. A file review conducted on October 10, 2016, revealed that the effluent limitation for Oil and Grease was exceeded. The Respondent reported on its Discharge Monitoring Report (DMR) for the second quarter of 2016, a value of 22.2 mg/L (daily maximum) for Oil and Grease for Outfall 004. The permit limit is 15 mg/L (daily maximum). The effluent limit exceedance is a violation of LPDES Permit No. LA0079961 (Part I, page 8 of 12; Part II, Section I; and Part III, Section A.2), La. R.S. 30:2076, and LAC 33:IX.501.A.

- I. A file review conducted on October 10, 2016, revealed the Respondent failed to sample the effluent for Oil and Grease and Total Organic Carbon (TOC) from Outfall 003 in the second quarter of 2016 as required by LPDES Permit LA0079961. Each failure to sample is a violation of (Part I, page 7 of 12 and Part III, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A.”

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 NINETY-FIVE THOUSAND SEVEN HUNDRED FIFTY AND NO/100 DOLLARS (\$95,750.00), of which Four Hundred Forty-Four and 10/100 Dollars (\$444.10) 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(s), permit record(s), 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.

NORANDA ALUMINA LLC

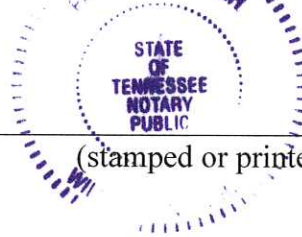
BY: [Signature]
(Signature)

Gail E. Lehman
(Printed)

TITLE: General Counsel

THUS DONE AND SIGNED in duplicate original before me this 16th day of December, 20 16, at Franklin, TN.

[Signature]
NOTARY PUBLIC (ID# _____)



(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 25th day of May, 20 17, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 19181)

Perry Theriot
(stamped or printed)

Approved: [Signature]
Lourdes Iturralde, Assistant Secretary