STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	**Settlement Tracking No. SA-WE-15-0073**
BP BIOFUELS LOUISIANA LLC	*	
AI # 3245	*	**Enforcement Tracking No. WE-CN-11-00990**
PROCEEDINGS UNDER THE LOUISIANA ENVIRONMENTAL QUALITY ACT LA. R.S. 30:2001, ET SEQ.	*	

SETTLEMENT

The following Settlement is hereby agreed to between BP Biofuels Louisiana LLC ("Respondent") and the Department of Environmental Quality ("DEQ" or "the Department"), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. ("the Act").

I

Respondent is a limited liability company that owns and/or operates a fuel grade ethanol plant facility located in Jefferson Davis Parish, Louisiana ("the Facility").

II

On April 23, 2015, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. WE-CN-11-00990, which was based upon the following findings of fact:

"The Respondent owns and/or operates a fuel grade ethanol plant located at 11107 Campbell Wells Road, Jennings, Jefferson Davis Parish, Louisiana. Under the terms and conditions of LPDES Permit LA0051799, the Respondent is permitted to discharge treated process wastewater, process area stormwater runoff, boiler blowdown, hydrostatic test and vessel testing wastewater, bagasse

stockpile stormwater runoff, cooling tower blowdown, and utility water conditioning effluent, non-process area stormwater runoff, and boiler blowdown effluent into Mermentau River (Subsegment 050401), all waters of the state.

An inspection and file review dated March 24, 2011 and February 3, 2015 reveal the Respondent failed to comply with LPDES permit LA0051799. Specifically, between November 2009 and March 2013, the Respondent reported exceedences of permit effluent limitations for TOC, total residual chlorine, pH, CBOD, TSS, and oil and grease (Table 1) (LA0051799 (Part I, Pages 2 and 3 of 3 and Part III, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A).

TABLE 1

DATE	OUTFALL	PARAMETER	PERMIT LIMIT	SAMPLE VALUE	UNITS
November 2009	005	Total Residual Chlorine	0.20 mg/l (Daily Maximum)	0.23	mg/l
February 2010	001	TOC	387 lbs/day (Daily Maximum)	510	lbs/day
	005	TOC	50 mg/l (Daily Maximum)	180	mg/l
July 2010	005	pH	9.0 su (Instantaneous Maximum)	9.6	su
May 2012	005	TOC	50 mg/l (Daily Maximum)	203	mg/l
October 2012	001	TSS	232 lbs/day (Monthly Average)	351	lbs/day
	001	TSS	696 lbs/day (Daily Maximum)	871	lbs/day
December 2012	001	CBOD	234 lbs/day (Monthly Average)	673	lbs/day
	001	TOC	387 lbs/day (Daily Maximum)	521	lbs/day
January 2013	001	CBOD	234 lbs/day (Monthly Average)	246	lbs/day
March 2013	001	CBOD	117 lbs/day (Monthly Average)	584	lbs/day

An inspection and file review dated March 24, 2011 and February 3, 2015 reveal the Respondent failed to sample the effluent from Outfalls 001 and 005 as required by LPDES Permit LA0051799. Specifically, the Respondent failed to sample for TOC, oil and grease, and TRC as required from August 2009 to August 2014 (Table 2) (LA0051799 (Part I, Pages 2 and 3 of 3 and Part III, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A).

TABLE 2		
DATE	**OUTFALL**	**PARAMETER**
August 2009	001	Oil & Grease
October 2009	001	Oil & Grease
	001	Total Residual Chlorine
December 2009	005	Total Residual Chlorine
January 2010	001	Oil & Grease
June 2010	001	Oil & Grease
August 2010	001	Oil & Grease
October 2010	001	Oil & Grease
November 2010	001	Oil & Grease
December 2010	001	Oil & Grease
July 2012	001	Oil & Grease
	001	TOC
October 2013	005	TOC
	005	Oil & Grease
	005	Total Residual Chlorine
November 2013	005	TOC
	005	Oil & Grease
	005	Total Residual Chlorine
January 2014	005	TOC
	005	Oil & Grease

TABLE 2		
	005	Total Residual Chlorine
February 2014	001	Oil & Grease
	001	TOC
May 2014	005	Total Residual Chlorine
August 2014	005	Total Residual Chlorine

