

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-WE-23-0084
*
* Enforcement Tracking No.
* WE-PP-22-00278
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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 an organic and inorganic chemical production facility located in Westlake, Calcasieu Parish, Louisiana (“the Facility”).

II

On December 19, 2022, the Department issued to Respondent a Notice of Potential Penalty, Enforcement Tracking No. WE-PP-22-00278 (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 FORTY THOUSAND AND NO/100 DOLLARS (\$40,000.00), of which Two Thousand Nine Hundred Seventy and 79/100 Dollars (\$2,970.79) 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

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-22-00278	Certified Mail No.		7005 0390 0006 1028 1176	
Agency Interest (AI) No.		1255	Contact Name		Scott B.Pierce	
Alternate ID No.		LA0000761	Contact Phone No.		(225) 219-7323	
Respondent:	Eagle US 2 LLC		Facility Name:			Lake Charles Complex
	c/o C T Corporation System		Physical Location:			1300 PPG Dr.
	Agent for Service of Process		City, State, Zip:			Westlake, LA
	3867 Plaza Tower Dr. Baton Rouge, LA 70816		Parish:			Calcasieu
This 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).						
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 organic and inorganic chemical production and silica production facility located at 1300 PPG Drive, Westlake, Calcasieu Parish, Louisiana. The Respondent was issued Louisiana Pollutant Discharge Elimination System (LPDES) Permit LA0000761 on April 3, 2014, with an effective date of April 3, 2014, and expiration date of April 2, 2019. The Department received a request to extend the due date for the permit renewal application on or about June 26, 2018, prior to the due date of October 4, 2018, and the extension was granted until April 2, 2019. The Respondent submitted a renewal application on or about October 3, 2018, and LPDES Permit LA0000761 was administratively continued until it was reissued on October 7, 2022, with an effective date of November 1, 2022. LPDES Permit LA0000761 will expire on October 31, 2027. Under the terms and conditions of LPDES Permit LA0000761, the Respondent is permitted to discharge process wastewater continuously into the PPG canal thence into the Calcasieu River (Outfall 001), non-process wastewater intermittently into the Calcasieu River Ship Channel (Outfall 002), and non-process wastewater continuously into Bayou Verdine (Outfall 004), all waters of the state.					
	Date of Violation	Description of Violation				
II.	Inspection(s) & File Review 2/11/2022 11/10/2022	The Respondent failed to comply with LPDES Permit LA0000761. Specifically, a review of Discharge Monitoring Reports (DMRs) between April 2018 and September 2022, revealed that the Respondent reported exceedances of permit effluent limitations for BOD5, TSS, Total residual chlorine, Total copper, pH, >60 minute pH range excursions, and Monthly total accumulated pH range excursions. See Attachment "A" [LA0000761 (Part I, pgs. 6, 10, 14, 19 & 20 of 22, and Part III, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.D]				
III.	Inspection(s) & File Review 2/11/2022 11/10/2022	The Respondent failed to properly operate and maintain its treatment system. Specifically, on February 10, 2022, at approximately 9:30 am, the facility experienced a total power outage which caused a failure to properly treat the wastewater discharge from Outfall 001. The facility's 'A' caustic unit discharges wastewater through Outfall 001, which is neutralized with 20% hydrochloric acid (HCL) due to the wastewater stream's high pH. The neutralization takes place just before the wastewater stream is discharged from Outfall 001. The power outage resulted in the failure of the electric transfer pump which is used to replenish the HCL working tank from the larger storage tank. The Respondent did not have any shut-in valves to stop the flow of the wastewater stream and did not have any back-up or auxiliary systems to ensure proper neutralization could continue. The power outage caused improperly treated wastewater to discharge from Outfall 001 resulting in the exceedance of the pH range excursion limits establish under LPDES Permit LA0000761. Power at the facility was restored on February 10, 2022, at approximately 2:33 pm. The Respondent added 500 gallons of 20% HCL from a portable tote into the receiving stream on February 10, 2022, at approximately 8:00 pm. According to the written report submitted by the Respondent on or about April 21, 2022, the pH of the effluent at Outfall 001 was elevated above 9 s.u. from approximately 6:00 pm on February 10, 2022, to approximately 2:20 pm on February 11, 2022, at which time the effluent was restored to less than 9 s.u. (LA0000761 (Part III, Section B.3.a), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.E)				
IV.	Inspection(s) & File Review 2/11/2022 11/10/2022	The Respondent caused and/or allowed the destruction of fish and/or wildlife. Specifically, the above-referenced failure to properly operate and maintain the treatment system caused a discharge of wastewater with an elevated pH for a significant period of time that resulted in fish kills. According to the written report submitted by the Respondent on or about April 21, 2022, the Respondent discovered approximately six hundred forty-three (643) dead fish confined within the Respondent's outfall canal. (La. R.S. 30:2076(A)(3), LAC 33:IX.501.A , LAC 33:IX.1113.B.1.d, and LAC 33:IX.1113.B.5.)				
V.	File Review 11/10/2022	The Respondent failed to sample the effluent from Outfall 001 on a semi-annual basis as required by LPDES Permit LA0000761. Specifically, the Respondent failed to sample for the loading monthly averages of Benzo[a]pyrene and Benzo[a]anthracene during the second (2 nd) half of 2020 at Outfall 001. [LA0000761 (Part I, pg. 6 of 22, and Part III, Section A.2), 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) 219-7323 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. 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 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 may submit the settlement offer within one hundred and eighty (180) days of receipt of this **NOTICE OF POTENTIAL PENALTY**. 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.
- VI. 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

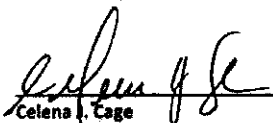
Enforcement Division:	Physical Address (if hand delivered):
Louisiana Department of Environmental Quality Office of Environmental Compliance Water Enforcement Division Post Office Box 4312 Baton Rouge, LA 70821 Attn: Scott B.Pierce	Department of Environmental Quality 602 N Fifth Street Baton Rouge, LA 70802

HOW TO REQUEST CLOSURE OF THIS NOTICE OF POTENTIAL PENALTY

To expedite closure of the **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:I.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 "**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.
- Before requesting closure of this **NOTICE OF POTENTIAL PENALTY**, 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) 219-7323 or scott.pierce@la.gov.




