



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

December 17, 2010

CERTIFIED MAIL – RETURN RECEIPT REQUESTED: 7004 1160 0003 0359 3196

Mr. G. C. Slawson, Esq.
Slawson LLC
4120 University Blvd.
Houston, TX 77005

Re: Consent Agreement and Final Order
Docket No. CAA-06-2009-3301
LDH Energy Olefins, LLC
Chalmette, LA

Dear Mr. Slawson:

Enclosed is the fully executed Consent Agreement and Final Order (CAFO) for LDH Energy Olefins, LLC, located in Chalmette, Louisiana. The CAFO is effective upon signature.

Should you have any questions, please do not hesitate to contact Lorraine Dixon at (214) 665-7589. Thank you for all of your assistance in resolving this matter.

Sincerely,

A handwritten signature in black ink that reads "John Blevins". The signature is written in a cursive style with a large, sweeping initial "J".

John Blevins
Director
Compliance Assurance and
Enforcement Division

Enclosure

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
BEFORE THE ADMINISTRATOR

FILED
2011 JAN 11 PM 10:13
REGIONAL HEARING CLERK
EPA REGION VI

IN THE MATTER OF: §
LDH ENERGY OLEFINS, LLC § EPA DOCKET NO. CAA-06-2009-3301
CHALMETTE, LOUISIANA §
§
§ COMPLAINT AND
§ CONSENT AGREEMENT AND
§ FINAL ORDER
§

The Director of the Compliance Assurance and Enforcement Division of the United States Environmental Protection Agency (EPA), Region 6 (Complainant), and LDH Energy Olefins, LLC, Chalmette, Louisiana (Respondent) in the above-referenced proceeding, hereby agree to resolve this matter through the issuance of this Complaint and Consent Agreement and Final Order (Complaint and CAFO).

I. PRELIMINARY STATEMENT

1. This proceeding is for the assessment of civil administrative penalties pursuant to Section 113(d) of the Clean Air Act, as amended (the Act and CAA), 42 U.S.C. § 7413(d) and for additional terms of settlement as agreed by Respondent. This proceeding was instituted by the issuance of a Complaint and Notice of Opportunity for Hearing (Complaint) incorporated herein, and is simultaneously concluded by the issuance of this CAFO against Respondent pursuant to 40 C.F.R. §§ 22.13(b) and 22.34.

2. The Complaint alleges LDH Energy Olefins, LLC, (LDH) violated regulations promulgated pursuant to the Act at its Chalmette Gas Processing Plant located in Chalmette, Louisiana (the Facility).

3. For purposes of this proceeding, Respondent admits the jurisdictional allegations of this Complaint; however, Respondent neither admits nor denies the specific factual allegations contained in this Complaint.

4. Respondent consents to the issuance of this CAFO hereinafter recited and consents to the assessment and payment in settlement of the stated civil administrative penalty in the amount and by the method set out in this CAFO.

5. By signature on this Complaint and CAFO, Respondent waives any right to an appeal of this proceeding.

6. This CAFO settles and resolves Respondent's liability for federal civil administrative penalties for the violations and facts alleged in this Complaint arising out of EPA's January 2008 multi-media inspection of the Facility and the related evaluations, discussions and communications through the date of settlement.

7. This settlement has been reached, without the adjudication or admission of any issue of fact or law, through good faith negotiations between the EPA and LDH and is for the purpose of avoiding further mediation, hearings, administrative proceedings, or litigation between the United States and Respondent.

8. Nothing in this CAFO shall be construed to prevent or limit EPA's civil and criminal authorities, or that of other Federal, State, or local agencies or departments to obtain penalties or injunctive relief under other Federal, State, or local laws or regulations.

9. Respondent represents that it is duly authorized to execute this CAFO and that the party signing this CAFO on behalf of the Respondent is duly authorized to bind the Respondent to the terms and conditions of this CAFO.

10. Respondent agrees that the provisions of this CAFO shall be binding on its officers, directors, employees, agents, servants, authorized representatives, successors, and assigns.

11. Pursuant to Section 113(a)(3)(A) of the Act, 42 U.S.C. § 7413(a)(3)(A), the Administrator of EPA may issue an administrative penalty order in accordance with subsection (d) of this Section when the Administrator finds that any person has violated requirements of the Act.

12. Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), also authorizes EPA to bring an administrative penalty action where the first alleged date of violation occurred more than twelve (12) months prior to the limitation of the action, if the Administrator and the United States Attorney General jointly determine that a matter is appropriate for administrative action.

13. The U.S. Department of Justice and EPA have jointly determined that an administrative action is appropriate for the violations alleged herein and have, therefore, waived the limit on the age of the violations, pursuant to Section 113(d) of the Act, 42 U.S.C. § 7413(d).

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

14. The Respondent is a business in the State of Louisiana and is a “person” as that term is defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e), and within the meaning of Section 113(d) of the Act, 42 U.S.C. § 7413(d).

15. At all relevant times, Respondent owned and operated a gas processing plant located in Chalmette, Louisiana.

New Source Performance Standards (NSPS)

16. Section 111(a)(1) of the Act, 42 U.S.C. § 7411(a)(1) defines “standard of performance” as a standard for emissions of air pollutants which reflects the degree of emission limitation achievable through the application of the best system of emission reduction which

(taking into account the cost of achieving such reduction and any non-air quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated.

17. Section 111(a)(2) of the Act, 42 U.S.C. § 7411(a)(2), defines the term “new source” as any stationary source, the construction or modification of which is commenced after the publication of regulations (or, if earlier, proposed regulations) prescribing a standard of performance applicable to such source.

18. Pursuant to Section 111(b) of the Act § 7411(b), EPA promulgated NSPS regulations setting standards of performance for Onshore Natural Gas Processing Plants (NSPS Subpart KKK) and Equipment Leaks of VOC in the Synthetic Organic Chemical Manufacturing Industry (NSPS Subpart VV), those regulations are set forth in 40 C.F.R. § 60.630 and 60.480a, respectively.¹

19. LDH operations are subject to the applicable requirements of the NSPS found at 40 C.F.R. Part 60, including Subpart KKK via special conditions contained in State permit number 2500-00055-02, which was in effect in January 2008.

20. LDH operations are subject to Subpart VV via Subpart KKK.

21. On January 9, 2008, EPA Region 6 conducted a multi-media inspection (“Inspection”) of Respondent’s Facility and thereafter received and evaluated documents produced by LDH as requested by EPA.

¹ 40 C.F.R. § 60.631 defines a natural gas processing plant to mean any processing site engaged in the extraction of natural gas liquids from field gas, fractionation of mixed natural gas liquids to natural gas products, or both. 40 C.F.R. § 481 defines the synthetic organic chemical manufacturing industry to mean the industry that produces as intermediates or final products one or more of the chemicals listed in § 60.489.

22. Pursuant to Section 113(a)(1) of the CAA, 42 U.S.C. § 7413(a)(1), EPA issued Respondent a Findings of Violation (FOV) on January 14, 2009, which are listed in the following Counts 1, 2 and 3.

23. Respondent replied to EPA's FOV on February 9, 2009. In its response, Respondent requested a meeting to discuss the concerns raised in the FOV. Thereafter, ongoing discussions and negotiations resulted in this settlement agreement.

Count 1

24. Pursuant to 40 C.F.R. § 60.482-3, each compressor shall be equipped with a seal system that includes a barrier fluid system that prevents leakage of volatile organic compounds to the atmosphere.

25. During the Inspection, EPA Representatives observed and documented the following concerns related to Respondent's compressors:

- hatch covers had been removed from packing gland boxes;
- leaking crank case stacks; and
- leaking pressurized safety valves and ¼ inch tubing connected to the compressors.

26. Based upon the above, EPA representatives determined that Respondent failed to comply with § 60.482-3.

Count 2

27. Pursuant to 40 C.F.R. § 60.482-6(a) (1), each opened ended valve or line shall be equipped with a cap, blind flange, plug, or a second valve.

28. Pursuant to 40 C.F.R. § 60.482-6(a)(2), the cap, blind flange, plug or second valve shall seal the open end at all times except during operations requiring process fluid flow through the open-ended valve or line.

29. During the Inspection, EPA Representatives observed and documented one open-ended line at Respondent's facility at a time when no operations requiring process fluid flow was taking place.

30. Based upon the above, EPA representatives determined that Respondent failed to comply with 40 C.F.R. § 60.482-6.

Count 3

31. Pursuant to 40 C.F.R. § 60.11(d), at all times, including periods of startup, shutdown, and malfunction, owners and operators shall, to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Administrator which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspections of the source.

