STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	**Settlement Tracking No.**
	*	**SA-WE-15-0064**
KEPCO OPERATING, INC.	*	
	*	**Enforcement Tracking No.**
AI # 155128, 158813	*	**WE-CN-08-0419**
	*	
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT	*	**Docket No. 2009-9527-EQ**
LA. R.S. 30:2001, ET SEQ.	*	

SETTLEMENT

The following Settlement is hereby agreed to between Kepco Operating, 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 facilities located in Jena, LaSalle Parish, Louisiana ("the Facilities").

II

On August 19, 2009, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. WE-CN-08-0419, which was based upon the following findings of fact:

"The Respondent owns and/or operates the AJ Ward Etal. SWD #1 well site, the Hailey #2 well site, and the RC Girlinghouse Tank Battery located on the Nebo-Hemphill oilfield in Jena, LaSalle Parish, Louisiana. The Respondent's operational areas on the Nebo-Hemphill Field drain to Long Branch, thence to Devil's Creek, thence to Lake Catahoula, waters of the state. The

Respondent does not have authority to discharge to waters of the state.

On or about December 10, 2007, the Department conducted a compliance inspection on the Hailey #2 well site in response to a citizen's complaint of a spill. The inspection revealed the following violations:

A. The Respondent did cause or allow an unauthorized discharge of approximately fifteen (15) to twenty (20) barrels of crude oil to Long Branch, thence to Devil's Creek, waters of the state. Unauthorized discharges to waters of the state constitute a violation of La. R.S. 30:2075, La. R.S. 30:2076 (A)(1)(a), La. R.S. 30:2076 (A)(3), LAC 33:IX.501.A, LAC 33:IX.501.D, and LAC 33:IX.2311.A.1.

B. The Respondent failed to develop and implement an approved Spill Prevention and Control (SPC) plan. The failure to develop and implement an SPC plan constitutes a violation of La. R.S. 30:2076(A)(3), LAC 33:IX.501.A, and LAC 33:IX.905.A.

C. The Respondent failed to notify the Department of the nature, amount of the discharge, and the circumstances surrounding the spill within twenty four hours. The failure to notify the Department constitutes a violation of La. R.S. 30:2025(J)(2), La. R.S. 30:2076(A)(3), La. R.S. 30:2076 (D) LAC 33:IX.501.A, LAC 33:IX.501.D, and LAC 33:IX.2355.L.7.

D. The Respondent failed to remediate the spill in a timely manner. In the event of an unauthorized discharge of oil a remedial response must be immediately initiated. The Respondent's failure to remediate in a timely manner constitutes a violation of La. R.S. 30:2076 (A)(3), La. R.S. 30:2077, LAC 33:IX.501.A, LAC 33:IX.708.C.1.b.IV. On or about December 11, 2007, a re-inspection revealed that the site was cleaned up. The Respondent contracted Oil Mop to clean the oil residue left from the spill.

On or about June 29, 2008, the Department conducted a compliance inspection on the AJ Ward Etal. SWD #1 well site and the RC Girlinghouse Tank Battery in response to a reported fish kill. The inspection revealed the following violations:

A. The Respondent did cause or allow an unauthorized discharge of approximately 20,000 to 30,000 barrels of produced water and one (1) barrel of crude oil into Long Branch, thence into Devil's Creek. The spill occurred for approximately three (3) to four (4) weeks. Unauthorized discharges to waters of the state constitute a violation of La. R.S. 30:2075, La. R.S. 30:2076 (A)(1)(a), La. R.S. 30:2076 (A)(3), LAC 33:IX.501.A, LAC 33:IX.501.C, LAC 33:IX.501.D, and LAC 33:IX.2311.A.1. A follow-up inspection conducted on or about July 11, 2008, revealed that the oil residue left from the unauthorized discharge was cleaned-up.

B. The Respondent did cause or allow an adverse impact to aquatic biota in Long Branch and Devil's Creek, all waters of the state, as a result of the above-referenced unauthorized discharge. During the time of the inspection, approximately 150 to 200 dead fish were observed in Devil's Creek. Field measurements taken at the time of the investigation revealed the following, indicating waters with detrimental salt content:

Parameter:	**Reported Value:**
Chlorides (1)	60781 ppm
Chlorides (2)	59981 ppm
Chlorides (3)	392 ppm
Oil & Grease	187 ppm
Conductance	1306 umhos/cm
Conductance	1303 umhos/cm

The destruction of aquatic biota is in violation of La. R.S. 30:2076 (A)(3), LAC 33:IX.501.A, LAC 33:IX.501.C, LAC 33:IX.1113.B.1.d, and LAC 33:IX.1113.B.5.

C. The Respondent failed to periodically inspect and maintain records of periodic flowline pressure tests. The failure to implement a Spill Prevention Plan (SPC) constitutes a violation of La. R.S. 30:2076 (A)(3), and LAC 33:IX.501.A.

On or about June 30, 2008, the Respondent contracted Oil Mop to clean up the oil residue. On or about July 11, 2008, a follow-up inspection revealed that the oil residue was cleaned up."

III

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

IV

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

V

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 TWENTY-THREE THOUSAND FOUR HUNDRED TWENTY-EIGHT AND NO/100 DOLLARS

($23,428.00), of which One Thousand Four Hundred Twenty-Eight and 83/100 Dollars ($1,428.83) 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).

VI

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, 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.

VII

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.

VIII

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.

IX

As required by law, the Department has submitted this Settlement Agreement to the Louisiana Attorney General for approval or rejection. The Attorney General's concurrence is appended to this Settlement Agreement.

X

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in LaSalle Parish, Louisiana. The advertisement, in form and wording 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.

XI

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).

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

KEPCO OPERATING, 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
Chuck Carr Brown, Ph.D., Secretary

BY: _____
Lourdes Iturralde, 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: _____
Lourdes Iturralde, Assistant Secretary