

FILED

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY REGION 6
DALLAS, TEXAS

21 JUL 20 PM 5:03

REGIONAL HEARING CLERK
EPA REGION VI

IN THE MATTER OF:)	
)	
DISCOVERY PRODUCER SERVICES LLC)	DOCKET NO. CAA-06-2021-3349
LA ROSE, LOUISIANA)	
)	
RESPONDENT)	
_____)	

CONSENT AGREEMENT AND FINAL ORDER

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

I. PRELIMINARY STATEMENT

1. This proceeding for the assessment of civil penalties is brought by EPA pursuant to Section 113(d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(d), and is simultaneously commenced and concluded through the issuance of this CAFO pursuant to 40 Code of Federal Regulations (C.F.R.) §§ 22.13(b), 22.18(b)(2) and (3), and 22.34.

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

3. The Respondent explicitly waives any right to contest the allegations and its right to appeal the proposed Final Order set forth herein, and waives all defenses which have been raised or could have been raised to the claims set forth in the CAFO.

4. Compliance with all the terms and conditions of this CAFO shall only resolve the Respondent's liability for Federal civil penalties for those violations and facts which are set forth herein.

5. The Respondent consents to the issuance of the CAFO, to the assessment and payment of the civil penalty in the amount and by the method set forth in this CAFO, and to the conditions specified in the CAFO.

6. Each undersigned representative of the parties to this agreement certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this agreement, to execute it, and to legally bind that party to it.

7. This CAFO shall apply to and be binding upon the Respondent, its officers, directors, servants, employees, agents, authorized representatives, successors, and assigns.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. PRELIMINARY ALLEGATIONS

8. The Discovery Producer Services LLC (Respondent) is a limited liability company under the laws of the States of Delaware and authorized to do business in the State of Louisiana and is a joint venture between DCP Assets Holding, LP and Williams Field Services Group LLC.

9. "Person" is defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e), as "an individual, corporation, partnership, association, State, municipality, political subdivision of a State, and any agency of the United States and any officer, agent, or employee thereof."

10. The Respondent is a "person" as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

11. The Respondent owns and/or operates a natural gas processing facility located at 1473 Highway 24, Larose, Louisiana 70373.

12. "Stationary source" is defined by Section 112(r)(2)(C) of the CAA, 42 U.S.C.

§ 7412(r)(2)(C), and 40 C.F.R. § 68.3 as meaning:

any buildings, structures, equipment, installations or substance emitting stationary activities which belong to the same industrial group, which are located on one or more contiguous properties, which are under the control of the same person (or persons under common control), and from which an accidental release may occur.

13. The Respondent's facility identified in Paragraph 11 is a "stationary source" as that term is defined by Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), and 40 C.F.R. § 68.3.

14. The Respondent is the owner and/or operator of the stationary source identified in Paragraph 11.

15. The following substances are each a "regulated substance", as set forth in 40 C.F.R. § 68.130:

- A. Propane;
- B. Methane;
- C. Ethane;
- D. Pentane;
- E. Isopentane;
- F. Isobutane; and
- G. Butane.

16. "Process" is defined in 40 C.F.R. § 68.3 as meaning

any activity involving a regulated substance including any use, storage, manufacturing, handling, or on-site movement of such substances, or combination of activities. For the purpose of this definition, any group of vessels that are interconnected, or separate vessels that are located such that a regulated substance could be involved in a potential release, shall be considered a single process.

17. The stationary source natural gas processing facility contains regulated substances identified as flammable mixtures.

18. 40 C.F.R. § 68.130 specifies the following threshold quantities for the regulated

substances listed below:

- A. Propane – 10,000 pounds;
- B. Methane – 10,000 pounds;
- C. Ethane – 10,000 pounds;
- D. Pentane – 10,000 pounds;
- E. Isopentane – 10,000 pounds;
- F. Isobutane – 10,000 pounds; and
- G. Butane – 10,000 pounds.

19. The quantity of regulated substances identified as flammable mixtures at the Respondent's facility exceed the threshold quantity identified in Paragraphs 18.A-18. G.

20. "Covered process" is defined in 40 C.F.R. § 68.3 as meaning "a process that has a regulated substance present in more than a threshold quantity as determined under § 68.115."

