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April 10, 2002

Via Certified Mail, Return Receipt Requested, No: 70993400000213396235

Christine Whitman, EPA Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue N.W.
Washington, D.C. 20460

Via Certified Mail, Return Receipt Requested, No: 70993400000213396266

Greg Cooke, Regional Administrator
Environmental Protection Agency
Region VI
1445 Ross Avenue
Dallas, TX 75202

Re: **Petition for an Independent Audit and Full Accounting of the State of Louisiana's Emission Reduction Credits Banking System**

Dear Ms. Whitman and Mr. Cooke:

The Louisiana Environmental Action Network ("LEAN"), Alliance for Affordable Energy, Alliance Against Waste and Action to Restore the Environment ("AWARE"), Caring Parents of Geismar, Concerned Citizens of Livingston Parish, Concerned Citizens of Iberville Parish, Louisiana Bucket Brigade, Louisiana Communities United, Louisiana Democracy Project, Louisiana Labor Neighbor, Myrtle Grove Community, and North Baton Rouge Environmental Association (collectively "the Petitioners") respectfully petition the U.S. Environmental Protection Agency ("EPA") for a thorough *audit and accounting* of Louisiana's Emission Reduction Credits Banking System ("the Air Pollution Bank").

The Louisiana Department of Environmental Quality ("LDEQ") administers the Air Pollution Bank. LDEQ uses the bank to allow pollution increases in communities in which the air already violates health protection standards, and to allow companies to avoid installing state-of-the-art pollution controls. The bank (1) has an inadequate database, (2) has transacted business in illegal emission reduction "credits," which do not represent voluntary emission reductions meeting minimum Clean Air Act criteria, and, (3) has engaged in illegal double-counting of emission reduction credits. These problems cast a taint of illegality on numerous Clean Air Act permits that LDEQ has issued. This taint can only be removed, and the bank's

customers – the public – can only be made whole by an full and independent EPA audit and accounting of LDEQ's Air Pollution Bank.

Summary of Petition

LDEQ has used its Air Pollution Bank to approve many permits that increase public exposure to dangerous air pollutants. For example, for each ton of increased volatile organic compound emissions that LDEQ has approved in communities where the air fails to meet federal health protection standards, LDEQ has been *legally required* to ensure that there was an offsetting reduction of more than a ton of similar pollution. LDEQ has avoided requiring actual offsets by using its Air Pollution Bank to generate “paper” offsets. Specifically, LDEQ has used the bank to assert that pollution offsets have been achieved by claiming to withdraw emission reduction credits from the Air Pollution Bank. LDEQ has also used credits from its Air Pollution Bank to allow companies to avoid installing state-of-the-art emission control technology in communities where the air has already been degraded below safe levels set by EPA.¹

By law, credits in the Air Pollution Bank must represent voluntary emission reductions – over and above legally required reductions. As explained below, however, credits in LDEQ's Air Pollution Bank do *not* meet this standard. Indeed, the bank lacks integrity or any basis for a claim of credibility with the public. To ensure protection of public health, respect for the rule of law, and to restore integrity to Clean Air Act administration in Louisiana, the public must be provided with actual emission reductions to compensate for each and every ton of emission reductions that LDEQ purported to provide – but nonetheless failed to deliver – through its discredited Air Pollution Bank.

The following serious problems plague LDEQ's Air Pollution Bank, creating a situation in which existing LDEQ Clean Air Act permits fail to assure adequate protection for public health or comply with the minimum requirements of the Clean Air Act:

- LDEQ *lacks a coherent database* for keeping track of credits. Specifically, EPA found on October 9, 2000, “it is difficult to access data documenting the amount of valid CAA offset credits in Louisiana's bank and there are insufficiencies in the banking database.”² LDEQ has failed to correct this deficiency and still neglects its duty to keep track of emission reduction credits. For example, on February 19, 2002, LDEQ published notice of its intent to “bank” emission reduction credits for ExxonMobil's reduction of 157.91 tons of volatile organic

¹The state-of-the-art standard that companies avoid with credits from the bank is known as “Lowest Achievable Emission Rate” or “LAER.” Companies avoid these controls by using pollution offsets and employing a lesser standard of control known as “BACT.”

² Joint Motion for Voluntary Remand at 4, ¶ 8, LEAN v. U.S. EPA, 99-60570 (5th Cir. October 9, 2000) (hereinafter “Joint Motion”) (*Attached as Exhibit A*).

compounds from retiring 22 tanks at the Maryland Tank Farm.³ LDEQ's insufficient database apparently failed to alert LDEQ to the fact that ExxonMobil had already used exactly the same 157.91 tons to offset other pollution increases related to its Tier 2 Low Sulfur Gas project.⁴

- LDEQ has *allowed polluting companies to bank credits that are illegal* under federal law. Specifically, EPA has determined in a formal order that for LDEQ to legally rely on "banked" emission reduction credits (a/k/a "ERCs") under the federal Clean Air Act, LDEQ "must certify the ERCs as surplus [i.e., as not representing reductions otherwise required by law] at the time the credits are used."⁵ In contrast, LDEQ has admitted that it "has not been [LDEQ's] practice to perform such a review."⁶
- LDEQ illegally *counted some reductions twice* by allowing facilities to "bank" credits for emission reductions that had already been taken into account when establishing the baseline levels provided to EPA by LDEQ as part of LDEQ's federally required "state implementation plan."⁷ In other words, having already used emission reductions to demonstrate to EPA that it was moving toward attainment of health-protection standards, LDEQ has turned around and used those same reductions to justify illegal pollution increases that undercut efforts to attain minimum health protection standards.

Like a financial bank, an Air Pollution Bank can serve the public *only* if it is based on credible accounting principles, tracked through a coherent database, and meets at least the minimum criteria set by federal law. When abnormalities are discovered in a financial bank, honest bankers respond with a thorough accounting and an independent audit. This is necessary

³ Public Notice from February 19, 2002 announcing request for public comment on request to bank emissions reductions of 157.91 tons of volatile organic compounds (*Attached as Exhibit B*).

⁴ Public Notice from December 12, 2001 announcing the public hearing and request for public comment on Proposed Part 70 and Prevention of Significant Deterioration (PSD) air permits and environmental assessment statement (*Attached as Exhibit C*).

⁵ EPA, Order Responding to Petitioner's Request that the Administrator Object to the Issuance of a State Operating Permit [For Borden Chemicals, Inc.], at 19, ¶ 2, http://www.epa.gov/rgytgrnj/programs/artd/air/title5/petitiondb/petitions/borden_response1999.pdf [hereinafter "EPA Order"] (*Excerpted in Pertinent Parts as Exhibit D*).

⁶ Letter from Bliss Higgins, Assistant Secretary of LDEQ, to Carl Edlund, EPA Region VI (October 5, 2000), at 2, attached to Joint Motion, *supra* note 2.

⁷ EPA Order, *supra* n. 5, at 20, 25-28.

to ensure that the bank's customers are "made whole" – that any money that was unlawfully taken from them is restored to their accounts. It is equally important that customers of an Air Pollution Bank – the public – be made whole following revelations of an inadequate database, illegal credits, and double-counting.

An Air Pollution Bank protects public health – which is at least as important as the economic assets at issue when a financial bank is audited. Members of the public deserve restitution for every ton of air pollution that LDEQ allowed to be added to communities where the air violates minimum health protection standards. Each and every ton of excess pollution resulting from one of LDEQ's bogus emission reduction credits must be identified and replaced with an actual reduction in emissions.

It has now been more than one and a half years since LDEQ admitted to a federal court that its implementation of the bank violates federal policy and since EPA informed the federal court of its finding that LDEQ's Air Pollution Bank uses an inadequate database. It has also been well over a year since EPA issued a formal order identifying LDEQ's use of illegal credits, and double-counting in its bank. The public, however, has still not been made whole. There has been *no* accounting. LDEQ and its constituents in the regulated community must be held accountable for justifying excess pollution – that exacerbates avoidable health threats to Louisiana residents – based on bogus and illegal emission reduction credits.

The Petitioners, therefore, respectfully request that EPA take the following immediate steps:

- EPA must evaluate all Louisiana Air Quality permits granted since 1990⁸ and determine whether each and every emissions reduction credit used in obtaining each of those permits is valid or invalid. In other words, there must be a full audit of the bank and an accounting of how many tons of excess pollution LDEQ's permits have allowed to be released in Louisiana communities without valid offsets.
- For each Louisiana Air Quality permit based in whole or in part on invalid credits, EPA must determine how many excess tons of pollution have been emitted over how many years.
- EPA must determine how many valid emission reduction credits, if any, remain in LDEQ's Air Pollution Bank.

⁸ EPA's audit of the Louisiana Banking System must ensure that no emission reduction credits were banked or used based on reductions taken prior to December 31, 1989. Louisiana regulations prohibited banking of reductions made prior to 1990. L.A.C. 33:III.607.D.

- EPA must determine how many valid emission credits from the Air Pollution Bank must be used to make the public whole from years of excess emissions from LDEQ's previous use of invalid credits.
- For any shortfall in the number of valid emissions reductions credits available in the Air Pollution Bank and the number of such credits required to compensate the public for excess emissions, EPA must either (1) reopen and rescind all permits issued using invalid credits, or (2) reopen those illegally issued permits for Non-attainment New Source Review.

The Petitioners request that EPA formally respond to this Petition in writing by notifying the State of Louisiana that their administration of the Air Pollution Bank is being audited for practices in violation of the Clean Air Act and state laws. 42 U.S.C. §7503(c) (1994); L.A.C. 33:III 504.F.10 and 623.B.1. Further, the Petitioners ask EPA to issue an immediate "freeze order" to LDEQ prohibiting LDEQ from dispensing any emission reduction credits in the Air Pollution Bank until the audit is complete and all deficiencies are reported to the public and fully remedied. 42 U.S.C. §7413(a)(2), Clean Air Act §113(a)(2).

