STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	Settlement Tracking No.
	*	SA-WE-25-0021
LACC, LLC US	*	
	*	Enforcement Tracking No.
AI # 203831	*	WE-CN-22-00905
	*	
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT	*	Docket No. 2024-10084-DEQ
LA. R.S. 30:2001, <u>ET SEQ.</u>	*	

SETTLEMENT AGREEMENT

The following Settlement Agreement is hereby agreed to between LACC, LLC US ("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 limited liability company that owns and/or operates a chemical manufacturing facility located in Westlake, Calcasieu Parish, Louisiana ("the Facility").

Π

On February 9, 2023, the Department issued to Respondent a Consolidated Compliance

Order & Notice of Potential Penalty, Enforcement Tracking No. WE-CN-22-00905 (Exhibit 1).

Ш

In response to the Consolidated Compliance Order & Notice of Potential Penalty, Respondent made a timely request for a hearing.

Respondent denies it committed any violations or that it is liable for any fines, forfeitures

and/or penalties.

V

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 FIVE THOUSAND ONE HUNDRED AND NO/100 DOLLARS (\$5,100.00), of which Nine Hundred Thirty-Eight and 08/100 Dollars (\$938.08) 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).

VI

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.

VII

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.

2

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.

IX

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.

Х

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.

XI

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. The Respondent shall provide its tax identification number when submitting payment. 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

3

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.

XII

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

XIII

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.

LACC, LLC US

	BY:
	BY: (Signature)
	(Printed)
	TITLE:
	plicate original before me this day of, 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
	plicate original before me this day of, at Baton Rouge, Louisiana.
	NOTARY PUBLIC (ID #
~ ~ ~	(stamped or printed)







NEXT 5 PAGES

	77891, Page 2 of 8 OF ENVIRONMENTAL QUALITY TAL COMPLIANCE		
ENFORCEMENT DIVISION POST OFFICE BOX 4312	CONSOLIDATED	COMPLIANCE ORDER &	
BATON ROLLES LOUIS	NOTICE OF DE	COMPLIANCE ORDER &	
BATON ROUGE, LOUISIAN Enforcement Tracking No.	4 70821 4312	TENTIAL PENALTY	
Agency Interest (AI) No.	WE-CN-22-00905		DEG
Alternate ID No.	203831	Certified Mail No.	TODI DETE
Respondent:	LA0127268	Contact Name	7021 2720 0002 7447 2155 Kevin Foy
	LACC, LLC US	Contact Phone No.	(225) 219-3485
	c/o C T Corporation System	FacRity Name:	Ethodoso
	Call IOF Service of Dress	Physical Location;	Ethylene and Derivatives Plant
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Kevin.foy@la.gov within th	Iscuss this COMPLIANCE ORDER and irty (30) days after receipt of this COI representative of the Respondent w his matter.	Your response plant	
attended by a responsible	irty (30) days after receipt of this COI representative of the Respondent w his matter.	WPLIANCE ORDER +=	act Kevin Foy at 225-219-3485
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ne respondent has a right to	RIGHT TO AP an adjudicatory hearing on a dispute rclsed by filing a written request with	GAR .	
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LDEQ-EDMS Document 13677891, Page 3 of 8

VI,		
	Civil penalties of not more than thirty-two thousa	and five hundred dollars too near
		and five hundred dollars (\$32,500) may be assessed for each day of violation. Is COMPLIANCE ORDER and the provisions herein will subject the Responden 0:2025, which could result in the assessment of a civil penalty in an amount of ch day of continued violation or percompliance.
VII.	PREVENTION OF THE PROPERTY OF	The second s
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	Pursuant to Lo D 2 Notice	E OF POTENTIAL PENALTY
	violation(s) described herein. Written comments r	Interface that the issuance of a penalty assessment is being considered for t may be filed regarding the violation(s) and the contemplated penalty. If you ele submitted within ten (10) days of receive of this particle.
11.	Prior to the Issuance of additional	hay be filed regarding the violation(s) and the contemplated penalty. If you ele ubmitted within ten (10) days of receipt of this notice.
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IV.	THE DEUDICINENT RESPECTATION AND A CONTRACT OF	JULY JULY JULY JULY JULY JULY JULY JULY
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· · •	PEDerlinent will review the settlement attacks and	the form The second of the one amount with the form The
100 0 0 0 0	THIS CONSOLIDATED COMPLIANCE ORDER & NOTIC	City the Respondent as to whether the offer is or is not accepted. E OF POTENTIAL PENALTY is effective upon receipt.
1.45	CONTACTS AND	SUBMITTAL OF INFORMATION
nforcer		
Louisian	a Department of Environmental Quality	Hearing Requests:
UTRCE 0	Environmental Compliance	Department of Environmental Quality Office of the Secretary
Nater E	nforcement Division	Post Office Box 4302
OSC OT	lce Box 4312 puge, LA 70821	Baton Rouge, Louisiana 70821-4302
Attn: K	Nin Foy	Attn: Hearings Clerk, Legal Division
		Re: Enforcement Tracking No. WE-CN-22-moons
Index D	rmits Division (if necessary):	Agency Interest No. 203831
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. Int Secretary

