

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

CII CARBON, L.L.C.

AI # 2557

PROCEEDINGS UNDER THE LOUISIANA
 ENVIRONMENTAL QUALITY ACT
 LA. R.S. 30:2001, ET SEQ.

* Settlement Tracking No.
 * SA-AE-07-0021
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 * Enforcement Tracking No.
 * AE-PP-06-0171
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SETTLEMENT

The following Settlement is hereby agreed to between CII Carbon, L.L.C. ("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 the Chalmette Coke Plant which is located at 700 Coke Plant Road in Chalmette, St. Bernard Parish, Louisiana ("the Facility"). Respondent changed its name to Rain CII Carbon LLC on or about February 14, 2008.

II

On February 21, 2007, the Department issued a Notice of Potential Penalty (NOPP), Enforcement No AE-PP-06-0171, to Respondent, which was based upon the following findings of fact:

On or about August 11, 2006, and January 12, 2007, an inspection and file review, respectively, of the Chalmette Coke Plant owned and/or operated by CII Carbon, L.L.C. (Respondent), was performed to determine the degree of compliance with the Louisiana

Environmental Quality Act (the Act) and the Air Quality Regulations in response to a complaint.

The facility is located at 700 Coke Plant Road in Chalmette, St. Bernard Parish, Louisiana.

The following violations were noted during the course of the inspection and file review:

- A. During the inspection on or about August 11, 2006, the facility was operating and lime was being manually added to the system due to problems with the lime injection system. Each failure to use the lime injection system is a violation of LAC 33:III.905.A which states, "When facilities have been installed on a property, they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities, even though the ambient air quality standards in affected areas are not exceeded." Control equipment as defined by LAC 33:III.111 is "any device or contrivance, operating procedure or abatement scheme used to prevent or reduce air pollution." This is also a violation of Section 2057(A)(2) of the Act.
- B. During the inspection on or about August 11, 2006, a sudden, uncontrolled emission of coke dust occurred at the upper end of the rotary kiln, an unpermitted emission source. This emission is in violation of LAC 33:III.1305, LAC 33:III.501.C.2, and Sections 2057(A)(1) and 2057(A)(2) of the Act.
- C. According to the Respondent's Title V Semiannual Monitoring Report for the period encompassing July through December 2005, dated March 31, 2006, for Title V Permit No. 2500-00006-V0, the baghouse was shutdown on August 27, 2005, in preparation for Hurricane Katrina. This report further states that due to extensive damage to the energy recovery system as a result of the hurricane, the baghouse was not returned to service during this monitoring period, so the Respondent did not visually inspect the baghouse vent and modules during the aforementioned monitoring period. The Respondent's report stated that the unit would be carefully inspected and any damaged bags would be replaced as needed prior to restart of the baghouse. According to the Respondent's Title V Semiannual Monitoring Report for the period encompassing January through June 2006 dated September 20, 2006, for Title V Permit No. 2500-00006-V0, the baghouse was returned to service on May 8, 2006. The Respondent also stated that the baghouse vent and modules were not visually inspected during the aforementioned monitoring period. According to Appendix H of correspondence from the Respondent dated December 5, 2006, the baghouse vents and modules were inspected on August 10, 2006, at which time four bags in Module #6 were found that

needed to be replaced. Each failure to inspect the baghouse filter elements (bags) every six months and change as necessary is a violation of State Only Specific Condition 3 of Title V Permit No. 2500-00006-V0, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.

- D. According to Appendixes G and H of the Respondent's letter dated December 5, 2006, the Coke Waste Heat Boiler/Baghouse (Emission Point 199) exceeded 20% average opacity from approximately 16:30 on August 9, 2006, until approximately 14:00 on August 10, 2006, from approximately 08:00 on August 11, 2006, until approximately 11:00 on August 11, 2006, and from approximately 21:00 on August 15, 2006, until approximately 05:30 on August 16, 2006, when normal operations resumed within opacity limits. Each opacity exceedance is a violation of Part 70 Specific Condition 2 of Title V Permit Number 2500-00006-V0, LAC 33:III.1311.C, and Sections 2057(A)(1) and 2057(A)(2) of the Act.

- E. According to a letter dated August 28, 2006, the Respondent determined, based on the results of an engineering analysis performed at the Respondent's Gramercy facility, that the analytical formula it was using to determine the SO₂ emissions was inaccurate and developed a new accurate formula. The Respondent is permitted for a maximum SO₂ emission rate of 2022.7 pounds per hour. Using this new formula, the Respondent discovered that the SO₂ emissions from the pyroscrubber stack (Emission Point No. 200) and the waste heat boiler stack (Emission Point No. 199) exceeded the maximum pound/hour emission limit for SO₂ set forth in its Title V Permit, Permit No. 2500-00006-V0, on the days listed in the following table. Each exceedance of permitted SO₂ limits is a violation of LAC 33:III.501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act.