Petitioners

The Petitioners are non-profit, public-interest corporations and non-profit, public-interest community organizations with a demonstrated interest in and commitment to preserving and protecting the State's land, air, water and other natural resources, as well as protecting the organization's members and other residents of Louisiana from threats of pollution. The members of these groups reside, work, and recreate in the State of Louisiana, including the Baton Rouge nonattainment area. LDEQ's illegal implementation of its Air Pollution Bank has denied Petitioners' members the mandatory safeguards provided for by the federal Clean Air Act and prolonged their exposure to air that violates minimum health-protection standards.

Background

The U.S. Congress enacted the federal Clean Air Act to protect all U.S. residents from unhealthful air. Clean Air Act §§101-617, 42 U.S.C. §§7401-7671q. The Act is binding on LDEQ as "the supreme Law of the Land." U.S. Const. art. VI. Further, L.A.C.33:III.504.D.1 requires "compliance with all applicable state and federal emission limitations and standards, [and] the Federal Clean Air Act."

Congress delegated to EPA a federal oversight duty that requires EPA to evaluate and take action to remedy deficiencies in state run air programs. Clean Air Act §113(a)(2), §502(i), 42 U.S.C. §7413(a)(2), §7661a(i). In fact, EPA retains the authority to review, approve, disapprove, and withdraw the overall Title V permit program, Clean Air Act §502(d), 42 U.S.C. 7611a(d), as well as each individual permit issued by the state. Clean Air Act §505(b), 42 U.S.C. §7611a(b). Each permit issued by the state is subject to modification, termination, or revocation upon an EPA determination that cause exists to do so. Clean Air Act §502(b)(5)(D), § 505(e), 42 U.S.C. §7611a(b)(5)(D), § 7661d(e); 40 C.F.R. §70.7(f).

EPA has delegated implementation of the Clean Air Act to the State of Louisiana, which – in turn – relies on LDEQ to administer and enforce Clean Air requirements. LDEQ has failed, however, to achieve attainment of minimum federal health-protection standards for ozone pollution in the five-parish Baton Rouge area. Because air in the Baton Rouge area fails to meet federal standards, increased pollution in this area is generally allowed *only* if increases are offset by emission reductions that go beyond existing legal requirements. Clean Air Act §173(c), 42 U.S.C. §7503(c)(1)(A).

Emission reductions may be used to offset new pollution only if those reductions are completely voluntary. EPA, *General Preamble for Future Proposed Rulemakings*, 57 Fed. Reg. 13,508 (Apr. 16, 1992) (hereinafter "EPA General Preamble"). An emission reduction is bankable as an emission reduction credit, therefore, only where it represents a real reduction in air pollution that is over and above reductions already required by law. Clean Air Act §173(c), 42 U.S.C. §7503(c). Further, even voluntary reductions may be banked *only* if they are "real, permanent, and enforceable." EPA General Preamble, 57 Fed. Reg. at 13,509 (Apr. 16, 1992). Credits that meet this standard are known as "surplus" credits.

Under state and federal law, credits must be "surplus" both when they go into an Air Pollution Bank *and* when they are withdrawn from the bank for use in offsetting a pollution increase. Clean Air Act §173(c), 42 U.S.C. §7503(c), L.A.C. 33:III.504.D.1. In other words, even reductions that were voluntary when made cease to qualify as "surplus" after changes in the law make those reductions mandatory. LDEQ, however, has failed to meet this standard with respect to its Air Pollution Bank.

Petition for an Audit and Full Accounting

This Petition raises and documents three major objections to LDEQ's Air Pollution Bank: (1) LDEQ's banking database is inadequate and fails to provide LDEQ and the public with sufficient information to ensure that credits are used only once, and not double counted; (2) LDEQ has authorized use of many credits that were not "surplus" when generated and "surplus" when used to offset new pollution, rendering them illegal under the Act; and (3) LDEQ has unlawfully double counted emission reductions by using the emission reductions to win EPA approval of its plan to move toward attainment of health protection standards and then using those *same* reductions to generate credits to allow pollution increases.

1. LDEQ's Air Pollution Bank lacks an adequate database to track credits.

More than a year and a half ago, EPA reported to a federal court that "it is difficult to access data documenting the amount of valid CAA offset credits" and "there are insufficiencies in the banking database." Joint Motion, *supra* note 2, 4, ¶ 8. As managed by LDEQ, the Air Pollution Bank comprises a confusing array of documents and numbers that manifest uncertainty as to what is, and is not, in the bank.

LDEQ itself often does not know what is or is not in the Bank. For example, on March 15, 2000, LDEQ submitted to the 19th Judicial District Court a document entitled "VOC Emissions Reduction Credits Banked in The Baton Rouge Ozone Nonattainment Area As of March 13, 2000," which revealed LDEQ's lack of record-keeping. Barry Brooks of LDEQ certified the list as being a true copy of the books, records, papers, or other documents that were in the custody of LDEQ and as being a reflection of the data known by LDEQ as of that date. According to LDEQ, 6,787.2 emission reduction credits were available for use as offsets or netting, including 4,051.7 listed credits for Dow Chemical Company.⁹ However, in the Louisiana emission reduction credits database, dated one day before LDEQ's submission of this document to the court, there were no Dow Chemical Company credits listed.¹⁰

To provide another example: On February 19, 2002 LDEQ published notice of its proposal to grant ExxonMobil's request to bank emission reductions of 157.91 tons of volatile organic compounds (VOCs) for use as offsets in the future. These VOC reductions were the result of retiring 22 tanks at the Maryland Tank Farm.¹¹ All of the credits ExxonMobil seeks to certify have been used before. ExxonMobil previously used *exactly the same* 157.91 tons to net out of Non-Attainment New Source Review for its Tier 2 Low Sulfur Gas project. Either LDEQ's records were inadequate to alert LDEQ to this attempt to use credits twice, or LDEQ chose not to share its information about the use of these credits with the public.

2. LDEQ has allowed use of many credits that were not "surplus" when used to offset new pollution, rendering them illegal under the Act.

The Act requires that emission reduction credits be surplus both at the time they are generated and the time they are used to offset new pollution. Clean Air Act §173, 42 U.S.C. §7503. EPA has explained in a formal order that it *only* "approved Louisiana's permitting and banking regulations (L.A.C. 33:III.504.F and 623.B.1) on the basis that the regulations required that ERCs be surplus at the time of use as offsets."¹² EPA made its understanding express in a

⁹ "VOC Emissions Reductions Credits Banked in The Baton Rouge Ozone Nonattainment Area As of March 13, 2000," submitted in North Baton Rouge Environmental Association v. Louisiana Department of Environmental Quality, No. 456,658 (19th Judicial District) (*Attached as Exhibit E*).

¹⁰ Print out from the database dated March 13, 2000 (*Attached as Exhibit F*).

¹¹ Twenty-two tanks at the Maryland Tank Farm were allegedly retired from February 28, 1999 to December 31, 1999. According to the Analysis of Validity, 5 have been retained for potential use by the City-Parish and 17 were demolished. To date, there is no paperwork certifying that this has taken place, nor is it reflected in their permit.

¹² EPA's understanding of Louisiana regulations was consistent with section 173(c)(2) of the Act, which requires that "emissions reductions otherwise required by [the Act]" cannot be used as offsets.

federal register notice, but LDEQ nonetheless failed to conform to EPA policy or to notify EPA that it did not intend to implement the bank in accord with EPA's understandings.

EPA has explained that under Clean Air Act §173(c), "LDEQ must certify the ERC as surplus at the time the credits are used." EPA Order, *supra* note 5, at 19, ¶ 2. Further, as EPA has explained, each banked emission reduction credit (a/k/a "ERC") "must be reduced in quantity at the time of its use to account for any emission reduction requirements adopted since the generation of that ERC." Joint Motion, *supra* note 2, at 3-4, ¶ 7. As EPA has pointed out, this requirement "helps ensure that emission reductions required under current law are not undermined by the use of outdated offsets that were placed in a bank before the emission control requirements became effective." EPA Order, *supra* note 5, at 21, ¶ 1.

EPA noted in its December 22, 2000 Order: "LDEQ has applied its regulations in a manner that does not comport with EPA's interpretation of the state's permitting and banking regulations regarding the applicability of a 'surplus when used' requirement."¹³ LDEQ has admitted that its administration of the Air Pollution Bank has not met the standard set by the Clean Air Act and articulated by EPA.¹⁴ Specifically, LDEQ admitted: "it has not been our practice to perform such a review," referring to "a review and adjustment of emission credits at the time of their use."¹⁵ LDEQ has "fully acknowledge[d] that these apparent inconsistencies between the State rule and Federal policy . . . must be resolved."¹⁶

LDEQ has continued to allow use of credits that are invalid because they represent emission reductions that were required by law. For example, LDEQ recently granted a Title V air permit to Georgia-Pacific Corporation, a paper mill in Zachary, Louisiana. In granting this permit, LDEQ allowed Georgia-Pacific to claim offsets for reductions made pursuant to a legally enforceable settlement agreement, entered into after Georgia-Pacific was found to be violating its air quality permit.¹⁷

LDEQ's failure to properly administer the Air Pollution Bank has thus persisted throughout the life of the bank and has tainted the issuance of many Clean Air Act permits.

¹³ EPA Order, *supra* note 5, at 19, n. 22.

¹⁴ Letter from Bliss Higgins, Assistant Secretary of DEQ, to Carl Edlund, EPA Region VI (October 5, 2000), at 2, attached to Joint Motion, *supra* note 2.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Under LDEQ's EPA approved state implementation plan, it was illegal for LDEQ to allow these reductions. LDEQ regulations define "surplus emission reductions" as those "that are voluntarily created . . . and have not been required by any . . . order." L.A.C. 33.III.605.F.

Continued use of such tainted permits harms public health by permitting emissions to exceed the maximum allowed under federal law.

3. LDEQ has unlawfully double counted emission reduction credits.

EPA has explained that "States must keep careful records of all emissions reductions to ensure that the same reductions are not 'double-counted' or, more simply, used more than one time (i.e., reductions cannot be used for offsets and to meet the 15 percent rate of progress requirement)." EPA General Preamble, 57 Fed. Reg. at 13,509 (Apr. 16, 1992). LDEQ illegally counted reductions twice by approving the "banking" of credits for emission reductions that had already been taken into account when LDEQ established the baseline levels provided to EPA as part of LDEQ's federally required demonstration that its "state implementation plan" would lead to attainment of national standards.¹⁸ In other words, having already used emission reductions to demonstrate to EPA that it was moving toward attainment of health-protection standards, LDEQ has turned around and subverted its plan for attaining national standards by using those same reductions to justify illegal pollution increases.

