STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	**Settlement Tracking No.**
	*	**SA-AE-13-0066**
DYNAMIC FUELS, LLC	*	
	*	**Enforcement Tracking Nos.**
AI # 158540	*	**AE-CN-11-00823**
	*	**AE-CN-11-00823A**
PROCEEDINGS UNDER THE LOUISIANA	*	**AE-CN-12-01283**
ENVIRONMENTAL QUALITY ACT	*	
LA. R.S. 30:2001, ET SEQ.	*	

SETTLEMENT

The following Settlement is hereby agreed to between Dynamic Fuels, LLC ("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 a synthetic fuel production facility located in Ascension Parish, Louisiana ("the Facility").

II

On July 25, 2011, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. **AE-CN-11-00823**, which was based upon the following findings of fact:

The Respondent owns and/or operates a synthetic fuel production facility known as the Renewable Synthetic Fuels Geismar Plant (the plant) located at or near 36187 Louisiana Highway 30 in Geismar, Ascension Parish, Louisiana. The Respondent operates the plant under Air Permit No. 0180-00195-02 issued on September 24, 2010.

The Department received a notification from the Respondent dated February 24, 2011, required by LAC 33:III.537.IX and LAC 33:III.537.XI. The notification provided details of an emissions limit exceedance that occurred at its plant. According to the Respondent's notification, a problem was discovered with the process unit designed to remove hydrogen sulfide from a process water stream. According to the Respondent's notification, the plant was designed to use the SulfaTreat® process to remove hydrogen sulfide from the water by converting the hydrogen sulfide to iron sulfide. The SulfaTreat® process was leading to fouling of other parts of the process. According to the Respondent, in an attempt to correct the problem, on February 10, 2011, it started operations without the SulfaTreat® process and did not experience the earlier fouling problems. The Respondent noted in its February 24, 2011, notification that its plant runs better with higher levels of sulfur in the system. According to the Respondent's notification, the result of the problem was more than expected hydrogen sulfide being routed to the flare (EQT 0002). The Respondent noted that the emissions of sulfur dioxide (SO_2) from the flare have increased to approximately 16 pounds per hour on an average basis which is in excess of the permitted rate.

Additionally, the Respondent's February 24, 2011, notification noted that the emission rate of SO_2 from the fuel gas fired in the hot oil heater (EQT0003) was originally permitted at 9.21 tons per year of SO_2. At the last permit modification, the SO_2 emission rate was incorrectly permitted at 0.06 tons per year based on the natural gas sulfur content. According to the Respondent, the increased sulfur also led to an increased level of sulfur in the fuel gas. The Respondent noted that emissions of SO_2 are running at five (5) pounds per hour. The Respondent indicated in the February 24, 2011 notification that it believed that it would operate the plant without the SulfaTreat® process and the subsequent emission changes will be permanent.

On or about May 4, 2011, representatives of the Respondent met with representatives of the

Department concerning its problems with its operations using the SulfaTreat® process and the increased emissions that would result without the use of the SulfaTreat® process. During this meeting, the Department questioned the representatives of the Respondent as to whether they had explored other changes in the process that could be made to allow the use of the SulfaTreat® process or other possible options that would result in SO_2 emissions remaining at or below permitted limits. The Respondent explained that after review of its operations, it failed to discover any other process changes or methods that would allow its plant to operate efficiently and result in SO_2 emissions remaining at or below permitted limits, and therefore, it would need to discontinue the use of the SulfaTreat® process. The representatives of the Respondent stated that they would submit a letter to the Department to request interim limits to continue to operate the plant without the use of the SulfaTreat® process until a modified permit was issued.

The Respondent submitted a letter to the Department dated May 17, 2011. The letter noted that it planned to discontinue the SulfaTreat® process and permit the increase in emissions of SO_2. The Respondent requested interim authorization to operate the facility at these rates until a modified air permit is issued.

On or about June 6, 2011, a review of information provided by the Respondent in correspondence dated February 24, 2011 and May 17, 2011, and on discussions in a meeting on May 4, 2011, was performed to determine the degree of compliance with the Act and the Air Quality Regulations.

