

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-MM-19-0039
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* Enforcement Tracking No.
* MM-PP-17-00583
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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 food processing plant located in Delhi, Richland Parish, Louisiana (“the Facility”).

II

On August 23, 2018, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. MM-PP-17-00583 (Exhibit 1).

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 ONE THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$1,500.00), of which Four Hundred Seventy-Nine and 71/100 Dollars (\$479.71) 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 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 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.

LAMB WESTON, INC.

BY: *Thomas Proger*
(Signature)

Thomas Proger
(Printed)

TITLE: Plant Manager

THUS DONE AND SIGNED in duplicate original before me this 20th day of December, 20 19, at Delhi, LA 71232.

Edwin 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 5th day of August, 20 20, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 98503)

Amber Grenillon Litchfield
(stamped or printed)

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

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY OFFICE OF ENVIRONMENTAL COMPLIANCE ENFORCEMENT DIVISION POST OFFICE BOX 4312 BATON ROUGE, LOUISIANA 70821-4312		NOTICE OF POTENTIAL PENALTY	
Enforcement Tracking No.	MM-PP-17-00583	Certified Mail No.	7016 3010 0000 9387 7280
Agency Interest (AI) No.	166348	Contact Name	Antoinette Cobb
Alternate ID No.	2460-00024; LAR05P322	Contact Phone No.	(225) 219-3072
Respondent:	Lamb Weston, Inc.	Facility Name:	Delhi Plant
	c/o The Prentice-Hall Corporation System, Inc.	Physical Location:	77 Louisiana Highway 609
	Agent for Service of Process		
	501 Louisiana Avenue Baton Rouge, LA 70802	City, State, Zip:	Delhi, LA 71232
	Parish:	Richland	
This NOTICE OF POTENTIAL PENALTY is issued by the Louisiana Department of Environmental Quality (the Department), under the authority granted by the Louisiana Environmental Quality Act (the Act), La. R.S. 30:2001, et seq., and 30:2050.3(B).			
FINDINGS OF FACT			
An authorized representative of the Department inspected the abovementioned facility or conducted a file review of the facility to determine the degree of compliance with regulations promulgated in the Louisiana Administrative Code, Title 33. The State regulatory citations for the violation(s) identified during the inspection and/or file review are indicated below.			
I.	The Respondent owns and/or operates a food processing plant located at 77 Louisiana Highway 609 in Delhi, Richland Parish, Louisiana. The facility currently operates under the authority of Minor Source Air Permit No. 2460-00024-03 issued on June 22, 2016, and Louisiana Multi-Sector General Stormwater Permit LAR05P322 renewed on September 6, 2016.		
	Date of Violation	Description of Violation	
II.	File Review June 22, 2018	The Respondent failed to submit a Name/Ownership/Operator Change Form (NOC-1) to the Department within forty-five (45) days after a company name change and facility name change occurred. The Department received the May 24, 2017 postmarked form on May 30, 2017. According to the NOC-1, the company name and facility name changes were effective April 5, 2017. Failure to submit the NOC-1 to the Department within forty-five (45) days after the name changes occurred is a violation of LAC 33:III.1905.A and La. R.S. 30:2057(A)(2). The Department issued a letter dated June 20, 2017 notifying the Respondent of the company name change from ConAgra Foods Lamb Weston, Inc. to Lamb Weston, Inc. and the facility name change from ConAgra Foods Lamb Weston Inc.-Delhi Plant-Fisher & Sons, Inc. to Delhi Plant.	
III.	Inspection(s) March 21-21, 2017	The Respondent failed to conduct a qualitative evaluation of a range of safety/health effects for each scenario in the 2016 Process Hazard Analysis (PHA). During the inspection, the following documents were reviewed. 1) PSM Summary Manual Lamb Weston Delhi, LA Plant Process Hazard Analysis Revised 10/05/2010; 2) International Institute of Ammonia Refrigeration OSHA Compliance Risk Matrix; 3) 05/19/2010 PHA; 4) 10/06/2011 PHA; and 5) 10/29/2016 PHA. It was noted that the majority of the scenarios from the 2016 PHA were not risk-ranked based on the severity of the hazard and likelihood. Safeguards were listed for the scenarios, but the range of safety/health effects was not evaluated. Failure to conduct a qualitative evaluation in accordance with regulations is a violation of 40 CFR 68.67(c)(7), which language has been incorporated by reference as Louisiana regulation LAC 33:III.5901.A, Specific Requirement 51 of Minor Source Permit No. 2460-00024-02, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2). The Department issued a Warning Letter, Enforcement Tracking No. AE-L-17-00471, dated May 23, 2017, to the Respondent. In the response to the Warning Letter dated June 20, 2017, the Respondent provided a revised PHA revalidation for the 2016 PHA.	
IV.	Inspection(s) March 21-21, 2017	The Respondent failed to ensure inspecting and testing on process equipment followed recognized and generally accepted good engineering practices (RAGAGEP). The following instances of failure to comply with RAGAGEP were noted. i. Piping visual inspections in 2016 were five (5) months late (annual frequency per International Institute of Ammonia Refrigeration (IIAR)). The external visual inspections were completed 05/04/2015 and 10/06/2016. ii. Some safety relief valve (SRV) replacements were three (3) months late (five year frequency per IIAR). The plant started up in 11/2010 and replacement of all Ammonia service SRVs began 1/2015 and was not completed until 02/21/2016. Each failure to follow recognized and generally accepted good engineering practices is a violation of 40 CFR 68.73(d)(2), which language has been incorporated by reference as Louisiana regulation LAC 33:III.5901.A, Specific Requirement 51 of Minor Source Permit No. 2460-00024-02, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).	
NOTICE OF POTENTIAL PENALTY			
I.	Pursuant to La. R.S. 30:2050.3(B), you are hereby notified that the issuance of a penalty assessment is being considered for the violation(s) described herein. Written comments may be filed regarding the violation(s) and the contemplated penalty. If you elect to submit comments, it is requested that they be submitted within ten (10) days of receipt of this notice.		
II.	Prior to the issuance of additional appropriate enforcement action(s), you may request a meeting with the Department to present any mitigating circumstances concerning the violation(s). If you would like to have such a meeting, please contact Antoinette Cobb at (225) 219-3072 within ten (10) days of receipt of this NOTICE OF POTENTIAL PENALTY.		



