

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

EAGLE US 2 LLC

AI # 1255

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

* Settlement Tracking No.
* SA-HE-23-0077
*
* Enforcement Tracking No.
* HE-PP-20-00144
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SETTLEMENT AGREEMENT

The following Settlement Agreement is hereby agreed to between Westlake US 2 LLC f/k/a Eagle US 2 LLC (“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 chemical manufacturing facility located in Westlake, Calcasieu Parish, Louisiana (“the Facility”).

II

On March 26, 2020, the Department issued to Respondent a Notice of Potential Penalty, Enforcement Tracking No. HE-PP-20-00144 (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 FOUR THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$4,500.00), of which Six Hundred Seven and 88/100 Dollars (\$607.88) represents the Department's enforcement costs, in settlement of the claims set forth in this Settlement 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 Agreement 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 Settlement 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 Settlement Agreement in any action by the Department to enforce this Settlement Agreement.

VII

This Settlement Agreement 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 Agreement, 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 Calcasieu Parish, Louisiana. The advertisement, in form and wording approved by the Department, announced the availability of this Settlement Agreement 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 Agreement 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 Settlement 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 attached hereto.

XI

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement Agreement.

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.

**WESTLAKE US 2 LLC F/K/A
EAGLE US 2 LLC**

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**
Aurelia S. Giacometto, Secretary

BY: _____
Jerrie "Jerry" Lang, 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: 

Jerrie "Jerry" Lang, Assistant Secretary

JOHN BEL EDWARDS
GOVERNOR

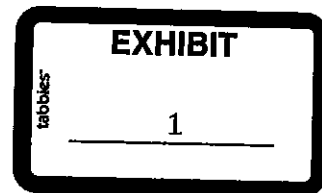


CHUCK CARR BROWN, PH.D.
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

MAR 26 2020

CERTIFIED MAIL (7018 1830 0000 5751 5531)
RETURN RECEIPT REQUESTED



EAGLE US 2 LLC
c/o C T Corporation System
Agent for Service of Process
3867 Plaza Tower Drive
Baton Rouge, LA 70816

**RE: NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. HE-PP-20-00144
AGENCY INTEREST NO. 1255**

Dear Sir/Madam:

On or about August 5, 2019, an investigation of **EAGLE US 2 LLC - LAKE CHARLES COMPLEX**, a chemical manufacturing facility, owned and/or operated by **EAGLE US 2 LLC (RESPONDENT)**, a subsidiary of Westlake Chemicals, was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Hazardous Waste Regulations. A subsequent file review was performed on February 18, 2020. The facility is located at 1300 PPG Drive in Westlake, Calcasieu Parish, Louisiana. The Respondent operates under hazardous waste permit LAD008086506-OP-RN-2 effective October 21, 2019, and is also a large quantity generator of hazardous waste under EPA Identification Number LAD008086506.

While the investigation by the Louisiana Department of Environmental Quality (the Department) is not yet complete, the following violation was noted during the course of the inspection and subsequent file review:

The Respondent failed to use a container made of or lined with materials which will not react with, or be incompatible with, the hazardous waste to be stored, so that the ability of the container to contain the waste is not impaired, as specified in LAC 33:V.2105, in violation of LAC 33:V.1109.E.1.a.i. Specifically, the Respondent placed liquid and solid spent catalyst in an incompatible container, graded for containing corrosive solids. The container was labelled as carrying corrosive solids as shown in the packing list and Federal Hazardous Waste sticker. In correspondence dated August 12, 2019, Chemical Waste Management, Inc. – Lake Charles Transportation (CWM), the waste transporter contracted by the Respondent, reported that the hazardous waste consisted of 1,2-Dichloroethane (D028), Tetrachloroethylene (D039), and Trichloroethylene (D040). The liquid portion of the catalyst ate a hole through

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the container and was released from the transport vehicle while being transported from the Respondent's facility to the CWM facility. The hazardous waste container was inspected by the CWM driver prior to transporting to the CWM facility on August 5, 2019, and observed no signs of damage and no spillage occurred at the Respondent's facility. After leaving the Respondent's facility, large splotches and streaks of brown powder were observed starting at the exit ramp in Sulphur, Louisiana. The affected area extended 16.5 miles from the Respondent's facility to the CWM facility. A spill occurred every time the truck carrying the hazardous waste container stopped. Five (5) major spill zones were identified along the truck route. However, the majority of the spill occurred at the CWM facility. In the August 12, 2019 "Unauthorized Discharge Notification Report", a representative of CWM stated that the spill and clean-up wastes at the CWM facility were stored at the secondary containment area during the incident. According to an email correspondence dated March 19, 2020, the wastes were transported by CWM and disposed of at a permitted facility on August 28, 2019. According to a representative of CWM, approximately 600 pounds of the hazardous waste were released during the incident. Cleanup of the affected area along the truck route was completed by CWM on August 6, 2019.

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.

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 Dr. Jacqueline Prudente at (225) 219-3095 or jacqueline.prudente@la.gov 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. 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.

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.

The Department assesses civil penalties based on LAC 33:I.Subpart1.Chapter 7. To expedite closure of this **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 Respondent may offer a

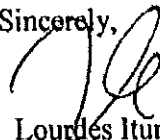
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settlement amount, but the Department is under no obligation to enter into settlement negotiations. The decision to proceed with a settlement is at the discretion of the Department. The settlement offer amount may be entered on the attached "NOTICE 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.

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 Iturralde
Assistant Secretary
Office of Environmental Compliance

LI/JAP/jap

Alt ID No. LAD008086506

c: Eagle US 2 LLC
c/o Paula McCain
PO Box 1000
Lake Charles, LA 70602

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY OFFICE OF ENVIRONMENTAL COMPLIANCE ENFORCEMENT DIVISION POST OFFICE BOX 4312 BATON ROUGE, LOUISIANA 70821-4312		NOTICE OF POTENTIAL PENALTY REQUEST TO SETTLE (OPTIONAL)		
Enforcement Tracking No.	HE-PP-20-00144	Contact Name	Dr. Jacqueline Prudente	
Agency Interest (AI) No.	1255	Contact Phone No.	(225) 219-3095	
Alternate ID No.	LAD008086506			
Respondent:	Eagle US 2 LLC	Facility Name:	Eagles US 2 LLC – Lake Charles Complex	
	c/o C T Corporation System	Physical Location:	1300 PPG Drive	
	Agent for Service of Process			
	3867 Plaza Tower Drive	Clty, State, Zip:	Westlake, LA 70669	
Baton Rouge, LA 70816	Parish:	Calcasieu		
SETTLEMENT OFFER (OPTIONAL)				
<i>(check the applicable option)</i>				
_____	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:i.Subpart1.Chapter7.			
_____	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (HE-PP-20-00144) , 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-PP-20-00144) , 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. <ul style="list-style-type: none"> • 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-PP-20-00144) and has attached a justification of its offer and a description of any BEPs if included in settlement offer.			
CERTIFICATION STATEMENT				
<i>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.</i>				
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 P.O. Box 4312 Baton Rouge, LA 70821 Attn: Dr. Jacqueline Prudente				