

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	Settlement Tracking No.
	*	SA-MM-04-0006
ENTERGY GULF STATES, INC.	*	
AI # 19588/7893	*	
	*	
PROCEEDINGS UNDER THE LOUISIANA	*	Enforcement Tracking No.
ENVIRONMENTAL QUALITY ACT	*	MM-CN-03-0091
LA. R.S. 30:2001, <u>ET SEQ.</u>	*	

SETTLEMENT

The following Settlement is hereby agreed to between Entergy Gulf States, 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, a corporation, operates the Roy S. Nelson Coal Plant (Unit 6 bears AI # 19588) and the Roy S. Nelson Oil and Gas Plant (Units 1A, 2A, 3 and 4 bear AI # 7893), an electric generating facility, at 3500 Houston River Road in Westlake, Calcasieu Parish, Louisiana ("the Facility").

II.

On or about June 11, 2004, the Department issued a Consolidated Compliance Order & Notice of Potential Penalty (CO/NOPP), Enforcement No. MM-CN-03-0091 to Respondent, based upon the Department's following findings of fact:

On or about July 28, 2003, a file review of the Respondent's Nelson Coal Plant, Agency

Interest Number 19588, was made to determine the degree of compliance with the Act and Air Quality Regulations. The following violations were noted during the course of the review:

- A. The Department received the Respondent's notifications regarding incidents of excess opacity that have occurred from Unit 6 at the Nelson Coal Plant. The incidents are summarized in the table below. According to the notifications, the Respondent has experienced various incidents of opacity in excess of 20 percent for periods lasting greater than six (6) minutes in a 1-hour time frame. Each instance of opacity in excess of 20 percent for periods lasting greater than six (6) minutes in a consecutive 60-minute time frame is a violation of LAC 33:III.1101.B. Each is also a violation of Sections 2057(A)(1) and 2057(A)(2) of the Act.

Start Date	Start Time	End Date	End Time	Duration (Minutes)	Average Percent Opacity	Description/ Cause
10/21/2001	15:06	10/21/2001	15:36	30	25	Low precipitator power levels
10/21/2001	16:48	10/21/2001	17:00	12	24	
10/21/2001	18:06	10/21/2001	18:30	24	22	
10/21/2001	19:06	10/21/2001	19:18	12	22	
10/21/2001	23:18	10/21/2001	23:30	12	22	
10/22/2001	2:18	10/22/2001	2:42	24	24	
10/22/2001	3:30	10/22/2001	3:42	12	21	
10/22/2001	5:54	10/22/2001	6:24	30	33	
10/22/2001	6:30	10/22/2001	7:12	42	24	
10/22/2001	7:18	10/22/2001	8:30	72	32	
10/22/2001	8:36	10/22/2001	9:00	24	29	
10/22/2001	9:06	10/22/2001	9:30	24	24	
10/22/2001	10:42	10/22/2001	11:00	18	25	
10/22/2001	13:48	10/22/2001	14:00	12	23	
10/22/2001	20:36	10/22/2001	20:48	12	22	
10/22/2001	21:06	10/22/2001	22:00	54	25	
10/23/2001	1:18	10/23/2001	1:30	12	22	
10/23/2001	9:42	10/23/2001	9:54	12	27	
10/23/2001	11:12	10/23/2001	11:30	18	24	
10/23/2001	11:48	10/23/2001	12:00	12	31	
10/23/2001	13:36	10/23/2001	14:00	24	29	
12/6/2001	21:48	12/6/2001	22:00	12	32	SO ₃ system failure and
12/6/2001	22:12	12/6/2001	23:36	84	30	
12/6/2001	23:42	12/7/2001	0:00	18	23	
12/7/2001	0:06	12/7/2001	2:00	114	35	