Conclusion

Neither Louisiana residents nor members of the business community should be required to continue to live with the taint of, and excess pollution from, illegal permits issued pursuant to a discredited Air Pollution Bank. Until a full audit of the Air Pollution Bank is performed, neither EPA nor LDEQ have any way of determining how many, if any, valid credits remain in the bank. Until an audit and accounting is performed Louisiana residents and businesses will live under a cloud of tainted and illegal permits. Only after EPA conducts a complete audit and LDEQ remedies all deficiencies can Louisiana come into compliance with the Act and provide the public with real emission reductions to compensate for the illegal "paper" offsets that LDEQ provided through its Air Pollution Bank. EPA's audit and accounting must include at least the following minimum elements:

1. EPA must evaluate all Louisiana Air Quality permits granted since 1990 and determine whether each and every emissions reduction credit used in obtaining each of those permits is valid or invalid. In other words, there must be a full audit of the bank and an accounting of how many tons of excess pollution LDEQ's permits have allowed to be released in Louisiana communities without valid offsets.
2. For each Louisiana Air Quality permit based in whole or in part on invalid credits, EPA must determine how many excess tons of pollution have been emitted over how many years.

¹⁸ EPA Order, *supra* n. 5, at 20, 25-28.

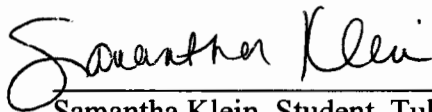
3. EPA must determine how many valid emission reduction credits, if any, remain in LDEQ's Air Pollution Bank.
4. EPA must determine how many valid emission credits from the Air Pollution Bank must be used to make the public whole from years of excess emissions from LDEQ's previous use of invalid credits.
5. For any shortfall in the number of valid emissions reductions credits available in the Air Pollution Bank and the number of such credits required to compensate the public for excess emissions, EPA must either (1) reopen rescind all Title V permits issued using invalid credits, or (2) reopen those illegally issued permits for Non-attainment New Source Review.

While performing this audit and until all deficiencies are remedied EPA must issue a "freeze order" to prevent LDEQ from dispersing any emission reduction credits from its discredited Air Pollution Bank.

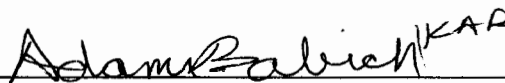
Dated: April 10, 2002

Prepared by:

Respectfully submitted on Petitioners' behalf
by:

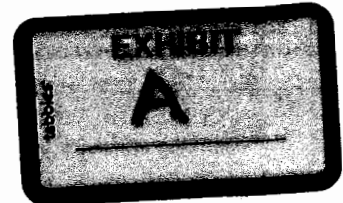


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UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

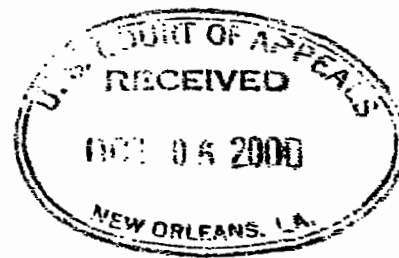
LOUISIANA ENVIRONMENTAL
ACTION NETWORK, *et al.*

Petitioners,

v.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY,

Respondent.



No. 99-60570

**JOINT MOTION FOR PARTIAL VOLUNTARY REMAND
AND STAY OF ALL PROCEEDINGS**

Petitioners Louisiana Environmental Action Network, North Baton Rouge Environmental Association, Save Our Lakes and Ducks, and Southern University Environmental Law Society (collectively, "LEAN"), Intervenor State of Louisiana Department of Environmental Quality ("LDEQ"), and the United States, on behalf of Respondent United States Environmental Protection Agency ("EPA") jointly move this Court for a partial voluntary remand of this matter as it relates to EPA's approval of Louisiana's contingency measure plan for the Baton Rouge ozone nonattainment area, and also jointly request an immediate stay of all proceedings,

including the oral argument presently scheduled for the week of November 6, 2000.

In support of this Motion, the undersigned Parties state as follows:

1. On July 2, 1999, acting pursuant to section 182(c)(2)(B) of the Clean Air Act ("CAA"), 42 U.S.C. § 7511a(c)(2)(B), EPA issued final approval of the State of Louisiana's revised State Implementation Plan ("SIP") for the Baton Rouge ozone nonattainment area. *See* 64 Fed. Reg. 35,930 (July 2, 1999). *See generally* Resp. Br. at 12-14.

2. On August 30, 1999, LEAN filed a petition for review of EPA's approval of the revised Baton Rouge SIP.

3. In its petition, LEAN challenged: (a) EPA's approval of the 9% Rate of Progress plan for Baton Rouge; (b) EPA's approval of the demonstration of attainment for Baton Rouge; and (c) EPA's approval of the contingency measure for Baton Rouge. *See* Resp. Br. at 1. The last of these three issues -- the contingency measure plan -- is at issue in this joint motion.

4. Under CAA sections 172(c)(9) and 182(c)(9), 42 U.S.C. §§ 7502(c)(9) and 7511a(c)(9), many States, including Louisiana, must submit contingency measures to be implemented if reasonable further progress toward attainment is not achieved or if the air quality standard is not attained by the applicable attainment

date. 64 Fed. Reg. at 35,935. *See also* Resp. Br. at 7-9. The State of Louisiana acknowledged in a May 10, 2000 letter to EPA that the Baton Rouge ozone nonattainment area failed to attain the one-hour standard by the required date of November 1999.

5. Louisiana elected to develop a contingency measure plan using Emission Reductions Credits ("ERCs") held in escrow in the State's ERC "bank." The revised Baton Rouge SIP documented 13.0 tons per day of ERCs in the bank. *See* 64 Fed. Reg. at 35,935.

6. On June 19, 2000, one of the Petitioners in this action filed a second action in the federal district court for Louisiana against EPA under the CAA. *See LEAN v. Browner*, Civil No. 00467-A-M-2 (M.D. La.). The Complaint in the second action alleged that EPA failed to perform an alleged mandatory duty to grant or deny the Plaintiff's request to veto a CAA emissions permit for a Borden Chemical, Inc. ("BCI") facility located in Geismar, Louisiana. Specifically, the Plaintiff alleged, among other things, that the ERCs that BCI used in connection with its CAA emissions permit were invalid.

7. EPA interprets the CAA as requiring that valid ERCs must be based on emissions reductions that are surplus at the time of use. Under EPA's

interpretation, an ERC must be reduced in quantity at the time of its use to account for any emissions reduction requirements adopted since the generation of that ERC.

8. In response to the BCI litigation, EPA performed a preliminary investigation and became concerned that Louisiana's banking rule and its application might not be consistent with EPA regulations and guidance. In addition, EPA discovered that it is difficult to access data documenting the amount of valid CAA offset credits in Louisiana's bank and that there are insufficiencies in the banking database.

9. After discussing its concerns with Louisiana, EPA learned that the State had not calculated the number of ERCs in the ERC bank in accordance with EPA's expectations. Louisiana believed that, under the CAA, it was not required to discount ERCs in the bank at the time of use. By letter dated October 5, 2000, a copy of which is attached, Louisiana confirmed that the applicable State rule actually prohibits a reduction in the quantity of ERCs at the time of use. The State acknowledged the discrepancy between the federal and State interpretations of the CAA and stated that it is considering revising or repealing its ERC banking rule.

10. In light of Louisiana's anticipated action revising or repealing its banking rule and EPA's concerns with the bank that may necessitate such State action, all of the undersigned Parties agree that EPA's approval of Louisiana's

contingency measure plan should be remanded to EPA for further action and/or rulemaking.

11. In addition, the undersigned Parties have recently participated in several productive, serious, and lengthy settlement discussions and have reached a settlement in principle of the entire petition, subject to final approval from the Parties' management and clients as well as public notice and comment under CAA section 113(g), 42 U.S.C. § 7413(g). The Parties agree that it is therefore appropriate to stay this litigation, including oral argument, to conserve the resources of the Court and the Parties. The Parties will inform the Court as soon as a final settlement has been achieved.

12. For the aforementioned reasons, the undersigned Parties respectfully ask the Court to grant this joint motion for a partial voluntary remand of this matter as it relates to EPA's approval of Louisiana's contingency measure plan for the Baton Rouge ozone nonattainment area, and also request that the Court stay all proceedings in this matter, including the oral argument presently scheduled for the week of November 6, 2000.

ON BEHALF OF THE UNITED STATES:

LOIS J. SCHIFFER
Assistant Attorney General
Environment & Natural Resources Division

Oct. 5, 2000

Date



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ON BEHALF OF ALL PETITIONERS:

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**ON BEHALF OF THE LOUISIANA
DEPARTMENT OF ENVIRONMENTAL
QUALITY:**

Oct. 5, 2000
Date

Donald Trahan / QES
DONALD TRAHAN
Louisiana Dept. of Environmental Quality
Staff Attorney
7920 Bluebonnet, 4th Floor
Baton Rouge, LA 70882-2282
(225) 765-0412



State of Louisiana

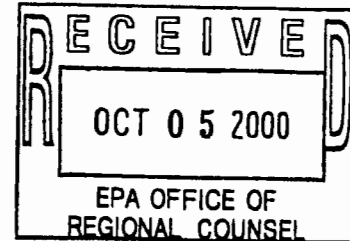
Department of Environmental Quality



M.J. "MIKE" FOSTER, JR.
GOVERNOR

J. DALE GIVENS
SECRETARY

October 5, 2000



Carl E. Edlund, P.E.
Director
Multimedia Planning and Permitting Division (6PD)
U. S. Environmental Protection Agency, Region VI
1445 Ross Avenue
Dallas, Texas 75202-2733

Dear Carl:

Over the last several months, specifically in discussions relating to the pending "Borden petition" and "5th Circuit SIP Appeal", questions have been raised regarding whether the Louisiana VOC banking rule (LAC 33:III, Chapter 6) and its application are consistent with current EPA policy/guidance regarding Nonattainment New Source Review procedures. Specifically, your office has stated its position that the rule as promulgated should be properly interpreted and applied to require that banked emission reduction credits (ERCs) be reduced in quantity at the time of their use, to account for any emission reductions that would have been required by any new regulations adopted since the time the credited emission reductions were generated. I understand that your position is based on a statement in the Background section of Chapter 6 that the regulation does not alter new source review requirements or exempt owners or operators from compliance with applicable regulations (LAC 33:III.601.A), as well as the language of section 173(c)(2) of the Clean Air Act (and the corresponding state regulation, LAC 33:III.504.F.10). Such an interpretation would be consistent with EPA's current national "surplus when used" policy. Your office has further noted that the Agency's approval of the rule in July 1999 was premised on this interpretation.

