STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF: Settlement Tracking No.

SA-HE-19-0019

DELTA PETROLEUM COMPANY, INC.

Enforcement Tracking No.

HE-CN-15-00905 AI # 4921

PROCEEDINGS UNDER THE LOUISIANA **ENVIRONMENTAL QUALITY ACT**

LA. R.S. 30:2001, ET SEQ.

SETTLEMENT

The following Settlement is hereby agreed to between Delta Petroleum Company, 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").

Ι

Respondent is a corporation that owns and/or operates a commercial blending and repackaging facility located in Iberville Parish, Louisiana ("the Facility").

II

On March 26, 2018, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. HE-CN-15-00905, attached as Exhibit A.

III

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

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 SIX THOUSAND SEVEN HUNDRED AND NO/100 DOLLARS (\$6,700.00), of which Six Hundred Ninety-Four and 42/100 Dollars (\$694.42) 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 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.

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.

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.

XI

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

Delta Petroleum Company, Inc.

	BY: Jul Mus
	(Signature)
	_ Oan fr Mart
	(Printed)
	TITLE: Secret
THUS DONE AND SIGNED in dupl	
CALL ST.	NOTARY PUBLIC (ID#)
Sheri L. Hunter Notary Public, State of Ohio My Commission Expires 05-09-2020	
OF OLIVE	(stamped or printed)
	LOUISIANA DEPARTMENT OF
	ENVIRONMENTAL QUALITY
	Chuck Carr Brown, Ph.D., Secretary
	BY: Lourdes Iturralde, Assistant Secretary
	Office of Environmental Compliance
	th
THUS DONE AND SIGNED in dupl	icate original before me this day of
Lep + , 20/9	, at Baton Rouge, Louisiana.
	NOTARY PUBLIC (ID # 19/81)
	Perry Theriot (stamped or printed)
Approved:	
Lourdes Iturralde, Assistant Secre	tary

JOHN BEL EDWARDS GOVERNOR



CHUCK CARR BROWN, PH.D. SECRETARY

State of Louisiana

DEPARTMENT OF ENVIRONMENTAL QUALITY OFFICE OF ENVIRONMENTAL COMPLIANCE March 26, 2018

CERTIFIED MAIL (7014 1200 0000 7864 1898/1904) RETURN RECEIPT REQUESTED

DELTA PETROLEUM COMPANY, INC.

c/o United Agent Group, Inc. Agent for Service of Process 1070-B West Causeway Approach Mandeville, LA 70471

RE: CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY ENFORCEMENT TRACKING NO. HE-CN-15-00905 AGENCY INTEREST NO. 4921

Dear Sir/Madam:

Pursuant to the Louisiana Environmental Quality Act (La. R.S. 30:2001, et seq.), the attached CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY is hereby served on DELTA PETROLEUM COMPANY, INC. (RESPONDENT) for the violations described therein.

Compliance is expected within the maximum time period established by each part of the COMPLIANCE ORDER. The violations cited in the CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY could result in the issuance of a civil penalty or other appropriate legal actions.

Any questions concerning this action should be directed to Adrienne Landry at (225) 219-3805 or Adrienne.Landry@la.gov.

Sincerely,

Administrator

Enforcement Division

CJC/ARL/arl Alt ID No. LAD989812795 Attachment

STATE OF LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY

OFFICE OF ENVIRONMENTAL COMPLIANCE

IN THE MATTER OF

DELTA PETROLEUM COMPANY, INC. IBERVILLE PARISH ALT ID NO. LAD989812795 ENFORCEMENT TRACKING NO.

HE-CN-15-00905

AGENCY INTEREST NO.

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

4921

CONSOLIDATED

COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY

The following CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY is issued to DELTA PETROLEUM COMPANY, INC. (RESPONDENT) 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 particularly by La. R.S. 30:2025(C), 30:2050.2 and 30:2050.3(B).

FINDINGS OF FACT

I.

The Respondent owns and/or operates Delta Company Group located at 3950 Highway 30 South, St. Gabriel, Iberville Parish, Louisiana. The facility is registered as a large quantity generator of hazardous waste; however, at the time of the inspections referenced below, the facility was operating as a small quantity generator of hazardous waste. The facility operates under EPA Identification Number LAD989812795.

