

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

CII CARBON, L.L.C.

AI # 32804

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

* Settlement Tracking No. SA-AE-06-0030 * Enforcement Tracking No. AE-CN-05-0233 *

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 corporation who owns and/or operates a calcined coke facility located in Gramercy, St. James Parish, Louisiana ("the Facility").

II

On March 13, 2006, the Department issued to Respondent a Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. AE-CN-05-0233, which was based upon the following findings of fact:

The Respondent owns and/or operates a calcined coke facility in Gramercy, St. James Parish, Louisiana. The facility operates, in part, under State Air Permit 2560-00047-02, issued on October 26, 1995.

For the Respondent's waste heat boiler (Emission Point No. 7-72), the Emission Inventory Questionnaire sheet sets forth a maximum emission rate for sulfur dioxide (SO₂) emissions of 1200 pounds/hour and an annual average emission rate of SO₂ of 795 pounds/hour. The Respondent met with the Department on August 25, 2005, to review potential compliance issues related to the above-referenced emissions limits for the waste heat boiler. On October 28, 2005, the LDEQ Office of Environmental Services issued the Respondent a temporary exemption to further evaluate the SO₂ emissions from the waste heat boiler. Based on the engineering analysis, the Respondent has determined that it exceeded the individual permitted emissions limits for SO₂, as shown on the following table:

SOURCE (EMISSION POINT)	SO ₂ ANNUAL AVERAGE EMISSIONS (LB/HR)	SO ₂ MAX EMISSIONS (LB/HR)
Waste Heat Boiler (EPN 7-72)	1,450	2,000

This is a violation of General Condition Number III, LAC 33:III.501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act.

At the Respondent's request, the Department met with the Respondents' representatives on November 10, 2005. During that meeting, the Respondent informed the Department that it intended to submit a permit application to incorporate the results of the engineering analysis into its initial Part 70 Permit application. In correspondence dated December 21, 2005, the Respondent provided the Department with the performance test results for the above-referenced combustion source. The emissions sources were originally permitted based on a correlation derived from various factors, including the percentage of sulfur in the coke and an emission factor based on prior stack tests. Operating EPN 7-72 above the specific permit limits set forth in State Air Permit 2560-00047-02 is a violation of the Permit.

III

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 ONE THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$1,500.00) of which Six Hundred Forty-Two and 23/100 Dollars (\$642.23) represents DEQ'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 DEQ 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. James 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.

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 Darryl Serio, Office of Management and Finance, 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.

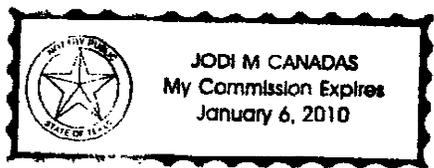
CII CARBON, L.L.C.

BY: Stephen L Rowland
(Signature)

Stephen L Rowland
(Print)

TITLE: Chief Operations Officer

THUS DONE AND SIGNED in duplicate original before me this 25 day of September, 20 06, at Kingwood, Texas.



Jodi M Canadas
NOTARY PUBLIC (ID # _____)

Jodi M Canadas
(Print)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Mike D. McDaniel, Ph.D., Secretary

BY: Harold Leggett
Harold Leggett, Ph.D., Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 18th day of December, 20 06, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 10456)
Jed R. Boyle, Jr
(Print)

Approved: Harold Leggett
Harold Leggett, Ph.D., Assistant Secretary