STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	**Settlement Tracking No.**
	*	**SA-AE-12-0012**
M. A. PATOUT & SON LIMITED	*	
	*	**Enforcement Tracking No.**
AI # 1347	*	**AE-C-06-0103, AE-CN-07-0093,**
	*	**AE-CN-07-0093A, AE-CN-07-0093B**
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT	*	
LA. R.S. 30:2001, ET SEQ.	*	

SETTLEMENT

The following Settlement is hereby agreed to between M. A. Patout & Son Limited ("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 and/or operates a raw sugar mill facility located in or near Jeanerette, Iberia Parish, Louisiana ("the Facility").

II

On August 14, 2006, the Department issued to Respondent a Compliance Order, Enforcement No. AE-C-06-0103,which was based upon the following findings of fact:

The Respondent owns and/or operates the Enterprise Factory, a raw sugar mill that produces raw sugar and final molasses. The facility is located at 3512 J. Patout Burns Road in or near Jeanerette, Iberia Parish, Louisiana. The facility currently operates under Title V Permit No. 1260-00003-V2 issued on August 18, 2004, and an Administrative Amendment issued on June 7, 2005.

In a letter dated January 23, 2006, the Respondent notified the Department that emissions testing of the facility's 05-021 Boiler No. 10 (EQT 1) had been conducted on November 23, 2005. The letter noted that certain emissions from the boiler were out of compliance and requested a meeting to discuss mitigating circumstances and corrective actions with the Department. Departmental representatives met with the Respondent's representatives on February 6, 2006. During the meeting, the Respondent's representatives explained that approximately 1,000 acres of sugarcane processed at the facility were grown in a hurricane-affected area. The Respondent's representatives suspected that the dirt and flooding effects on the sugarcane might have contributed to the increased emissions from the boiler. In addition, the Respondent's representatives explained that the flow rate used by the stack testing company during the performance testing might have led to increased emissions as well. The Respondent's representatives stated that the facility's seasonal operations ended on December 30, 2005.

In a report regarding the November 22 and 23, 2005 emissions testing of the facility's 05-021 Boiler No. 10, the Respondent notified the Department that the boiler's carbon monoxide (CO) emissions, averaging 91.821 pounds per hour during the test, were higher than the boiler's 78.19 pounds per hour average CO emission rate established in Title V Permit No. 1260-00003-V2. However, the emissions were not in exceedance of the boiler's 101.64 pounds of CO per hour maximum permitted emission limit established in the facility's permit. Nonetheless, consistent operation of the boiler with the CO emission rate exhibited during the test potentially could lead to an exceedance of the boiler's maximum permitted annual emission limit of 121.97 tons of CO per year.

On or about June 26, 2006, a file review of the Respondent's facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations.

The following violation was noted during the course of the review:

> In a report regarding the November 22 and 23, 2005 emissions testing of the facility's 05-021 Boiler No. 10, the Respondent notified the Department that the boiler's emissions of nitrogen oxides (NOx) averaged 124.40 pounds per hour during the test, in exceedance of the boiler's maximum permitted emission limit of 80.10 pounds of NOx per hour. Each failure to operate the facility in accordance with all terms and conditions of Title V Permit No. 1260-00003-V2 is a violation of LAC 33:III.501.C.4 and Sections 2057(A)(1) and 2057(A)(2) of the Act.

On August 14, 2007, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. AE-CN-07-0093, which was based on the following findings of fact:

The Respondent owns and/or operates the Enterprise Factory, a raw sugar mill that produces raw sugar and final molasses. The facility is located at 3512 J. Patout Burns Road in or near Jeanerette, Iberia Parish, Louisiana. The facility currently operates under Title V Permit No. 1260-00003-V2 issued on August 18, 2004, and an Administrative Amendment issued on June 7, 2005.

On or about June 26, 2006, the Department performed a file review of the Respondent's facility to determine the degree of compliance with the Act and the Air Quality Regulations.

