

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

VERTEX REFINING LA, LLC

AI # 1106

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

* Settlement Tracking No.
* SA-AE-16-0043
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* Enforcement Tracking No.
* AE-CN-14-00596
* AE-CN-14-00596A
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SETTLEMENT

The following Settlement is hereby agreed to between Vertex Refining LA, 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 a used oil recycling facility located in Jefferson Parish, Louisiana (“the Facility”).

II

On August 21, 2014, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. **AE-CN-14-00596**, which was based upon the following findings of fact:

“The Respondent owns and operates the Marrero Facility, an existing used oil recycling plant. The facility is located at 5000 River Road in Marrero, Jefferson Parish, Louisiana. The facility currently operates under Air Permit No. 1340-00226-08.

The Department received a Notification of Change Form (NOC-1) on or about June 16, 2014, for the Marrero Facility. The ownership, operator, and permit were transferred from Omega Refining, LLC to the Respondent on May 2, 2014. According to the NOC-1, Omega Refining, LLC is responsible for all violations existing prior to the date the permit was transferred.

During the course of inspections conducted on or about January 27, 2014, through April 11, 2014, the Department's inspector noted Omega Refining, LLC had not conducted performance testing on Standby Emergency Diesel Generator 1500 HP (EQT 0055) in accordance with 40 CFR 60.4212(a) through (e). Since the ownership transfer that was effective May 2, 2014, the Department has not received documentation of performance testing being conducted on EQT 0055.

The Department has received numerous emergency and citizen complaints for odors in and around the vicinity of the facility during the period Omega Refining, LLC and the Respondent have owned and operated the facility. Several of the complaints were received during turnaround periods at the facility. The level of odor complaints, particularly during turnarounds, indicates failure to maintain best practical housekeeping and maintenance practices to minimize organic compound emissions as required by Specific Condition 44 of Air Permit No. 1340-00226-08 and LAC 33:III.2113.

On or about July 15, 2014, the Respondent conducted an Emission Compliance Test for the Process Heater with Wet Scrubber (EQT 0029). On or about August 12, 2014, the Department received the Respondent's Stack Test Report via cover letter dated August 8, 2014. According to the Respondent, the purpose of this test was to conduct a compliance emission test to document levels of selected pollutants at a maximum test load (operating rate/throughput) of 5,300 BPD on the Process Heater with Wet Scrubber (EQT 0029).

On or about August 1, 2014, the Department received the Respondent's Variance Application dated July 31, 2014. The Respondent requested a variance based on data collected during a sixty minute emissions stack test run with an operating scenario of 4,500 BPD as the operating rate/throughput for the Process Heater with Wet Scrubber (EQT 0029). The Respondent reported "emissions at 4,500 bbls/day are substantially lower than the permit limits for the primary pollutants (SO₂, NO_x and CO) for the Process Heater and facility wide, and will be within the permit limits for the Process Heater for the other regulated pollutants. Total estimated facility emission will be within the permit limits for SO₂, NO, CO, and HCl, and just slightly above for VOC's, H₂S, and PM."

On or about August 19, 2014, the Department received the Respondent's request for interim limits.

On or about February 7, 2014, April 11, 2014, and July 8 and 9, 2014, the Department performed inspections of the Respondent's facility to determine the degree of compliance with the Act and the Air Quality Regulations. While the Department's investigation is not yet complete, the following violations were noted during the course of the inspection:

- A. According to Minor Source Permit Modification Application dated April 28, 2009, and Air Permit No. 1340-00226-08 issued on August 15, 2011, the Process Heater with Wet Scrubber (EQT 0029) is authorized to discharge through a scrubber to a stack with a height of 70 feet and a diameter of 3.7 feet. During the course of the inspections conducted on February 7, 2014, and April 11, 2014, the inspector observed a non-permitted stack on EQT 0029 that bypasses the scrubber and discharges directly to the atmosphere. According to the inspector, the Plant Manager and an operator confirmed the facility periodically bypasses the scrubber and flue gases are emitted directly to the

atmosphere via the unpermitted stack on EQT 0029. The operation of the non-permitted stack on EQT 0029 is a violation of LAC 33:III.501.C.2 and La. R.S. 30:2057(A)(2).

- B. According to the inspector, during a discussion with facility personnel, the wet scrubber on EQT 0029 reduces and controls sulfur dioxide (SO₂) and hydrochloric acid (HCl) emissions. None of the permit applications correctly identifies the appropriate control equipment code. Instead, permit applications incorrectly listed 008 (PM₁₀) as the control equipment code for EQT 0029. Each failure to submit a complete permit application with the appropriate control equipment code for the appropriate pollutants is a violation of LAC 33:III.501.C.1, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- C. According to the inspector, during a telephone conversation with the Corporate Director of HSE in February 2014, the process diagram from the permit modification application dated July 21, 2011, was inaccurate as it relates to the Short Path Evaporator (SPE) being on the front end of the process. The inspector noted the facility's Plant Manager and Operations Manager stated the SPE was not on the front end of the process but on the back end to increase the vacuum gas oil (VGO) yield from the asphalt bottoms. On April 15, 2014, the facility's Corporate Director of HSE provided the inspector with a draft revised process diagram. The failure to promptly submit a supplement or to correct information incorrectly submitted in a permit application upon becoming aware of such failure or incorrect submittal is a violation of LAC 33:III.517.C, LAC 33:III.501.C.1, and La. R.S. 30:2057(A)(2).
- D. During the July 8 and 9, 2014 inspections, the inspector reviewed the Compliance Testing Protocol dated June 19, 2014. The description of the scrubber stack for the Process Heater with Wet Scrubber (EQT 0029) listed the height as 50 feet and the diameter as five (5) feet. According to the "Inventories" section of Air Permit No. 1340-