12/7/2001	2:06	12/7/2001	2:24	18	22	unit trip
12/7/2001	15:00	12/7/2001	15:18	18	39	
12/7/2001	16:18	12/7/2001	18:54	156	76	
12/7/2001	19:00	12/7/2001	19:12	12	30	
12/19/2001	10:12	12/19/2001	11:00	48	33	Sootblowing and deslagging
12/19/2001	11:18	12/19/2001	11:30	12	23	
12/19/2001	14:42	12/19/2001	14:54	12	40	
12/20/2001	1:30	12/20/2001	1:54	24	25	
12/20/2001	2:42	12/20/2001	2:54	12	22	
12/20/2001	14:42	12/20/2001	14:54	12	30	
12/20/2001	18:30	12/20/2001	19:00	30	32	
12/23/2001	16:48	12/23/2001	17:06	18	42	
12/23/2001	17:12	12/23/2001	17:24	12	23	
1/6/2002	1:24	1/6/2002	2:12	48	40	
1/6/2002	2:18	1/6/2002	2:30	12	26	
1/7/2002	6:24	1/7/2002	7:00	36	26	
1/16/2002	18:42	1/16/2002	19:00	18	25	Sootblower control problems; sootblowing and deslagging
1/16/2002	19:06	1/16/2002	19:18	12	25	
1/17/2002	1:18	1/17/2002	1:36	18	31	
1/17/2002	17:36	1/17/2002	18:00	24	23	
1/17/2002	18:36	1/17/2002	18:54	18	23	
1/17/2002	23:36	1/17/2002	23:54	18	43	
1/18/2002	0:30	1/18/2002	0:42	12	23	
1/18/2002	0:48	1/18/2002	1:00	12	23	
1/18/2002	1:18	1/18/2002	2:00	42	27	
1/18/2002	2:06	1/18/2002	2:30	24	24	
1/18/2002	2:36	1/18/2002	2:48	12	22	
1/18/2002	3:06	1/18/2002	3:24	18	23	
1/18/2002	3:42	1/18/2002	4:00	18	27	
1/18/2002	4:06	1/18/2002	4:30	24	25	
1/18/2002	5:48	1/18/2002	6:00	12	22	
1/19/2002	9:54	1/19/2002	10:12	18	31	
1/19/2002	10:18	1/19/2002	10:42	24	25	
1/19/2002	10:48	1/19/2002	11:00	12	22	
1/19/2002	14:30	1/19/2002	15:00	30	23	
1/19/2002	15:06	1/19/2002	16:12	66	28	
1/19/2002	16:24	1/19/2002	16:36	12	22	
1/20/2002	1:18	1/20/2002	1:30	12	22	
1/21/2002	15:36	1/21/2002	16:06	30	28	Blowing sootblowers and excess bottom ash in hoppers
1/23/2002	2:36	1/23/2002	2:48	12	22	
1/23/2002	6:24	1/23/2002	6:42	18	21	

2/13/2002	19:42	2/13/2002	20:00	18	26	Sootblowing; failed precipitator transformers; low power levels on precipitators
2/13/2002	20:30	2/13/2002	21:00	30	26	
2/13/2002	21:30	2/13/2002	22:00	30	30	
2/13/2002	23:18	2/14/2002	1:00	102	30	
2/14/2002	1:18	2/14/2002	1:42	24	24	
2/14/2002	13:00	2/14/2002	13:30	30	37	
2/14/2002	13:36	2/14/2002	14:06	30	28	
2/14/2002	14:18	2/14/2002	15:00	42	23	
2/15/2002	4:30	2/15/2002	4:42	12	29	
2/15/2002	4:54	2/15/2002	5:06	12	29	
2/15/2002	5:48	2/15/2002	6:00	12	32	
2/15/2002	6:30	2/15/2002	6:42	12	24	
2/15/2002	7:24	2/15/2002	8:06	42	27	
2/15/2002	8:12	2/15/2002	9:00	48	26	
2/15/2002	9:06	2/15/2002	9:18	12	24	
2/15/2002	9:24	2/15/2002	10:00	36	30	
2/15/2002	10:06	2/15/2002	11:00	54	28	
2/15/2002	11:18	2/15/2002	12:12	54	29	
2/15/2002	12:18	2/15/2002	13:06	48	26	
2/15/2002	13:42	2/15/2002	14:00	18	28	
2/15/2002	14:06	2/15/2002	15:00	54	27	
2/15/2002	15:06	2/15/2002	16:00	54	25	
2/15/2002	16:06	2/15/2002	17:00	54	25	
2/15/2002	17:18	2/15/2002	17:36	18	23	
2/15/2002	18:06	2/15/2002	18:24	18	27	
2/15/2002	18:30	2/15/2002	19:00	30	25	
2/15/2002	19:12	2/15/2002	19:48	36	26	
2/15/2002	20:06	2/15/2002	20:24	18	24	
2/15/2002	20:36	2/15/2002	21:06	30	28	
2/15/2002	21:12	2/15/2002	21:24	12	30	
2/16/2002	12:18	2/16/2002	12:54	36	25	
2/20/2002	17:48	2/20/2002	18:00	12	24	Failed precipitator rappers
2/20/2002	18:30	2/20/2002	18:42	12	26	