21. The stationary source processes identified in Paragraph 17 are a "covered process" as that term is defined by 40 C.F.R. § 68.3.

22. The stationary source covered processes identified in Paragraphs 17 are subject to the "Program 3" requirements of the Risk Management Program (RMP) regulations and the Respondent must, among other things, comply with the Program 3 Prevention Program of 40 C.F.R. Part 68, Subpart D.

23. From August 18 – 31, 2020, representatives of EPA conducted a Virtual Partial Compliance Evaluation (VPCE) of the Respondent's facility.

24. EPA submitted to Respondent on April 5, 2021, a Notice of Potential Violation and Opportunity to Confer. In a conference call on April 21, 2021, the EPA conferred with Respondent regarding the violations alleged herein and provided an opportunity for Respondent to submit additional information or materials, which the Respondent did. Based on Respondent's submittal and information obtained during the VPCE, the EPA identified the violations alleged in the following Section II.B.

B. VIOLATIONS**Count One – Failure to Properly Classify Process Piping**

25. 40 C.F.R. § 68.65(d)(2) provides that the owner or operator shall document that equipment complies with recognized and generally accepted good engineering practices.

26. The Respondent violated 40 C.F.R. § 68.65(d)(2) by its failure to properly classify process piping containing methane, ethane, propane, butane, and natural gas in accordance with API 570 Fourth Edition, February 2016, *Piping Inspection Code: In-service Inspection, Rating, Repair, and Alteration of Piping Systems* (API 570), Section 6.3.4. Piping Services Classes and Table 1. Piping Circuit DISC-LAR-FL-02, DISC-LAR-FL-03, DISC-LAR-FL-09 containing flare gas were not classified and should be Classified as Class 1. Piping Circuits LH-21, LH-25, LH-27 LH-47, LH-50, containing liquid hydrocarbons were improperly classified as Class 2 and not properly classified as Class 1. Piping Circuits G-04, G-18, G-19, G-62, G-121 containing gas hydrocarbon were not classified or improperly classified as Class 2, and not properly classified as Class 1. Piping Circuits GH-46-A10, GH-043-A10, containing gas hydrocarbon were not classified or improperly classified as Class 2 and not properly classified as Class 1.

Count Two – Failure to Certify Operating Procedures

27. 40 C.F.R. § 68.69(c) provides that the operating procedures shall be reviewed as often as necessary to assure that they reflect current operating practice, including changes that result from changes in process chemicals, technology, and equipment, and changes to stationary sources. The owner or operator shall certify annually that these operating procedures are current and accurate.

28. The Respondent violated 40 C.F.R. § 68.69(c) by its failure to certify operating procedures annually. The Respondent certified its 2018 operating procedures on September 25, 2018,

and its 2019 operating procedures on November 13, 2019, which is more than 30 days past due.

Count Three – Failure to Maintain the Mechanical Integrity of Process Equipment

29. 40 C.F.R. § 68.73(b) provides that the owner or operator shall establish and implement written procedures to maintain the on-going integrity of process equipment.

30. The Respondent violated 40 C.F.R. § 68.73(b) by its failure to implement pre-inspection activities and field assessment activities of its Corrosion Under Insulation (CUI) and Corrosion Under Fireproofing (CUF) Inspection Guidelines dated April 1, 2020. The Respondent violated 40 C.F.R. § 68.73(b) by its failure to develop and implement written procedures to maintain the ongoing integrity of the following piping: LH-21, LH-25, G-18, and G-19. Piping circuits LH-21 and LH-25 didn't have inspection plans developed until April 2018. Piping circuits G-18 and G-19 did not have an official inspection and test plan to maintain ongoing mechanical integrity until October 31, 2017.

Count Four – Failure to Follow Appropriate Inspection and Testing Procedures

31. 40 C.F.R. § 68.73(d)(2) provides that inspection and testing procedures shall follow recognized and generally accepted good engineering practices.

32. The Respondent violated 40 C.F.R. § 68.73(d)(2) by its failure to use the correct recognized and generally accepted good engineering design code in its Condition Monitoring Locations (CML) calculations for the inspection and analysis of the Slug Catcher (ZAX-1000). The Respondent incorrectly used the American Society of Mechanical Engineers (ASME) process piping standard B31.3 instead of the ASME process piping standard B31.8.

