

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

LAFAYETTE CONSOLIDATED
GOVERNMENT

AI # 31135

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

* Settlement Tracking No.
* SA-AE-12-0014
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* Enforcement Tracking No.
* AE-CN-09-0490
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SETTLEMENT

The following Settlement is hereby agreed to between Lafayette Consolidated Government and the Lafayette Utilities System (Respondent) and the Department of Environmental Quality (Department), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. (the Act).

I

Respondent owns and operates the Louis 'Doc' Bonin Electric Generating Station (the Bonin Station), an electricity generating station located at 1210 Walker Road, Lafayette, Lafayette Parish, Louisiana. The Bonin Station currently operates under Title V Permit No. 1520-00002-V2, issued on or about December 19, 2011.

II

On or about January 14, 2010, the Department issued to the Respondent a Consolidated Compliance Order & Notice of Potential Penalty (CONOPP), Enforcement Tracking No. AE-CN-09-0490. At that time, Respondent operated under Administratively Amended Title V Permit No. 1520-00002-V0, issued on or about December 5, 2006. The Consolidated Compliance Order & Notice of

Potential Penalty was based on the following findings of fact:

The Respondent submitted results of the October 18, 2007 stack tests of Unit 1 Boiler. The correspondence, dated October 1, 2009, requested interim authorization for Unit 1 Boiler to emit CO at 115.20 pounds per hour (lbs/hr) maximum until the time a modified permit is issued.

The Respondent submitted results of the August 20, 2009 stack tests of Unit 3 Boiler. The correspondence, dated October 15, 2009, requested interim authorization for Unit 3 Boiler to emit CO at 1122.84 lbs/hr maximum until the time a modified permit is issued.

On or about October 15, 2009, the Respondent submitted a request for a minor modification to the current permit. The request is currently under review by the Department.

On or about October 28, 2009, a file review of the facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations.

The following violations were noted during the course of the file review.

- A. Stack tests were performed on or about October 18, 2007 on the facility's Unit 1 Boiler (EQT001). The CO emission rate was 63.98 lbs/hr, which exceeded the permit limit of 47.74 lbs/hr. The failure to demonstrate compliance with the limits of the permit for emission of CO is a violation of the current permit, LAC 33:III.501.C.4 and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- B. In correspondence dated December 14, 2007, the Respondent notified the Department of the excess CO emission rate from the tests conducted on or about October 18, 2007 on the facility's Unit 1 Boiler. The Department has no record that the Respondent has submitted an application to modify the current permit. The failure to request a permit modification within forty-five (45) days after receiving test results that demonstrate that the permit is inadequate is a violation of LAC 33:III.523.A, LAC 33:III.501.C.4 and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- C. Stack tests were performed on or about August 20, 2009 on the facility's Unit 3 Boiler (EQT003). The CO emission rate for the unit was 382.49 lbs/hr, which exceeded the permit limit of 155.68 lbs/hr. The failure to demonstrate compliance with the limits of the permit for emission of CO is a violation of the current permit, LAC 33:III.50.C.4 and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

III

Representatives of Respondent and the Department met on September 16, 2009 to discuss mitigating factors and circumstances surrounding the alleged violations in the CONOPP. Further, Respondent submitted written comments to the Department regarding the CONOPP in October and December 2009. Respondent complied with the interim limits set forth in Paragraph II of the Compliance Order section of the CONOPP, and, on October 15, 2009, submitted a permit modification request to incorporate the interim limits for EQT001 and EQT003. Title V Permit No. 1520-00002-V1 was issued by the Department on March 23, 2010.

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 TWO THOUSAND EIGHT HUNDRED AND NO/100 DOLLARS (\$2,800.00), of which Four Hundred Eighty and 30/100 Dollars (\$480.30) 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

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

X

Payment is to be made within thirty (30) 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).

XI

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

XII

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.

**LAFAYETTE CONSOLIDATED
GOVERNMENT**

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