B. The Department received the Respondent's letter dated December 10, 2003, regarding an incident that occurred on December 9, 2003. During this incident, the Respondent failed to maintain the opacity at the Nelson Unit 6 Stack at or below twenty percent. The amounts and times of the excess opacity are detailed in the chart below. According to the Respondent's report, the excess opacity occurred as

the result of a unit trip and subsequent startup. The unit trip was the result of damage to the Normal Station Service transformer that occurred when a contractor dropped a piece of lagging in the unit transformer area while performing work on the U6 turbine roof. Therefore, the root cause of the incident was operator error. This is a violation of the Louisiana Air Quality Regulations, in particular LAC 33:III.905 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 LAC 33:III.1101.B and Sections 2057(A)(1) and 2057(A)(2) of the Act.

Start Date	Start Time	End Date	End Time	Duration (hh:mm)	Average Excess Value
12/09/03	09:06	12/09/03	12:30	03:24	74
12/09/03	12:36	12/09/03	13:00	00:24	30
12/09/03	13:06	12/09/03	15:00	01:54	61
12/09/03	15:00	12/09/03	20:12	05:12	52

The Respondent's Oil and Gas Plant was issued National Pollutant Discharge Elimination System (NPDES) permit LA0005843, under Agency Interest Number 7893 with an effective date of June 1, 1997, which expired on May 31, 2002. In accordance with the assumption of the NPDES program by the state of Louisiana, NPDES permit LA0005843 became a Louisiana Pollutant Discharge Elimination System (LPDES) permit with the same expiration date. In response to the Respondent's August 1, 2001, request, the Respondent submitted an LPDES permit renewal application in a timely manner and LPDES permit LA0005843 was administratively continued. On or about September 9, 2003, LPDES permit LA0005843 was reissued to the Respondent with an effective date of October 1, 2003, and which expires November 30, 2008. LPDES permit LA0005843 authorizes the Respondent to discharge cooling

tower blowdown, low volume wastewaters, stormwater runoff, metal cleaning and chemical metal cleaning wastewater, treated sanitary wastewater and maintenance wastewaters to the Houston River, waters of the state.

On or about May 3, 2001, the Respondent, under Agency Interest Number 7893, was issued Compliance Order, Enforcement No. WE-C-00-0212, based on the Department's following findings of fact:

- A. Respondent exceeded effluent limitations from July 1998 through December 2000.
- B. Respondent failed to sample Outfall 001 for Free Available Chlorine from March 1999 to March 2000.
- C. Respondent allowed an unauthorized discharge.

In Compliance Order, WE-C-00-0212, the Respondent was required to:

- A. Immediately take, upon receipt of the Compliance Order, any and all steps necessary to cease any and all unauthorized discharges to waters of the state and to meet and maintain compliance with LPDES Permit LA0005843.
- B. Submit a complete written report including a detailed description of the circumstances of the cited violations, the actions taken to achieve compliance, and corrective or remedial actions taken to mitigate any damage resulting from the violations.