Count Five – Failure to Follow the Proper Frequency of Inspections

33. 40 C.F.R. § 68.73(d)(3) provides that the frequency of inspections and tests of process equipment shall be consistent with applicable manufacturers' recommendations and good

engineering practices, and more frequently if determined to be necessary by prior operating experience.

34. The Respondent violated 40 C.F.R. § 68.73(d)(3) by its failure to conduct the proper frequency of internal inspections for five drums (MBF-105A 2nd Stage Suction Drum; MBF-108A 3rd Stage Suction Drum; MBF-513 2nd Stage Suction Drum; MBF-518 3rd Stage Suction Drum; and MBF-525 Solar Suction Scrubber). The Respondent set the due dates for a completion of the late internal inspections for all five drums to September 2020, with no previous internal inspection records. The Respondent failed to conduct the proper frequency of external inspections for one drum (MBF-525 Solar Suction Scrubber). The Respondent conducted an A-scan re-inspection on December 7, 2011, and based on the results of this inspection, the inspector set the next Ultrasonic Testing (UT) external and visual inspection for December 6, 2016. However, the next UT external and visual inspection was not conducted until July 27, 2018 (visual), and August 22, 2018 (UT), which was 19 and 20 months late, respectively. The Respondent failed to conduct for the flare knockout drum (ZZZ-182) UT inspections prior to July 31, 2020, internal or external inspections at any time, data analysis, short/long term corrosion rates, remaining life, and reinspection dates.

Count Six – Failure to Correct Deficiencies in Equipment in a Timely Manner

35. 40 C.F.R. § 68.73(e) provides that the owner or operator shall correct deficiencies in equipment that are outside acceptable limits (defined by the process safety information in §68.65) before further use or in a safe and timely manner when necessary means are taken to assure safe operation.

36. The Respondent violated 40 C.F.R. § 68.73(e) by its failure to correct deficiencies as identified in a Flare Study conducted on October 27, 2013 that identified 109 recommendations.

At the time of the VPCE, nine recommendations/modifications were still remaining.

Count Seven – Failure to Properly and Timely Conduct a Management of Change

37. 40 C.F.R. § 68.75(d) provides that if a change covered by this paragraph results in a change in the process safety information required by §68.65 of this part, such information shall be updated accordingly.

38. The Respondent violated 40 C.F.R. § 68.75(d) by its failure to perform a Management of Change for the process change and re-rate of unit MBD-101 to address the installation of a Temperature Alarm High-High (TAHH) to the Condensate System Temperature Controller TIC 106-1 which required a change in the process safety information.

Count Eight – Failure to Timely Conduct Training Required by a Management of Change

39. 40 C.F.R. § 68.79(d) provides that the owner or operator shall promptly determine and document an appropriate response to each of the findings of the compliance audit, and document that deficiencies have been corrected.

40. The Respondent violated 40 C.F.R. § 68.79(d) by its failure to promptly document that finding #7 of 14 had been corrected from its January 2019 Compliance Audit regarding the implementation of a piping Corrosion Under Insulation (CUI) program.

III. TERMS OF SETTLEMENT

A. CIVIL PENALTY

41. For purposes of settlement, the Respondent has agreed to pay a civil penalty of **ONE HUNDRED AND FIVE THOUSAND, THREE HUNDRED AND TWO DOLLARS (\$105,302)**.

42. Within thirty (30) days of the effective date of this CAFO, the Respondent shall pay

the assessed civil penalty by certified check, cashier's check, or wire transfer, made payable to "Treasurer, United States of America, EPA - Region 6". Payment shall be remitted in one of three (3) ways: regular U.S. Postal mail (including certified mail), overnight mail, or wire transfer. For regular U.S. Postal mail, U.S. Postal Service certified mail, or U.S. Postal Service express mail, the check should be remitted to:

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

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

U.S. Bank
Government Lockbox 979077
US EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101
Phone No. (314) 418-1028

For wire transfer, the payment should be remitted to:

Federal Reserve Bank of New York
ABA: 021030004
Account No. 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" with a phone number of (412) 234-4381".