The Department issued Compliance Order (CO), Enforcement Tracking No. AE-C-06-0103, on or about August 14, 2006, to the Respondent for the following violation:

> In a report regarding the November 22 and 23, 2005, emissions testing of the facility's No. 10 Boiler (Emission Point No. 05-021 and EQT 001), the Respondent notified the Department that the boiler's emissions of nitrogen oxides (NOx) averaged 124.40 pounds per hour during the test, in exceedance of the boiler's maximum permitted emission limit of 80.10 pounds of NOx per hour. Each failure to operate the facility in accordance with all terms and conditions of Title V Permit No. 1260-00003-V2 is a violation of LAC 33:III.501.C.4 and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

Paragraph III of the Findings of Fact portion of the CO discussed the potential for the facility's No. 10 Boiler to exceed its annual emission limit of 121.97 tons of carbon monoxide per

year established in Title V Permit No. 1260-00003-V2, although the boiler's maximum hourly carbon monoxide emission limit had not yet been exceeded.

Paragraph III of the Order portion of the CO ordered the Respondent "To conduct, within sixty (60) days after startup of the facility in Fall 2006, a performance test on the facility's 05-021 No. 10 Boiler for NOx and [carbon monoxide] emissions using the method(s) determined to be acceptable by the Department prior to the test." Paragraph IV of the Order portion of the CO ordered the Respondent to submit a written report of the test results to the Air Quality Assessment Division within thirty (30) days of the test.

On or about May 14, 2007, a representative of the Respondent requested a meeting with representatives of the Department's Enforcement Division. On or about June 8, 2007, representatives of the Respondent met with Departmental representatives to discuss the performance test for the facility's No. 10 Boiler. The Respondent's representatives stated that the facility began operating on or about October 3, 2006, and stopped operating on or about December 27, 2006, for the Fall 2006 season. However, the Respondent's representatives explained that the performance test on the No. 10 Boiler was not conducted during the Fall 2006 season.

According to the Respondent's representatives during the meeting, the stack testing company was set up to perform the test on or about November 17, 2006, but the stack testing company concluded that the weather conditions would make it unsafe to perform the test. The Respondent's representatives reportedly rescheduled the test for the following week. According to the Respondent's representatives, the No. 10 Boiler appeared to be performing as expected on the day before the test had been rescheduled, but that air impingement through the boiler roof prevented the boiler from stabilizing. According to Departmental records and the Respondent's representatives during the meeting on June 8, 2007, the Respondent did not conduct the performance test and no

request for an extension to test the No. 10 Boiler at a later date was submitted to the Department. The Respondent's failure to conduct the performance test on the No. 10 Boiler as specified in CO, Enforcement Tracking No. AE-C-06-0103, is a violation of La. R.S. 30:2025(E)(2).

On or about July 31, 2007, a file review of the Respondent's 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. According to data submitted by the Respondent in a facsimile dated July 10, 2007, the facility's No. 10 Boiler emitted the following amounts of NOx during emissions testing on October 31, 2006.

Time	Reported NOx Emissions (lbs/hr)	Permitted NOx Emission Limit (lbs/hr)
14:34:38	95.050134	80.10
14:46:53	91.827696	80.10
14:50:30	83.870688	80.10
14:57:31	102.142762	80.10

Each failure to operate the facility in accordance with all terms and conditions of Title V Permit No. 1260-00003-V2 is a violation of LAC 33:III.501.C.4 and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

B. According to Part 70 General Condition M of Title V Permit No. 1260-00003-V2, "Compliance certifications per LAC 33:III.507.H.5 shall be submitted to the Administrator as well as the permitting authority . . . The compliance certifications shall be submitted to the Office of Environmental Compliance, Surveillance Division by March 31 for the preceding calendar year." LAC 33:III.507.H.5 states that each permit shall require compliance certification with terms and conditions contained in the permit, including emission limitations, standards, or work practices. The Respondent failed to include the No. 10 Boiler emission limitation exceedances discussed in Paragraph IV.A of the Findings of Fact portion of this Compliance Order in the facility's 2006 Title V Annual Compliance Certification dated March 27, 2007, in violation of Part 70 General Condition M of Title V Permit No. 1260-00003-V2, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

C. The Respondent submitted the facility's 2005 and 2006 annual reports listing the hours that the scrubber(s), associated with eight of the facility's boilers,