On June 6, 2001, the Respondent submitted a response to Compliance Order WE-C-00-0212. Compliance Order WE-C-00-0212 is a final action of the Department and not subject to further review.

An inspection conducted by the Department on or about December 13, 2001, and a subsequent file review conducted on or about February 17, 2004, of the Respondent's Nelson Oil and Gas Plant, revealed that the Respondent exceeded effluent limitations from June 2001 through May 2003. These effluent exceedances were reported by the Respondent on Discharge Monitoring Reports (DMRs) and are summarized as follows:

Monitoring Period	Outfall	Parameter	Permit Limitation	Sample Value
6/2001	001	Free Available Chlorine (daily average)	0.33 lbs/day	0.427 lbs/day
6/2001	004	pH (maximum)	6.0 S.U. – 9.0 S.U.	10.4 S.U.
8/2001	001	Free Available Chlorine (daily average)	0.33 lbs/day	0.34 lbs/day
10/2001	01B	BOD ₅ (daily average)	30 mg/L	70.9 mg/L
10/2001	01B	BOD ₅ (daily maximum)	45 mg/L	70.9 mg/L
4/2002	001	Total Copper (daily average)	18.8 ug/L	20.8 ug/L
4/2002	001	Total Copper (daily maximum)	44.6 ug/L	55.0 ug/L
5/2002	001	Total Suspended Solids (daily average)	30 mg/L	34 mg/L
6/2002	003	Total Suspended Solids (daily average)	30 mg/L	39 mg/L
2/2003	003	Total Suspended Solids (daily average)	30 mg/L	40 mg/L
5/2003	01A	Total Iron (daily maximum)	1.0 mg/L	1.53 mg/L

Each effluent exceedance constitutes a violation of Compliance Order WE-C-00-0212, LPDES permit LA0005843 (Part I, Pages 1, 2, 4, 6, and 9 and Part III, Section A.2), La R.S. 30:2075, 30:2076(A)(1), La. R.S. 30:2076(A)(3), LAC 33:IX.501.A, LAC 33:IX.501.D, and former LAC 33:IX.2355.A, (currently LAC 33:IX.2701.A).

III.

An inspection conducted by the Department on or about March 31, 2004 of the Respondent's Nelson Oil and Gas Plant, and a subsequent file review conducted by the Department on or about November 22, 2005, revealed the Respondent, under Agency Interest Number 7893, exceeded effluent limitations contained in LPDES Permit LA0005843 from March 2003 through February 2004. These effluent exceedances were reported by the Respondent on Discharge Monitoring Reports (DMRs) and are as follows:

Monitoring Period	Outfall	Parameter	Permit Limitation	Sample Value
3/2003	001	Total Suspended Solids (daily average)	30 mg/L	47 mg/L
5/2003	001	Total Copper (daily average)	18.8 ug/L	19.1 ug/L
2/2004	001	Total Suspended Solids (monthly average)	30 mg/L	32 mg/L
2/2004	003	pH	6.0 - 9.0	9.3

Each effluent excursion constitutes a violation of LPDES permit LA0005843 (Part I, Pages 1, 2, 4, 6, and 9 and Part III, Section A.2), La R.S. 30:2075, 30:2076(A)(1), La. R.S. 30:2076(A)(3), LAC 33:IX.501.A, LAC 33:IX.501.D, and LAC 33:IX.2701.A.

Additionally, the Department’s inspection on or about March 31, 2004, revealed the following:

A.) The gate valve which controls the discharge from Outfall 003 was in the closed position. However, a considerable amount of valve leakage was observed at and/ or around the valve. This is in violation of LPDES permit LA0005843 (Part III, Section A.2 and B.3.a), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2701.A, and LAC 33:IX.2701.E. A subsequent inspection conducted by the Department on or about February 1, 2005, revealed this violation was corrected.