III	The Department is required by La. R.S. 30:2025(E)(3)(a) to consider the gross revenues of the Respondent and the monetary benefits of noncompliance in order to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current annual gross revenue statement along with a statement of the monetary benefits of noncompliance for the cited violations to the above named contact person within ten (10) days of receipt of this NOTICE OF POTENTIAL PENALTY . Include with your statement of monetary benefits the method(s) you utilized to arrive at the sum. If you assert that no monetary benefits have been gained, you are to fully justify this statement. If the Respondent chooses not to submit the requested most current annual gross revenues statement within ten (10) days, it will be viewed by the Department as an admission that the Respondent has the ability to pay the statutory maximum penalty as outlined in La. R.S. 30:2025.
IV	For each violation described herein, the Department reserves the right to seek civil penalties and the right to seek compliance with its rules and regulations in any manner allowed by law, and nothing herein shall be construed to preclude the right to seek such penalties and compliance.
V	To reduce document handling, please refer to the Enforcement Tracking Number and Agency Interest Number on the front of this document on all correspondence in response to this action.

CONTACTS AND SUBMITTAL OF INFORMATION	
Enforcement Division:	Physical Address (if hand delivered):
Louisiana Department of Environmental Quality Office of Environmental Compliance Air Enforcement Division P.O. Box 4312 Baton Rouge, LA 70821 Attn: Antoinette Cobb	Department of Environmental Quality 602 N Fifth Street Baton Rouge, LA 70802
HOW TO REQUEST CLOSURE OF THIS NOTICE OF POTENTIAL PENALTY	
To expedite closure of the NOTICE OF POTENTIAL PENALTY , the Respondent may offer a settlement amount to resolve any claim for civil penalties for the violation(s) described herein.	
<ul style="list-style-type: none"> The Department assesses civil penalties based on LAC 33:1.Subpart1.Chapter7. The Respondent may offer a settlement amount but the Department is under no obligation to enter into settlement negotiations. It is decided upon on a discretionary basis. The settlement offer amount may be entered on the attached "NOTICE OF POTENTIAL PENALTY REQUEST TO SETTLE" form. The Respondent must include a justification of the offer. DO NOT submit payment of the offer amount with the form. The Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted. 	

