

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

CITY OF NATCHITOCHEs

AI # 19375

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

* Settlement Tracking No.
* SA-AE-06-008
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* Enforcement Tracking No.
* AE-PP-05-0178
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SETTLEMENT

The following Settlement is hereby agreed to between City of Natchitoches ("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 governmental entity that operates a power plant known as Power Plant No. 1. The facility is located at 1110 Power Plant Drive in Natchitoches, Natchitoches Parish, Louisiana. The facility operated under Air Permit No. 1980-00009-IV0 from October 23, 1996, through December 31, 2004. The facility currently operates under Air Permit No. 1980-00009-IV1 and Title V Permit No. 1980-00009-V0, both issued on September 26, 2005.

II

On October 31, 2005, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. AE-PP-05-0178, which was based upon the following findings of fact:

While the Department's investigation is not yet complete, the following violation was noted during the course of the inspection:

The Respondent failed to submit a complete acid rain permit renewal application to the Department at least six (6) months prior to expiration of the existing acid rain permit for the Power Plant No. 1. The existing acid rain permit expired on December 31, 2004. A renewal application was submitted to the Department on or about July 25, 2005. Failure to submit a complete acid rain permit renewal application to the Department at least six months prior to expiration of the existing acid rain permit is a violation of LAC 33:III.505.D.3 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 SIX HUNDRED AND NO/100 DOLLARS (\$600.00), of which THREE HUNDRED FIFTY AND NO/100 DOLLARS (\$350.00) represents DEQ's enforcement costs, in settlement of the claims set forth in this agreement.

V

Respondent further agrees that the Department may consider the inspection report(s), the 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 LSA- 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 Natchitoches 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.

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 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).

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/her respective party, and to legally bind such party to its terms and conditions.

CITY OF NATCHITOCHE

BY: _____
(Signature)

(Printed or Typed)

TITLE: _____

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

NOTARY PUBLIC (ID # _____)

(Printed or Typed)

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

BY: _____
Harold Leggett, Ph.D., 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 # _____)

(Printed or Typed)

Approved: 

(Harold Leggett, Ph.D., Assistant Secretary)