II.

During the March 9, 2015 inspection, the Department observed multiple drums in the less than ninety (90) day hazardous waste storage area. Due to inadequate aisle spacing, the Department could not determine if all drums were correctly labeled and dated. During the March 11, 2015 inspection, a representative of the Respondent stated that through in-house determination, they were able to conclude

that approximately half of the drums in the less than ninety (90) day hazardous waste storage area were mislabeled as hazardous waste and therefore, subsequently removed from the hazardous waste storage area. During the March 11, 2015 inspection, the Department requested documentation of the facility's corrective action and reasoning behind classifying the drums as a nonhazardous waste. On or about March 27, 2015, the Respondent submitted correspondence to the Department outlining the corrective actions taken since the inspection.

III.

On or about March 9, 2015 and March 11, 2015, the Department conducted inspections at the above referenced facility to determine the degree of compliance with the Act and the supporting Regulations. While the investigation by the Department is not yet complete, the following violations were noted during the course of the inspections:

- A. The Respondent stored universal waste for longer than one (1) year from the date the universal waste was generated, or received from another handler, in a continuous of LAC 33:V.3825.A. Specifically, the facility stored universal waste lamps for more than a year according to the accumulation start date of January 1, 2011 listed on the universal waste lamp box. This violation was discovered during the March 9, 2015 inspection. On or about March 26, 2015, the Respondent shipped all universal waste lamps to an authorized Universal Waste recycling center; therefore, this violation has been addressed.
- B. 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, during the March 9, 2015 inspection, the Department observed a satellite accumulation container in the laboratory which was not marked as "Hazardous Waste" or other words that identify the contents of the container. On or about March 27, 2015, the Respondent labeled the satellite accumulation container as "Flammable;" therefore, this violation has been addressed.
- C. The Respondent failed to maintain aisle space sufficient to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of the facility operation in an emergency, as specified in LAC 33:V.1511.F, in violation of LAC 33:V.1109.E.7.c. Specifically.

during the March 9, 2015 inspection, the Department observed aisle spacing in the hazardous waste accumulation area that was not sufficient for the movement of personnel and equipment. During the March 11, 2015 inspection, the Department observed adequate aisle spacing in the hazardous waste accumulation area; therefore, this violation has been addressed.

- D. 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.7.a. Specifically, located in the less than ninety (90) day hazardous waste storage area, the Department observed two (2) drums labeled "Hazardous Waste" which were not closed. This violation was noted during the March 9, 2015 inspection. A representative of the Respondent later determined one (1) of the drums did not contain hazardous waste, as described in France g of Facts paragraph II.
- E. The Respondent failed to mark containers containing hazardous waste with an accumulation start date, as specified in LAC 33:V.1109.E.1.c, in violation of LAC 33:V.1109.E.7.a. Specifically, located in the less than ninety (90) day hazardous waste storage area, the Department observed two (2) drums labeled "Hazardous Waste" which did not have an accumulation start date. This violation was discovered during the March 9, 2015 inspection. A representative of the Respondent determined one (1) of the drums did not contain hazardous waste, as described in Finding of Facts paragraph II. Furthermore, the March 11, 2015 inspection revealed the second drum was labeled with an accumulation start date; therefore, this violation has been addressed.
- F. The Respondent failed to conduct weekly inspections of areas where containers are stored, as specified in LAC 33:V.2109.A, in violation of LAC 33:V.1109.E.7.a. Specifically, the Respondent was not conducting weekly inspections of the hazardous waste storage area. During the March 11, 2015 inspection, the Department verified the Respondent has added weekly inspections of the hazardous waste storage area to the facility's compliance management program; therefore, this violation has been addressed.

- G. The Respondent stored regulated hazardous waste for more than one hundred and eighty (180) days without a permit or other authorization, in violation of LAC 33:V.303.B. Specifically, at the time of the March 9, 2015 inspection, the Respondent was storing multiple hazardous waste drums for greater than one hundred and eighty (180) days without obtaining a hazardous waste storage permit. A representative of the Respondent later determined roughly half of the drums did not contain hazardous waste, as described in Finding of Facts paragraph II. On or about March 19, 2015, the remaining hazardous waste drums were shipped off-site for disposal to an authorized hazardous waste disposal facility; therefore this violation has been addressed.
- H. The Respondent failed to notify the Office of Environmental Services within seven (7) days if any of the information submitted in the application for the identification number changes, in violation of LAC 33:V.1105.B. Specifically, the Respondent's March 27, 2015 response included a hazardous waste manifest which contained a hazardous waste code which was not included on the facility's most recent HW-1. The HW-1 is missing the hazardous waste codes U092, U110, U184, and U210. Furthermore, February 24, 2016, the 2015 Annual Hazardous Waste Report was received by the Department which includes hazardous waste codes U092, U110, and U184.

