

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

U.S. COMPOSITE PIPE SOUTH, L.L.C.

AI # 96336

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

* Settlement Tracking No.
* SA-HE-19-0010
*
* Enforcement Tracking No.
* HE-PP-16-00662
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SETTLEMENT

The following Settlement is hereby agreed to between U.S. Composite Pipe South, L.L.C. (“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 resin and fiberglass pipe fabrication facility located in East Baton Rouge Parish, Louisiana (“the Facility”).

II

On December 9, 2016, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. HE-PP-16-00662, which is attached as Exhibit 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 FIVE THOUSAND EIGHT HUNDRED TWENTY-TWO AND NO/100 DOLLARS (\$5,822.00), of which Six Hundred Thirty-Eight and 88/100 Dollars (\$638.88) 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 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 B).

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.

U.S. Composite Pipe South, L.L.C.

BY: [Signature]
(Signature)

DETLEV SCHLORKE
(Printed)

TITLE: PRESIDENT

THUS DONE AND SIGNED in duplicate original before me this 6 day of May, 20 19, at Zachary, Louisiana



[Signature]
NOTARY PUBLIC (ID # 53065)

Cindy L. Delatte, Notary Public
#53065 East Feliciana Parish
State of Louisiana
Commissioned for Life

(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 2nd day of May, 20 19, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 19181)

Perry Theriot
(stamped or printed)

Approved: [Signature]
Lourdes Iturralde, Assistant Secretary

JOHN BEL EDWARDS
GOVERNOR



CHUCK CARR BROWN, Ph.D.
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE
December 9, 2016

CERTIFIED MAIL (7014 0510 0002 3595 3526)
RETURN RECEIPT REQUESTED

U.S. COMPOSITE PIPE SOUTH, L.L.C.
c/o Detlev Schlorke
Agent for Service of Process
18585 Samuels Road
Zachary, LA 70791

**RE: NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. HE-PP-16-00662
AGENCY INTEREST NO. 96336**

Dear Sir:

On or about February 22, 2016, an inspection of **THOMPSON PIPE GROUP - FLOWTITE**, a resin and fiberglass pipe fabrication plant, owned and/or operated by **U.S. COMPOSITE PIPE SOUTH, L.L.C. (RESPONDENT)**, was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Louisiana Hazardous Waste Regulations. The facility is located at 18585 Samuels Road in Zachary, East Baton Rouge Parish, Louisiana. The facility is classified as a small quantity generator (SQG) of hazardous waste and operates under EPA facility identification number LAR000053488.

While the investigation by the Louisiana Department of Environmental Quality (the Department) is not yet complete, the following violations were noted during the course of the inspection:

- A. The Respondent failed to keep hazardous waste containers closed during storage, except when necessary to add or remove hazardous waste, as specified in LAC 33:V.2107.A, in violation of LAC 33:V.1109.E.4. Specifically, the satellite drum located in the fabrication building, containing waste acetone (hazardous waste code D001), was not properly closed due to the funnel not having a gasket lid. On or about April 8, 2016, the Respondent submitted, via email correspondence to the Department, a photograph of the replacement funnel with gasket for the satellite drum. Additionally, a five (5) gallon satellite bucket of waste acetone (hazardous waste code D001) in the satellite accumulation area of the laboratory was not closed. The inspector noted that during the inspection, a representative of the Respondent closed the bucket. This violation has been addressed.



