UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1201 ELM STREET, SUITE 500
DALLAS, TEXAS 75270

April 30, 2020

VIA EMAIL:

Zachary Craft, Counsel
Baton Rouge Fractionators LLC, and
Baton Rouge Propylene Concentrator LLC
2220 North River Road
Port Allen, Louisiana 70767
zlcraft@eprod.com; and
environmental@eprod.com

Re: *In the Matter of Enterprise Products Operating LLC*
Docket No. CAA-06-2020-3324

Dear Mr. Craft:

Enclosed is a fully executed Consent Agreement and Final Order (CAFO) issued by the United States Environmental Protection Agency, Region 6 (EPA) concerning the matter referenced above for Enterprise Products Operating LLC. The EPA requests that you immediately confirm receipt of this e-mail and the attached CAFO by a response e-mail.

As provided in the CAFO, Enterprise Products Operating LLC, will have thirty (30) days from the effective date of the CAFO to pay the civil penalty of $185,705.00.

If you have any questions regarding this CAFO, please contact the case attorney by phone at (214) 665-6782 or by email at mills.clarissa@epa.gov.

Sincerely,

Cheryl T. Seager

Digitally signed by CHERYL SEAGER
DN: c=US, o=U.S. Government, ou=Environmental Protection Agency, cn=CHERYL SEAGER, 0.9.2342.19200300.100.1.1=68001003651793
Date: 2020.04.30 16:49:31 -05'00'

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

Enclosure
Ecc: Celena Cage, Administration
Enforcement Division
Louisiana Department of Environmental Quality
P.O. Box 4312
Baton Rouge, LA 70821-4312
celena.cage@la.gov

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1201 Elm Street, Suite 500
Dallas, Texas 75270

In the Matter of	§	
	§	
Baton Rouge Fractionators LLC, and	§	
Baton Rouge Propylene Concentrator LLC	§	**Docket No. CAA-06-2020-3324**
Enterprise Products Operating LLC	§	
	§	
Respondents.	§	

CONSENT AGREEMENT AND FINAL ORDER

Preliminary Statement

The U.S. Environmental Protection Agency, Region 6 (EPA or Complainant), and Baton Rouge Fractionators LLC, Baton Rouge Propylene Concentrator LLC, and Enterprise Products Operating LLC (Respondents) have agreed to a settlement of this action before the filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).

Jurisdiction

1. This proceeding is an administrative action for the assessment of civil penalties instituted pursuant to Section 113(d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(d). Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), the Administrator and the Attorney General jointly determined that this matter, in which the first date of alleged violation occurred more than twelve months prior to the initiation of the administrative action, was appropriate for administrative penalty action.

2. This Consent Agreement and Final Order serves as notice that the EPA has reason

to believe that Respondents have violated the Chemical Accident Prevention Provisions in 40 C.F.R. Part 68, promulgated pursuant to Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and that Respondents are therefore in violation of Section 112(r) of the CAA, 42 U.S.C. § 7412(r). Furthermore, this Consent Agreement and Final Order serves as notice pursuant to Section 113(d)(2)(A) of the CAA, 42 U.S.C. § 7413(d)(2)(A), and 40 C.F.R. § 22.34, of the EPA's intent to issue an order assessing penalties for these violations.

Parties

3. Complainant is the Director of the Enforcement and Compliance Assurance Division of EPA, Region 6, as duly delegated by the Administrator of the EPA.

4. Respondent Baton Rouge Fractionators LLC is a Delaware company authorized to conduct business in the state of Louisiana.

5. Respondent Baton Rouge Propylene Concentrator LLC is a Delaware company authorized to conduct business in the state of Louisiana.

