

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

LAMB WESTON, INC.

AI # 166348

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

\* Settlement Tracking No.  
\* SA-AE-17-0033  
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\* Enforcement Tracking No.  
\* AE-PP-15-00699  
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SETTLEMENT

The following Settlement is hereby agreed to between Lamb Weston, Inc. (“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 a facility located in Richland Parish, Louisiana (“the Facility”). At the time of the violation(s), the facility was owned and operated by ConAgra Foods Lamb Weston, Inc. Presently, Respondent is no longer a part of ConAgra Foods Lamb Weston, Inc. and is an independent company.

II

On November 5, 2015, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. AE-PP-15-00699, which was based upon the following findings of fact:

“On or about June 12, 2015, a file review of **DELHI PLANT**, a food processing plant, owned and/or operated by **CONAGRA FOODS LAMB WESTON, INC. (RESPONDENT)**,

was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Air Quality Regulations. The facility is located at 77 Louisiana Highway 609 in Delhi, Richland Parish, Louisiana. The facility operates or has operated under the authority of the following Air Permits:

| PERMIT NO.      | ISSUANCE DATE |
|-----------------|---------------|
| 2460-00024-01AA | 10/16/12      |
| 2460-00024-01   | 06/29/12      |
| 2460-00024-00   | 09/03/09      |

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 file review:

- A. In the 2010 Annual Fryer Scrubber Report dated March 24, 2011, the Respondent reported the following deviations from the permitted operating parameters for the Fryer Scrubber (EQT 0003):

| Date and Time | Permitted Flow Rate | Avg. Flow Rate |
|---------------|---------------------|----------------|
| 12/13/10 4 PM | ≥100 gpm            | 89.1 gpm       |
| 12/13/10 5 PM | ≥100 gpm            | 58.7 gpm       |

Each operation of the scrubber below the permitted flow rate is a violation of Specific Requirement 11 of Permit No. 2460-00024-00, LAC 33:III:501.C.4, and La. R.S. 30:2057(A)(2).

- B. In the 2011 Annual Fryer Scrubber Report dated March 8, 2012, the Respondent reported the following deviations from the permitted operating parameters for the Fryer Scrubber (EQT 0003):

| Date and Time  | Permitted Flow Rate | Avg. Flow Rate |
|----------------|---------------------|----------------|
| 03/09/11 11 AM | ≥100 gpm            | 4.2 gpm        |
| 03/09/11 12 PM | ≥100 gpm            | 5.4 gpm        |
| 03/09/11 1 PM  | ≥100 gpm            | 3.4 gpm        |
| 03/09/11 2 PM  | ≥100 gpm            | 2.9 gpm        |
| 06/15/11 8 AM  | ≥100 gpm            | 3.2 gpm        |

| Date and Time  | Permitted Flow Rate | Avg. Flow Rate |
|----------------|---------------------|----------------|
| 06/15/11 9 AM  | ≥100 gpm            | 8.6 gpm        |
| 09/20/11 10 AM | ≥100 gpm            | 9.2 gpm        |

Each operation of the scrubber below the permitted flow rate is a violation of Specific Requirement 11 of Permit No. 2460-00024-00, LAC 33:III:501.C.4, and La. R.S. 30:2057(A)(2).

C. In the 2012 Annual Fryer Scrubber Report dated March 19, 2013, the Respondent reported the following deviations from the permitted operating parameters for the Fryer Scrubber (EQT 0003):

| Date and Time  | Permitted Flow Rate | Avg. Flow Rate | Hours Out of Range |
|----------------|---------------------|----------------|--------------------|
| 05/16/12 9:00  | ≥100 gpm            | 96.34          | 2                  |
| 05/16/12 16:00 | ≥100 gpm            | 97.16          | 36                 |
| 05/18/12 7:00  | ≥100 gpm            | 99.01          | 24                 |
| 05/19/12 9:00  | ≥100 gpm            | 98.72          | 16                 |
| 05/20/12 3:00  | ≥100 gpm            | 98.94          | 6                  |
| 05/20/12 10:00 | ≥100 gpm            | 98.35          | 14                 |
| 05/21/12 3:00  | ≥100 gpm            | 98.58          | 3                  |
| 06/05/12 10:00 | ≥100 gpm            | 79.46          | 29                 |
| 06/06/12 17:00 | ≥100 gpm            | 78.98          | 7                  |
| 06/07/12 1:00  | ≥100 gpm            | 78.86          | 8                  |
| 06/07/12 10:00 | ≥100 gpm            | 78.80          | 5                  |
| 06/07/12 17:00 | ≥100 gpm            | 78.90          | 14                 |
| 06/08/12 8:00  | ≥100 gpm            | 79.17          | 7                  |
| 06/08/12 16:00 | ≥100 gpm            | 79.39          | 4                  |
| 06/08/12 21:00 | ≥100 gpm            | 79.42          | 1                  |
| 06/08/12 23:00 | ≥100 gpm            | 81.91          | 15                 |
| 06/09/12 16:00 | ≥100 gpm            | 82.26          | 1                  |

