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

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

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)

DANIEL CALL
(Printed)

TITLE: OFFICER

THUS DONE AND SIGNED in duplicate original before me this 16th day of June, 2020, at Houston, TX.

JANET L. KNAPP
NOTARY PUBLIC (ID # 128449785)
(Stamped or printed)

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

BY: ________________________________
Lourdes Ituralde, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 1st day of October, 2020, at Baton Rouge, Louisiana.

Amber Greewillim Litchfield
(NOTARY PUBLIC (ID # 90583)
(stamped or printed)

Approved: ________________________________
Lourdes Ituralde, Assistant Secretary

5 SA-WE-19-0102
AMENDED NOTICE OF POTENTIAL PENALTY

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

Enforcement Tracking No. WE-PP-19-00065A
Agency Interest (AJ) No. 87738
Alternate ID No. LA0114405

Certified Mail No. 7018 1130 0001 5655 2472
Contact Name Scott B. Pierce
Contact Phone No. (225) 219-3723

Respondent: STOLTHAVEN NEW ORLEANS, L.L.C.
   c/o CT Corporation System
   3867 Plaza Tower Dr
   Baton Rouge, LA 70816
   Parish: St. James
   Facility Name: New Orleans Terminal
   Physical Location: 2444 English Turn Rd.
   City, State, Zip: Braithwaite, LA 70040

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. WE-PP-19-00065 issued on June 25, 2019, in its entirety.

FINDINGS OF FACT

An authorized representative of the Department inspected the aforementioned 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.

II. 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 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 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 revenue 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: Louisiana Department of Environmental Quality
Office of Environmental Compliance
Water Enforcement Division
Post Office Box 4312
Baton Rouge, LA 70821
Attn: Scott B. Pierce

Physical Address (If hand delivered): 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.

- 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 "AMENDED NOTICE OF POTENTIAL PENALTY REQUEST 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-WWFinancialServices@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.

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Lourdes Iturralde  
Assistant Secretary  
Office of Environmental Compliance  

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

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Respondent:
STOLTHAVEN NEW ORLEANS, L.L.C.
c/o C Y Corporation System
Agent for Service of Process
3867 Plaza Tower Dr.
Baton Rouge, LA 70816

Facility Name: New Orleans Terminal
Physical Location: 2444 English Turn Rd.
City, State, Zip: Braithwaite, LA 70040
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

- 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.
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