

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

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Settlement Tracking No.

SA-AE-09-0077

BUNGE NORTH AMERICA, INC.

Enforcement Tracking No.

AE-CN-09-0119

AI # 103295

**PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT**

LA. R.S. 30:2001, ET SEQ.

SETTLEMENT

The following Settlement is hereby agreed to between Bunge North America, Inc. ("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 corporation that owns and/or operates a grain elevator facility located in Destrehan, St. Charles Parish, Louisiana ("the Facility").

II

On July 17, 2009, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. AE-CN-09-0119, which was based upon the following findings of fact:

The Respondent owns and/or operates a grain elevator located at 12442 River Road in Destrehan, St. Charles Parish, Louisiana. The facility currently operates under Air Permit No. 2520-00048-01, issued on March 27, 1998.

On or about August 5, 2008, October 22, 2008, and October 23, 2008, inspections of the Respondent's facility were performed in response to citizen complaints of particulate emissions originating from the facility.

The following violations were noted during the course of the inspections:

- A. On or about August 5, 2008, the inspector drove around the surrounding neighborhood including Jonathan Road, Pelican Street, and Lorraine Street. The inspector noted grain particulates on the homes and streets comprising several square blocks. During the course of the inspection, a representative at the facility stated that on August 4, 2008, at 2134 hours the elevator's dust collection system #33 plugged with soybean dust and wheat chaff. Operations were shut down for two hours and sixteen minutes and were up and running at 2350 hours. During the shut down, a cone hatch at the bottom of the dust collection system was opened, and this was when the soybean and wheat chaff particulates became airborne and blown offsite. At that time, the wind was blowing from the southeast towards the above mentioned streets. The Respondent's failure to take all reasonable precautions to prevent particulate matter from becoming airborne is a violation of LAC 33:III.1305.A, Specific Condition Nos. 4 and 6 of Air Permit No. 2520-00048-01, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- B. On or about October 22, 2008, the inspector noted grain dust being generated at the loading dock on the Mississippi River which was being wind blown over the river levee, across River Road highway into the Respondent's parking lot, and then into the neighborhood. The inspector noted that the wind was strong and blowing toward the west side of the facility. The Respondent's failure to take all reasonable precautions to prevent particulate matter from becoming airborne is a violation of LAC 33:III.1305.A, Specific Condition No. 4 of Air Permit No. 2520-00048-01, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

The following deviations, although not included in the foregoing enforcement action, are within the scope of this settlement.

- A. On September 18, 2009, an inspection was conducted at the Respondent's facility. During the course of the inspection, the inspector observed a haze in the field/area of W. James Street as well as dust emissions coming from the conveyor belt on the levee side of

River Road. The inspector observed barge loading operations with sprinklers in use, but dust and water were observed crossing the levee.

- B. On September 28, 2009, an inspection was conducted at the Respondent's facility. During the course of the inspection, the inspector observed visible emissions coming from the loading gallery structure area.

III

In response to the Consolidated Compliance Order & Notice of Potential Penalty, Respondent made a timely request for a hearing.

IV

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

V

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 THREE THOUSAND AND NO/100 DOLLARS (\$3,000.00), of which Three Hundred Twenty-Three and 58/100 Dollars (\$323.58) 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).

VI

Respondent further agrees that the Department may consider the inspection report(s), the Consolidated Compliance Order and 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.

VII

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.

VIII

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 LSA- R. S. 30:2025(E) of the Act.

IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in St. Charles Parish, Louisiana. The advertisement, in form, wording, and size 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 thirty (30) 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.

BUNGE NORTH AMERICA, INC.

BY: _____
(Signature)

(Print)

TITLE: _____

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

NOTARY PUBLIC (ID # _____)

(Print)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Peggy M Hatch, Secretary

BY: _____
Paul D. Miller, P.E., 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 # _____)

(Print)

Approved: Paul D. Miller
Paul D. Miller, P.E., Assistant Secretary