6. Respondent Products Enterprise Operating LLC is a Texas company conducting business in the state of Texas.

Statutory and Regulatory Background

7. On November 15, 1990, the President signed into law the CAA Amendments of 1990. The Amendments added Section 112(r) to Title I of the CAA, 42 U.S.C. § 7412(r), which requires the Administrator of the EPA to, among other things, promulgate regulations in order to prevent accidental releases of certain regulated substances. Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), mandates that the Administrator promulgate a list of regulated substances, with threshold quantities, and defines the stationary sources that will be subject to the chemical accident prevention regulations mandated by Section 112(r)(7). Specifically, Section 112(r)(7)

of the CAA, 42 U.S.C. § 7412(r)(7), requires the Administrator to promulgate regulations that address release prevention, detection, and correction requirements for these listed regulated substances.

8. On June 20, 1996, the EPA promulgated a final rule known as the Risk Management Program, 40 C.F.R. Part 68, which implements Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7). This rule requires owners and operators of stationary sources to develop and implement a risk management program that includes a hazard assessment, a prevention program and an emergency response program.

9. The regulations at 40 C.F.R. Part 68 set forth the requirements of a risk management program that must be established at each stationary source. The risk management program is described in a Risk Management Plan (RMP) that must be submitted to the EPA.

10. Pursuant to Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 C.F.R. § 68.150, an RMP must be submitted for all covered processes by the owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process no later than the latter of June 21, 1999, or the date on which a regulated substance is first present above the threshold quantity in a process.

11. The regulations at 40 C.F.R. § 68.10 set forth how the Chemical Accident Prevention Provisions apply to covered processes. Pursuant to 40 C.F.R. § 68.10(i), a covered process is subject to Program 3 requirements if the process does not meet the eligibility requirements of Program 1, as described in 40 C.F.R. § 68.10(g), and it either falls under a specified North American Industry Classification System code or is subject to the OSHA process safety management standard, 29 C.F.R. § 1910.119.

12. Section 113(d) of the CAA, 42 U.S.C. § 7413(d), states that the Administrator

may issue an administrative order against any person assessing a civil administrative penalty of up to $25,000 per day of violation whenever, on the basis of any available information, the Administrator finds that such person has violated or is violating any requirement or prohibition of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and its implementing regulations. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, as amended, and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, 28 U.S.C. § 2461, and implementing regulations at 40 C.F.R. Part 19, increased these statutory maximum penalties to $37,500 for violations that occurred before November 2, 2015, and to $47,357 for violations that occur after November 2, 2015, and are assessed after February 6, 2019.

Definitions

13. Section 302(e) of the CAA, 42 U.S.C. § 7602(e), defines "person" to include any individual, corporation, partnership, association, State, municipality, political subdivision of a State, and any agency department, or instrumentality of the United States and any officer, agent, or employee thereof.

14. Section 112(r)(2)(A) of the CAA, 42 U.S.C. § 7412(r)(2)(A), defines "accidental release" as an unanticipated emission of a regulated substance or other extremely hazardous substance into the ambient air from a stationary source.

15. Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(c), and the regulation at 40 C.F.R. § 68.3 defines "stationary source," in part, as 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.

16. The regulation at 40 C.F.R. § 68.3 defines "regulated substance" as any substance listed pursuant to Section 112(r)(3) of the CAA, as amended, in 40 C.F.R. § 68.130.

17. The regulation at 40 C.F.R. § 68.3 defines "threshold quantity" as the quantity specified for regulated substances pursuant to Section 112(r)(5) of the CAA, as amended, listed in 40 C.F.R. § 68.130 and determined to be present at a stationary source as specified in 40 C.F.R. § 68.115.

18. The regulation at 40 C.F.R. § 68.3 defines "process" as any activity involving a regulated substance including any use, storage, manufacturing, handling or on-site movement of such substances, or combination of these activities. For the purposes 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.

General Factual Allegations

19. Respondents are, and at all times referred to herein were, each a "person" as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

20. Respondents are the owners and operators of a facility located at: 2220 North River Road, Port Allen, Louisiana 70767, that is a "stationary source" pursuant to 40 C.F.R. § 68.3 (the Facility).

21. On or about March 19–21, 2019, representatives of the EPA conducted an inspection of the Facility to determine Respondents' compliance with Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and 40 C.F.R. Part 68 (the EPA Inspection).