32. During the Inspection and after a review of the files, EPA Representatives observed and noted several examples of poor air pollution control practices including numerous LDAR program violations including emission leaks from pressure safety valves and from the packing gland boxes of the compressor, and open-ended lines.

33. Additionally, NSPS Subpart VV states that the owner or operator shall designate less than 3.0 percent of the total number of valves as difficult to monitor.

34. After reviewing Respondent's files, EPA Representatives determined that the Respondent designated more than the allowable percent of total valves difficult to monitor.

35. Further, EPA Representatives noted that the number of valves over the allowable difficult to monitor percentage were monitored annually and should have been monitored quarterly.

Therefore, based upon the above, EPA representatives determined that Respondent violated 40 C.F.R. § 60.11(d).

III. ORDER

36. Respondent hereby certifies that within seventy-five (75) days of Respondent's receipt of this fully executed CAFO, the Facility will perform and certify compliance with the following tasks:

- a. Ensure that each compressor is in compliance with the applicable regulations found in 40 C.F.R. § 60.482-3(a);
- b. Ensure that each open-ended valve or line shall be equipped with a cap, blind flange, plug, or a second valve; and
- c. Ensure compliance with 40 C.F.R. Part 60.482.6.

IV. CIVIL PENALTY AND TERMS OF SETTLEMENT

37. For the reasons set forth above, Respondent has agreed to pay a civil administrative penalty which has been determined in accordance with Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d), which authorizes EPA to assess a civil penalty of up to thirty-two thousand five hundred dollars (\$32,500)² per day for each violation of the Act. Upon consideration of the entire record herein, including the Findings of Fact and Conclusions of Law, which are hereby adopted and made a part hereof, and upon consideration of the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violation, payment by the violator of penalties previously

² The Civil Penalty Inflation Adjustment Rule of December 31, 1996 (61 Fed. Reg. 69360) provides for ten percent (10%) increases in the statutory penalty provisions (\$25,000) cited in the Clean Air Act Stationary Source Civil Penalty Policy dated October 25, 1991 (CAA Penalty Policy). The ten percent (10%) increase is effective for violations which occurred between January 30, 1997 and March 14, 2004 for a statutory maximum penalty of \$27,500. The Civil Penalty Inflation Adjustment Rule of February 13, 2004 (69 Fed. Reg. 7121) provides for a further increase in the statutory penalty provisions in the CAA Penalty Policy by 17.23% for violations occurring on or after March 15, 2004, for a statutory maximum penalty of \$32,500. The Civil Penalty Inflation Adjustment Rule of December 11, 2008 (73 Fed. Reg. 75340) provides for a further increase in the statutory penalty provisions in the CAA Penalty Policy for violations occurring on or after January 12, 2009, for a statutory maximum penalty of \$37,500.

assessed for the same violation, the economic benefit of noncompliance, the seriousness of the violation, and other factors as justice may require, it is ORDERED that Respondent be assessed a civil penalty in the amount of seventy thousand dollars (\$70,000.00).

38. Within thirty (30) days of Respondent's receipt of this fully executed CAFO, Respondent shall pay seventy thousand dollars (\$70,000.00) by cashier's or certified check made payable to "Treasurer, United States of America, EPA - Region 6." Payment shall be remitted in one of four (4) ways: regular U.S. Postal Service mail, to include certified mail; overnight mail; wire transfer; or On Line Payment. For regular U.S. Postal Service mail, U.S. Postal Service certified mail, or U.S. Postal Service express mail, the check(s) should be remitted to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

For overnight mail (non-U.S. Postal Service, e.g. Fed Ex), the check(s) should be remitted to:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101
Contact: Natalie Pearson
(314) 418-4087

For wire transfer, the payment should be remitted to:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire message should read "D 68010727
Environmental Protection Agency"
phone number (412) 234-4381.

For On-line Payment:

WWW.PAY.GOV

Enter sfo 1.1 in search field

Open form and complete required fields.

PLEASE NOTE: Docket Number CAA-06-2009-3301 shall be clearly typed on the check to ensure proper credit. The check shall also be accompanied by a transmittal letter and shall reference Respondent's name and address, the case name, and docket number of the administrative complaint and CAFO. Respondent's adherence to this request will ensure proper credit is given when penalties are received for the Region. Respondent shall also send a simultaneous notice of such payment, including a copy of the money order, or check, and transmittal letter to the following:

Clint Rachal (6EN-AA)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Region 6 Hearing Clerk
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

39. Respondent agrees not to claim or attempt to claim a federal income tax deduction or credit covering all or any part of the civil penalty paid to the United States Treasurer.

40. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, unless otherwise prohibited by law, EPA will assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim. Interest on the civil penalty assessed in this CAFO will begin to accrue thirty (30) days after the effective date of the CAFO and will be recovered by EPA on any amount of the civil penalty that is not paid by the respective due date. Interest will be assessed at the rate of the United States

Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). Moreover, the costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. See 40 C.F.R. § 13.11(b).

41. EPA will also assess a fifteen dollar (\$15.00) administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional fifteen dollars (\$15.00) for each subsequent thirty (30) day period that the penalty remains unpaid. In addition, a penalty charge of up to six percent per year will be assessed monthly on any portion of the debt which remains delinquent more than ninety (90) days. See 40 C.F.R. § 13.11(c). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. See 31 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

42. Pursuant to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5), any person who fails to pay on a timely basis a civil penalty ordered or assessed under this section shall be required to pay, in addition to such penalty and interest, the United States enforcement expenses, including, but not limited to, attorneys fees and costs incurred by the United States for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be 10 percent of the aggregate amount of such person's outstanding penalties and nonpayment penalties accrued as of the beginning of each quarter.

43. This document is a "Final Order" as that term is defined in the CAA Penalty Policy for the purpose of demonstrating a history of "prior such violations."

IV. RETENTION OF ENFORCEMENT RIGHTS

44. EPA does not waive any rights or remedies available to EPA for any violations by the Respondent of any other Federal laws, regulations, statutes, or permitting programs not the subject of this action.

45. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the CAA.

V. COSTS

46. Each party shall bear its own costs and attorneys fees.

IT IS SO AGREED:

FOR THE RESPONDENT:

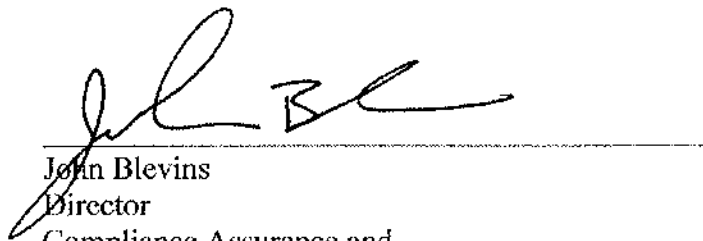
Date: 11-30-2010



Brad Burmaster
Vice President and General Manager

FOR THE COMPLAINANT:

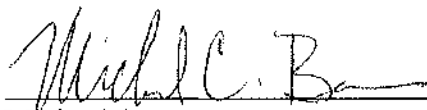
Date: 12/17/10



John Blevins
Director
Compliance Assurance and
Enforcement Division

FINAL ORDER

Pursuant to Section 113(d) of the Clean Air Act (Act), 42 U.S.C. § 7413(d), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. § 22, the foregoing Consent Agreement is hereby ratified. This Final Order shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order shall resolve only those causes of action alleged in this CAFO. Nothing in this Final Order shall be construed to waive, extinguish, or otherwise affect Respondent's (or its officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. The Respondent is ordered to comply with the terms of settlement as set forth in the Consent Agreement. In accordance with 40 C.F.R. § 22.31(b), this Final Order shall become effective upon filing with the Regional Hearing Clerk

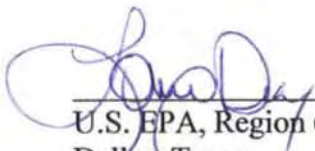
Dated January 11, 2011

Michael Barra
Regional Judicial Officer
U.S. EPA, Region 6

CERTIFICATE OF SERVICE

I hereby certify that on the 11 day of January, 2010, the original and one copy of the foregoing Complaint and Consent Agreement and Final Order ("Complaint and CAFO") was hand delivered to the Regional Hearing Clerk, U.S. EPA - Region 6, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733, and a true and correct copy was delivered to the following individual(s) by the method indicated below:

CERTIFIED MAIL - RETURN RECEIPT REQUESTED: 7004 1160 0003 0359 3196



U.S. EPA, Region 6
Dallas, Texas