00226-08, the stack height for EQT 0029 is 70 feet and the diameter is 3.7 feet. The failure to provide all relevant facts regarding the correct size and height of the scrubber stack for EQT 0029 is a violation of LAC 33:III.517.C, LAC 33:III.517.D, and La. R.S. 30:2057(A)(2).

E. Based on information provided in the Respondent's Variance Application dated July 31, 2014, the Respondent reported the stack test conducted on July 15, 2014, revealed facility wide emissions (EQT Nos. 0031, 0056, 0057, and 0058 and FUG 0002) for VOC, H₂S, and PM to be higher than permit limits when the operating rate/throughput for Process Heater with Wet Scrubber (EQT 0029) was 4,500 BPD. During the Department's July 8, 2014 site visit, the inspector reviewed daily operator log sheets, which revealed the operating rate/throughput to be above 3,000 BPD and up to 5,200 BPD from June 11, 2014, to July 9, 2014. Based on the information provided in the Respondent's Variance Application and the Department's site visit, EQT 0029 was operated in a manner that would have resulted in excess emissions of VOC, H₂S, and PM at the facility. Each permit limit exceedance of VOC, H₂S, and PM is a violation of Air Permit No. 1340-00226-08, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2)."

On November 19, 2014, the Department issued to Respondent an Amended Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. **AE-CN-14-00596A**, which was based upon the following findings of fact:

The Department amends Paragraph III of the Findings of Fact portion of Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. AE-CN-14-00596 to read as follows:

“III.

During the course of inspections conducted on or about January 27, 2014, through April 11, 2014, the Department’s inspector noted Omega Refining, LLC had not conducted performance testing on Standby Emergency Diesel Generator 1500 HP (EQT 0055) in accordance with 40 CFR 60.4212(a) through (e), as required by Specific Requirement No. 22 of Air Permit No. 1340-00226-08. Based on information provided, the Department has determined performance testing on EQT 0055 is not required. According to the Respondent’s Minor Source Air Permit Modification Application dated October 24, 2014, there are no changes for EQT 0055.”

The Department hereby amends Paragraph III of the Compliance Order portion of Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. AE-CN-14-00596 to read as follows:

“III.

To submit to the Air Permits Division, within sixty (60) days after receipt of this Compliance Order, the appropriate air permit application to reflect the current operating conditions at the Marrero Facility including, but not limited to, the correct stack height and size for the scrubber stack for EQT 0029; inclusion of the non-permitted stack on EQT 0029; the correct control equipment code for EQT 0029; updated emissions of pollutants to reflect current operations for all equipment located at the facility; an updated process flow diagram; and a request for a permit limit for the maximum operating rate/throughput for EQT 0029. The Respondent shall submit a copy of the cover letter of the permit application to the Enforcement Division.”

The Department hereby removes Paragraph XII of the Compliance Order portion of Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. AE-CN-14-00596.

The Department hereby amends Paragraph XVI of the Compliance Order portion of Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. AE-CN-14-00596 to read as follows:

“XVI.

To submit within ninety (90) days after receipt of this Compliance Order, to the Enforcement Division the findings of the fugitive emission inventory, as described in Paragraph XV of this Compliance Order.”

The Department hereby adds Paragraph XVIII to the Compliance Order portion of Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. AE-CN-14-00596 as follows:

“XVIII.

To submit to the Air Permits Division, within thirty (30) days after receipt of this Compliance Order, supplemental information to the Minor Source Air Permit Modification Application dated October 24, 2014, to update the modification to request the removal of specific requirement(s) from the permit that are not applicable to EQT 0055, as described in Paragraph III of the Findings of Fact portion of Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. AE-CN-14-00596. The Respondent shall submit a copy of the cover letter of the permit application to the Enforcement Division.”