I must clarify, however, that the Department intended, interprets and has applied the rule to prohibit such a reduction in quantity of emission reduction credits. We believe that our intention is illustrated in the rulemaking record, by our first including and later striking rule provisions that would have adopted the "surplus when used" practice, as well as by our response to comments received during the rulemaking process. In addition, the rule establishes definitions and procedures for calculating ERCs that set forth a "surplus when generated" approach and further provides for the protection of credits once approved (LAC 33:III.605, 607.G, and 621).



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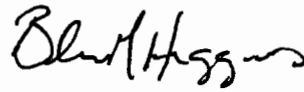
OFFICE OF ENVIRONMENTAL SERVICES • P.O. BOX 82135 • BATON ROUGE, LOUISIANA 70884-2135

AN EQUAL OPPORTUNITY EMPLOYER



Because it is our firm belief that the SIP approved banking system for offsets and netting in Louisiana does not require, and in fact prohibits, a review and adjustment of emission reduction credits at the time of their use, it has not been our practice to perform such a review. I fully acknowledge that these apparent inconsistencies between the State rule and Federal policy, or between the State and Federal interpretation of our rule, must be resolved. Toward this end, the Department has already begun a review of the rule to consider whether it should be revised or repealed in the context of our ongoing 2001 SIP development, or in a separate process. I look forward to a mutually satisfactory resolution of this issue and will be happy to discuss this matter with you further at any time.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Bliss M. Higgins".

Bliss M. Higgins
Assistant Secretary

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Public Notice

REQUEST FOR PUBLIC COMMENT ON PROPOSED EMISSION REDUCTION CREDITS (ERC)

EXXONMOBIL REFINING AND SUPPLY COMPANY BATON ROUGE REFINERY, MARYLAND TANK FARM BATON ROUGE, EAST BATON ROUGE PARISH, LOUISIANA REVIEW NO. 30702, AGENCY INTEREST NO. 2638

The Louisiana Department of Environmental Quality-Office of Environmental Services (LDEQ-OES) will receive comments on ExxonMobil Refining and Supply Company, Maryland Tank Farm, PO Box 551, Baton Rouge, LA 70821. The company proposes to bank emission reductions of volatile organic compounds (VOCs) in the Louisiana Department of Environmental Quality Emission Reductions Credits (ERC) Banking System in accordance with LAC 33:III.601. The facility is located at 4045 Scenic Highway, Baton Rouge, East Baton Rouge Parish.

The total estimated emission reductions, in tons per year, are as follows:

Pollutant	Emissions
VOC	157.91

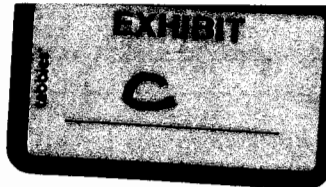
These surplus VOC emissions are due to permanently shutting down storage tanks in the Maryland Tank Farm, 4045 Scenic Highway, Baton Rouge.

The Department has reviewed the ERC application to ensure that the requirements of Surplus, Permanent, Quantifiable and Enforceable have been met. For at least 30 days from the date of publication of this notice, the public is provided the opportunity to comment on the creditability of these emission reductions. Written comments on the proposed ERC Credits may be submitted to Ms. Carolyn Laney, LDEQ-OES, Environmental Assistance Division, Post Office Box 82135, Baton Rouge, LA 70884-2135. **Written comments received by 4:30 p.m., Tuesday, March 26, 2002**, will be considered prior to a final decision. Comments should be based on the requirements of Part III, Chapter 6 of the Louisiana Environmental Regulatory Code, LAC 33:III.601. All comments should **specify Review No. 30702, and Agency Interest (AI) No. 2638**. A public hearing will be held if the Office finds a significant degree of public interest. LDEQ will send notification of the final permit decision to the applicant and to each person who has submitted written comments or requested notification.

A copy of the banking application and the Analysis of Validity are available for inspection and review at the LDEQ, Public Records Center, Room 4400, 7290 Bluebonnet Boulevard, Baton Rouge, LA. Viewing hours are from 7:30 a.m. to 4:30 p.m., Monday-Friday (except holidays). An additional copy is available for review at the East Baton Rouge Parish Library, Scotlandville Branch, 7373 Scenic Highway, Baton Rouge, LA.

Persons wishing to be included in the mailing list for ExxonMobil Refining and Supply Company should contact Ms. Carolyn Laney at the address above, telephone (225) 765-0189. Additional

PUBLIC NOTICE



**LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL SERVICES, PERMITS DIVISION**

**PUBLIC HEARINGS AND REQUEST FOR PUBLIC COMMENT ON PROPOSED PART 70 AND
PREVENTION OF SIGNIFICANT DETERIORATION (PSD) AIR PERMITS AND ENVIRONMENTAL
ASSESSMENT STATEMENT**

**EXXONMOBIL REFINING AND SUPPLY COMPANY
BATON ROUGE REFINERY
BATON ROUGE, EAST BATON ROUGE PARISH, LOUISIANA**

R-28859 & 28628 / AI 2638

The Louisiana Department of Environmental Quality-Office of Environmental Services (LDEQ-OES), Permits Division, will conduct public hearings to receive comments on the proposed Part 70 and Prevention of Significant Deterioration (PSD) air permits and Environmental Assessment Statement associated with this permit for ExxonMobil Refining and Supply Company, P. O. Box 551, Baton Rouge, Louisiana 70821-0551, for the Tier 2/Low Sulfur Mogas Project at their Baton Rouge Refinery. The facility is located at 4045 Scenic Highway, Baton Rouge, East Baton Rouge Parish, Louisiana.

Two public hearings will be held consecutively on Thursday, January 17, 2002, beginning at 6:00 p.m., in the Louisiana Department of Transportation and Development Auditorium, 1201 Capitol Access Road, Baton Rouge, Louisiana. The purpose of the first hearing will be to accept public comments on the proposed Part 70 and Prevention of Significant Deterioration (PSD) air permits. Immediately following the conclusion of this first hearing, a second separate hearing will be held at the same location to accept public comments on the Environmental Assessment Statement associated with the permits. All interested persons will be afforded the opportunity to comment on the proposed Part 70 and Prevention of Significant Deterioration (PSD) air permits and the environmental assessment statement.

Baton Rouge Refinery (BRRF) is required by the Environmental Protection Agency (EPA) Tier 2 regulation to reduce the sulfur content of motor gasoline (mogas) by roughly 90%. To meet this regulation, the refinery will construct and operate the Clean Gasoline Project to increase hydrofining and caustic treating capacity to remove additional sulfur from mogas blendstocks. Estimated emissions in tons per year are as follows:

Pollutant	Permitted	Proposed	Change
PM ₁₀	1.63	32.46	+ 30.83
SO ₂	19.12	104.67	+ 85.55
NO _x	118.12	287.30	+ 169.17
CO	18.73	298.09	+ 279.36
VOC	44.38	129.39	+ 85.01

Project emission changes from affected points in tons per year are estimated to be as follows:

Pollutant	Project Increases	PSD/NNSR De Minimis
PM ₁₀	29.06	15
SO ₂	104.75	40
NO _x	227.44	40
CO	285.59	100
VOC	116.92	5

The project's emission increase is above the threshold level for CO emissions. A netting analysis of the contemporaneous period (4Q03 through 2Q97) in the following table shows a decrease in CO emissions. The project netted out of PSD review for CO.

Project Description	Permit No.	Startup	CO
Clean Gasoline Project	Pending	4Q03	285.59
Far East Coker Air Preheater	2234-V0	10/19/2000	10.38
West Coker Debottleneck	2234-V0	10/15/2000	21.33
Anchorage Tank and Boiler	3120-V0	04/28/1999	14.02
CO Furnace Replacement	2385-V0	04/12/1999	-3370.00
Cat Light Ends Debottleneck	2589-V0	04/03/1999	8.57
Pipestill 10 Heavy up	2432	11/23/1998	33.07
Cat Complex ORC	2385	04/07/1998	99.00
LELA Refiner	2341(M-2)	02/08/1998	4.08

HCN Hydrofiner	2161(M-1)	12/13/1997	-8.69
SRLA Hazop	2300(M-1)	06/25/1997	60.94
Net Emission Change			-2841.71

The Project's VOC increase is above the threshold level for Non-Attainment New Source Review (NNSR). A netting analysis of the contemporaneous period (4Q03 through 1Q99) in the following table shows a decrease in VOC emissions. The project netted out of NNSR for VOC.

Project Description	Permit No.	Startup	VOC
Clean Gasoline Project	Pending	4Q03	116.92
Amylene Fractionation	2323	12/01/2001	4.16
Far East Coker Air Preheater	2234-V0	10/19/2000	0.56
West Coker Debottleneck	2234-V0	10/15/2000	1.37
Tank 105	2428	09/23/1999	3.75
Anchorage Tank and Boiler	3120-V0	04/28/1999	8.86
Cat Light Ends Debottleneck	2589-V0	04/03/1999	9.84
Maryland Tank Farm Shutdown	N/A	1999	-157.91
Net Emission Change			-12.45

The project is significant for increases in PM₁₀, SO₂, and NO_x emissions and requires Prevention of Significant Deterioration review. BACT requirements, the Air Quality Impact Analysis, and Additional Impact Analysis are discussed in the PSD permit.