PLEASE NOTE: Docket Number CAA-06-2021-3349 shall be clearly typed on the check or other method of payment to ensure proper credit. If payment is made by check, the check shall also be accompanied by a transmittal letter and shall reference the Respondent's name and address, the case name, and docket number of the CAFO. If payment is made by wire transfer,

the wire transfer instructions shall reference the Respondent's name and address, the case name, and docket number of the CAFO. The Respondent shall also send a simultaneous notice of such payment, including a copy of the check and transmittal letter, or wire transfer instructions to the following:

Electronically by email (no hard copy):
Tony Robledo
Senior Enforcement Officer
Chemical Accident Prevention Section (ECDAC)
U.S. EPA, Region 6
1201 Elm Street, Suite 500
Dallas, TX 75270
Robledo.Tony@epa.gov

Lorena Vaughn
Regional Hearing Clerk (ORCD)
U.S. EPA, Region 6
1201 Elm Street, Suite 500
Dallas, TX 75270
Vaughn.Lorena@epa.gov

The Respondent's adherence to this request will ensure proper credit is given when penalties are received in the Region.

43. The 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.

44. If the Respondent fails to submit payment within thirty (30) days of the effective date of this CAFO, the Respondent may be subject to a civil action to collect any unpaid portion of the assessed penalty, together with interest, handling charges, and nonpayment penalties as set forth below.

45. 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).

46. EPA will also assess a \$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 \$15.00 for each subsequent thirty (30) day period that the penalty remains unpaid. In addition, a penalty charge of up to six percent (6%) 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.

47. Pursuant to Section 113(d)(5) of the CAA, 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 (10%) of the aggregate amount of such person's outstanding penalties and nonpayment penalties accrued as of the beginning of each quarter.

48. This CAFO is considered a “prior violation” for the purpose of demonstrating a “history of noncompliance” under the Clean Air Act Stationary Source Penalty Policy, and the Combined Enforcement Policy for Clean Air Act Sections 112(r)(1), 112(r)(7), and 40 C.F.R. Part 68 (June 2012).

B. COMPLIANCE

49. The Respondent hereby certifies that as of the date of the execution of this CAFO, that it has corrected the violations alleged herein, and is now, to the best of its knowledge, in compliance with all applicable requirements of Section 112(r) of the CAA, 42 U.S.C. § 7412(r) and 40 C.F.R. Part 68.

C. MODIFICATION

50. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except as otherwise specified in this CAFO, or upon the written agreement of the Complainant and the Respondent, and approved by the Regional Judicial Officer, and such modification or amendment being filed with the Regional Hearing Clerk.

D. RETENTION OF ENFORCEMENT RIGHTS

51. EPA does not waive any rights or remedies available to EPA for any other violations by the Respondents of Federal or State laws, regulations, or permitting conditions.

52. Nothing in this CAFO shall relieve the Respondent of the duty to comply with Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and 40 C.F.R. Part 68.

53. Nothing in this CAFO shall limit the power and authority of EPA or the United States to take, direct, or order all actions to protect public health, welfare, or the environment, or prevent, abate or minimize an actual or threatened release of hazardous substances, pollutants, contaminants, hazardous substances on, at or from the Respondent’s facility whether related to

the violations addressed in this CAFO or otherwise. Furthermore, 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.

54. The Complainant reserves all legal and equitable remedies available to enforce the provisions of this CAFO. In any such action to enforce the provisions of this CAFO, the Respondent shall not assert, and may not maintain, any defense of laches, statute of limitations, or any other equitable defense based on the passage of time. This CAFO shall not be construed to limit the rights of the EPA or United States to obtain penalties or injunctive relief under the CAA or its implementing regulations, or under other federal or state laws, regulations, or permit conditions.

55. In any subsequent administrative or judicial proceeding initiated by the Complainant or the United States for injunctive relief, civil penalties, to enforce the provisions of this CAFO, or other appropriate relief relating to this Facility, the Respondent shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the Complainant or the United States in the subsequent proceeding were or should have been brought in the instant case, except with respect to claims for civil penalties that have been specifically resolved pursuant to this CAFO.

56. The Respondent waives any right it may possess at law or in equity to challenge the authority of the EPA or the United States to bring a civil action in a United States District Court to compel compliance with this CAFO and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action. The Respondent also consents

to personal jurisdiction in any action to enforce this CAFO in the appropriate Federal District Court.