If you have questions or need more information, you may contact Antoinette Cobb at (225) 19-3072 or antoinette.cobb@la.gov.



Lourdes Iturralde
Assistant Secretary
Office of Environmental Compliance

Date: 8-23-18

cc: Lamb Weston, Inc.
c/o Mr. Tucker Reeves, Environmental Lead
77 Louisiana Highway 609
Delhi, LA 71232

Attachment(s)
- Request to Settle

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
 OFFICE OF ENVIRONMENTAL COMPLIANCE
 ENFORCEMENT DIVISION
 POST OFFICE BOX 4312
 BATON ROUGE, LOUISIANA 70821-4312

**NOTICE OF POTENTIAL PENALTY
 REQUEST TO SETTLE (OPTIONAL)**



Enforcement Tracking No.	MM-PP-17-00583	Contact Name	Antoinette Cobb
Agency Interest (AI) No.	166348	Contact Phone No.	(225) 219-3072
Alternate ID No.	2460-00024; LAR05P322		
Respondent:	Lamb Weston, Inc.	Facility Name:	Delhi Plant
	c/o The Prentice-Hall Corporation System, Inc.	Physical Location:	77 Louisiana Highway 609
	Agent for Service of Process		
	501 Louisiana Avenue Baton Rouge, LA 70802	City, State, Zip: Parish:	Delhi, LA 71232 Richland

SETTLEMENT OFFER (OPTIONAL)

(check the applicable option)

The Respondent is not interested in entering into settlement negotiations with the Department with the understanding that the Department has the right to assess civil penalties based on LAC 33:1.Subpart1.Chapter7.

In order to resolve any claim for civil penalties for the violations in **NOTICE OF POTENTIAL PENALTY** (MM-PP-17-00583), the Respondent is interested in entering into settlement negotiations with the Department and would like to set up a meeting to discuss settlement procedures.

In order to resolve any claim for civil penalties for the violations in **NOTICE OF POTENTIAL PENALTY** (MM-PP-17-00583), the Respondent is interested in entering into settlement negotiations with the Department and offers to pay \$ _____ which shall include LDEQ enforcement costs and any monetary benefit of non-compliance.

- Monetary component = \$ _____
- Beneficial Environmental Project (BEP) component (optional)= \$ _____

• **DO NOT SUBMIT PAYMENT OF THE OFFER WITH THIS FORM- the Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.**

The Respondent has reviewed the violations noted in **NOTICE OF POTENTIAL PENALTY** (MM-PP-17-00583) and has attached a justification of its offer and a description of any BEPs if included in settlement offer.

CERTIFICATION STATEMENT

I certify, under provisions in Louisiana and United States law that provide criminal penalties for false statements, that based on information and belief formed after reasonable inquiry, the statements and information attached and the compliance statement above, are true, accurate, and complete. I also certify that I do not owe outstanding fees or penalties to the Department for this facility or any other facility I own or operate. I further certify that I am either the Respondent or an authorized representative of the Respondent.

Respondent's Signature	Respondent's Printed Name	Respondent's Title
Respondent's Physical Address	Respondent's Phone #	Date

MAIL COMPLETED DOCUMENT TO THE ADDRESS BELOW:

Louisiana Department of Environmental Quality
 Office of Environmental Compliance
 Enforcement Division
 P.O. Box 4312
 Baton Rouge, LA 70821
 Attn: Antoinette Cobb

If you have questions or need more information, you may contact Antoinette Cobb at (225) 219-3072 or antoinette.cobb@la.gov.