Office of Environmental Compliance

Attachment(s) - Request to Close - Table 1 - Settlement Brochure

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Date: 02/09/2023

WE-CN-22-00905

CONOPP FORM 1

ENFORCEMENT DIVISION	LITTROAMENTAL QUALITY			~
POST OFFICE BOX 4312	CONSOLIDATED COM	PLIANCE ORDER &	/	
RATIN BOUCE LOUX 4312		NTIAL PENALTY		
BATON ROUGE, LOUISIANA Enforcement Tracking No.	REQUEST T	O CLOSE		DEO
Agency Interest (Al) No.	WE-CN-22-00905	Contact Name	- 1	LOUISIANA
Alternate ID No.	203831	Contact Phone No.	Kevin Foy	
Respondent:	LA0127268		(225) 219-3485	
	LACC, LLC US	Facility Name:	Estad allowers and	
	c/o C T Corporation System Agent for Service of Process	Physical Location:	Ethylene and Deri 2200 Bayou D'Inde	vatives Plant
· · · · · · · · · · · · · · · · · · ·	3867 Plaza Tower Dr.	<u> </u>	Poitor D Inde	Pass
	Baton Rouge, LA 70816	City, State, Zip:	Westlake, LA 7066	9
	and the second second second second second	Parish:	Calcasleu	
	SIATEMENT	OF COMPLIANCE		
A written report was submitte	STATEMENT OF COMPLIANCE		Data Carda da Ang	.
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meeting was attended in a	ccordance with Paragraph III of th			
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THE COMPLIANCE ORDER, FI	meet and maintain the requiremen nal compliance was achieved as of:	its of the Order portion		
		OFFER (OPTIONAL)		
	(check the a	pplicable option)		
The Respondent is not	Inform ALL IS	the second se		
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Monetary compo Beneficial Environ	y claim for civil penalties for the vi ested in entering into settlem which shall include LDEQ enforce inent = nmental Project (BEP)component (o PAYMENT OF THE OFFER WITH THIS to whether the offer is or is not acce	cement costs and any moneta S	ary benefit of non-com	offers to p pliance.
Respondent as	to whether the offer is or is not acce	ronm-the Department will r	eview the settlement of	
The Respondent has rev	lewed the violations noted in wor	pled.		offer and notify th
The Respondent has re- justification of its offer a	dewed the violations noted in NOT nd a description of any BEPs if inclu	DEE OF POTENTIAL PENALTY ded in settlement offer	(WE-CN-22-00905) a	offer and notify th nd has attached
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Table 1: Permit Effluent Limit Exceedances

MP End Date	Öutfall	Parameter			
03/31/202	005-0	PH INST MAX	Limit	OMR Value	Units
05/31/2022	001-A		9	19 N. 19	
05/31/2022	001-A	Solids, total suspended MO AVG	334	444.6	per la serie d
06/30/2022	001-A	Solids, total suspended - DAILY MX	1081	1742.8	
06/30/2022	001-A	Solids, total suspended MO AVG	334	477.4	· · · · · · · · · · · · · · · · · · ·
07/31/2022	001-A	Solids, total ausperided DAILY MX	1081	1332.9	lb/d
08/31/2022	001-A	Solids, total suspendedMO AVG	334	348.7	ib/d
08/31/2022	001-A	Solids, total suspended — MO AVG	334	660.3	lb/d
9/30/2022	001-A	Solids, total suspended — DAILY MX	1081	1427,9	lb/đ
0/31/2022	001-A	Solids, total suspended MO AVG	334	494.9	lb/d
1/30/2022	001-A	Solids, total suspended - MO AVG	334	429.1	lb/d
1/30/2022	001-A	Solids, total suspended — MO AVG	334	704,4	lb/d
2/31/2022	001-A	Solids, total suspended — DAILY MX	1081	1135.7	lb/d
2/31/2022	001-A	Solids, total suspended — MO AVG Solids, total suspended — DAILY MX	334	605.2	lb/d
2/31/2022	001-Y	Chloroform MO AVG	1081	1772.3	lb/d
	····	A A A A A A A A A A A A A A A A A A A	11	.115	lb/d

WHAT IS A SETTLEMENT AGREEMENT?

Once the Department has determined that a penalty is warranted for a violation, the Assistant Secretary of the Department, with the concurrence of the Attorney General, may enter into a settlement agreement with the Respondent as a means to resolve the Department's claim for a penalty.

HOW DOES THE SETTLEMENT AGREEMENT PROCESS WORK?