57. The Respondent also waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that the Respondent may have with respect to any issue of law or fact set forth in this CAFO, including any right of judicial review under Section 307(b)(1) of the CAA, 42 U.S.C. § 7607(b)(1).

58. This CAFO is not a permit, or a modification of any permit, under any federal, State, or local laws or regulations. The Respondent is responsible for achieving and maintaining complete compliance with all applicable federal, State, and local laws, regulations, and permits. The Respondent's compliance with this CAFO shall be no defense to any action commenced pursuant to any such laws, regulations, or permits, except as set forth herein. The Complainant does not warrant or aver in any manner that the Respondent's compliance with any aspect of this CAFO will result in compliance with provisions of the CAA or with any other provisions of federal, State, or local laws, regulations, or permits.

E. SERVICE OF CAFO

59. The Complainant and Respondent agree to the use of electronic signatures for this matter. The Respondent further agrees to electronic service of this CAFO pursuant to 40 C.F.R. § 22.6, by e-mail to the following address:

To EPA:

Salinas.Amy@epa.gov To the

Respondent:

Calbert.DufreneJr@Williams.com

F. COSTS

60. Each party shall bear its own costs and attorney's fees. Furthermore, the Respondent specifically waives its right to seek reimbursement of its costs and attorney's fees under 5 U.S.C. § 504 and 40 C.F.R. Part 17.

G. EFFECTIVE DATE

61. This CAFO, and any subsequent modifications, become effective upon filing with the Regional Hearing Clerk.

**THE UNDERSIGNED PARTIES CONSENT TO THE ENTRY OF THIS CONSENT
AGREEMENT AND FINAL ORDER:**

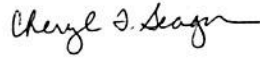
FOR THE RESPONDENT:

Date: 7/15/2021

DocuSigned by:
Mark Cizek
81DC5C0A46B348E

Discovery Producer Services LLC

FOR THE COMPLAINANT:



Digitally signed by CHERYL SEAGER
DN: c=US, o=U.S. Government, ou=Environmental
Protection Agency, cn=CHERYL SEAGER,
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Date: 2021.07.19 14:24:27 -05'00'

Cheryl T. Seager
Director
Enforcement and
Compliance Assurance Division
U. S. EPA, Region 6

FINAL ORDER

Pursuant to the Section 113 of the CAA, 42 U.S.C. § 7413, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 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 relief or other equitable relief for criminal sanctions for any violations of law. This Final Order shall resolve only those causes of action alleged herein. Nothing in this Final Order shall be construed to waive, extinguish or otherwise affect the 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. Pursuant to 40 C.F.R. § 22.31(b), this Final Order shall become effective upon filing with the Regional Hearing Clerk.

**THOMAS
RUCKI**

Digitally signed by THOMAS RUCKI
DN: c=US, o=U.S. Government,
ou=Environmental Protection Agency,
cn=THOMAS RUCKI,
0.9.2342.19200300.100.1.1=68001003655
804
Date: 2021.07.20 15:49:00 -05'00'

Thomas Rucki
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Consent Agreement and Final Order (CAFO) was electronically delivered to the Regional Hearing Clerk, U.S. EPA - Region 6, 1201 Elm Street, Suite 500, Dallas, Texas 75270-2102, and that a true and correct copy of the CAFO was sent to the following via e-mail:

Copy via email to Complainant:

Salinas.Amy@epa.gov

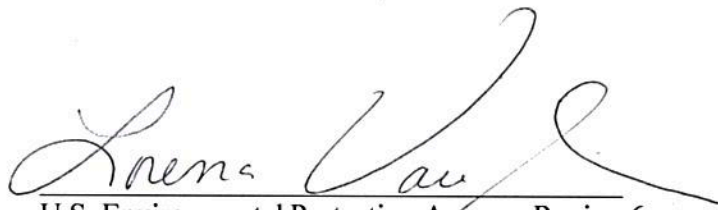
Copy via email to Respondent:

Calbert.DufreneJr@Williams.com

Mr. Calbert Dufrene Jr.
Discovery Producer Services LLC
Manager Operations Sr.
Atlantic Gulf, Discovery Operations
1474 Highway 24
Larose, Louisiana 70373

Copy via email to Regional Hearing Clerk:

Vaughn.lorena@EPA.gov



U.S. Environmental Protection Agency, Region 6