> operated out of the ranges specified after the respective March 31, 2006, and March 31, 2007, due dates. Upon request by the Department's Enforcement Division, the Respondent submitted the 2005 and 2006 scrubber compliance reports to the Department in a letter dated July 30, 2007. Each failure to submit an annual scrubber operation report by March 31st for the preceding calendar year is a violation of Specific Requirement No. 33 for the No. 3 Boiler (Emission Point No. 84-002 and EQT 004), Specific Requirement No. 50 for the No. 4 Boiler (Emission Point No. 84-003 and EQT 005), Specific Requirement No. 69 for the No. 5 Boiler (Emission Point No. 84-004 and EQT 006), Specific Requirement No. 83 for the No. 6 Boiler (Emission Point No. 84-005 and EQT 007), Specific Requirement No. 102 for the No. 7 Boiler (Emission Point No. 84-006 and EQT 008), Specific Requirement No. 120 for the No. 8 Boiler (Emission Point No. 89-007 and EQT 009), Specific Requirement No. 143 for the No. 9 Boiler (Emission Point No. 95-018 and EQT 010), and Specific Requirement No. 12 for the No. 10 Boiler (Emission Point No. 50-021 and EQT 001) of Title V Permit No. 1260-00003-V2. In addition, each is a violation of LAC 33:III.501.C.4 and La. R.S. 30:2057(A)(2).

On March 31, 2008, the Department issued to the Respondent an Amended Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. AE-CN-07-0093A, which amended Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. AE-CN-07-0093, as follows:

The Department hereby incorporates Paragraph V to the Findings of Fact portion of Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. AE-CN-07-0093:

"V.

In the cover letter for stack test results received by the Department on or about November 14, 2007, the Respondent stated that a performance test on the facility's No. 10 Boiler (Emission Point No. 05-021 and EQT 001) was conducted on October 17, 2007, in response to Paragraph III of the Order portion of Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. AE-CN-07-0093. Paragraph III of the Order portion

required the Respondent 'To conduct, within thirty (30) days after startup of the facility in Fall 2007, a performance test on the facility's No. 10 Boiler (Emission Point No. 05-021 and EQT 001) for NOx and carbon monoxide emissions using the method(s) determined to be acceptable by the Department prior to the test.' In a letter dated January 24, 2008, the Air Quality Assessment Division notified the Respondent that 'The test results indicated that the oxides of nitrogen (NO_x) were above the maximum and average permit limits. The carbon monoxide (CO) results were below the permit limits. The testing of NOx and CO was not performed according to EPA Methods 7E and 10 . . . Therefore, the test results are inconclusive and cannot be accepted.' The failure to conduct the performance test on the facility's No. 10 Boiler using the method(s) approved by the Department within the time specified in Paragraph III of the Order portion of Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. AE-CN-07-0093, is a violation of La. R.S. 30:2025(E)(2)."

The Department hereby incorporates Paragraphs VI, VII, VIII, and IX to the Order portion of Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. AE-CN-07-0093:

"VI.

To notify the Air Quality Assessment Division, within ten (10) days after startup of the facility in Fall 2008, of the schedule for re-testing the facility's No. 10 Boiler (Emission Point No. 05-021 and EQT 001).

VII.

To conduct, within thirty (30) days after startup of the facility in Fall 2008, a performance test on the facility's No. 10 Boiler (Emission Point No. 05-021 and EQT 001) for NOx and CO emissions using the method(s) determined to be acceptable by the Department prior to the test.

VIII.

To submit to the Air Quality Assessment Division, within thirty (30) days after the performance test discussed in Paragraphs VI and VII of the Order portion of this Compliance Order, a written report of the performance test results. In addition, the Respondent shall submit to the Enforcement Division a copy of the cover letter for the written report of the performance test results. Furthermore, if existing permit limitations and conditions must be modified in order to address the performance test results, the Respondent shall submit a permit modification application that reflects the proposed operations and emissions from each source at the facility to the Permits Division within sixty (60) days after the submission of the performance test results report. In addition, the Respondent shall submit a copy of the cover letter of the air permit modification application to the Enforcement Division.

IX.

To submit to the Enforcement Division, within thirty (30) days after receipt of this Compliance Order, a written report that includes a detailed description of the circumstances surrounding the cited violation and actions taken or to be taken to achieve compliance with the Order Portion of this Compliance Order. This report and all other reports or information required to be submitted to the Enforcement Division by this Compliance Order shall be submitted to:

Office of Environmental Compliance
Post Office Box 4312
Baton Rouge, Louisiana 70821-4312
Attention: Elizabeth Rummler
Enforcement Tracking No. AE-CN-07-0093A
Agency Interest No. 1347"

The Department incorporated all of the remainder of the original Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. AE-CN-07-0093 and Agency Interest No. 1347 as if reiterated therein.

