

STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF WATER RESOURCES
WATER QUALITY MANAGEMENT DIVISION

IN THE MATTER OF:

CONOCO, INC.
CALCASIEU PARISH

PROCEEDINGS UNDER THE
ENVIRONMENTAL QUALITY ACT,
La. R.S. 30:2001, *et seq.*

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COMPLIANCE ORDER
NO. WE-C-96-0011

The following **COMPLIANCE ORDER** is issued to **CONOCO, INC.** (Respondent) by the Louisiana Department of Environmental Quality (the Department), under the authority granted by the Louisiana Environmental Quality Act (the Act), La. R.S. 30:2001, *et seq.*, and particularly by La. R.S. 30:2025 (C) and 30:2050.2.

FINDINGS OF FACT

I.

Respondent owns and/or operates a petroleum refinery located at 2200 Old Spanish Trail in Westlake, Calcasieu Parish, Louisiana. Respondent is authorized to discharge certain quantities and/or qualities of wastewater and stormwater runoff from process areas into Bayou Verdine; and stormwater runoff from tank farm areas into the Calcasieu River drainage system under the terms and conditions of Louisiana Water Discharge Permit System (LWDPS) permit No. WP0432,

effective on May 26, 1983. On or about February 10, 1988, the permit was modified to reflect the creation of a new outfall (Outfall 005) for treated sewage at the docks located on the Calcasieu River. On or about December 20, 1994, and February 2, 1996, temporary permits were issued to Respondent granting it authority to discharge wastewater from its water well cleaning and maintenance operation. Respondent re-submitted an updated application for an LWDPs permit to the Department on or about April 25, 1988, May 27, 1989, and May 11, 1994. The permit application is currently under administrative review.

II.

An investigation by the Department as a result of the discovery and notification to the Department of a pipeline leak of 1,2 dichloroethane, also known as ethylene dichloride (EDC), by Respondent near its Marine Terminal Dock No. 1 on or about March 31, 1994, revealed that Respondent did cause or allow the unauthorized discharge of EDC into the northern portion of Clooney Island Loop ("Clooney Loop"), man-made canals, and drainage channels, all of which are waters of the State. This unauthorized discharge constitutes a violation of the terms and conditions of LWDPs permit No. WP0432, La. R.S. 30:2076 (A) (1) (a), La. R.S. 30:2076 (A) (3), LAC 33:IX.311.A, LAC 33:IX.501.A, LAC 33:IX.501.C, and LAC 33:IX.501.D.

III.

Upon discovery of the unauthorized discharge, Respondent initiated emergency response activities to mitigate potential threats to human health and the environment. These emergency response activities included the removal of free-phase EDC, affected soil and sediment through excavation and dredging from Clooney Loop and the man-made canals. Additional response actions included evaluating alternatives for management of the EDC-affected soil, sediment, and

water through surface water quality assessments and evaluations of ecological and human health risk.

IV.

Extensive dredging of affected sediment in Clooney Loop, in the vicinity of Respondent's Dock No. 1, was conducted from June 12, 1994 to December 13, 1994. The goal of the dredging activities during this time period was to reduce the EDC sediment concentration to less than or equal to 1,000 mg/kg. At the conclusion of the dredging activities in December 1994, this goal had been substantially achieved.

V.

The Department has reviewed the remediation options available for the Clooney Loop site and Respondent's proposed remediation strategy. These options and Respondent's proposed remediation strategy were presented to the Department on September 11, 1995, in a report titled *Evaluation of Remediation Options for Clooney Island Loop*, dated September 8, 1995 (hereafter referred to as the "Report").

VI.

Based on Respondent's reports and representations, it was determined by the Department in consultation with federal agencies that additional dredging of the Clooney Loop sediment would provide minimal benefits, and data developed during the 1994 dredging activities indicated that the potential negative environmental impacts imparted by additional dredging would outweigh most, if not all, environmental benefits achieved through these actions.

COMPLIANCE ORDER

Based on the foregoing Findings of Fact, Respondent is hereby ordered:

I.

