

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

STOLTHAVEN NEW ORLEANS, L.L.C.

AI # 87738

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

* Settlement Tracking No.
* SA-WE-19-0102
*
* Enforcement Tracking No.
* WE-PP-19-00065A
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SETTLEMENT

The following Settlement is hereby agreed to between Stolthaven New Orleans, 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 petrochemical bulk storage and transfer facility located in Braithwaite, Plaquemines Parish, Louisiana (“the Facility”).

II

On August 29, 2019, the Department issued to Respondent an Amended Notice of Potential Penalty, Enforcement No. WE-PP-19-00065A (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 TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00), of which Four Hundred Fifty-One and 32/100 Dollars (\$451.32) 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 Amended 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 Plaquemines 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.

STOLTHAVEN NEW ORLEANS, L.L.C.

BY: _____
(Signature)

(Printed)

TITLE: _____

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20 _____, at _____.

NOTARY PUBLIC (ID # _____)

(stamped or printed)

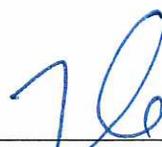
LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Chuck Carr Brown, Ph.D., Secretary

BY: _____
Lourdes Iturralde, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20 _____, at Baton Rouge, Louisiana.

NOTARY PUBLIC (ID # _____)

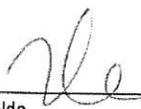
(stamped or printed)

Approved:  _____
Lourdes Iturralde, Assistant Secretary

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY OFFICE OF ENVIRONMENTAL COMPLIANCE ENFORCEMENT DIVISION POST OFFICE BOX 4312 BATON ROUGE, LOUISIANA 70821-4312		AMENDED NOTICE OF POTENTIAL PENALTY		
Enforcement Tracking No.	WE-PP-19-00065A	Certified Mail No.	7018 1130 0001 5655 2472	
Agency Interest (AI) No.	87738	Contact Name	Scott B. Pierce	
Alternate ID No.	LA0114405	Contact Phone No.	(225) 219-3723	
Respondent:	STOLTHAVEN NEW ORLEANS, L.L.C.	Facility Name:	New Orleans Terminal	
	c/o C T Corporation System	Physical Location:	2444 English Turn Rd.	
	Agent for Service of Process			
	3867 Plaza Tower Dr. Baton Rouge, LA 70816	City, State, Zip: Parish:	Braithwaite, LA 70040 Plaquemines	
This AMENDED 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). This AMENDED NOTICE OF POTENTIAL PENALTY replaces NOTICE OF POTENTIAL PENALTY, ENFORCEMENT TRACKING NO. BWE-PP-19-00065 issued on June 25, 2019, in its entirety.				
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 petrochemical bulk storage and transfer facility located at 2444 English Turn Rd, Braithwaite, Plaquemines Parish, Louisiana. The Respondent was issued Louisiana Pollutant Discharge Elimination System (LPDES) Permit LA0114405 on April 23, 2015, with an effective date of June 1, 2015. A minor modification to LPDES Permit LA0114405 was issued effective on June 20, 2018. LPDES Permit LA0114405 will expire on May 31, 2020. Under the terms and conditions of LPDES Permit LA0114405, the Respondent is permitted to discharge various wastewaters into the Mississippi River (Outfalls 001-003, and 005) and into the Braithwaite Canal via local drainage (Outfalls 005-014), all waters of the state.			
	Date of Violation	Description of Violation		
II.	Inspection(s) & File Review 9/26/18 4/29/19 7/19/19	The Respondent failed to comply with LPDES permit LA0114405. Specifically, a review of Discharge Monitoring Reports (DMRs) between January 2017 and May 2019, revealed that the Respondent reported exceedances of permit effluent limitations for BOD, BTEX, and Pyridine. See Attachment "A" (LPDES Permit LA0114405 (Part I), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A)		
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 Scott B. Pierce at (225) 219-3723 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 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.	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 Water Enforcement Division Post Office Box 4312 Baton Rouge, LA 70821 Attn: Scott B. Pierce		Department of Environmental Quality 602 N Fifth Street Baton Rouge, LA 70802		
HOW TO REQUEST CLOSURE OF THIS AMENDED NOTICE OF POTENTIAL PENALTY				
To expedite closure of the AMENDED 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:IX.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 "AMENDED 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.
- The **NOTICE OF POTENTIAL PENALTY** will not be closed if the Respondent owes outstanding fees to the Department. Please contact the Financial Services Division at 225-219-3865 or email them at _DEQ-WWWFinancialServices@la.gov to determine if you owe outstanding fees.

If you have questions or need more information, you may contact Scott B. Pierce at (225) 219-3723 or scott.pierce@la.gov.



Lourdes Iturralde
Assistant Secretary
Office of Environmental Compliance

Date: 8-29-19

cc: STOLTHAVEN NEW ORLEANS, L.L.C.
c/o Timothy Smith
2444 English Turn Rd.
Braithwaite, LA 70040

David J. Topping
Phelps Dunbar LLP
Canal Place
365 Canal Street, Suite 2000
New Orleans, LA 70130

Attachment(s)

- Request to Settle
- Attachment "A"

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

AMENDED
 NOTICE OF POTENTIAL PENALTY
 REQUEST TO SETTLE (OPTIONAL)



Enforcement Tracking No.	WE-PP-19-00065A	Contact Name	Scott B. Pierce
Agency Interest (AI) No.	87738	Contact Phone No.	(225) 219-3723
Alternate ID No.	LA0114405		
Respondent:	STOLTHAVEN NEW ORLEANS, L.L.C.	Facility Name:	New Orleans Terminal
	c/o C T Corporation System	Physical Location:	2444 English Turn Rd.
	Agent for Service of Process		
	3867 Plaza Tower Dr.	City, State, Zip:	Braithwaite, LA 70040
	Baton Rouge, LA 70816	Parish:	Plaquemines

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 (WE-PP-19-00065A), 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 (WE-PP-19-00065A), 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 (WE-PP-19-00065A) 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
 Post Office Box 4312
 Baton Rouge, LA 70821
 Attn: Scott B. Pierce

If you have questions or need more information, you may contact (225) 219-3723 or scott.pierce@la.gov.

ATTACHMENT "A"

Stolthaven New Orleans, LLC - Braithwaite Terminal-LA0114405

MP End Date	Outfall	Parameter	Limit	DMR Value	Units
12/31/2017	008-S	BOD, 5-day, 20 deg. C --- MO AVG	30	42	mg/L
02/28/2018	003-A	BTEX --- DAILY MX	250	17630	ug/L
02/28/2018	101-A	BOD, 5-day, 20 deg. C --- MO AVG	53	78	mg/L
03/31/2018	101-A	Pyridine --- DAILY MX	.1	<.114	mg/L
05/31/2018	101-A	BOD, 5-day, 20 deg. C --- DAILY MX	163	204	mg/L
06/30/2018	101-A	BOD, 5-day, 20 deg. C --- MO AVG	53	73.6	mg/L
02/28/2019	101-A	BOD, 5-day, 20 deg. C --- MO AVG	53	90.8	mg/L
02/28/2019	101-A	BOD, 5-day, 20 deg. C --- DAILY MX	163	196	mg/L