22. Information gathered during the EPA Inspection and included in the RMP submitted by Respondents on March 5, 2019, revealed that the Facility had more than a threshold quantity of regulated substances (in flammable mixtures) in a process. Specifically, the

processes at the Facility had over 10,000 pounds of flammable mixtures that were made up of the following regulated substances, as listed in 40 C.F.R. § 68.130:

(a) Butane

(b) Ethane

(c) Ethylene [Ethene]

(d) Isobutane [Propane, 2-methyl]

(e) Isopentane [Butane, 2-methyl-]

(f) Pentane

(g) Propane

(h) Propylene [1-Propene]

23. From the time Respondents first had onsite greater than 10,000 pounds of any flammable mixture made up of the regulated substances listed above in a process, Respondents were subject to the requirements of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and 40 C.F.R. Part 68, because they were the owners and operators of a stationary source that had more than a threshold quantity of a regulated substance in a process.

24. From the time Respondents first had onsite greater than 10,000 pounds of any flammable mixture made up of the regulated substances listed above in a process, Respondents were subject to the Program 3 prevention program requirements because pursuant to 40 C.F.R. § 68.10(i), the covered processes at the Facility did not meet the eligibility requirements of Program 1 and was subject to the OSHA process safety management standard, 29 C.F.R. § 1910.119.

EPA Allegations of Violation

25. Complainant hereby states and alleges that Respondents have violated the CAA

and federal regulations promulgated thereunder as follows:

Count 1

26. The facts stated in Paragraphs 19 through 24 above are herein incorporated.

27. The regulation at 40 C.F.R. § 68.12(d)(3) requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. Pursuant to 40 C.F.R. § 68.67(e), the owner or operator shall establish a system to promptly address the process hazard analyses team's findings and recommendations; assure that the recommendations are resolved in a timely manner and that the resolution is documented; document what actions are to be taken; complete actions as soon as possible; develop a written schedule of when these actions are to be completed; communicate the actions to operating, maintenance and other employees whose work assignments are in the process and who may be affected by the recommendations or actions.

28. The EPA Inspection revealed that Respondents did not promptly address the team's findings and recommendations, assure that the recommendations were resolved in a timely manner, or complete actions as soon as possible. Specifically, four (4) findings from the 2013 Port Allen Fractionator PHA were completed past the designated due date.

29. Respondents' failure to promptly address the team's findings and recommendations, assure that the recommendations were resolved in a timely manner, and complete actions as soon as possible pursuant to 40 C.F.R. § 68.67(e), as required by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Count 2

30. The facts stated in Paragraphs 19 through 24 above are herein incorporated.

31. The regulation at 40 C.F.R. § 68.12(d)(3) requires the owner or operator of a

stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. Pursuant to 40 C.F.R. § 68.73(b), the owner or operator shall establish and implement written procedures to maintain the ongoing integrity of process equipment. Pursuant to 40 C.F.R. §§ 68.73(d)(1)–(3) the owner or operator shall perform inspection and tests on process equipment that follows recognized and generally accepted good engineering practices and the frequency for which shall be consistent with applicable manufacturers' recommendations and good engineering practices.

32. A review of Respondents' mechanical integrity program at the Facility during the EPA Inspection revealed that six (6) inspections and tests on process equipment had not been completed and the frequency for fourteen (14) inspections and tests were not completed consistent with applicable recognized and generally acceptable good engineering practices. Moreover, the uncompleted inspections and past due inspections were beyond frequency timelines set by Respondents' mechanical integrity written procedures.

33. Respondents' failure to implement their written procedures to maintain the ongoing integrity of process equipment pursuant to 40 C.F.R. § 68.73(b), and failure to conduct inspections and tests following recognized and generally accepted good engineering practices and at a frequency consistent with applicable good engineering practices pursuant to 40 C.F.R. §§ 68.73(d)(1)–(3), as required by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Count 3

34. The facts stated in Paragraphs 19 through 24 above are herein incorporated.

35. The regulation at 40 C.F.R. § 68.12(d)(3) requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements

of 40 C.F.R. §§ 68.65 through 68.87. Pursuant to 40 C.F.R. § 68.79(d), 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.

