STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	**Settlement Tracking No.**
	*	**SA-AE-07-0017**
MILLENNIUM RAIL, INC.	*	
	*	**Enforcement Tracking No.**
AI # 32971	*	**AE-CN-01-0355**
	*	
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT	*	
LA. R.S. 30:2001, ET SEQ.	*	

SETTLEMENT

The following Settlement is hereby agreed to between Millennium Rail, 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 who operates a train rail car repair and repainting facility at Zwolle, Sabine Parish, Louisiana ("the Facility").

II

On October 30, 2006, the Department issued to Respondent a Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. AE-CN-01-0355, which was based upon the following findings of fact:

The Respondent owns and/or operates the Zwolle RailCar facility, a train rail car repair and repainting facility located at US Highway 171 South in Zwolle, Sabine Parish, Louisiana. The facility

operates under Air Permit No. 2700-00013-00 issued January 21, 1997. A permit modification Part 70 Permit Application for Approval of Emissions and Emission Inventory Questionnaire was submitted on July 11, 1997.

On August 2, 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 violations were noted during the course of the file review:

> According to the Respondent's letter dated July 24, 2001, and a subsequent file review, the Respondent exceeded the major source total toxic air pollutant (TAP) threshold and permit limit of 25 tons per year or more of any combination of TAPs as defined in LAC 33:III.5103 during the calendar year 2000. These exceedances are in violation of General Condition XI and Specific Condition No. II of Air Permit No. 2700-00013-00, LAC 33:III.501.C.4, and Sections 2057(A)(1) and 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 ONE THOUSAND FIVE HUNDRED AND NO/100 DOLLARS ($1,500.00) of which Three Hundred Twenty-Four and 96/100 Dollars ($324.96) 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 Consolidated Compliance Order and 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 has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Sabine 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 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 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.

MILLENNIUM RAIL, INC.

BY: _____
(Signature)

_____
(Print)

TITLE: _____

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20 _____, at _____.

_____
NOTARY PUBLIC (ID #_____)

_____
(Print)

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

BY: _____
Harold Leggett, Ph.D., 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 # _____)

_____
(Print)

Approved: _____
Harold Leggett, Ph.D., Assistant Secretary