Control of NO_x, SO₂ and PM₁₀ were analyzed using a "top down" approach. Ultra-low NO_x burners, use of low sulfur fuel and good engineering/operational practices were determined to be BACT for the new process furnaces. A drift eliminator constitutes BACT for the new cooling tower. Other alternatives were rejected due to technical unfeasibility, high cost/ton or adverse environmental impacts.

Dispersion modeling was conducted to demonstrate that emissions from the Clean Gasoline Project are not above the NAAQS or PSD Increments for NO₂, SO₂ or PM₁₀. There will be no adverse impacts on soils, vegetation or visibility.

The Environmental Assessment Statement submitted by the applicant addresses avoidance of potential and real adverse environmental effects, balancing of social and economic benefits against environmental impact costs, and alternative sites, projects, and mitigative measures.

The LDEQ-OES, Permits Division, has reviewed the application and has made a preliminary determination of approval. For at least thirty (30) days from the date of publication of this notice, the public is provided the opportunity to comment on the proposed Part 70 and Prevention of Significant Deterioration (PSD) air permits and Environmental Assessment Statement, until the close of the public comment period as specified below. Written comments on the proposed Part 70 and Prevention of Significant Deterioration (PSD) air permits and Environmental Assessment Statement may be submitted to Ms. Carolyn Laney, LDEQ-OES, Public Participation Group, Environmental Assistance Division, Post Office Box 82135, Baton Rouge, Louisiana 70884-2135. **Written comments received on or before Thursday, January 17, 2002 will be considered prior to a final decision. All comments should specify Review No. 28859 & 28628, Agency Interest No. 2638.** LDEQ will notify the applicant and each person who has submitted written comments or requested notice of the final permit decision.

Individuals with a disability who need an accommodation in order to participate in the public hearing should contact Mr. Niels Larsen, LDEQ-OES, Public Participation Group, Environmental Assistance Division, telephone (225) 765-0898. Additional permit information may be obtained from Ms. Cathy Lu, LDEQ-OES, Permits Division, Petrochemical Unit, Group 1, telephone (225) 765-2784.

The application, proposed Part 70 and Prevention of Significant Deterioration (PSD) air permits, and environmental assessment statement may be examined at the LDEQ Public Records Center, Room 4400, 7290 Bluebonnet Boulevard, Baton Rouge, Louisiana. Viewing hours are from 7:30 a.m. to 4:30 p.m. Monday-Friday (except holidays). Additional copies are available for review at the East Baton Rouge Public Library, Delmont Gardens Branch, 3351 Lorraine Street, Baton Rouge, Louisiana 70805.

Publication Date: December 12, 2001



BEFORE THE ADMINISTRATOR
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

IN THE MATTER OF:)
)
)
OPERATING PERMIT)
FORMALDEHYDE PLANT)
BORDEN CHEMICAL, INC.) PETITION NO. 6-01-1
GEISMAR)
ASCENSION PARISH)
LOUISIANA)
)
PERMIT NO. 2631-VO)
)

**ORDER RESPONDING TO PETITIONER'S REQUEST THAT THE
ADMINISTRATOR OBJECT TO THE ISSUANCE OF A STATE OPERATING PERMIT**

I. INTRODUCTION

On August 24, 1999, Ms. Marylee Orr, Executive Director of the Louisiana Environmental Action Network (LEAN) [Petitioner], petitioned the United States Environmental Protection Agency (EPA) to object to the issuance of a permit to Borden Chemicals, Inc. (Borden) for a new formaldehyde facility in Geismar, Ascension Parish, Louisiana. The Louisiana Department of Environmental Quality (LDEQ) issued Borden a permit on August 25, 1999. The permit constitutes both a preconstruction permit issued pursuant to the Nonattainment New Source Review (NNSR) requirements of the Clean Air Act (Act), 42 U.S.C. § 7503, and a State operating permit issued pursuant to Title V of the Act, 42 U.S.C. §§ 7661 - 7661f.

The Petitioner requested that EPA object to the issuance of the Borden Permit pursuant to Section 505(b) of the Act,

regulations." [i.e., the State's NSR regulations]. 63 Fed. Reg. 44192, 44200 n.2 (Aug. 18, 1998). See also 62 Fed. Reg. 52948, 52949 (Oct. 10, 1997) (granting final approval of Louisiana's NNSR program based, in part, on finding that L.A.C. 33:III.504.F.5 and 504.F.10 satisfy Section 173(c)(2) of the Act by "prevent[ing] emissions reductions otherwise required by the Act from being credited for purposes of satisfying the part D offset requirements").²²

As a result, even if an ERC certificate has been validly issued, LDEQ must certify the ERCs as surplus at the time the credits are used to account for any new federal or state statutes, regulations, or permits which establish new baseline emission limits. In addition, LDEQ must ensure that the ERCs were not later relied upon to demonstrate attainment of any

²² In the course of discussing this petition with LDEQ, it came to light that LDEQ has applied its regulations in a manner that does not comport with EPA's interpretation of the state's permitting and banking regulations regarding the applicability of a "surplus when used" requirement. In EPA's view, the language of the state regulations is consistent with Section 173(c)(2) of the Act, and it was on that basis that the Agency approved LDEQ's NSR regulations in 1997 and LDEQ's banking regulations in 1999. See, e.g., Section 173(c)(2) of the Act, 42 U.S.C. § 7503(c)(2), which provides that "emissions reductions otherwise required by [the Act] shall not be creditable as emission reductions for purposes of any such offset requirement." See also L.A.C. 33:III.504.F.10, which provides in part that "emission reductions otherwise required by the Federal Clean Air Act or by state regulations shall not be credited for purposes of satisfying the offset requirement," and L.A.C. 33:III.623.B.1, which provides that "an ERC may be used to offset increased emissions from new or modified sources in nonattainment or attainment areas in accordance with L.A.C. 33:III.504."

federal or state ambient air quality standard.

EPA finds that the Georgia Gulf ERCs relied upon in Borden's permit are invalid for use as offsets for two reasons. First, when LDEQ issued Borden its permit on August 25, 1999, the emissions reductions banked by Georgia Gulf were required by the Clean Air Act and thus not eligible for use as offsets. Second, Georgia Gulf's emissions reductions were not below the emissions limit in the applicable SIP in effect at the time the application to construct was filed and, again, not eligible for use as offsets.

1. Emission Reductions Required by the Clean Air Act Cannot be Used as Offsets

Section 173(c)(2) of the Act, 42 U.S.C. § 7503(c)(2) provides that "emission reductions otherwise required by [the Act] shall not be creditable as emission reductions for purposes of any such offset requirement." For example, EPA has explained that "reductions required to meet [reasonably available control technology] RACT and acid rain reductions pursuant to statutory authority are not creditable for emission offsets." 57 *Fed. Reg.* at 13498, 13552 (April 16, 1992). As to banked ERCs, this means that the use of ERCs which were surplus some years ago when they were banked, cannot be used as valid offsets if they are no longer surplus at the time of use because of other regulations enacted after the ERCs were banked. See 65 *Fed. Reg.* 76576, 76569 (Dec. 7, 2000) (limited disapproval of Ventura County,

California's State Implementation Plan for failing "to ensure that ERCs are surplus to all requirements of the Act at the time they are used, even though they were discounted at the time of generation and even though [Ventura County] has not relied on the ERCs for its attainment demonstration."). This helps ensure that emission reductions required under current law are not undermined by the use of outdated offsets that were placed in a bank before the emission control requirements became effective.

The corresponding state regulation to Section 173(c)(2) of the Act is L.A.C. 33:III.504.F.10. This regulation states that "emission reductions otherwise required by the Federal Clean Air Act or by state regulations shall not be credited for purposes of satisfying the offset requirement." L.A.C. 33:III.504.F.10 is a statutorily mandated provision of the Louisiana SIP. 42 U.S.C. § 7503(c)(2). EPA stated that this provision satisfied Section 173(c)(2) of the Act when it approved Louisiana's NNSR rules. 62 *Fed. Reg.* at 52949.²³

The application of the "surplus when used" requirement can be illustrated by the following example. Assume that a source has uncontrolled emissions of 300 TPY. A RACT regulation promulgated in 1995 (and incorporated into the SIP) requires an 80% destruction efficiency (reduce VOC emissions by 80%, to 60

²³ EPA also determined that L.A.C. 33:III.504.F.5 satisfies Section 173(c)(2) of the Act. 62 *Fed. Reg.* at 52949.

TPY). The source installs controls which reduce VOC emissions by 95%, to 15 TPY. A permit modification is issued which sets an emission limit of 15 TPY. The 45 additional tons of emission reductions beyond those required by the RACT regulation in the SIP are considered "surplus",²⁴ and then banked according to the State's banking regulations.²⁵

Now assume that in 1998 a maximum achievable control technology (MACT) requirement is promulgated which requires a 95% destruction efficiency (reduce uncontrolled emissions by 95%, to 15 TPY).²⁶ A major source (located in a serious nonattainment area) wants to build a new unit at an existing major source which will emit 37.5 TPY (major modification). Thus, it needs to obtain 45 TPY in offsets (37.5 TPY x 1.2). L.A.C. 33:III.504, Table 1. Since the 1998 MACT requirement requires a 95% destruction efficiency, the 45 TPY credit in the bank is no longer valid for use as offsets because those emission reductions were required by the Clean Air Act in 1998. Section 173(c)(2) of the Act and L.A.C. 33:III.504.F.10 explicitly provide that

²⁴ This example assumes the emission reductions met the definition of "surplus emission reductions" in L.A.C. 33:III.605.

²⁵ In Louisiana, sources must deposit emission reductions in the bank in order to preserve them for use as offsets. L.A.C. 33:III.603. This example assumes that all other requirements for banking emission reductions are met.