36. The EPA Inspection revealed that Respondents did not promptly determine and document an appropriate response to a 2014 audit finding concerning pressure vessel inspections that was also identified in the 2017 audit findings.

37. Respondents' failure to promptly determine and document an appropriate response to the 2014 pressure vessel inspections finding pursuant to 40 C.F.R. § 68.79(d), as required by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

CONSENT AGREEMENT

38. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondents:

(a) admit the jurisdictional allegations set forth herein;

(b) neither admit nor deny the specific factual allegations stated herein;

(c) consent to the assessment of a civil penalty, as stated herein;

(d) consent to the issuance of any specified compliance or corrective action order;

(e) consent to any conditions specified herein;

(f) consent to any stated Permit Action;

(g) waive any right to contest the allegations set forth herein; and

(h) waive their rights to appeal the Final Order accompanying this Consent Agreement.

39. Respondents consent to the issuance of this Consent Agreement and Final Order and consent for the purposes of settlement to the payment of the civil penalty specified herein.

40. Respondents and EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorneys' fees.

Penalty Payment

41. Respondents agree that, in settlement of the claims alleged herein, Respondents shall pay a civil penalty of One Hundred Eight-Five Thousand Seven Hundred Five Dollars ($185,705), as set forth below.

42. Respondents shall pay the penalty within thirty (30) days of receiving notice of the effective date of the Final Order. Such payment shall identify Respondents by name and docket number and shall be by certified or cashier's check made payable to the "United States Treasury" and sent to:

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

or by alternate payment method described at *http://www.epa.gov/financial/makepayment*.

43. A copy of the check or other information confirming payment shall simultaneously be sent to the following:

Lorena S. Vaughn
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 6
1201 Elm Street, Suite 500 (ORC)
Dallas, Texas 75270-2102
vaughn.lorena@epa.gov; and

Justin McDowell
Enforcement and Compliance Assurance Division

Air Enforcement Branch
U.S. Environmental Protection Agency, Region 6
1201 Elm Street, Suite 500 (ECDAC)
Dallas, Texas 75270-2101
mcdowell.justin@epa.gov

44. Respondents understands that their failure to timely pay any portion of the civil penalty may result in the commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties and accumulated interest. In such case, interest shall begin to accrue on a civil or stipulated penalty from the date of delinquency until such civil or stipulated penalty and any accrued interest are paid in full. 31 C.F.R. § 901.9(b)(1). Interest will be assessed at a rate of the United States Treasury Tax and loan rates in accordance with 31 U.S.C. § 3717. Additionally, a charge will be assessed to cover the costs of debt collection including processing and handling costs, and a non-payment penalty charge of six percent (6%) per year compounded annually will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. 31 U.S.C. § 3717(e)(2).

Effect of Settlement and Reservation of Rights

45. Full payment of the penalty proposed in this Consent Agreement shall only resolve Respondents' liability for federal civil penalties for the violations alleged herein. Complainant reserves the right to take any enforcement action with respect to any other violations of the CAA or any other applicable law.

46. The effect of settlement described in the immediately preceding paragraph is conditioned upon the accuracy of Respondents' representations to the EPA, as memorialized in paragraph directly below.

47. Respondents certify by the signing of this Consent Agreement that to the best of their knowledge they are presently in compliance with all requirements of Section 112(r) of the

CAA, 42 U.S.C. § 7412(r), save and except as reflected in the Administrative Order for Compliance on Consent, Docket No. CAA-06-2020-3354. Fulfillment of the terms of the Administrative Order for Compliance on Consent is intended to bring Respondents into full compliance with Section 112(r) of the CAA, 42 U.S.C. § 7412(r).

48. Full payment of the penalty proposed in this Consent Agreement shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Consent Agreement and Final Order does not waive, extinguish or otherwise affect Respondents' obligation to comply with all applicable provisions of the CAA and regulations promulgated thereunder.