While the Department's investigation is not yet complete, the following violations were noted during the course of the review:

A. The Respondent exceeded its maximum permitted SO_2 emissions limit of 1.19 pounds per hour for the Offgas Flare (EQT 0002). Each exceedance of the permitted SO_2 maximum pounds per hour limit for the Offgas Flare (EQT 0002) is a violation

of Specific Requirement 66 of Air Permit No. 0180-00195-02, Louisiana Air Emission Permit General Condition II in LAC 33:III.537, LAC 33:III.501.C.4 and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

B. The Respondent exceeded its maximum and annual permitted SO_2 emissions limit of 0.02 pounds per hour and 0.06 tons per year, respectively, for the hot oil heater (EQT 0003). Each exceedance of the permitted SO_2 emissions limits for the hot oil heater (EQT 0003) is a violation of Specific Requirement 66 of Air Permit No. 0180-00195-02, Louisiana Air Emission Permit General Condition II of Air Permit No. 0180-00195-02, LAC 33:III.537, LAC 33:III.501.C.4 and La. R.S. 30:2057(A)(1) and 30:2057(A)(2). According to the Respondent, the SO_2 emission rate for the hot oil heater (EQT 0003) was incorrect in the air permit because the emissions were based on the natural gas sulfur content instead of the fuel gas sulfur content. The Respondent failed to include the correct rate of emissions of SO_2 for the hot oil heater (EQT 0003) in its air permit application which was the basis for Air Permit Nos. 0180-00195-01 and 0180-00195-02, in violation of LAC 33:III.517.D.3.d. and La. R.S. 30:2057(A)(2).

On September 28, 2011, the Department issued to Respondent an Amended Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. **AE-CN-11-00823A**, which amended the Findings of Fact portion of Enforcement No. AE-CN-11-00823 to add the following paragraphs:

"VII.

The Respondent submitted a letter dated August 23, 2011, and a report dated September 2, 2011, in response to Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. AE-CN-11-00823. In the letter and report, the Respondent requested that the Department amend the Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. AE-CN-11-00823 to (1) revise the interim emissions limitations for SO_2 to allow for operational flexibility through the use of a facility-wide SO_2 emissions CAP and (2) approve an alternative monitoring method for determining SO_2 emissions in accordance with LAC 33:III.1511.C.3. In the report dated September 2, 2011, the Respondent also requested that the Department amend paragraph VI.B to remove the violation of LAC 33:III.517.D.3.d and La. R.S.

30:2057(A)(2) as it pertained to the failure to include the correct rate of emissions of SO_2 for the hot oil heater (EQT 0003) in its permit application. The Department reviewed and considered the information provided in the Respondent's letter and report.

VIII.

The Respondent submitted to the Department a letter dated September 23, 2011, requesting to extend the deadline for submittal of the permit application required by paragraph II of the Order portion of Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. AE-CN-11-00823 to allow additional time to evaluate emissions at its plant."

On March 21, 2013, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. **AE-CN-12-01283**, which was based upon the following findings of fact:

The Respondent owns and/or operates a synthetic fuels production facility known as the Renewable Synthetic Fuels - Geismar Plant (the facility) located at or near 36187 Louisiana Highway 30 in Geismar, Ascension Parish, Louisiana. The Respondent operated the facility under the authority of Air Permit No. 0180-00195-02 issued on September 24, 2010, and currently operates the facility under the authority of Air Permit No. 0180-00195-03 issued on April 5, 2012.

On or about September 12, 2012, through September 13, 2012, an inspection of the Respondent's facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations. The Department received additional information from the Respondent by email sent on September 28, 2012, in response to the areas of concern documented during the inspection. A Warning Letter dated October 31, 2012, was sent to the Respondent in regard to the inspection.

While the Department's investigation is not yet complete, the following violations were noted

during the course of the inspection:

A. There was no calculation of maximum intended inventory for the covered risk management plan (RMP) chemical: The Respondent failed to include the maximum intended inventory in the process safety information. This is a violation of LAC 33:III.5901.A which incorporates by reference 40 CFR 68.65(c)(iii) and La. R.S. 30:2057(A)(2).

B. There was no equipment information for the hydrogen sulfide monitors or the deluge system. The Respondent failed to include equipment information for all safety systems in its process safety information. This is a violation of LAC 33:III.5901.A which incorporates by reference 40 CFR 68.65(d)(1)(viii) and La. R.S. 30:2057(A)(2).

C. The Respondent had not been acquiring or evaluating the contractor's safety performance or programs prior to selecting a contractor. The Respondent failed to evaluate information regarding the contractor's safety performance and programs when selecting a contractor. This is a violation of LAC 33:III.5901.A which incorporates by reference 40 CFR 68.87(b)(1) and La. R.S. 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 FIVE THOUSAND AND NO/100 DOLLARS ($5,000.00), of which One Thousand Six Hundred Forty-One and 47/100 Dollars ($1,641.47) 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 Consolidated Compliance Order & Notice of Potential Penalties 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 Ascension 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.

DYNAMIC FUELS, LLC

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