Date	Calculated SO ₂ Emissions (lbs/hr)	Emission Point	Emissions over max permitted limit (lbs/hr)
4/1/2006	2144	200	121.3
4/2/2006	2253	200	230.3
4/3/2006	2093	200	70.3
4/9/2006	2329	200	306.3
4/10/2006	2117	200	94.3
5/2/2006	2220	200	197.3
5/3/2006	2303	200	280.3
5/4/2006	2351	200	328.3
5/25/2006	2370	200	347.3
5/26/2006	2344	200	321.3
5/27/2006	2087	200	64.3
6/19/2006	2155	199	132.3
6/28/2006	2164	199 & 200	141.3
6/29/2006	2060	199	37.3

F. According to correspondence from a representative of the Respondent, received December 19, 2006, by the Department, there were components of the baghouse that received significant damage from Hurricane Katrina, which made landfall on August 29, 2005. The letter stated that, due to moisture from the storm water, as well as not being able to operate the baghouse for nine months, the bags were blinded by lime which caused them to not work effectively. The baghouse returned to service on May 8, 2006. The bags were not changed until November 1, 2006 – November 3, 2006. Each day that the baghouse was operating with blinded bags is a violation of LAC 33:III.905.A and Section 2057(A)(2) of the Act.

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 THIRTY THOUSAND AND NO/100 DOLLARS (\$30,000.00), of which One Thousand Three Hundred Eighty-One and 21/100 Dollars (\$1,381.21) represents DEQ's enforcement costs, in settlement of the claims set forth in this agreement.

V

Respondent, in addition to the penalty amount specified in Paragraph IV above and as part of this Settlement, agrees to expend a minimum amount of One Hundred Thousand and No/100 Dollars (\$100,000.00) to implement and/or perform the following beneficial environmental project:

- A. The Respondent agrees to install a Continuous Emission Monitoring System (CEMS) at the Chalmette facility located at 700 Coke Plant Road in Chalmette, St. Bernard Parish, Louisiana by December 31, 2008. The CEMS will be used to monitor sulfur dioxide (SO₂) emissions from the facility's waste heat boiler, specifically Emission

Point No. 199. The Respondent agrees that the CEMS will be incorporated into their Title V Permit Renewal, Permit Number 2500-00006-V1. The CEMS shall be installed, calibrated, certified, operated, maintained and monitored in accordance to LAC 33: III.1511 and LAC 33:III.1513.

- B. The Respondent will expend at least One Hundred Thousand and No/100 Dollars (\$100,000.00) to implement the CEMS.
- C. Respondent shall submit a final report to the Department by no later than thirty (30) days after completion of the project. The report shall give a description of the project, the amount of money expended at the site, and a certification that the project was completed as described.
- D. If Respondent does not spend the amount of \$100,000.00, then it shall, in its final report, propose additional projects for the Department's approval or pay to the Department in an amount equal to the difference between the amount of money agreed to be spent and the amount of money actually spent.

VI

The total amount of money expended by Respondent on cash payments to DEQ and on beneficial environmental projects, as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30: 2050.7(E)(1).

VII

Respondent further agrees that the Department may consider the inspection report(s), the NOPP 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.

VIII

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.

IX

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 and the rules relating to beneficial environmental projects set forth in LAC 33:I.Chapter 25.

X

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in St. Bernard 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 a proof-of-publication affidavit 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.

XI

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).

XII

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

XIII

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.

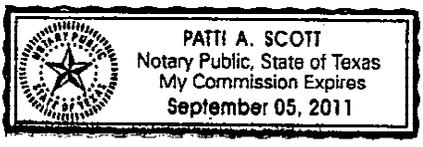
CII CARBON, L.L.C.

BY: Stephen L Rowland
(Signature)

Stephen L Rowland
(Print)

TITLE: Chief Operations Officer

THUS DONE AND SIGNED in duplicate original before me this 30th day of June, 2008, at 10:18 am



Patti A Scott
NOTARY PUBLIC (ID # _____)

Patti A-Scott
(Print)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Harold Leggett, Ph.D., Secretary

BY: Peggy M. Hatch

Peggy M. Hatch, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 10th day of November, 2008, at Baton Rouge, Louisiana.

M. H.
NOTARY PUBLIC (ID # 40539)

Tel. f. Bryan, II
(Print)

Approved: Peggy M. Hatch
Peggy M. Hatch, Assistant Secretary