| Date and Time  | Permitted Flow Rate | Avg. Flow Rate | Hours Out of Range |
|----------------|---------------------|----------------|--------------------|
| 06/09/12 19:00 | ≥100 gpm            | 81.82          | 5                  |
| 06/10/12 2:00  | ≥100 gpm            | 81.99          | 29                 |
| 06/11/12 9:00  | ≥100 gpm            | 82.26          | 21                 |
| 07/24/12 10:00 | ≥100 gpm            | 84.36          | 28                 |
| 07/25/12 17:00 | ≥100 gpm            | 86.07          | 3                  |
| 07/25/12 22:00 | ≥100 gpm            | 87.14          | 16                 |
| 07/26/12 16:00 | ≥100 gpm            | 87.50          | 6                  |
| 07/27/12 0:00  | ≥100 gpm            | 87.89          | 56                 |
| 07/29/12 10:00 | ≥100 gpm            | 87.92          | 7                  |
| 07/29/12 19:00 | ≥100 gpm            | 88.13          | 4                  |
| 07/30/12 1:00  | ≥100 gpm            | 88.36          | 8                  |
| 09/07/12 1:00  | ≥100 gpm            | 99.47          | 11                 |
| 09/07/12 14:00 | ≥100 gpm            | 99.67          | 7                  |
| 09/07/12 22:00 | ≥100 gpm            | 99.81          | 17                 |
| 09/09/12 18:00 | ≥100 gpm            | 99.74          | 14                 |
| 09/10/12 9:00  | ≥100 gpm            | 99.98          | 2                  |
| 10/21/12 21:00 | ≥100 gpm            | 99.53          | 1                  |
| 10/22/12 3:00  | ≥100 gpm            | 98.10          | 40                 |
| 10/23/12 23:00 | ≥100 gpm            | 99.34          | 11                 |
| 10/25/12 4:00  | ≥100 gpm            | 97.78          | 2                  |
| 11/18/12 11:00 | ≥100 gpm            | 99.65          | 12                 |
| 11/19/12 2:00  | ≥100 gpm            | 99.62          | 2                  |
| 11/19/12 5:00  | ≥100 gpm            | 99.19          | 14                 |

Each operation of the scrubber below the permitted flow rate is a violation of Specific Requirement 11 of Permit No. 2460-00024-00 or Specific Requirement 14 of Permit No. 2460-00024-01 or Specific Requirement 13 of

Permit No. 2460-00024-01AA, LAC 33:III:501.C.4, and La. R.S. 30:2057(A)(2).

- D. In the 2013 Annual Fryer Scrubber Report dated March 13, 2014, the Respondent reported the following deviations from the permitted operating parameters for the Fryer Scrubber (EQT 0003):

| Date and Time  | Permitted Flow Rate | Avg. Flow Rate | Hours Out of Range |
|----------------|---------------------|----------------|--------------------|
| 02/06/13 20:00 | ≥100 gpm            | 34.72          | 3                  |
| 07/25/13 03:00 | ≥100 gpm            | 0              | 6                  |
| 07/25/13 10:00 | ≥100 gpm            | 0              | 4                  |

Each operation of the scrubber below the permitted flow rate is a violation of Specific Requirement 13 of Permit No. 2460-00024-01AA, LAC 33:III:501.C.4, and La. R.S. 30:2057(A)(2).

- E. In the 2014 Annual Fryer Scrubber Report dated March 9, 2015, the Respondent reported the following deviations from the permitted operating parameters for the Fryer Scrubber (EQT 0003):

| Date and Time  | Permitted Flow Rate | Avg. Flow Rate | Hours Out of Range |
|----------------|---------------------|----------------|--------------------|
| 08/14/14 04:00 | ≥100 gpm            | 0              | 3                  |

Each operation of the scrubber below the permitted flow rate is a violation of Specific Requirement 13 of Permit No. 2460-00024-01AA, LAC 33:III:501.C.4, and La. R.S. 30:2057(A)(2).”

### 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 FOUR HUNDRED TWENTY-SIX AND 94/100 DOLLARS (\$5,426.94), of which Four Hundred Twenty-Six and 94/100 Dollars (\$426.94) 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 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 Richland 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 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).

## 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.



LAMB WESTIN, INC.

BY: Thomas Proyer  
(Signature)

Thomas Proyer  
(Printed)

TITLE: Plant Manager

THUS DONE AND SIGNED in duplicate original before me this 18<sup>th</sup> day of January, 20 18, at Delhi, LA 71232

Edwin P. Fuller  
NOTARY PUBLIC (ID # 16108)



Edwin P. Fuller  
Notary Public  
Notary Number 16108  
Richland Parish, Louisiana

(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 13<sup>th</sup> day of April, 20 18, at Baton Rouge, Louisiana.

[Signature]  
NOTARY PUBLIC (ID # 19181)

Perry Theriot  
(stamped or printed)

Approved: [Signature]  
Lourdes Iturralde, Assistant Secretary