

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

FLOWERS BAKING CO. OF  
BATON ROUGE, L.L.C.

AI # 11595

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

\* Settlement Tracking No.  
\* SA-AE-06-011  
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\* Enforcement Tracking No.  
\* AE-PP-05-0201  
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SETTLEMENT

The following Settlement is hereby agreed to between Flowers Baking Company of Baton Rouge, 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 limited liability company that owns/operates a bakery located at 1615 Convention Street in Baton Rouge, East Baton Rouge Parish, Louisiana ("the Facility"). The facility currently operates under Title V Permit No. 0840-00171-V0, issued on June 30, 1998.

II

On November 18, 2005, the Department issued to Respondent, a Notice of Potential Penalty, Enforcement No. AE-PP-05-0201, which was based upon the following Department's findings of fact:

- A. The Respondent failed to submit the facility's Title V Semiannual Monitoring Form for the period encompassing July 1, 2004, through December 31, 2004, by the March 31, 2005, deadline. The report was dated on May 31, 2005, and received on October 14, 2005. This late submittal is a violation of General Condition K of Title V Permit No. 0840-00171-V0, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.
  
- B. The Respondent failed to submit the facility's 2004 Title V Annual Compliance Certification by the March 31, 2005, deadline. The report was dated May 31, 2005. This late submittal is a violation of General Condition M of Title V Permit No. 0840-00171-V0, LAC 33:III.501.C.4, 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 TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00), of which ONE HUNDRED NINETY FOUR AND 70/100 DOLLARS (\$194.70) 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).

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 will cause a public notice advertisement to be placed in the official journal of the parish governing authority in East Baton Rouge 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 will submit 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).

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

FLOWERS BAKING CO. OF  
BATON ROUGE, L.L.C.

BY: [Signature]  
(Signature)

Larry Brock  
(Printed or Typed)

TITLE: President

THUS DONE AND SIGNED in duplicate original before me this 4<sup>th</sup> day of  
May, 2006, at Baton Rouge.

[Signature]  
NOTARY PUBLIC (ID # )  
**M.S. SNEAD #15567**  
NOTARY PUBLIC  
EAST BATON ROUGE PARISH, LA  
(Printed or Typed)  
NOTARY PUBLIC FOR LIFE

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

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

THUS DONE AND SIGNED in duplicate original before me this 10<sup>th</sup> day of  
August, 2006, at Baton Rouge, Louisiana.

[Signature]  
NOTARY PUBLIC (ID # 27771)

Ranball S. Beard  
(Printed or Typed)

Approved: [Signature]  
Harold Leggett, Ph.D., Assistant Secretary