²⁶ The 95% destruction efficiency is used as an example. Many MACT regulations require a 98% destruction efficiency (e.g., 40 C.F.R. § 63.113).

reductions required by the Clean Air Act cannot be used as offsets. Therefore, the 45 tons which were previously banked are no longer valid to be used as offsets.²⁷

This is essentially what happened with respect to the Georgia Gulf ERCs at issue here (if we assume for the moment that the credits were valid when banked). On October 13, 1995, LDEQ issued a permit modification, designated as Permit 1267T(M-3) to allow Georgia Gulf to construct a new purification column. Six months later, on April 18, 1996, LDEQ issued a permit modification, designated as Permit 1267T(M-4) to allow Georgia Gulf to expand the production capacity of the phenol/acetone plant. As part of the project, Georgia Gulf replaced the Secondary Carbon Adsorbers with a new regenerative thermal oxidizer (RTO). Georgia Gulf also added an eighth oxidizer to the phenol/acetone plant (a new emissions source within the process unit).

These permit modifications (M-3 and M-4) triggered the applicability of several federal and state emission control requirements. Perhaps most important, the emission reductions achieved by installation of the RTO were required, in part, by the waste gas disposal rule, L.A.C. 33:III.2115 (which requires a 95% control efficiency for VOCs), and the National Emission

²⁷ L.A.C. 33:III.623.B.1 requires ERCs used as offsets to comply with Louisiana's NNSR regulations found at L.A.C. 33:III.504.

Standards for Organic Hazardous Air Pollutants from Synthetic Organic Chemical Manufacturing Industry (SOCMI) sources, 40 C.F.R. § 63.113 (incorporated by reference in L.A.C. 33.III.5122)(which requires a 98% control efficiency of total organic hazardous air pollutants). The addition of a new, eighth oxidizer/reactor was subject to the requirements of the New Source Performance Standards (NSPS) Subpart III (which require a 98% reduction of total organic compounds) (incorporated in L.A.C. 33.III.3003). Further, the new purification unit and the numerous distillation columns/towers that were modified or replaced were subject to the requirements of the New Source Performance Standards (NSPS) Subpart NNN (which require a 98% reduction of total organic compounds) (incorporated in L.A.C. 33.III.3003).

Based on these new requirements, the 184.10 TPY of ERCs banked by Georgia Gulf in 1995 must be re-evaluated pursuant to section 173 of the Clean Air Act and the state's permitting and banking regulations to determine the extent to which the earlier emission reductions may now be required by federal and/or state law.²⁸ This evaluation was not conducted by LDEQ prior to issuance of Borden's permit on August 25, 1999. Further, there is no indication that the RTO emission limit is more stringent than the 98% level of control requirements triggered by Georgia

²⁸ As discussed at supra, footnote 20.

Gulf's expansion. As such, the ERCs relied upon in Borden's permit appear to be otherwise required by law and thus were invalid for offset purposes.

2. Emission Reductions Must be Below the Emissions Baseline in the SIP in Order to be Used as Offsets

The other requirement that must be considered in determining the validity of ERCs for use as offsets is the "baseline" for calculating ERCs. EPA regulations require each SIP to:

provide that for sources and modifications subject to any preconstruction review program adopted pursuant to this subsection the baseline for determining credit for emission reductions is the emissions limit in the applicable SIP in effect at the time the application to construct is filed.

40 C.F.R. § 51.165(a)(3)(i). LDEQ has incorporated 40 C.F.R. § 51.165 into its banking regulations.²⁹ This provision provides that the permitting authority must determine the appropriate baseline below which offsetting emissions are obtained by using the emission limitations set forth in the SIP. This means that the amount of emissions which can be used as offsets from a source will be based on emission reductions below these SIP limits.³⁰

²⁹ Specifically, L.A.C. 33:III.601.A provides that "this regulation [ERC banking regulations] does not alter new source review requirements nor exempt owners or operators from compliance with applicable preconstruction regulations in accord with 40 C.F.R. § 51.18 . . . [recodified as 40 C.F.R. § 51.165]." Therefore, L.A.C. 33:III.601 requires compliance with 51.165(a)(3)(i).

³⁰ Since the example below provides an emission limit for
(continued...)

This can also be illustrated by the prior example, this time focusing on how new SIP limits affect the baseline for determining surplus credits. Again assume that a source has uncontrolled emissions of 300 TPY.³¹ A RACT regulation promulgated in 1995 (and incorporated into the SIP) requires an 80% destruction efficiency (reduce VOC emissions by 80%, to 60 TPY). The source installs controls which reduce VOC emissions by 95%, to 15 TPY. A permit modification is issued which sets an emission limit of 15 TPY. The baseline for the emission reductions that may be used for offsets is 60 TPY (the current level in the SIP). This baseline sets the limit for which surplus emissions from this source can be used for offsets. The 45 additional tons of emission reductions are considered "surplus", and then banked according to the State's banking regulations.

In 1998, a MACT requirement is promulgated which requires a 95% destruction efficiency (reduce uncontrolled emissions by 95%, to 15 TPY). The facility's NNSR permit is modified to reflect the MACT requirement. Since the permit was issued pursuant to an

³⁰(...continued)
the source in the SIP, one uses the emission limit in the SIP to determine the baseline, rather than actual emissions. 40 C.F.R. § 51.165(a)(3)(i).

³¹ This example again assumes that the emission reductions met Louisiana's regulatory definition of "surplus emission reductions" and were appropriately banked to preserve them as offsets.

EPA-approved NNSR program, it would be considered part of the Louisiana SIP. See *National Mining Association v. U.S. EPA*, 59 F.3d 1351, 1363 (D.C. Cir. 1995). Therefore, the new baseline for determining whether there are any surplus emissions from this source that can be used as offsets is 15 TPY.

In 1999, the major source (located in a serious non-attainment area) wants to build a new unit at an existing major source which will emit 37.5 TPY (major modification). Thus, it needs to obtain 45 TPY in offsets (37.5 TPY x 1.2). L.A.C. 33:III.504, Table 1. Since the new baseline is now 15 TPY, any emission offsets must come from additional reductions below the 15 TPY baseline (e.g., increase destruction efficiency to 98%). Because of the recalculation of the baseline, the 45 TPY credit in the bank is not valid for use as offsets.³²

To determine whether the Georgia Gulf ERCs are valid to be used as offsets in Borden's permit, we therefore need to evaluate the emissions limit in the applicable SIP in effect at the time that Borden's application to construct was filed on March 10, 1999. As noted above, LDEQ approved permit modification (M-4) on April 18, 1996, to allow Georgia Gulf to expand the production

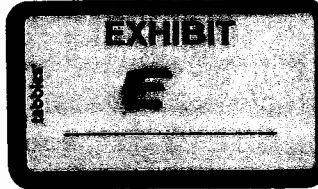
³² There may be situations where the two methods set forth in Section VI.C.1 and 2 will result in two different figures. For example, a MACT requirement may be part of the Section 173(c)(2) calculation as a requirement of the Act, but not part of the baseline calculation because a State may not have incorporated the MACT requirement into its SIP. If this occurs, one would use the lower of the two calculations.

capacity of the phenol/acetone plant. The project involved replacing the Secondary Carbon Adsorbers with a new regenerative thermal oxidizer (RTO) and adding an eighth oxidizer/reactor to the phenol/acetone plant. After this permit modification, the emission limit permitted by LDEQ for the RTO and the phenol/acetone production unit to meet the various control requirements was 4.55 TPY. The new baseline for Georgia Gulf thus became 4.55 TPY.

In light of this recalculated baseline, the 184.10 TPY of ERCs banked in 1995 by Georgia Gulf are not valid for use by Borden in 1999. In fact, even if the entire phenol/acetone plant was shut down at the time Borden sought to use the Georgia Gulf ERCs as offsets (which it was not), the maximum conceivable surplus of Georgia Gulf ERCs would have been 4.55 TPY. Thus, the ERCs banked by Georgia Gulf were not below the emissions baseline of 4.55 TPY in the SIP that was in effect when Borden submitted its 1999 application and could not be used as valid offsets.

In sum, based on the fact that the ERCs relied upon by Borden for offsets were not surplus at the time of generation, when banked, or at the time they were used, the Petitioner's objection on this ground has merit. However, as noted earlier, LDEQ has issued a permit modification to Borden which relies upon netting credits rather than the external ERCs upon which the Borden Permit and the Petition are based. Accordingly, the Petitioner's objection on this ground is dismissed as moot.

VOC Emissions Reduction Credits Banked in The Baton Rouge Ozone Nonattainment Area As of March 13, 2000*



PARISH	FACILITY	VOCs (TONS PER YEAR)
<p style="text-align: center;">CERTIFICATE OF AUTHENTICITY</p> <p>I, the undersigned, do hereby certify that I am the official custodian of the books, records, papers or other documents represented by the copies that are attached. Furthermore, I hereby certify that these copies are true copies of the books, records, papers or other documents that are in my custody.</p> <p style="text-align: right;">Signed <u>Barry Brook</u> Title <u>Env. Prog. Specialist 3</u> Date <u>3/14 2000</u></p>	BASF	0.6 tpy (06/01/90)
	BASF	9.6 tpy (09/01/91)
	BASF	29.4 tpy (12/01/91)
	BASF	17.0 tpy (12/01/91)
	BASF	7.6 tpy (03/01/94)
	CF Industries	66.6 tpy (10/01/93)
	Rubicon	45.9 tpy (11/01/92)
	Rubicon	- 44.9 tpy (11/01/92)
	Rubicon	0.9 tpy (08/06/97)
	Rubicon	1.0 tpy (09/22/97)
	Rubicon	15.7 tpy (09/14/98)
	Rubicon	6.0 tpy (09/14/98)
	Rubicon	11.3 tpy (09/14/98)
	Rubicon	510.0 tpy (09/14/98)
	Shell Chemical Company	151.3 tpy (08/01/90)
	Shell Chemical Company	156.8 tpy (03/01/92)
	Shell Chemical Company	22.1 tpy (03/01/93)
	Shell Chemical Company	248.5 tpy (03/01/93)
	Transcanada Gas Processing	29.4 tpy (10/01/98)
	Uniroyal Chemical	101.8 tpy (12/01/94)
Vulcan Chemicals	4.0 tpy (09/01/90)	
Vulcan Chemicals	0.8 tpy (12/01/90)	
Vulcan Chemicals	0.5 tpy (02/01/93)	
Vulcan Chemicals	0.8 tpy (04/01/93)	
Vulcan Chemicals	0.9 tpy (07/01/93)	
Vulcan Chemicals	0.1 tpy (12/01/93)	
Vulcan Chemicals	8.7 tpy (12/01/95)	
PARISH TOTAL		1,402.4 tpy
EAST BATON ROUGE	Chevron	34.3 tpy (12/01/94)
	Exxon Americas (Paxon)	40.0 tpy (09/01/92)
	Exxon Chemical Americas	6.7 tpy (01/01/93)
	Exxon Chemical Americas	26.1 tpy (06/01/93)
	Exxon Chemical Americas	670.7 tpy (01/01/94)
	Exxon Chemical Company	24.7 tpy (08/01/92)
	Exxon Chemical BR Plastic	- 70.5 tpy (09/01/92)
Formosa Plastics	3.1 tpy (12/20/94)	

*The information shown in this chart reflects data known to the LDEQ on March 13, 2000.