B.) The Respondent did not collect representative samples of all of the storm water that flows to Outfall 006. At the time of the inspection there were two separate pipes that discharge storm water at Outfall 006. According to the inspector, the Respondent was collecting storm water from one pipe before the second pipe had a chance to commingle with the other. The Respondent’s failure to collect representative samples is in violation of LPDES permit LA0005843 (Part III, Sections A.2 and C.2), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC

33:IX.2701.A and LAC 33:IX.2701.J.1. A subsequent inspection conducted by the Department on or about February 1, 2005, revealed this violation was corrected.

C.) The Respondent was discharging storm water from a location not specified in LPDES permit LA0005843. Specifically, at the time of the inspection there was an area between the ash bed and the ash settling pond in which storm water was discharging into an internal ditch before going to Outfall 004. This unauthorized discharge from a location not specified in the permit is in violation of LPDES permit LA0005843 (Part I and Part III, Section A.2), La. R.S. 30:2075, La. R.S. 30:2076 (A) (1), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.501.D, and LAC 33:IX.2701.A. A subsequent inspection conducted by the Department on or about February 1, 2005, revealed that this violation was corrected.

IV.

The Respondent was issued a Louisiana Pollutant Discharge Elimination System (LPDES) permit LA0059030 for the Nelson Coal Plant with an effective date of January 1, 2002, and an expiration date of December 31, 2006. LPDES permit LA0059030 authorizes the Respondent to discharge treated sanitary wastewater, cooling tower blowdown, coal pile runoff, ash disposal area runoff, and low volume wastewaters to local drainage thence to the Houston River, waters of the state.

A file review conducted by the Department on November 22, 2005 of the Respondent's Coal Plant under Agency Interest Number 19588, revealed that the Respondent exceeded the effluent limitation for the pH parameter at Outfall 003 in September 2004. Specifically, the Respondent reported a maximum pH value of 9.4 exceeding the permitted maximum pH value of 9.0. This effluent exceedance is a violation of LPDES permit LA0059030 (Part I, Page 4 and Part

III, Section A.2.), La R.S. 30:2075, 30:2076(A)(1), La. R.S. 30:2076(A)(3), LAC 33:IX.501.A, LAC 33:IX.501.D, and LAC 33:IX.2701.A.

The Department has not issued any enforcement action to the Respondent for the violations discovered during the March 31, 2004 inspection and the November 22, 2005 file review set forth hereinabove.

V.

In response to the Compliance Order and Notice of Potential Penalty, Respondent made a timely request for a hearing.

VI.

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

VII.

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 FIFTEEN THOUSAND AND NO/100 DOLLARS (\$15,000.00) of which Eighty-Three and 80/100 Dollars (\$83.80) 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).

VIII.

Respondent further agrees that the Department may consider the inspection report(s), the Consolidated Compliance Order 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. 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, but Respondent may present relevant mitigating factors for the Department's consideration.

IX.

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.

X.

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.

XI.

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

XII.

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).

XIII.

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

XIV.

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.

ENERGY GULF STATES, INC.

BY: *Chuck D. Barlow*
(Signature)

Chuck D. Barlow
(Print)

TITLE: *Assistant General Counsel*
Entergy Services, Inc.

THUS DONE AND SIGNED in duplicate original before me this *4th* day of
August, 20 *06*, at *Jackson, Mississippi*.

Sharon A. Smith
NOTARY PUBLIC (ID# _____)

Sharon A. Smith
(Print)

NOTARY PUBLIC STATE OF MISSISSIPPI AT LARGE
MY COMMISSION EXPIRES: Jun 7, 2007
BONDED THROUGH NOTARY PUBLIC UNDERWRITERS

STATE OF LOUISIANA
Mike D. McDaniel, Ph.D., Secretary
Department of Environmental Quality

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

THUS DONE AND SIGNED in duplicate original before me this *31st* day of
October, 20 *06*, at Baton Rouge, Louisiana.

M. A.
NOTARY PUBLIC (ID # *20786*)
Ted P. Smyth
(Print)

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