COMPLIANCE ORDER

Based on the foregoing, the Respondent is hereby ordered:

I.

To take, immediately upon receipt of this **COMPLIANCE ORDER**, any and all steps necessary to meet and maintain compliance with the Louisiana Hazardous Waste Regulations.

II.

To close, immediately upon receipt of this **COMPLIANCE ORDER**, all containers storing hazardous waste, including accumulation containers, and to institute procedures to ensure that containers storing hazardous waste remain closed except when necessary to add or remove waste, as specified in LAC 33:V.2107.A, in accordance with LAC 33:V.1109.E.7.a.

III.

To submit to the Office of Environmental Services, within seven (7) days after receipt of this COMPLIANCE ORDER, an updated HW-1 notification form indicating all applicable hazardous waste codes in accordance with LAC 33:V.1105.B. A copy shall be submitted to the Enforcement Division.

IV.

To submit to the Enforcement Division, within thirty (30) days after receipt of this COMPLIANCE ORDER, a written report that includes a detailed description of the circumstances surrounding the cited violations and actions taken or to be taken to achieve compliance with the Order Portion of this COMPLIANCE ORDER. This report and all other reports or information required to be submitted to the Enforcement Division by this COMPLIANCE ORDER shall be submitted to:

Office of Environmental Compliance Post Office Box 4312 Baton Rouge, Louisiana 70821-4312

Attn: Adrienne Landry

Re: Enforcement Tracking No. HE-CN-15-00905

Agency Interest No. 4921

THE RESPONDENT SHALL FURTHER BE ON NOTICE THAT:

Ĭ.

The Respondent has a right to an adjudicatory hearing on a disputed issue of material fact or of law arising from this **COMPLIANCE ORDER**. This right may be exercised by filing a written request with the Secretary no later than thirty (30) days after receipt of this **COMPLIANCE ORDER**.

II.

The request for an adjudicatory hearing shall specify the provisions of the **COMPLIANCE**ORDER on which the hearing is requested and shall briefly describe the basis for the request. This request should reference the Enforcement Tracking Number and Agency Interest Number, which are located in the upper right-hand corner of the first page of this document and should be directed to the following:

Department of Environmental Quality Office of the Secretary Post Office Box 4302 Baton Rouge, Louisiana 70821-4302

Attn: Hearings Clerk, Legal Division

Re: Enforcement Tracking No. HE-CN-15-00905

Agency Interest No. 4921

III.

Upon the Respondent's timely filing a request for a hearing, a hearing on the disputed issue of material fact or of law regarding this **COMPLIANCE ORDER** may be scheduled by the Secretary of the Department. The hearing shall be governed by the Act, the Administrative Procedure Act (La. R.S. 49:950, et seq.), and the Department's Rules of Procedure. The Department may amend or supplement this **COMPLIANCE ORDER** prior to the hearing, after providing sufficient notice and an opportunity for the preparation of a defense for the hearing.

IV.

This COMPLIANCE ORDER shall become a final enforcement action unless the request for hearing is timely filed. Failure to timely request a hearing constitutes a waiver of the Respondent's right to a hearing on a disputed issue of material fact or of law under Section 2050.4 of the Act for the violation(s) described herein.

V.

The Respondent's failure to request a hearing or to file an appeal or the Respondent's withdrawal of a request for hearing on this **COMPLIANCE ORDER** shall not preclude the Respondent from contesting the findings of facts in any subsequent penalty action addressing the same violation(s), although the Respondent is estopped from objecting to this **COMPLIANCE ORDER** becoming a permanent part of its compliance history.

VI.