PARISH	FACILITY	VOCs (TONS PER YEAR)
EAST BATON ROUGE (Continued)	Georgia-Pacific Corp.	10.4 tpy (10/01/93)
	Trinity-Marine - BR	50.0 tpy (06/30/97)
PARISH TOTAL		936.5 tpy
IBERVILLE	Ashland Chemical	43.3 tpy (01/18/94)
	CIBA Geigy	43.3 tpy (03/25/92)
	COSMAR	14.8 tpy (06/01/95)
	DOW	56.6 tpy (06/01/90)
	DOW	- 63.0 tpy (06/01/90)
	DOW	15.5 tpy (09/01/90)
	DOW	7.0 tpy (10/01/90)
	DOW	3.1 tpy (03/21/91)
	DOW	1,328.2 tpy (12/01/91)
	DOW	4.2 tpy (12/16/91)
	DOW	32.3 tpy (02/15/92)
	DOW	19.5 tpy (08/01/92)
	DOW	1,249.0 tpy (09/29/92)
	DOW	570.4 tpy (10/01/92)
	DOW	7.0 tpy (10/22/92)
	DOW	554.9 tpy (10/30/92)
	DOW	9.9 tpy (12/01/92)
	DOW	128.4 tpy (12/31/94)
	DOW	2.7 tpy (12/31/94)
	IBERVILLE	Georgia Gulf
Georgia Gulf		- 32.0 tpy (11/01/90)
Georgia Gulf		3.0 tpy (03/01/91)
Georgia Gulf		64.3 tpy (07/01/91)
Georgia Gulf		3.5 tpy (04/01/95)
Georgia Gulf		22.1 tpy (07/01/95)
Georgia Gulf		16.1 tpy (11/01/96)
Mobile E & P		3.7 tpy (04/01/90)
PARISH TOTAL		4,291.9 tpy
LIVINGSTON	Lard Oil Company	7.0 tpy (01/01/94)
PARISH TOTAL		7.0 tpy
WEST BATON ROUGE	Placid Refining Company	147.8 tpy (12/01/92)
	Placid Refining Company	1.6 tpy (06/01/97)
PARISH TOTAL		149.4 tpy
TOTAL VOCs		6,787.2 tpy

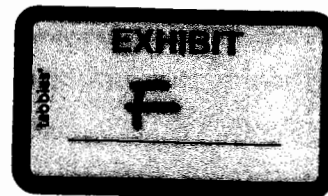
CERTIFICATE OF AUTHENTICITY

I, the undersigned, do hereby certify that I am the official custodian of the books, records, papers or other documents represented by the copies that are attached. Furthermore, I hereby certify that these copies are true copies of the books, records, papers or other documents that are in my custody.

Signed Barry Brooks
 Title Env. Proj. Spclt. 3
 Date 3/14 2000

*The information shown in this chart reflects data known to the LDEQ on March 13, 2000.

Total Banking By Pollutant
March 13, 2000



Company : ARCADIAN FERTILIZER LP
Permit No. : 483 (M-3)
Pollutant : VOC

Trans	Date	EIQ	Description	Deposit (TPY)
1	7/01/1992	A1-75	CONT. Application	349.00
		Permit No.483 (M-3)	Total Deposit	349.00 (TPY)
		Total ARCADIAN FERTILIZER LP	Deposit	349.00 (TPY)

Company : ASHLAND CHEMICAL INC.
Permit No. : 1280-00009-03
Pollutant : VOC

Trans	Date	EIQ	Description	Deposit (TPY)
1	1/18/1994	A7-90	cont. Application	43.30
		Permit No.1280-00009-03	Total Deposit	43.30 (TPY)
		Total ASHLAND CHEMICAL INC.	Deposit	43.30 (TPY)

Company : BASF CORPORATION
Permit No. : 2171
Pollutant : VOC

Trans	Date	EIQ	Description	Deposit (TPY)
1	3/01/1994	1-92, 2-92	APPLICATION	7.60
		Permit No.2171	Total Deposit	7.60 (TPY)

Permit No. : 2265
Pollutant : VOC

Trans	Date	EIQ	Description	Deposit (TPY)
1	6/01/1990		APPLICATION	0.60
2	9/01/1991		APPLICATION	9.60
3	12/01/1991		APPLICATION	29.40
4	12/01/1991		APPLICATION	17.00
		Permit No.2265	Total Deposit	56.60 (TPY)
		Total BASF CORPORATION	Deposit	64.20 (TPY)

Company : CF INDUSTRIES
 Permit No. : 0180-00004-03
 Pollutant : VOC

Trans	Date	EQ	Description	Deposit (TPY)
1	10/01/1993	5-65	CONT. APPLICATION	78.60
		Permit No.0180-00004-03	Total Deposit	78.60 (TPY)
		Total CF INDUSTRIES	Deposit	78.60 (TPY)

Company : CIBA GEIGY
 Permit No. : 1280-00007-08
 Pollutant : VOC

Trans	Date	EQ	Description	Deposit (TPY)
1	3/25/1992	112F	cont Carbon Adsorption	40.20
		Permit No.1280-00007-08	Total Deposit	40.20 (TPY)
		Total CIBA GEIGY	Deposit	40.20 (TPY)

Company : CITGO PETROLEUM CORPORATION
 Permit No. : 2232
 Pollutant : VOC

Trans	Date	EQ	Description	Deposit (TPY)
1	5/01/1994	214,212,176	Application	1,522.10
		Permit No.2232	Total Deposit	1,522.10 (TPY)

Permit No. : GRANDFATHERED
 Pollutant : VOC

Trans	Date	EQ	Description	Deposit (TPY)
1	3/01/1996	214	APPLICATION	4.18
		Permit No.GRANDFATHERED	Total Deposit	4.18 (TPY)
		Total CITGO PETROLEUM CORPORATION	Deposit	1,526.28 (TPY)

Company : COSMAR COMPANY
 Permit No. : 1280-00013-01

Pollutant : VOC

Trans	Date	EIQ	Description	Deposit (TPY)
1	6/01/1995	7-73	- cont. Application	14.77
		Permit No.1280-00013-01	Total Deposit	14.77 (TPY)
		Total COSMAR COMPANY	Deposit	14.77 (TPY)

Company : EXXON AMERICAS POLYOLEFIN (PAXON)

Permit No. :

Pollutant : VOC

Trans	Date	EIQ	Description	Deposit (TPY)
1	9/01/1992		APPLICATION 21073	40.00
		Permit No.	Total Deposit	40.00 (TPY)

Permit No. : SEE R #21209

Pollutant : VOC

Trans	Date	EIQ	Description	Deposit (TPY)
1	9/01/1992		REC'D 40 TONS/VOC	40.00
		Permit No.SEE R #21209	Total Deposit	40.00 (TPY)
		Total EXXON AMERICAS POLYOLEFIN (PAXON)	Deposit	80.00 (TPY)

Company : EXXON CHEMICAL AMERICAS

Permit No. : 2031-V0

Pollutant : VOC

Trans	Date	EIQ	Description	Deposit (TPY)
1	1/01/1993	V-35	BELA-5 FUGITIVES	6.66
2	6/01/1993	FUGITIVES	NACC FUGITIVES	26.08
		Permit No.2031-V0	Total Deposit	32.74 (TPY)

Permit No. : 2166 (M-1)

Pollutant : VOC

Trans	Date	EIQ	Description	Deposit (TPY)
1	1/01/1994	U-22 CONT.	APPLICATION 12735	670.70
		Permit No.2166 (M-1)	Total Deposit	670.70 (TPY)

Permit No. : 2166 (M-2)

Pollutant : VOC

Trans	Date	EIQ	Description	Deposit (TPY)
2	11/27/1995	U-22 CONT.	APPLICATION 14623	670.70
3	9/01/1992		APPLICATION 21209	0.00
4	1/01/1995	Application	See R 14612	0.00

Permit No.2166 (M-2) Total Deposit 670.70 (TPY)

Permit No. : 2166(M-2)

Pollutant : VOC

Trans	Date	EIQ	Description	Deposit (TPY)
1	2/18/1998		TRANSFER 40 TONS/VOC	0.00

Permit No.2166(M-2) Total Deposit 0.00 (TPY)

Total EXXON CHEMICAL AMERICAS Deposit 1,374.14 (TPY)

Company : EXXON CHEMICAL COMPANY

Permit No. : 0840-00035-03

Pollutant : VOC

Trans	Date	EIQ	Description	Deposit (TPY)
1	8/01/1992	1-83	Application	24.73

Permit No.0840-00035-03 Total Deposit 24.73 (TPY)

Total EXXON CHEMICAL COMPANY Deposit 24.73 (TPY)

Company : EXXON CHEMICAL COMPANY-BR PLASTIC

Permit No. : 0840-00018-04

Pollutant : VOC

Trans	Date	EIQ	Description	Deposit (TPY)
1	9/01/1992	02-87	APPLICATION 12668	70.50
2	10/01/1996	06-83, 01-95	APPLICATION 15388	0.00

Permit No.0840-00018-04 Total Deposit 70.50 (TPY)