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- B. The Respondent failed to clean up and dispose of a hazardous waste spill in a timely manner, in violation of LAC 33:V.1121.A. Specifically, there was a spill of EPS-2 resin (hazardous waste code D001) in the resin day tank due to an overflow. The material had not been removed from the sump for disposal and no further action was planned according to a representative of the Respondent at the time of the inspection. On or about April 8, 2016, the Respondent submitted, via email correspondence to the Department, a photograph of the sump after the material had been removed. This violation has been addressed.
- C. The Respondent failed to clearly label or mark each container of hazardous waste with the words "Hazardous Waste," as specified in LAC 33:V.1109.E.1.c, in violation of LAC 33:V.1109.E.7.c. Specifically, two (2) drums of hazardous waste acetone located outside of the 180-day hazardous waste storage area and containers located inside the less than 180-day hazardous waste storage area were not labeled with the words "Hazardous Waste." On or about April 8, 2016, the Respondent submitted, via email correspondence to the Department, a photograph of the less than 180-day storage area with all waste labeled. This violation has been addressed.
- D. The Respondent failed to mark containers of hazardous waste with an accumulation start date, as specified in LAC 33:V.1109.E.1.d, in violation of LAC 33:V.1109.E.7.c. Specifically, two (2) drums of hazardous waste acetone located inside of the 180-day hazardous waste storage area and containers located inside the less than 180-day hazardous waste storage area were not marked with an accumulation start date. On or about April 8, 2016, the Respondent submitted, via email correspondence to the Department, a photograph of the less than 180-day storage area with all waste with accumulation dates. This violation has been addressed.
- E. The Respondent failed to label or mark clearly universal waste lamp or a container in which the lamps are contained with any one of the following phrases: "Universal Waste – Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)," in violation of LAC 33:V.3823.A.6. Specifically, a box containing universal waste lamps inside the maintenance shop storage area was not labeled. On or about April 8, 2016, the Respondent submitted, via email correspondence to the Department, a photograph of the universal waste lamps labeled as universal waste. This violation has been addressed.
- F. The Respondent failed to store waste lamps in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps, in violation of LAC 33:V.3821.D.1. Specifically, universal waste lamps inside the maintenance shop storage area were not being stored in a closed container. On or about July 27, 2016, the Respondent submitted a response to the Department, stating that appropriate containers were purchased and labeled correctly. This violation has been addressed.
- G. The Respondent failed to be able to demonstrate the length of time universal waste had been accumulated, in violation of LAC 33:V.3825.C. Specifically, the facility could not provide a start accumulation date or documentation showing that waste lamps had not been stored for more than one (1) year. On or about April 8, 2016, the Respondent submitted, via email

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correspondence to the Department, a photograph of the universal waste lamps labeled with a start accumulation date. This violation has been addressed.

- H. The Respondent failed to clearly mark and/or label containers used to store used oil with the words "Used Oil," in violation of LAC 33:V.4013.D.1. Specifically, used oil drums located in the maintenance shop storage area were not labeled with the words "Used Oil." On or about April 8, 2016, the Respondent submitted, via email correspondence to the Department, a photograph of the used oil container labeled as "Used Oil". This violation has been addressed.
- I. The Respondent failed to mark satellite accumulation containers of hazardous waste with the words "Hazardous Waste," or other words that identify the contents as a hazard, in violation of LAC 33:V.1109.E.4. Specifically, a five (5) gallon satellite bucket of waste acetone (hazardous waste code D001) in the satellite accumulation area of the laboratory was not label with the words "Hazardous Waste." The inspector noted that during the inspection, a representative of the Respondent labeled the bucket. This violation has been addressed.
- J. The Respondent failed to notify the Office of Environmental Services within seven (7) days of changes to the information included in its application for an EPA identification number (HW-1 Notification Form), in violation of LAC 33:V.1105.B. Specifically, the Respondent failed to update the facility's HW-1 form within seven days of generation to include four (4) hazardous waste codes (D002, U092, U154, U239) found on the December 12, 2014 manifest and one (1) hazardous waste code (U002) found on the February 9, 2015 manifest. On or about August 9, 2016, the Respondent submitted, via email correspondence to the Department, an updated HW-1 form.
- K. The Respondent failed to keep a copy of each signed manifest for three (3) years or until a signed copy is received from the designated facility which received the waste, as specified in LAC 33:V.1111.A.1, in violation of LAC 33:1107.D.1. Specifically, at the time of the inspection, the Respondent was unable to locate the hazardous waste manifests from 2013 and 2014. On or about April 8, 2016, the Respondent submitted, via email correspondence to the Department, the missing records. This violation has been addressed.
- L. The Respondent failed to post next to the telephone the name and telephone number of the emergency coordinator, the location of fire extinguishers, spill control material, and fire alarm, and the telephone number of the fire department, in violation of LAC 33:V.1109.E.7.d.ii.a, LAC 33:V.1109.E.7.d.ii.b, and LAC 33:V.1109.E.7.d.ii.c. A representative of the Respondent submitted a copy of the final map with locations of spill and fire control equipment, emergency coordinator information, and contact information for the local fire department via email to the Department on or about April 11, 2016. According to a representative of the Respondent, the facility has posted this information in the main and production offices. This violation has been addressed.

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

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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.

Prior to the issuance of any additional appropriate enforcement action, 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 Heather Brown at (225) 219-3792 within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

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.

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.

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.

Sincerely,



Lourdes Aturralde
Assistant Secretary
Office of Environmental Compliance

LI/HMB/hmb
Alt ID No. LAR000053488