

STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY



IN THE MATTER OF:	*	Settlement Tracking No.
	*	SA-WE-17-0019
HELENA CHEMICAL COMPANY	*	
	*	Enforcement Tracking No.
AI # 164933	*	WE-CN-10-01397
	*	
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT	*	
LA. R.S. 30:2001, <u>ET SEQ.</u>	*	

SETTLEMENT

The following Settlement is hereby agreed to between Helena Chemical Company (“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 agricultural chemical distribution facility located in Thibodaux, Lafourche Parish, Louisiana (“the Facility”).

II

On September 6, 2011, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. WE-CN-10-01397, which was based upon the following findings of fact:

“The Respondent owns and/or operates an agricultural chemical distribution facility at 694 Highway 3266 in Thibodaux, Lafourche Parish, Louisiana. The Respondent does not have a Louisiana Pollutant Discharge Elimination System (LPDES) permit or any other authority to discharge wastes and/or other substances to the waters of the state.

On about May 22, 2009, an inspection conducted by the Department, in response to a citizen's complaint, revealed that the Respondent did cause or allow an unauthorized discharge of sanitary wastewater into an un-named roadside ditch, thence into 40 Arpent canal, thence into Onion Bayou, waters of the state. The unauthorized discharge of sanitary wastewater into waters of the state is a violation of La. R.S. 30:2075.

On about May 22, 2009, an inspection conducted by the Department, in response to a citizen's complaint, revealed that the Respondent did cause or allow an unauthorized discharge of approximately five (5) gallons of Pendimethalin herbicide concentrate from an agriculture chemical transport truck into the south drainage ditch along 40 Arpent Road. The water color was noted in the inspection to be bright yellow in color. The unauthorized discharge of herbicide into waters of the state is a violation of La. R.S. 30:2075.

On or about May 26, 2009, the Department served the Respondent with a Notice of Deficiency (NOD) for the unauthorized discharge of sanitary wastewater and stormwater. The NOD required the Respondent to submit a completed LPDES Notice of Intent (NOI)/Application form to the Department within thirty (30) days.

A file review conducted by the Department on or about May 18, 2011, revealed that the Respondent failed to submit a completed NOI/Application form. The Department received an application from the Respondent on October 13, 2010. In a letter from the Department dated October 25, 2010, the Respondent was requested to submit the information identified on the enclosed checklist in order to proceed with the permit application process. The Department requested that the Respondent submit the information within fifteen (15) days of receipt of the letter. As of May 18, 2011, the Department has not received the requested information from the Respondent. The Respondent's failure to submit a completed LPDES NOI/Application to obtain a LPDES permit for

its sanitary wastewater discharge is a violation of LA R.S. 2076 (A)(3), LAC 33:IX.501.A, and LAC 33:IX.2501.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 FIFTEEN THOUSAND AND NO/100 DOLLARS (\$15,000.00), of which One Thousand Nine Hundred Ninety-Seven and 71/100 Dollars (\$1,997.71) 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 Lafourche 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.

HELENA CHEMICAL COMPANY

BY: [Signature]
(Signature)

Dana W. Hawkins
(Printed)

TITLE: V.P. Legal, Regulatory & Govt. Affairs

THUS DONE AND SIGNED in duplicate original before me this 9th day of August, 20 17, at Shelby County, TN.

Gena L. Acklin
NOTARY PUBLIC (ID # _____)



Gena L. Acklin
(stamped or printed)

MY COMMISSION EXPIRES MAY 11, 2019

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 20th day of Oct, 20 17, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 19181)

Perry Theriot
(stamped or printed)

Approved: [Signature]
Lourdes Iturralde, Assistant Secretary