To immediately follow, upon receipt of this COMPLIANCE ORDER, an EDC source control strategy through the use of EDC recovery wells, hydraulic containment wells, and ditch closure. The purpose of this action is to stabilize the hydraulic gradient such that there is no significant flow of impacted groundwater from the site into the Calcasieu River. Hydraulic containment wells are to be used to manage dissolved-phase EDC and are to be maintained within the 40-Foot Sand. The purpose of the hydraulic containment wells is to counter the migration of the dissolved-phase EDC. Respondent is to install a water level monitoring system of observation wells and piezometers to verify the groundwater hydraulic flow.

Respondent is to close ditch areas numbers 1 through 5, as identified in *Emergency Response Activities at Conoco's Calcasieu Marine Terminal: Summary Report*, dated March 9, 1995, by capping these ditch areas to prevent penetration of stormwater runoff. Respondent is to install an 80-millimeter High Density Polyethylene liner system on the ditch bottoms. (Fill material must first be placed in the ditches so that the liner system is placed on an evenly graded surface.) Also, Respondent is to install a concrete revetment system to provide structural stability during high flow periods. Ditch closure must be implemented so as to reestablish the stormwater drainage conveyance capacity for the site vicinity. The ditch closure will also require pipe casing removal, conduit relocation, concrete headwall and culvert installations.

Hydraulic containment is to be accomplished by the installation of a minimum of twelve (12) recovery wells along the sides of the boat slip/ditch areas. The wells are to be installed to recover from the base of the 40-Foot Sand (40 to 50 feet below the land surface). This will serve as the dissolved and free-phase EDC migration barrier in this geologic setting.

II.

To immediately begin conducting quarterly water quality sampling at Dock No. 1 and the following designated locations around the Clooney Loop to verify that the level of EDC is within the applicable Louisiana Surface Water Quality Standards ("SWQS"). The water samples shall be collected at one (1) meter below the water's surface and (1) meter off of the bottom at each sampling location. Sample collection and analyses shall be conducted using EPA approved methods.

DESIGNATED SAMPLING LOCATIONS	
LATITUDE	LONGITUDE
30°13'51.6"	93°15'28.8"
30°13'33.6"	93°15'50.4"
30°13'22.8"	93°15'28.8"
30°13'1.2"	93°15'50.4"

If the results of a test at a specific location exceed an action level of 68 ppb EDC (hereafter referred to as the "action level"), a second round of testing shall be conducted at that specific location within seven (7) days after Respondent's receipt of notice of the initial test results. If the second test results reveal a level which also exceeds the action level and the Department, in consultation with Respondent, determines that the source of the detected EDC may be from the

Respondent's Marine Terminal, a third test shall be performed at that specific location within seven (7) days of the receipt of the results of the second test and an evaluation of the potential source of the detected EDC must be completed. If the results of the two additional testing rounds indicate levels above the action level and in both cases the Department, in consultation with Respondent, determines the source of the detected EDC is from the Respondent's Marine Terminal, then Respondent shall perform corrective measures or demonstrations establishing the appropriate surface water quality standard at that specific test location. Respondent shall notify the Department in advance of the scheduled designated testing location(s) and dates and submit quarterly sampling reports to the Department within fifteen (15) days of receipt of the sampling results.

III.

As compensation for the public resources injured or lost at the Clooney Loop site as a result of the EDC release and subsequent removal/remediation activities, Respondent proposed to the Federal and Louisiana natural resource trustees to perform an off-site restoration project. The trustees assessed the injuries to the natural resources resulting from the release and Respondent developed a plan entitled *Planned Restoration Activities at the Hippolyte - Coulee Site*, dated February 21, 1996 (hereafter referred to as the "Restoration Plan") that described the range of feasible restoration alternatives considered along with their preferred restoration project (refer to Attachment A).

Respondent shall maintain the 211 acre buffer zone composed of Zones 1, 3, and 4 surrounding the restoration site (identified as Zone 2) for wildlife habitat for a minimum period of fifty (50) years as described in the Restoration Plan. Respondent shall provide to the

Department a written annual report no later than January 31st of each year for the previous calendar year. The report shall detail Respondent's efforts and the uses to which these lands have been put in the preceding calendar year consistent with the Restoration Plan.