Total EXXON CHEMICAL COMPANY-BR PLASTIC Deposit 70.50 (TPY)

Company : FORMOSA PLASTICS CORPORATION

Permit No. : 0840-00002-06

Pollutant : VOC

Trans	Date	EIQ	Description	Deposit (TPY)
1	12/20/1994	147 & 148	Application	3.07
		Permit No.0840-00002-06	Total Deposit	3.07 (TPY)
		Total FORMOSA PLASTICS CORPORATION	Deposit	3.07 (TPY)

Company : GEORGIA GULF
Permit No. :
Pollutant : VOC

Trans	Date	EIQ	Description	Deposit (TPY)
1	3/01/1991	42-70	CUMENE STORAGE TANK	3.30
2	7/01/1991	1-90	MARINE LOADING SCRUB	64.30
3	11/01/1990	1-90	SECNDRY CARBN ABSORP	184.10
4	11/01/1990	1-90		0.00
		Permit No.	Total Deposit	251.70 (TPY)
		Total GEORGIA GULF	Deposit	251.70 (TPY)

Company : GEORGIA-PACIFIC CORPORATION
Permit No. : 0840-00010-01
Pollutant : VOC

Trans	Date	EIQ	Description	Deposit (TPY)
1	10/01/1993	24	No. 3 Power Boiler	10.40
		Permit No.0840-00010-01	Total Deposit	10.40 (TPY)
		Total GEORGIA-PACIFIC CORPORATION	Deposit	10.40 (TPY)

Company : LARD OIL COMPANY
Permit No. : 1740-00035-00
Pollutant : VOC

Trans	Date	EIQ	Description	Deposit (TPY)
1	1/01/1994	TKS 1-3 LRI	SEE APPLICATION	7.00
		Permit No.1740-00035-00	Total Deposit	7.00 (TPY)

Total LARD OIL COMPANY

Deposit 7.00 (TPY)

Company : MOBIL E & P
Permit No. : 1280-00052-01
Pollutant : VOC

Trans	Date	EIQ	Description	Deposit (TPY)
1	4/01/1990	9228-28	cont Application	3.74
		Permit No.1280-00052-01	Total Deposit	3.74 (TPY)
		Total MOBIL E & P	Deposit	3.74 (TPY)

Company : ORYX ENERGY COMPANY
Permit No. : 2260-00021-01
Pollutant : VOC

Trans	Date	EIQ	Description	Deposit (TPY)
1	6/02/1994	GPM-2 CONT.	GAS PLANT	379.00
		Permit No.2260-00021-01	Total Deposit	379.00 (TPY)
		Total ORYX ENERGY COMPANY	Deposit	379.00 (TPY)

Company : OXYCHEM PETROCHEMICALS
Permit No. : 0520-00107-04
Pollutant : VOC

Trans	Date	EIQ	Description	Deposit (TPY)
1	6/17/1992	007	CONTINUE APPLICATION	34.30
		Permit No.0520-00107-04	Total Deposit	34.30 (TPY)
		Total OXYCHEM PETROCHEMICALS	Deposit	34.30 (TPY)

Company : PLACID REFINING COMPANY
Permit No. : 3120-00012-05
Pollutant : VOC

Trans	Date	EIQ	Description	Deposit (TPY)
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1 12/01/1992 7-74A cont. Application 147.77
 Permit No.3120-00012-05 Total Deposit 147.77 (TPY)
 Total PLACID REFINING COMPANY Deposit 147.77 (TPY)

Company : PPG INDUSTRIES, INC.
 Permit No. : 1476T
 Pollutant : VOC

Trans	Date	EIQ	Description	Deposit (TPY)
1	1/11/1993	343 385	Waste Scrubbers	41.38

Permit No.1476T Total Deposit 41.38 (TPY)

Permit No. : 2206
 Pollutant : VOC

Trans	Date	EIQ	Description	Deposit (TPY)
1	1/09/1993	390	S Terminal, Barge Ld	37.62

Permit No.2206 Total Deposit 37.62 (TPY)

Permit No. : 2216
 Pollutant : VOC

Trans	Date	EIQ	Description	Deposit (TPY)
1	1/12/1993	332,333,344A	See application	29.24

Permit No.2216 Total Deposit 29.24 (TPY)

Permit No. : 2229
 Pollutant : VOC

Trans	Date	EIQ	Description	Deposit (TPY)
1	1/09/1993	392,393,394	See application	2.04

Permit No.2229 Total Deposit 2.04 (TPY)

Permit No. : 2269
 Pollutant : VOC

Trans	Date	EIQ	Description	Deposit (TPY)
1	1/01/1993	Application	See application	71.41

Permit No.2269 Total Deposit 71.41 (TPY)

Permit No. : 2270

Pollutant : VOC

Trans	Date	EIQ	Description	Deposit (TPY)
1	4/01/1991	Application	See application	137.61
		Permit No.2270	Total Deposit	137.61 (TPY)

Permit No. : NONE
Pollutant : VOC

Trans	Date	EIQ	Description	Deposit (TPY)
1	1/12/1993	304 ,308	Application	60.91
		Permit No.NONE	Total Deposit	60.91 (TPY)
		Total PPG INDUSTRIES, INC.	Deposit	380.21 (TPY)

Company : RUBICON
Permit No. : 2272
Pollutant : VOC

Trans	Date	EIQ	Description	Deposit (TPY)
1	12/01/1992	AA	Sulfuric Acid Concen	20.20
		Permit No.2272	Total Deposit	20.20 (TPY)
		Total RUBICON	Deposit	20.20 (TPY)

Company : RUBICON INCORPORATED
Permit No. : NA
Pollutant : VOC

Trans	Date	EIQ	Description	Deposit (TPY)
1	11/01/1992	CD, CE	REDUCER VENTS	45.90
2	11/01/1992	KC,KF,KS,ETC	TDA Reducer Overhead	0.00
		Permit No.NA	Total Deposit	45.90 (TPY)
		Total RUBICON INCORPORATED	Deposit	45.90 (TPY)

Company : SHELL CHEMICAL COMPANY
Permit No. : 2057

Pollutant : VOC

Trans	Date	EIQ	Description	Deposit (TPY)
1	3/01/1993	05-91, 06-91	Process Analyzer	22.10
2	3/01/1992	03-71	COOLING TOWER (EO-1)	156.80
3	3/01/1993	03-77	COOLING TOWER (EO-2)	248.50

Permit No.2057 Total Deposit 427.40 (TPY)

Permit No. : 2136
Pollutant : VOC

Trans	Date	EIQ	Description	Deposit (TPY)
1	8/01/1990	A-T101	Biotreater reduction	151.30
Permit No.2136			Total Deposit	151.30 (TPY)
Total SHELL CHEMICAL COMPANY			Deposit	578.70 (TPY)

Company : TRANSCANADA GAS PROCESSG USA INC
Permit No. : 0180-00016-03
Pollutant : VOC

Trans	Date	EIQ	Description	Deposit (TPY)
1	10/01/1998	2-90	Isomerization Unit	29.44
Permit No.0180-00016-03			Total Deposit	29.44 (TPY)
Total TRANSCANADA GAS PROCESSG USA INC			Deposit	29.44 (TPY)

Company : TRINITY MARINE BATON ROUGE
Permit No. : 0840-00065-04
Pollutant : VOC

Trans	Date	EIQ	Description	Deposit (TPY)
1	/ /			0.00
Permit No.0840-00065-04			Total Deposit	0.00 (TPY)
Total TRINITY MARINE BATON ROUGE			Deposit	0.00 (TPY)

Company : UNIROYAL CHEMICAL COMPANY INC
Permit No. : 2099

Pollutant : VOC

Trans	Date	EIQ	Description	Deposit (TPY)
1	1/01/1994		THIAZOLES UNIT	91.64
		Permit No.2099	Total Deposit	91.64 (TPY)

Permit No. : 2282
Pollutant : VOC

Trans	Date	EIQ	Description	Deposit (TPY)
1	12/01/1994		WASTEWATER TRMT SYS	101.78
		Permit No.2282	Total Deposit	101.78 (TPY)
		Total UNIROYAL CHEMICAL COMPANY INC	Deposit	193.42 (TPY)

Company : VULCAN CHEMICALS
Permit No. : 0180-00011-06
Pollutant : VOC

Trans	Date	EIQ	Description	Deposit (TPY)
1	9/01/1990 #3-73		APPLICATION	3.98
2	12/01/1990 #2B		APPLICATION	0.81
		Permit No.0180-00011-06	Total Deposit	4.79 (TPY)

Permit No. : 0180-00011-07
Pollutant : VOC

Trans	Date	EIQ	Description	Deposit (TPY)
1	2/01/1993 #2-81		APPLICATION	0.51
2	4/01/1993 #3A CONTINUE APPLICATION			0.77
		Permit No.0180-00011-07	Total Deposit	1.28 (TPY)

Permit No. : 0180-00011-08
Pollutant : VOC

Trans	Date	EIQ	Description	Deposit (TPY)
1	12/01/1993 #4A CONTINUE APPLICATION			0.06
2	7/01/1993 #1A CONTINUE APPLICATION			0.92
3	12/01/1995 #1-83 CONT. APPLICATION			8.66
		Permit No.0180-00011-08	Total Deposit	9.64 (TPY)

Total VULCAN CHEMICALS

Deposit 15.71 (TPY)

Company : WESTLAKE POLYMERS CORPORATION
Permit No. : 0520-00127-05
Pollutant : VOC

Trans	Date	EIQ	Description	Deposit (TPY)
1	10/25/1996			160.00

		Permit No.0520-00127-05	Total Deposit	160.00 (TPY)
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Permit No. : 0520-00127-06
Pollutant : VOC

Trans	Date	EIQ	Description	Deposit (TPY)
1	12/31/1995		POLYETHYLENE PLANT	106.00

		Permit No.0520-00127-06	Total Deposit	106.00 (TPY)
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		Total WESTLAKE POLYMERS CORPORATION	Deposit	266.00 (TPY)
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Total Company : 62
Total 62 Application All VOC Deposit 6,032.28 (TPY)