STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	**Settlement Tracking No.**
	*	**SA-AE-15-0024**
MOTIVA ENTERPRISES LLC	*	
	*	**Enforcement Tracking No.**
AI # 24076	*	**AE-PP-10-01709**
	*	
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT	*	
LA. R.S. 30:2001, ET SEQ.	*	

SETTLEMENT

The following Settlement is hereby agreed to between Motiva Enterprises LLC ("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 distribution center for petroleum products facility located in St. James Parish, Louisiana ("the Facility").

II

On December 6, 2011, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. AE-PP-10-01709, which was based upon the following findings of fact:

"On or about July 29, 2010, an inspection of Convent Marketing Terminal (Facility), owned and/or operated by Motiva Enterprises, LLC (Respondent), was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Air Quality Regulations. On or about June 17, 2011, a file review of the facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations. The facility is located at 10700 Louisiana

Hwy 44 in Convent, St. James Parish, Louisiana. The facility currently operates under Title V Permit No. 2560-00036-V4, issued on or about November 30, 2009.

While the investigation by the Louisiana Department of Environmental Quality (the Department) is not yet complete, the following violations were noted during the course of the inspection and subsequent file review:

A. On or about September 1, 2009, the facility submitted to the Department a renewal application for Title V Permit No. 2560-00036-V3, which was issued on or about August 21, 2008, as a minor modification of Title V Permit No. 2560-00036-V2, issued January 4, 2005. Therefore the permit expiration date was January 4, 2010, and the deadline for the submission of this permit renewal application was July 4, 2009. The failure to submit the Title V renewal application in a timely manner is a violation of General Condition A and Specific Condition 60 of Title V Permit No. 2560-00036-V3, LAC 33:III.507.E.4, and La R.S. 30:2057(A)(2).

B. During the inspection conducted on or about July 29, 2010, it was noted that during the calendar year 2009, the zero and span calibrations of the continuous emissions monitoring system (CEMS) were not being done on a daily basis. The deviations were reported in the 2009 first and second Semiannual Monitoring Reports, as well as in the Annual Compliance Certification for 2009. In correspondence from the Respondent, received on or about July 13, 2011, it was reported that these procedures were not performed regularly from on or about January 14, 2009, until on or about September 2, 2009. According to the Respondent, there were twenty-two (22) days during which the VRU was not in operation at all for the full twenty-four (24) hour period. Therefore, there were 145 days in which there were no calibration checks

performed. Each failure to maintain proper CEMS quality control procedures is a violation of Specific Condition 17 of Title V Permit No. 2560-00036-V3, LAC 33:III.501.C.4, La R.S. 30:2057(A)(2), and 40 CFR 60 Appendix F."

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 TWO HUNDRED AND NO/100 DOLLARS ($5,200.00), of which Two Hundred Ninety-Eight and 69/100 Dollars ($298.69) 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 inspection report(s)/permit record(s), the 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 La. R. S. 30:2025(E) of the Act

VIII

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.

IX

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

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.

MOTIVA ENTERPRISES LLC

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: _____
D. Chance McNeely, 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: _____
D. Chance McNeely, Assistant Secretary