49. Complainant reserves the right enforce the terms and conditions of this Consent Agreement and Final Order.

General Provisions

50. By signing this Consent Agreement, the undersigned representative of Respondents certify that they are fully authorized to execute and enter into the terms and conditions of this Consent Agreement and has the legal capacity to bind the party he or she represents to this Consent Agreement.

51. This Consent Agreement shall not dispose of the proceeding without a final order from the Regional Judicial Officer or Regional Administrator ratifying the terms of this Consent Agreement. This Consent Agreement and Final Order shall be effective upon the Agreement filing of the Final Order by the Regional Hearing Clerk for EPA, Region 6. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

52. The penalty specified herein shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal, State and local taxes.

53. This Consent Agreement and Final Order shall apply to and be binding upon Respondents and Respondents' agents, successors and/or assigns. Respondents shall ensure that all contractors, employees, consultants, firms, or other persons or entities acting for Respondents with respect to matters included herein comply with the terms of this Consent Agreement and Final Order.

54. The EPA and Respondents agree to the use of electronic signatures for this matter. The EPA and Respondents further agree to electronic service of this Consent Agreement and Final Order by email to the following:

To EPA:

mills.clarissa@epa.gov

To Respondents:

environmental@eprod.com

RESPONDENT:
BATON ROUGE FRACTIONATORS LLC

Date: April 29, 2020

Signature

Graham Bacon
Name

Authorized Representative
Title

RESPONDENT:
BATON ROUGE PROPYLENE CONCENTRATOR LLC

Date: April 29, 2020

Signature

Graham Bacon
Name

Authorized Representative
Title

RESPONDENT:
ENTERPRISE PRODUCTS OPERATING LLC
By its Manager, Enterprise Products OLPGP, Inc.

Date: April 29, 2020

Signature

Graham Bacon
Name

Chief Operating Officer and Executive Vice President
Title

COMPLAINANT:

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: ____________________

Cheryl T. Seager
Digitally signed by CHERYL SEAGER
DN: c=US, o=U.S. Government, ou=Environmental Protection Agency, cn=CHERYL SEAGER, 0.9.2342.19200300.100.1.1=68001003651793
Date: 2020.04.30 16:44:16 -05'00'

Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division
U.S. Environmental Protection Agency, Region 6

FINAL ORDER

Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/ Termination or Suspension of Permits, 40 C.F.R. Part 22, the foregoing Consent Agreement resolving this matter is hereby ratified and incorporated by reference into this Final Order.

Respondents are ORDERED to comply with all of the terms of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(b), the effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

This Final Order shall resolve only those causes of action alleged in the Consent Agreement. Nothing in this Final Order shall be construed to waive, extinguish, or otherwise affect Respondents' (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.

IT IS SO ORDERED.

Rucki, Thomas

Digitally signed by Rucki, Thomas
DN: cn=Rucki, Thomas, email=Rucki.Thomas@epa.gov
Date: 2020.05.12 11:17:54 -05'00'

5/12/2020

Thomas Rucki
Regional Judicial Officer

Date

CERTIFICATE OF SERVICE

I certify that that a true and correct copy of the foregoing Consent Agreement and Final Order was delivered to the Regional Hearing Clerk, U.S. EPA, Region 6, 1201 Elm Street, Dallas, Texas 75270-2102, and that a true and correct copy was sent this day in the following manner to the addressees:

Copy via Email to Complainant:

mills.clarissa@epa.gov

Copy via Email to Respondents:

zlcraft@eprod.com; and

environmental@eprod.com

Dated this 12 day of May, 2020.

CLARISSA MILLS

Digitally signed by CLARISSA MILLS
DN: c=US, o=U.S. Government, ou=Environmental Protection Agency, cn=CLARISSA MILLS, 0.9.2342.19200300.100.1.1=68001003653451
Date: 2020.05.12 15:06:16 -05'00'

Signed