

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

LOUISIANA PIGMENT COMPANY, L.P.
CALCASIEU PARISH

AI # 11496

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

* Settlement Tracking No.
* SA-WE-12-0068
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* Enforcement Tracking No.
* WE-C-10-00874
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* Docket No. 2011-17979-EQ
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SETTLEMENT

The following Settlement is hereby agreed to between LOUISIANA PIGMENT COMPANY, L.P. (“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 partnership that owns and/or operates a titanium dioxide plant facility located at 3300 Bayou D’Inde Road in Westlake, Calcasieu Parish, Louisiana (“the Facility”).

II

On August 17, 2010, the Department issued to Respondent a Compliance Order, Enforcement No. WE-C-10-00874, which was based upon the following findings of fact:

The Respondent owns and/or operates a titanium dioxide plant located at 3300 Bayou D’Inde Road in Westlake, Calcasieu Parish, Louisiana. The facility operates under standard industrial classification code 2816. The Respondent was issued LPDES Permit LA0080829 on June 4, 2002, which was set to expire on June 9, 2007, but was administratively continued. The

Respondent submitted an application for permit renewal to the Department on or about December 11, 2006, and LPDES Permit LA0080829 was administratively continued until its renewal became effective on November 1, 2008. The renewed LPDES Permit LA0080829 will expire on October 31, 2013. The LPDES permit authorizes the discharge of treated process wastewater, process area stormwater, utility wastewaters, and non-process area stormwater from Outfalls 001, 101, 201, 002, 003, 004, and 005 into Calcasieu River Ship Channel (B/S 030301), all waters of the state.

File reviews conducted by the Department on or about June 8, 2010, and July 19, 2010, revealed the following effluent violations, as reported by the Respondent on its Discharge Monitoring Reports (DMRs) and/or non-compliance reports for the monitoring periods encompassed in the following monitoring periods:

Monitoring Period	Outfall	Parameter	Permit Limit	Reported Value
September 2008	101	Total Organic Carbon, Daily Maximum	50 mg/L	145.05 mg/L
December 2009	001	Zirconium, Daily Maximum	0.81 lb/day	1.4595 lb/day
December 2009	004	Zirconium, Daily Maximum	0.1 mg/L	0.115 mg/L
February 2010	004	Vanadium, Daily Maximum	0.4 mg/L	1.19 mg/L
February 2010	004	Zirconium, Daily Maximum	0.1 mg/L	0.68 mg/L
March 2010	004	Chromium, Monthly Average	0.248 mg/L	0.4270 mg/L
March 2010	004	Chromium, Daily Maximum	0.343 mg/L	0.4270 mg/L
March 2010	004	Vanadium, Daily Maximum	0.40 mg/L	1.1270 mg/L
March 2010	004	Zirconium, Daily Maximum	0.10 mg/L	0.49 mg/L

Each exceedance is a violation of LPDES Permit LA0080829 (Part I, Pages 2-11 of 11), and La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A.

A file review conducted by the Department on or about July 19, 2010, revealed that the Respondent failed to monitor during the following sampling and/or analyzing events:

- A. The Respondent failed to sample for oil and grease during a sampling event on November 24, 2007, for Outfall 004.
- B. The Respondent failed to conduct quarterly biomonitoring as required upon the expiration of LPDES Permit LA0080829 on June 9, 2007, when the Monitoring Reduction requirements contained in LPDES LA0080829

(Part II, Section R.3) no longer applied. Specifically, the Respondent failed to perform toxicity testing for *Menidia beryllina* for the 4th Quarter 2007 biomonitoring period, and for *Menidia beryllina* and *Mysidopsis bahia* for the 3rd Quarter 2007 and 1st Quarter 2008 biomonitoring periods. A notification of the deviations was submitted to the Department on or about July 14, 2008.

- C. The Respondent also failed to analyze a 24-hour composite sample taken from Outfall 002 for the week of January 31, 2010 to February 7, 2010. According to the Respondent's February 2010 monthly DMR for Outfall 002 and a notification dated March 11, 2010, the composite samples taken for all of the metal parameters and TSS were labeled incorrectly and were not analyzed. In addition, since the Respondent's permit requires copper and mercury to be monitored for both Outfall 001 and 002 and the arithmetic sum of the daily pollutant mass discharge for both outfalls be reported on the Outfall 001 DMR, the Respondent also reported this violation on the February 2010 monthly DMR for Outfall 001 and the notification dated March 11, 2010.

Each failure to sample and/or analyze the effluent is a violation of LPDES Permit LA0080829 (Part I, Pages 2-4 of 11 and Pages 7-8 of 11), La. R.S. 30:2076(A)(3), LAC 33:IX.2701.E and LAC 33:IX.501.A.

A file review conducted by the Department on or about July 19, 2010, revealed that the Respondent failed to submit the 1st Quarter 2009 DMR for Outfall 101 in a timely manner. Specifically, the DMR, that was due by April 15, 2009, was postmarked August 12, 2009. This is a violation of LPDES Permit LA0080829 (Part II, Section O.2, Page 11 of 23), La. R.S. 30:2076(A)(3), LAC 33:IX.2701.L.4.

Additionally, although not included in Compliance Order WE-C-10-00874, the Respondent has asked to include the following violations in the settlement:

An inspection conducted by the Department on or about March 24, 2011, revealed the following effluent violations, as reported by the Respondent on its Discharge Monitoring Reports (DMRs) and/or non-compliance reports for the monitoring periods encompassed in the following monitoring periods:

Monitoring Period	Outfall	Parameter	Permit Limit	Reported Value
March 2010	004	Zirconium, Daily Maximum	0.1 mg/L	0.13 mg/L
August 2010	004	Total Organic Carbon, Daily Maximum	50 mg/L	103.42 mg/L
January 2011	004	Vanadium, Daily Maximum	0.4 mg/L	5.34 mg/L
January 2011	004	Zirconium, Daily Maximum	0.1 mg/L	1.81 mg/L

Each exceedance is a violation of LPDES Permit LA0080829 (Part I, Pages 2-11 of 11), and La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A.

III

In response to the Compliance Order, Respondent made a timely request for a hearing.

IV

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

V

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 SEVENTEEN THOUSAND ONE HUNDRED AND NO/100 DOLLARS (\$17,100.00), of which \$3,211.8 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).

VI

Respondent further agrees that the Department may consider the inspection report(s), the Compliance Order 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.

VII

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.

VIII

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.

IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Calcasieu, Louisiana. The advertisement, in form, wording, and size 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.

LOUISIANA PIGMENT COMPANY, L.P.

BY: Timothy J Hall
(Signature)

Timothy J Hall
(Printed)

TITLE: Plant Manager

THUS DONE AND SIGNED in duplicate original before me this 26th day of June, 20 13, at Westlake, LA.

Claudia J. H. Bushnell
NOTARY PUBLIC (ID # 1691)

Claudia J. H. Bushnell
(stamped or printed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Peggy M. Hatch Secretary

BY: CSN
Cheryl Sonnier Nolan, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 28th day of October, 20 13, at Baton Rouge, Louisiana.

Jeffrey H. ...
NOTARY PUBLIC (ID # 40539)

Jeff H. ...
(stamped or printed)

Approved: CSN
Cheryl Sonnier Nolan, Assistant Secretary