Civil penalties of not more than twenty-seven thousand five hundred dollars (\$27,500) for each day of violation for the violation(s) described herein may be assessed. For violations which occurred on August 15, 2004, or after, civil penalties of not more than thirty-two thousand five hundred dollars (\$32,500) may be assessed for each day of violation. The Respondent's failure or refusal to comply with this **COMPLIANCE ORDER** and the provisions herein will subject the Respondent to possible enforcement procedures under La. R.S. 30:2025, which could result in the assessment of a civil penalty

in an amount of not more than fifty thousand dollars (\$50,000) for each day of continued violation or noncompliance.

VII.

For each violation described herein, the Department reserves the right to seek civil penalties in any manner allowed by law, and nothing herein shall be construed to preclude the right to seek such penalties.

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 Adrienne Landry at (225) 219-3805 within ten (10) days of receipt of this NOTICE OF POTENTIAL PENALTY.

Ш

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 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 violation(s) 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 that 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.

The Department assesses civil penalties based on LAC 33:I.Subpart1.Chapter7. To expedite closure of this NOTICE OF POTENTIAL PENALTY portion, the Respondent may offer a settlement

amount to resolve any claim for civil penalties for the violation(s) described herein. The Respondent may offer a settlement amount, but the Department is under no obligation to enter into settlement negotiations. The decision to proceed with a settlement is at the discretion of the Department. The settlement offer amount may be entered on the attached "CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY REQUEST TO CLOSE" form. The Respondent must include a justification of the offer. <u>DO NOT</u> 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.

V.

This CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY is effective upon receipt.

Paton Rouge. Louisiana, this H day of

______, 2018

Lourdes Imralde

Assistant Secretary

Office of Environmental Compliance

Copies of a request for a hearing and/or related correspondence should be sent to:

Louisiana Department of Environmental Quality
Office of Environmental Compliance
Enforcement Division
P.O. Box 4312
Baton Rouge, LA 70821-4312
Attention: Adrienne Landry

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY

OFFICE OF ENVIRONMENTAL COMPLIANCE

DATON DOLLCE LOUISIANIA TODOS 4343

ENFORCEMENT DIVISION

CONSOLIDATED COMPLIANCE ORDER &

POST OFFICE BOX 4312

NOTICE OF POTENTIAL PENALTY



BATON ROUGE, LOUISIANA	70821-4312 REQUEST TO CLO	SE	LOUISIANA	
Enforcement Tracking No.	HE-CN-15-00905	Contact Name	Adrienne Landry	
Agency Interest (AI) No.	4921	Contact Phone No.	225-219-3805	
Alternate ID No.	LAD989812795			
	Delta Petroleum Company, Inc.	Facility Name:	Delta Company Group	
	c/o CT Corporation System	Physical Location:	3950 Highway 30 South	
	Agent for Service of Process			
	3867 Plaza Tower Drive	City, State, Zip:	St. Gabriel, LA 70076	
	Baton Rouge, LA 70816	Parish:	Iberville	

STATEMENT OF COMPLIANCE.

STATEMENT OF COMPLIANCE	Date Completed	Copy Attached?
A written report was submitted in accordance with Paragraph IV of the "Order" portion of the COMPLIANCE ORDER.		
All necessary documents were submitted to the Department within 7 days of receipt of the COMPLIANCE ORDER in accordance with Paragraph III of the "Order" portion of the COMPLIANCE ORDER.		A the distance of the water
the "Findings of Fact" portion of the COMPLIANCE ORDER were addressed and the facility is being operated to meet and maintain the requirements of the "Order" portion of the COMPLIANCE ORDER. Final compliance was achieved as of:		

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 HE-CN-15-00905, 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 HE-CN-15-0090S, 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 HE-CN-15-00905 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.

*	s				
Respondent's Signature	Respondent's Printed Name		Respondent's Title		
· ·		29			
Respondent's Physical Address		Respondent's Phone#		Date	
MAIL	COMPLETED DOCUMENT TO	THE ADDRESS	S BELOW:		
uisiana Department of Environmental Qua	ality				
fice of Environmental Compliance	Telegral .				
forcement Division					
D. Box 4312				100	
ton Rouge, LA 70821					
n: Adrienne Bayhi					

Delta Petroleum Company, Inc.
 c/o Christi Nelson, Operations Manager
 3950 Hwy 30 South
 St. Gabriel, LA 70076