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

- A) During an inspection on April 13, 2016, the department noted the cleaning procedures used to clean the knock-out pot line were inadequate/ineffective in preventing or reducing air pollution resulting in an increase of odorous emissions downward of the facility. This is an area of concern with LAC 33:III.905.A which states that "when control facilities (operating procedures) have been installed on a property, they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities, even though the ambient air quality standards in affected areas are not exceeded."
- B) During an inspection on April 13, 2016, the department noted while the facility was shut down, the Respondent steam cleaned the line from the F-105 knockout pot to the process heater, which started at 11:00 a.m. and ended at 11:50 a.m. The facility manager conceded that the odors likely occurred during this steam cleaning process. According to the Respondent's follow-up report dated April 20, 2016, through the steaming process off gas was routed to the process heater (H-101), thence to the wet scrubber, and thence to the atmosphere. Additionally it states that, "The process heater (H-101) was operating below normal temperatures due to lack of flow through the coils. Also, two (2) out of three (3) burners were lit to maintain this low temperature." The use of the process heater, as a control device for off gasses, to control emissions from the steam cleaning operation was not in proper working order, thus resulting in the release of odorous emissions which impacted numerous citizens in a wide area downwind of the facility. This is a violation of LAC 33:III.905, which states that when facilities have been installed on a property, they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities, even though the ambient air quality standards in affected areas are not exceeded.

- C) A fire occurred at Vertex Energy on May 30, 2016. A start-up/shutdown report was submitted to SPOC which stated a leak on a pump resulted in a fire which caused an unplanned shutdown. A fire that causes a unit shut down is considered to be an emergency condition in accordance with Chapter 39. The Discharger is required to notify the agency in no later than one hour after learning of the discharge. The facility did not notify the agency within the required time frame in accordance with LAC 33:I.3915.
- D) A fire occurred at Vertex Energy on May 30, 2016. A start-up/shutdown report was submitted to SPOC which stated a leak on a pump resulted in a fire which caused an unplanned shutdown. A fire that causes a unit shut down is considered to be an emergency condition in accordance with Chapter 39. The facility did not complete a discharge notification report as required by LAC 33:I.3925.
- E) According to an Unauthorized Discharge Notification dated February 18, 2015 (T161735), the Respondent reported VOC fugitive emissions above its permit limits. The maximum pound per hour limit is 0.57, and actual VOC emissions were a total of 7.59 pounds in four (4) minutes. The incident was listed as preventable and had the cause listed as metal fatigue. Each permit limit exceedance of VOC is a violation of Air Permit No. 1340-00226-08, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

III

On or about November 21, 2014, March 25, 2015, February 20, 2017, and March 15, 2017 the Department prepared and/or approved MEMOS TO THE FILE (Document ID Numbers 9543497, 9701893, 10513985 and 006070374), which provide clarification for some areas of concern cited in the aforementioned Compliance Order and Notice of Potential Penalty, associated inspection reports, and justification as to why certain areas of concern were not pursued by the Department.

IV

In addition to the violations noted above, this Settlement shall resolve all of the Respondent's violations or noncompliance(s) identified by the Department during inspections and/or investigations or disclosed to the Department in writing up to and through September 14, 2016.

V

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

VI

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 Two Thousand Seven Hundred Eighty-Eight and 72/100 Dollars (\$2,788.72) representing the Department's enforcement costs, in settlement of the claims set forth in this agreement.

VII

Respondent and as part of this Settlement, agrees to expend the amount of Seventy-Two Thousand Two Hundred Eleven and 28/100 Dollars (\$72,211.28), to implement and/or perform the following beneficial environmental project:

- A. Respondent agrees to donate to the Department the above stipulated amount for the purpose of providing funding for a community air monitoring station which shall be located in the vicinity of Marrero, Louisiana on property owned and leased to the Department by Jefferson Parish. The monitoring station will be located on or near 322 Marrero Road, Marrero, Louisiana, currently the site of Jefferson Parish water tower.

- B. Within thirty (30) days after this Settlement Agreement is finalized, the Respondent shall make a cash payment to the Department in the amount of SEVENTY-TWO THOUSAND TWO HUNDRED ELEVEN AND 28/100 Dollars (\$72,211.28), which shall be deposited in an escrow account and administered by the Department and dedicated to purchasing and installing a community air monitoring station to be located in Marrero, Louisiana, as provided in Paragraph VII (A).
- C. The total amount of money expended by Respondent on cash payments to the Department for this beneficial project as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30: 2050.7(E)(1).

VIII

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

IX

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.

X

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 and the rules relating to beneficial environmental projects set forth in LAC 33:I.Chapter 25.

XI

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.

XII

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Jefferson 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.

XIII

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 or Electronic Fund Transfer ("ETF"), payable to the Department of Environmental Quality, and where payment is made by check, 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, and where payment is made by ETF, in accordance with the attached ETF instructions. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

XIV

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XV

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.

VERTEX REFINING LA, LLC

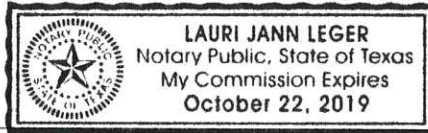
BY: [Signature]
(Signature)

Chris Carlson
(Printed)

TITLE: CEO

THUS DONE AND SIGNED in duplicate original before me this 21 day of June, 20 17, at Harris Co., TX.

[Signature]
NOTARY PUBLIC (ID # 12864338-2)



(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 28th day of August, 20 17, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 19181)

Perry Theriot
(stamped or printed)

Approved: [Signature]
Lourdes Iturralde, Assistant Secretary