A file review dated February 3, 2015 reveals the Respondent failed to report sample values on monthly DMRs as required by LPDES permit LA0051799. Specifically, the Respondent failed to report oil and grease and TOC sample values for Outfall 001 in July 2012. (LA0051799 (Part I, Page 2 of 3 and Part III, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.L.4.d)

An inspection dated March 24, 2011 reveals the Respondent failed to report accurate results on DMRs as required by LPDES permit LA0051799. Specifically, the Respondent incorrectly calculated the monthly average ammonia nitrogen loading for Outfall 001 in September 2010. The Respondent reported the result as 1.19 lbs/day on the DMR and the correct value is 0.90 lbs/day (LA0051799 (Part III, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.J.4)."

The following violations, although not cited in the foregoing enforcement action(s), are included within the scope of this settlement.

A. The Respondent failed to comply with LPDES permit LA0051799. Specifically, between November 2009 and March 2013, the Respondent reported exceedances of permit effluent limitations for TOC, total residual chlorine, pH, CBOD, TSS, and oil and grease [*see WE-CN-11-00990, Table 1 noted above.*]

B. The Respondent failed to comply with LPDES permit LA0051799. Specifically, between November 2009 and March 2013, the Respondent reported exceedances of permit effluent

limitations for TOC, total residual chlorine, pH, CBOD, TSS, and oil and grease [*see WE-CN-11-00990, Table 1 noted above*].

C. The Respondent failed to sample the effluent from Outfalls 001 and 005 as required by LPDES Permit LA0051799. Specifically, the Respondent failed to sample for TOC, oil and grease, and TRC as required from August 2009 to August 2014 [*see WE-CN-11-00990, Table 2 noted above*].

D. The Respondent failed to report sample values on monthly DMRs as required by LPDES permit LA0051799. Specifically, the Respondent failed to report oil and grease and TOC sample values for Outfall 001 in July 2012.

E. The Respondent failed to report accurate results on DMRs as required by LPDES permit LA0051799. Specifically, the Respondent incorrectly calculated the monthly average ammonia nitrogen loading for Outfall 001 in September 2010. The Respondent reported the result as 1.19 lbs/day on the DMR and the correct value is 0.90 lbs/day.

F. The Respondent failed to sample the effluent from Outfalls 001 (7 parameters) and 005 (3 parameters) as required by LPDES Permit LA0051799. Specifically, the Respondent failed to sample in December 2015.

G. The Respondent failed to submit DMRs in a timely manner. Specifically, the Respondent failed to submit the July, August, and September 2015 DMRs for Outfalls 001 and 005 by October 28, 2015. The DMRs were emailed to the Department on or about January 8, 2016.

III

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

IV

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of TEN THOUSAND AND NO/100 DOLLARS ($10,000.00) of which One Thousand Four Hundred Eleven and 40/100 Dollars ($1,411.40) represents the Department's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to the Department as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

V

Respondent further agrees that the Department may consider the inspection report(s)/permit record(s), the Consolidated Compliance Order & Notice of Potential Penalty and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VI

This agreement shall be considered a final order of the Secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

VII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in La. R. S. 30:2025(E) of the Act.

VIII

As required by law, the Department has submitted this Settlement Agreement to the Louisiana Attorney General for approval or rejection. The Attorney General's concurrence is appended to this Settlement Agreement.

IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Jefferson Davis Parish, Louisiana. The advertisement, in form and wording approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted an original proof-of-publication affidavit and an original public notice to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

X

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Accountant Administrator, Financial Services Division, Department

of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

XI

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XII

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his or her respective party, and to legally bind such party to its terms and conditions.

BP BIOFUELS LOUISIANA LLC

BY: _____
(Signature)

_____
(Printed)

TITLE: _____

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20 _____, at _____.

_____
NOTARY PUBLIC (ID #_____)

_____
(stamped or printed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Chuck Carr Brown, Ph.D., Secretary

BY: _____
Lourdes Iturralde, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20_____, at Baton Rouge, Louisiana.

_____
NOTARY PUBLIC (ID # _____)

_____
(stamped or printed)

Approved: _____
Lourdes Iturralde, Assistant Secretary