 Celena I. Cage
 Assistant Secretary
 Office of Environmental Compliance

Date: 12/19/2022

cc: Eagle US 2 LLC
 c/o Paula McCain, Sr. Mgr. Environmental
 1300 PPG Dr.
 Westlake, LA 70669

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		NOTICE OF POTENTIAL PENALTY REQUEST TO SETTLE (OPTIONAL)		
Enforcement Tracking No.	WE-PP-22-00278	Contact Name	Scott B.Pierce	
Agency Interest (AI) No.	1255	Contact Phone No.	(225) 219-7323	
Alternate ID No.	LA0000761			
Respondent:	Eagle US 2 LLC	Facility Name:	Lake Charles Complex	
	c/o C T Corporation System	Physical Location:	1300 PPG Dr.	
	Agent for Service of Process			
	3867 Plaza Tower Dr. Baton Rouge, LA 70816	City, State, Zip: Parish:	Westlake, LA Calcasieu	
SETTLEMENT OFFER (OPTIONAL)				
<i>(check the applicable option)</i>				
<input type="checkbox"/>	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.			
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (WE-PP-22-00278), the Respondent is interested in entering into settlement negotiations with the Department and would like to set up a meeting to discuss settlement procedures.			
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (WE-PP-22-00278), 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. 			
<input type="checkbox"/>	The Respondent has reviewed the violations noted in NOTICE OF POTENTIAL PENALTY (WE-PP-22-00278) 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 Scott B.Pierce at (225) 219-7323 or scott.pierce@la.gov.

ATTACHMENT "A"
Eagle US 2 LLC - LA0000761

MP End Date	Outfall	Parameter	Limit	DMR Value	Units
12/31/2018	001-A	BOD, 5-day, 20 deg. C -- MO AVG	9143	9716.87	lb/d
12/31/2018	201-B	Chlorine, total residual -- DAILY MX	47.3	54.75	lb/d
01/31/2019	101-A	Solids, total suspended -- DAILY MX	4532	10884	lb/d
04/30/2019	001-A	BOD, 5-day, 20 deg. C --- MO AVG	9143	19840.67	lb/d
04/30/2019	001-A	BOD, 5-day, 20 deg. C --- DAILY MX	19371	40145	lb/d
04/30/2019	001-A	pH range excursions, > 60 minutes --- MO TOTAL	0	1	occur/mo
04/30/2019	001-A	pH range excursions, monthly total accum --- MO TOTAL	446	764	min
04/30/2019	201-A	Solids, total suspended -- DAILY MX	15987	21104	lb/d
05/31/2019	001-A	pH range excursions, > 60 minutes --- MO TOTAL	0	2	occur/mo
05/31/2019	001-A	pH range excursions, monthly total accum --- MO TOTAL	446	547	min
09/30/2020	001-A	pH range excursions, > 60 minutes -- MO TOTAL*	0	1	occur/mo
10/31/2020	001-A	pH range excursions, > 60 minutes -- MO TOTAL	0	12	occur/mo
10/31/2020	001-A	pH range excursions, monthly total accum --- MO TOTAL	446	2329	min
10/31/2020	004-A	pH range excursions, > 60 minutes --- MO TOTAL	0	2	occur/mo
01/31/2021	004-A	pH range excursions, > 60 minutes -- MO TOTAL	0	1	occur/mo
02/28/2021	001-A	pH range excursions, > 60 minutes -- MO TOTAL	0	2	occur/mo
02/28/2021	002-A	pH -- INST MAX	9	9.27	SU
03/31/2021	004-A	pH range excursions, > 60 minutes --- MO TOTAL	0	2	occur/mo
03/31/2021	004-A	pH range excursions, monthly total accum --- MO TOTAL	446	579	min
04/30/2021	004-A	pH range excursions, > 60 minutes --- MO TOTAL	0	1	occur/mo
05/31/2021	001-A	pH range excursions, > 60 minutes --- MO TOTAL	0	1	occur/mo
06/30/2021	001-A	pH range excursions, > 60 minutes --- MO TOTAL	0	1	occur/mo
06/30/2021	001-A	pH range excursions, monthly total accum --- MO TOTAL	446	477	min
06/30/2021	201-A	Solids, total suspended -- DAILY MX	15987	25705	lb/d
07/31/2021	002-A	pH -- INST MAX	9	9.16	SU
08/31/2021	001-A	pH range excursions, > 60 minutes -- MO TOTAL	0	1	occur/mo
09/30/2021	001-Q	Copper, total [as Cu] -- MO AVG	5.56	5.7	lb/d
02/28/2022	001-A	pH range excursions, > 60 minutes --- MO TOTAL	0	3	occur/mo
02/28/2022	001-A	pH range excursions, monthly total accum -- MO TOTAL	446	1259	min
03/31/2022	001-A	pH range excursions, > 60 minutes --- MO TOTAL	0	1	occur/mo
03/31/2022	001-A	pH range excursions, monthly total accum --- MO TOTAL	446	763	min
07/31/2022	001-A	pH range excursions, > 60 minutes -- MO TOTAL	0	1	occur/mo
08/31/2022	001-A	pH range excursions, > 60 minutes --- MO TOTAL	0	1	occur/mo

* Hurricane Laura