This Amended Consolidated Compliance Order & Notice of Potential Penalty was effective upon receipt.

On December 8, 2009, the Department issued to Respondent an Amended Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. AE-CN-07-0093B, amending the Amended Consolidated Compliance Order & Notice of Potential Penalty (ACONOPP), Enforcement No. AE-CN-07-0093A, issued to Respondent on March 31, 2008, as follows

The Department replaced Paragraph I of ACONOPP, Enforcement Tracking No. AE-CN-07-0093A, in its entirety:

"I.

The Department hereby incorporates Paragraphs V, VI, and VII to the Findings of Fact portion of CONOPP, Enforcement Tracking No. AE-CN-07-0093:

'V.

In the cover letter for stack test results received by the Department on or about November 14, 2007, the Respondent stated that a performance test on the facility's No. 10 Boiler (Emission Point No. 05-021 and EQT 001) was conducted on October 17, 2007, in response to Paragraph III of the Order portion of CONOPP, Enforcement Tracking No. AE-CN-07-0093. Paragraph III of the Order portion required the Respondent 'To conduct, within thirty (30) days after startup of the facility in Fall 2007, a performance test on the facility's No. 10 Boiler (Emission Point No. 05-021 and EQT 001) for NOx and carbon monoxide emissions using the method(s) determined to be acceptable by the Department prior to the test.' In a letter

dated January 24, 2008, the Air Quality Assessment Division notified the Respondent that 'The test results indicated that the oxides of nitrogen (NO_x) were above the maximum and average permit limits. The carbon monoxide (CO) results were below the permit limits. The testing of NOx and CO was not performed according to EPA Methods 7E and 10 . . . Therefore, the test results are inconclusive and cannot be accepted.'

VI.

On or about April 9, 2008, representatives of the Department, the Respondent, and the stack testing company met to discuss the January 24, 2008 letter regarding the performance test results. In a letter dated April 16, 2008, the Air Quality Assessment Division notified the Respondent that, after further research and consultation with the U.S. EPA, the Department accepts the test results. The letter stated that the No. 10 Boiler's CO emissions were in compliance during the performance test. The letter noted that the No. 10 Boiler's NOx emissions exceeded the boiler's maximum permitted NOx emission limit, or 61.62 pounds of NOx per hour as set forth in Title V Permit No. 1260-00003-V2, during the performance test. According to the results of the performance test, the boiler emitted an average of 99.110 pounds of NOx per hour. Each failure to operate the facility in accordance with all terms and conditions of Title V Permit No. 1260-00003-V2 is a violation of LAC 33:III.501.C.4. La. R.S. 30:2057(A)(1), and La. R.S. 30:2057(A)(2).

VII.

On or about July 16, 2008, the Department received the Respondent's permit modification application dated July 14, 2008, to address the No. 10 Boiler's NOx emissions discovered during the performance test. Title V Permit No. 1260-00003-V3, which was issued to the Respondent on July 21, 2009, reconciled the emission limits for this source.'"

Paragraphs VI, VII, VIII and IX of the Order portion of CONOPP, Enforcement Tracking No. AE-CN-07-0093, were incorporated by Paragraph II of ACONOPP, Enforcement Tracking No. AE-CN-07-0093A. The Department removed Paragraph II of ACONOPP, Enforcement Tracking No. AE-CN-07-0093A.

The Department incorporated all of the remainder of ACONOPP, Enforcement Tracking No. AE-CN-07-0093A, as if reiterated therein.

The Amended Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. AE-CN-07-0093B, 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 FOUR THOUSAND SIX HUNDRED EIGHTY-SIX AND NO /100 DOLLARS ($4,686.00), of which One Thousand Two Hundred Seventy-Six and 58/100 Dollars ($1,276.58) 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 Compliance Order, the Consolidated Compliance Order & Notice of Potential Penalty and the Amended Consolidated Compliance Orders & Notices 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 Iberia 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 from the newspaper 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 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).

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.

M.A. PATOUT & SON LIMITED

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