STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	**Settlement Tracking No.**
	*	**SA-AE-11-0040**
CHART ENERGY & CHEMICALS, INC.	*	
	*	**Enforcement Tracking No.**
AI # 52238	*	**AE-PP-10-00995**
	*	
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT	*	
LA. R.S. 30:2001, ET SEQ.	*	

SETTLEMENT

The following Settlement is hereby agreed to between Chart Energy & Chemicals, 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 fabrication & manufacturing facility located in New Iberia, Iberia Parish, Louisiana. ("the Facility").

II

On May 13, 2011, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. AE-PP-10-00995, which was based upon the following findings of fact:

On or about January 18, 2011, a file review of Chart Energy & Chemicals Inc. Plant 1, owned and/or operated by Chart Energy & Chemicals, Inc. (Respondent), was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Air Quality Regulations. The facility is located at 3415 Earl B. Wilson Road in New Iberia, Iberia Parish, Louisiana. The facility previously operated under Air Permit No. 1260-00054-02,

issued on December 23, 2003. On or about October 6, 2008, the Respondent submitted a permit modification application for the facility. Since the submittal of this application, additional information and a revised permit application were submitted to the Louisiana Department of Environmental Quality (the Department). The facility currently operates under Air Permit No. 1260-00054-03, issued on March 25, 2011.

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

A. On or about May 22, 2006, the Department received a Name/Ownership/Operator Change Form (NOC-1 Form) with the date of change listed as October 14, 2005. The Respondent's NOC-1 requested a company name change due to intra-company corporate restructuring. The Respondent failed to submit a complete NOC-1 Form to the Department within 45 days after the change. This is a violation of LAC 33:I.1905.A, LAC 33:III.517.G and La. R.S. 30:2057(A)(2).

B. In correspondence from the Respondent dated June 27, 2008, October 29, 2008, and October 13, 2010, the Respondent reported exceeding the total PM_{10} annual emission permit limit for the facility during the calendar years shown in the following table. Air Permit No. 1260-00054-02 lists the total annual tons per year (tpy) emission limit for PM_{10} as 0.99 tpy.

Calendar Year	PM_{10} Emissions (tpy)
2003	20.71
2004	10.71
2005	10.13
2006	16.74
2007	8.31
2008	6.10
2009	4.94
2010	2.24

Each exeedance of a permitted emission limit is a violation of Air Permit No. 1260-00054-02, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

C. In correspondence from the Respondent dated June 27, 2008, October 29, 2008, and October 13, 2010, the Respondent reported exceeding the PM_{10} annual emission permit limit and maximum pounds per hour (lbs/hr) permit limit associated with ARE 2 (Surface Coating) during the calendar years shown in the following table. Air Permit No. 1260-00054-02 lists the

maximum lbs/hr permit limit as 3.4 lbs/hr and the annual emission limit as 0.7 tpy for ARE 2.

Calendar Year	PM_{10} Emissions (tpy)
2003	20.71
2004	10.71
2005	10.13
2006	16.74
2007	8.31
2008	6.10
2009	4.94
2010	2.24

Each exeedance of a permitted emission limit is a violation of Air Permit No. 1260-00054-02, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

D. In correspondence from the Respondent dated October 29, 2008, the Respondent reported the use of a coating, Carbozine 8703, which has a Volatile Organic Compound (VOC) content of 5.75 lbs/gal. The following table lists the amount used and corresponding calendar year.

Calendar Year	Gallons Used
2007	12.5
2008	141

Each incident of the Respondent's use of a coating with a VOC content greater than 5.4 lbs/gal is a violation of Specific Requirement No. 7 of Air Permit No. 1260-00054-02, LAC 33:III.2123.C, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

E. In correspondence from the Respondent dated October 29, 2008, March 23, 2009, and March 29, 2010, the Respondent reported exceeding the 1.52 tpy emission limit for Zinc and compounds, a toxic air pollutant (TAP), as shown in the following table.

Calendar Year	Zinc (and compounds) Emissions (tpy)
2007	2.03
2008	2.32
2009	1.55

Each exeedance of a permitted emission limit is a violation of Air Permit No. 1260-00054-02, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

F. In correspondence from the Respondent dated June 27, 2008, October 29, 2008, February 22, 2009, March 23, 2009, October 21, 2009, and March 29, 2010, the Respondent reported diethylene glycol monobutyl ether, a VOC constituent of a solvent used at the facility, was not listed in the permit application as a TAP. According to the Respondent, emissions associated with this pollutant were <0.03 tpy during the 2003 through 2008 calendar years. According to correspondence from the Respondent dated October 13, 2010, the emissions associated with this pollutant were 0.04 tpy during the 2009 and 2010 calendar years. Each incident of unpermitted emissions is a violation of LAC 33:III.501.C.2, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

G. In correspondence from the Respondent dated March 23, 2009, and March 29, 2010, the Respondent reported exceeding the 0.61 tpy emission limit for Toluene as shown in the following table.

Calendar Year	Toluene Emissions (tpy)
2008	0.89
2009	1.46

Each exeedance of a permitted emission limit is a violation of Air Permit No. 1260-00054-02, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

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 NINETEEN THOUSAND SIX HUNDRED AND NO/100 DOLLARS ($19,600.00), of which Four Hundred Fifteen and 02/100 Dollars ($415.02) 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), the Penalty Assessment 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

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Iberia 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.

IX

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).

X

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

XI

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.

CHART ENERGY & CHEMICALS, INC.

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
Peggy M. Hatch Secretary

BY: _____
Cheryl Sonnier Nolan, 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: _____
Cheryl Sonnier Nolan, Assistant Secretary