

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

DELTECH CORPORATION

AI # 248

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

\* Settlement Tracking No.  
\* SA-WE-16-0033  
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\* Enforcement Tracking No.  
\* WE-CN-15-00519  
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SETTLEMENT

The following Settlement is hereby agreed to between Deltech 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 an organic manufacturing facility located in East Baton Rouge Parish, Louisiana (“the Facility”).

II

On October 5, 2015, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. WE-CN-15-00519, which was based upon the following findings of fact:

“The Respondent owns and/or operates an organic chemical manufacturing plant located at 11911 Scenic Highway, Baton Rouge, East Baton Rouge Parish, Louisiana. The Respondent was issued LPDES permit LA0000833 on May 6, 2011, with an effective date of June 1, 2011. The permit will expire on May 31, 2016. Under the terms and conditions of LPDES permit LA0000833,

the Respondent is authorized to discharge process wastewater and other various wastewaters into the Baton Rouge Harbor Canal, thence to the Mississippi River, all waters of the state.

On or about September 12 and 25, 2014, inspections and a subsequent file review on September 3, 2015, conducted by the Department revealed that the Respondent failed to sample or measure the flow of the effluent. Specifically, the Respondent failed to sample for the following:

- Oil and grease at Outfall 001 (January 2012, April 2014, February 2015, and April 2015) and at Outfall 002 (1<sup>st</sup> Quarter 2014);
- All volatile/acid/base compounds at Outfall 001 (December 2012);
- TOC at Outfall 002 (3<sup>rd</sup> Quarter 2013 and 1<sup>st</sup> Quarter 2014);
- pH at Outfall 002 (1<sup>st</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Quarters 2014, and 1<sup>st</sup> Quarter 2015); and
- Flow at Outfall 001 (September 2013).

Each failure to sample or measure the flow of the effluent is a violation of LPDES Permit LA0000833 (Part I and Part III, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A.

On or about September 12 and 25, 2014, inspections and a subsequent file review on September 3, 2015, conducted by the Department revealed the following permit limitation exceedances, as reported by the Respondent on Discharge Monitoring Reports (DMRs). Specifically, the Respondent exceeded following effluent limitations:

- the 60 minute pH range monthly total during the May, July, August, and September 2012 and August 2013 monitoring periods at Outfall 001;
- both the ethylbenzene monthly average and daily maximum during the June 2014 monitoring period at Outfall 001,
- the toluene daily maximum during the July 2015 monitoring period at outfall 001, and

- the TSS monthly average during the November 2014 and January 2015 monitoring periods at Outfalls 101 and 201, respectively.

Each exceedance of the permit limitations is a violation of LPDES permit LA0000833 (Part I and Part III, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A.

On or about September 25, 2014, an inspection conducted by the Department revealed that the Respondent failed to implement an adequate Spill Prevention and Control (SPC) Plan. Specifically, during the inspection it was determined that the Respondent failed to repair the leak from the crude styrene storage tank MV 815, which had been ongoing since January 2013. On January 9, 2013, an inspection conducted by the Department documented that a leak from this tank was discovered by the facility on January 2, 2013. Crude styrene was originally leaking to the ground inside the containment from the 2.86 million gallon tank. The Respondent stated that the release was below reportable quantity (RQ) and that the Respondent would take action to repair the tank once the volume of the tank was emptied. During the inspection performed on September 25, 2014, it was determined that MV 815 was still leaking. The facility had installed a French drain and pump system that collected the material and pumped it to another tank where it was decanted. Records indicate that the tank has not been emptied and has been filled on several occasions. In addition, the Respondent failed to perform and document inspections required by the SPC Plan. Each failure to implement an adequate SPC Plan is a violation of La. R.S. 30:2076(A)(3), and LAC 33:IX.907.F.4.

On or about September 25, 2014, an inspection conducted by the Department revealed that the Respondent failed to conduct a periodic 5-year review of the SPC Plan and amend the SPC plan accordingly to include more effective technology (if such technology will significantly reduce the likelihood of a spill event and has been field proven at the time of the review). Specifically,

regarding an inspection conducted by the Department on December 18, 2013, the Respondent stated in a correspondence to the Department dated August 6, 2014, that an internal audit revealed areas of opportunity to refine the SPC Plan and a revised and updated SPC Plan would be completed by August 31, 2014. However, per a copy of the SPC Plan provided to the Department in January 2015, the last review of the SPC Plan was conducted in 2009. The failure to conduct a periodic 5-year review of the SPC Plan and amend the SPC plan accordingly to include more effective technology is a violation of La. R.S. 30:2076(A)(3), and LAC 33:IX.905.F.

On or about September 25, 2014, an inspection conducted by the Department revealed that the Respondent failed to provide a copy of the Storm Water Pollution Prevention Plan (SWPPP) to the Department as requested during the inspection. The failure to make available a copy of the SWPPP is a violation of LPDES permit LA0000833 (Part II, Section L.4.f and Part III, Sections A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A.

On or about September 25, 2014, an inspection conducted by the Department revealed that the Respondent failed to maintain records of annual SWPPP inspections. Specifically, during the inspection, the Department requested records of annual SWPP inspections conducted by the Respondent. The Respondent failed to provide these records. Furthermore, on August 6, 2014, in response to an inspection conducted by the Department on December 18, 2013, the Respondent indicated that records of SWPPP inspections were not being kept. Each failure to maintain records of annual SWPPP inspections is a violation of LPDES permit LA0000833 (Part II, Section L.4.d and Part III, Sections A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A.

On or about September 15, 2015, a file review conducted by the Department revealed that the Respondent failed to review and update the SWPPP within six months of the permit renewal's

effective date of June 1, 2011. Specifically, regarding an inspection conducted by the Department on December 18, 2013, the Respondent stated in a correspondence to the Department dated August 6, 2014, that an internal audit revealed that the SWPPP required revisions and/or updates, and that it would be completed by August 31, 2014. The failure to review and update the SWPPP within six months of the permit renewal's effective date is a violation of LPDES permit LA0000833 (Part II, Section L.3 and Part III, Sections A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A.

An inspection on or about June 17, 2008, and a subsequent file review on September 3, 2015, conducted by the Department revealed that the Respondent experienced various effluent limitation violations during a review of DMRs from January 2006 through December 2010. The violations cited in Paragraph III above reflect the current effluent limitation compliance issues at the facility based on the Department's investigation of a recent inspection and file review. Since these current violations are similar to those from the June 17, 2008 inspection, upon issuance of this Compliance Order, the Department will not take action to address these previous violations."

### 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 TWENTY-SIX THOUSAND AND NO/100 DOLLARS (\$26,000.00), of which One Thousand Five Hundred Five and 31/100 Dollars (\$1,505.31) 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 Consolidated Compliance Order & 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 East Baton Rouge 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.

**DELTECH CORPORATION**

BY: *Daniel C. Rutherford*  
(Signature)

DANIEL C. Rutherford  
(Printed)

TITLE: *VICE President General Mgr.*

THUS DONE AND SIGNED in duplicate original before me this *3rd* day of *February*, 20 *17*, at *BATON ROUGE, La*.

*Brenda E Welch*  
NOTARY PUBLIC (ID # *10584*)

*Brenda E Welch*  
(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 *27th* day of *June*, 20 *17*, at *Baton Rouge, Louisiana.*

*[Signature]*  
NOTARY PUBLIC (ID # *19181*)

*Perry Theriot*  
(stamped or printed)

Approved: *[Signature]*  
Lourdes Iturralde, Assistant Secretary