

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

LOUISIANA SUGAR CANE
COOPERATIVE, INC.

AI # 2827

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

* Settlement Tracking No.
* SA-AE-12-0043
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* Enforcement Tracking No.
* AE-CN-07-0058
* AE-CN-08-0056
* AE-CN-08-0056A
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*

SETTLEMENT

The following Settlement is hereby agreed to between Louisiana Sugar Cane Cooperative, 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 a sugar mill facility located in St. Martinville, St. Martin Parish, Louisiana ("the Facility").

II

On September 4, 2007, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. AE-CN-07-0058, which was based upon the following findings of fact:

The Respondent owns and/or operates the St. Martin Branch sugar mill, located at 6092 Resweber Highway in St. Martinville, St. Martin Parish, Louisiana. The facility currently operates under air permit number 2620-00005-V2 issued April 18, 2006.

On or about March 14, 2007 a file review was performed to determine the degree of compliance with the Act and the Air Quality Regulations due to a referral received from Air Permits Manufacturing Group 3.

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

- A. A review of the Department's records for the facility indicates that the Respondent failed to conduct performance/emissions tests on boiler 1-96 or 2-96 (Emission Points EQT2 or EQT3) as specified in Specific Requirement No. 34 of Title V Permit No. 2620-00005-V2 issued April 18, 2006. These tests were required within 180 days of permit renewal, or within 60 days after reaching normal production levels to demonstrate compliance with nitrogen oxide (NO_x), carbon monoxide (CO) and particulate matter (PM) emission limits set forth by the facility's permit. Each failure to timely conduct the performance/emissions tests as required by Title V Permit No. 2620-00005-V2 is a violation of LAC 33:III.501.C.4, and La R.S. 30:2057(A)(2).
- B. The Respondent failed to submit the 2004 annual emissions inventory by the March 31, 2005 deadline. The 2004 annual emissions inventory was submitted to the Department on December 01, 2005. Each failure of a Title V facility to submit this report in a timely manner is a violation of LAC 33:III.919.D and La R.S. 30:2057(A)(2).

On May 29, 2008, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. AE-CN-08-0056, which was based upon the following findings of fact:

On or about April 1, 2008, a file review was performed to determine the degree of compliance with the Act and the Air Quality Regulations due to a referral received from the Air Quality Assessment Division.

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

On or about November 7-8, 2007, the Respondent conducted performance tests on EQT3 (boiler 2-96) and EQT6 (boiler 5-96). The Respondent shut down EQT3 and EQT6 on December 30, 2007. The following table summarizes the performance test data submitted to the Department on or about February 18, 2008:

Emission Point	NOx Performance Test Results (lbs/hr*)	NOx Permitted limits (lbs/hr*)
EQT 3 (2-96)	56.43	28.97(avg)/ 30.00(max)
EQT 6 (5-96)	38.44	24.92(avg)/ 25.80(max)
	*lbs/hr-- pounds per hour	*avg-average max--maximum

On or about March 13, 2008, the Department issued a Performance Test Review Letter approving the performance test methods and data analysis conducted by the Respondent on or about November 7-8, 2007, for EQT3 and EQT6. Each instance of operating emission point EQT 3 and EQT 6 above permitted NOx maximum emission rate(s), as stated in Title V Permit No. 2620-00005-V2, is a violation of LAC 33:III.501.C.4, La R.S. 30:2057(A)(1) and 30:2057(A)(2).

On or about January 13, 2010, the Department issued to Respondent an Amended Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. AE-CN-08-0056A, amending the original Consolidated Compliance Order & Notice of Potential Penalty issued to Louisiana Sugar Cane Cooperative, Inc. (Respondent) on May 29, 2008 as follows:

The Department amended the Findings of Fact Paragraph II to add the following:

- “B. A review of the Department’s records for the facility indicates that the Respondent failed to conduct performance emissions tests on boiler 5-96 (Emission Point EQT6) in a timely manner. The tests were required within 180 days of permit renewal, or within 60 days after reaching normal production levels. Title V Permit No. 2620-00020-V2 was issued on or about April 18, 2006. The performance emission testing was eventually conducted on or about November 7-8, 2007. The failure to timely conduct the performance emissions tests is a violation of Specific Requirement No. 34 of Title V Permit No. 2620-00005-V2, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).”

The Department incorporated all of the remainder of the original Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. AE-CN-08-0056 and Agency Interest No. 2827 as if reiterated therein.

The Amended Consolidated Compliance Order and Notice of Potential Penalty was effective upon receipt.

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 Five Hundred Fifty-Eight and 80/100 Dollars (\$558.80) 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 permit record(s), the Consolidated Compliance Orders & Notices of Potential Penalty, the Amended 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 stopped 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 St. Martin 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.

LOUISIANA SUGAR CANE
COOPERATIVE, 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
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