IV.

Respondent shall maintain at its facility and make available upon request to the Department any and all documents referenced herein, all reports or sampling results required by this COMPLIANCE ORDER, and all supporting documentation.

RESPONDENT SHALL FURTHER BE ON NOTICE THAT:

V.

The Respondent has a right to an adjudicatory hearing on a disputed issue of material fact or of law arising from this COMPLIANCE ORDER. This may be exercised by filing a written request with the secretary no later than thirty (30) days after receipt of this COMPLIANCE ORDER.

VI.

This request for an adjudicatory hearing shall specify the provisions of the COMPLIANCE ORDER on which the hearing is requested and shall briefly describe the basis for the request. This request should reference the number which is located in the upper right-hand corner of the first page of this document and should be directed to the following:

Administrative Hearings Clerk
Administrative Hearings Division
Office of the Secretary
Post Office Box 82263
Baton Rouge, Louisiana 70884-2263

VII.

Upon Respondent's timely filing a request for a hearing, a hearing on the disputed issues of material fact of law regarding this **COMPLIANCE ORDER** may be scheduled by the Secretary of the Department. The hearing shall be governed by the Act, the Administrative Procedure Act (La. R.S. 49:950, *et seq.*), and the Department's Rules of Procedure. The Department may amend or supplement this **COMPLIANCE ORDER** prior to the hearing, after providing sufficient notice and an opportunity for the preparation of a defense for the hearing.

VIII.

This **COMPLIANCE ORDER** shall become a final enforcement action unless the request for hearing is timely filed. Failure to timely request a hearing constitutes a waiver of Respondent's right to a hearing on a disputed issue of material fact or of law under Section 2050.4 of the Act for the violations described herein.

IX.

Respondent's failure to request a hearing or file an appeal or Respondent's withdrawal of a request for hearing on this **COMPLIANCE ORDER** shall not preclude Respondent from contesting the findings of fact in any subsequent penalty action addressing the same violations, although Respondent is estopped from objecting to this **COMPLIANCE ORDER** becoming a permanent part of its compliance history.

X.

Civil penalties of not more than twenty-five thousand dollars (\$25,000) for each day of violation for the violation(s) described herein may be assessed. Respondent's failure or refusal to comply with this **COMPLIANCE ORDER** and the provisions herein will subject Respondent

to additional enforcement procedures under La. R.S. 30:2025, which could result in the assessment of a civil penalty in an amount of not more than fifty thousand dollars (\$50,000) for each day of continued violation or noncompliance.

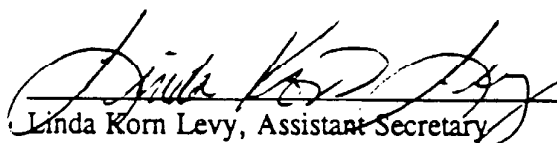
XI.

For each violation described herein, the Department reserves the right to seek civil penalties in any manner allowed by law, and nothing herein shall be construed to preclude the right to seek such penalties. While the Department's concerns as to sediment and surface water contamination are addressed by this Compliance Order based on the information available to it at this time, the Department specifically reserves the right to address any groundwater concerns related to the violations described herein in any manner allowed by law.

XII.

This COMPLIANCE ORDER is effective on date of receipt.

Done at Baton Rouge, Louisiana, on this 28th day of May, 1996.


Linda Korn Levy, Assistant Secretary
Office of Water Resources
Department of Environmental Quality

LKL/STL/stl

**Please serve Respondent through
its agent for service of process:**

C. T. Corporation System
8550 United Plaza Boulevard
Baton Rouge, Louisiana 70809

All correspondence should be addressed to:

Department of Environmental Quality
Water Quality Management Division
P. O. Box 82215
Baton Rouge, Louisiana 70884-2215
Attention: Sonja Loyd
Phone: (504)765-0574

c: Ms. Sonja Loyd
Water Quality Management Division

Mr. Kirk Manuel
Water Quality Management Division

Mr. Ron Cady
Hazardous Waste Division

Mr. Jerry Saunders
U.S. Environmental Protection Agency