To begin the settlement agreement process, the Department must receive a written settlement offer. Once this offer is submitted, it is sent for approval by the Assistant Secretary of the Office of Environmental Compliance. The formal Settlement Agreement is drafted and sent to the Attorney General's office where the Attorney General has a 90 day concurrence period. During this time, the Respondent is required to run a public notice in an official journal and/or newspaper of general circulation in each affected parish. After which, a 45 day public comment agreement is signed by both parties. The Department then forwards a letter to the responsible party to establish a payment plan and/or beneficial environmental project (BEP).

WHAT SHOULD I INCLUDE IN A SETTLEMENT AGREEMENT?

The Department uses the penalty determination method defined in LAC 33:1.705 as a guideline to accepting settlement offers. The penalty matrix is used to determine a penalty range for each violation based on the two violation specific factors, the nature and gravity of the violation and the degree of risk/impact to human health and property.

	NATUR	E AND GRAVITY	OF THE VIOLATI	ON
		MAJOR	MODERATE	MINOR
EE OF RISK OR IMPACT HUMAN HEALTH OR PROPERTY	MAJOR	\$32,500 to \$20,000	\$20,000 to \$15,000	\$15,000 to \$11,000
	MODERATE	\$11,000 to \$8,000	\$8,000 to \$5,000	\$5,000 to \$3,000
DEGREE TO HI	MINOR	\$3,000 to \$1,500	\$1,500 lo \$500	\$500 to \$100

Degree of Risk to Human Health or Property

Major: (actual measurable harm or substantial risk of harm) A violation of major impact to an environmental resource or a hazard characterized by high volume and/or frequent occurrence and/or high pollutant concentration.

Moderate: (potential for measurable detrimental impact) A violation of moderate impact and hazard may be one characterized by occasional occurrence and/or pollutant concentration that may be expected to have a detrimental effect under certain conditions

Minor: (no harm or risk of harm) A violation of minor impact are isolated single incidences and that cause no measurable detrimental effect or are administrative in nature.

Nature and Gravity of the Violation

Major: Violations of statutes, regulations, orders, permit limits, or permit requirements that result in negating the intent of the requirement to such an extent that little or no implementation of requirements occurred.

Moderate: Violations that result in substantially negating the intent of the requirements, but some implementation of the requirements occurred. Minor: Violations that result in some deviation from the intent of the requirement; however, substantial implementation is demonstrated.

The range is adjusted using the following violator specific factors:

- 1. history of previous violations or repeated noncompliance;
- 2. gross revenues generated by the respondent;
- 3. degree of culpability, recalcifrance, defiance, or indifference to regulations or orders;
- 4. whether the Respondent has failed to mitigate or to make a reasonable attempt to mitigate the damages caused by the violation; and
- 5. whether the violation and the surrounding circumstances were immediately reported to the department, and whether the violation was concealed or there was an attempt to conceal by the Respondent.



Louisiana Department of Environmental Quality • Office of Environmental Compliance • Enforcement Division Post Office Box 4312, Baton Rouge, Louisiana 70821-4312 Phone: 225 | 219 | 3715 Fax: 225 | 219 | 3708 Given the previous information, the following formula is used to obtain a penalty amount.

Penalty Event Total = Penalty Event Minimum + (Adjustment Percentage x (Penalty Event Maximum - Penalty Event Minimum))

After this, the Department adds any monetary benefit of noncompliance to the penalty event. In the event that a monetary benefit is gained due to the delay of a cost that is ultimately paid, the Department adds the applicable judicial interest. Finally, the Department adds all response costs including, but not limited to, the cost of conducting inspections, and the staff time devoted to the preparation of reports and issuing enforcement actions.

WHAT IS A BEP?

A BEP is a project that provides for environmental mitigation which the respondent is not otherwise legally required to perform, but which the defendant/respondent agrees to undertake as a component of the settlement agreement.

Project categories for BEPs include public health, pollution prevention, pollution reduction, environmental restoration and protection, assessments and audits, environmental compliance promotion, and emergency planning, preparedness and response. Other projects may be considered if the Department determines that these projects have environmental merit and is otherwise fully consistent with the intent of the BEP regulations.

WHAT HAPPENS IF MY OFFER IS REJECTED?

If an offer is rejected by the Assistant Secretary, the Legal Division will contact the responsible party, or anyone designated as an appropriate contact in the settlement offer, to discuss any discrepancies.

WHERE CAN I FIND EXAMPLES AND MORE INFORMATION?

Settlement Offers	searchable in EDMS using the following filters
	Media: Air Quality, Function: Enforcement: Description: Settlement
Settlement Agreements	Enforcement Division's website
	specific examples can be provided upon request
Penalty Determination Method	LAC 33:1 Chapter 7
Beneficial Environmental Projects	LAC 33:1 Chapter 25
	FAQs
Judicial Interest	provided by the Louisiana State Bar Association



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