STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	**Settlement Tracking No.**
	*	**SA-AE-14-0023**
CITY OF NATCHITOCHES	*	
	*	**Enforcement Tracking No.**
AI # 19375	*	**AE-PP-08-0109**
	*	
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT	*	
LA. R.S. 30:2001, ET SEQ.	*	

SETTLEMENT

The following Settlement is hereby agreed to between City of Natchitoches ("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 governmental entity that owns and/or operates a facility located in Natchitoches, Natchitoches Parish, Louisiana ("the Facility").

II

On November 23, 2009, the Department issued to Respondent a Notice of Potential Penalty (NOPP), Enforcement No. AE-PP-08-0109, which was based upon the following findings of fact:

"On or about October 10, 2009, a file review of **NATCHITOCHES POWER PLANT #1** (the facility), owned and/or operated by **CITY OF NATCHITOCHES (RESPONDENT)**, was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Air Quality Regulations. The facility is located at 1100 Power Plant Road in Natchitoches, Natchitoches Parish, Louisiana. The facility currently operates under Title V Permit

No. 1980-00009-V1, issued on or about July 20, 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 file review:

A. Stack testing was performed on or about October 1 through October 3, 2007 on the facility's Babcock Wilcox Boiler 09-66 EQT008, (Emission Point No. 09-66). Test results indicated the Carbon Monoxide (CO) emission level was 7.40 pounds per hour (lbs/hr), which exceeded the permit limit of 6.90 lbs/hr. The failure to demonstrate compliance with the limit of the permit for emission of CO is a violation of Title V Permit No. 1980-00009-V0, LAC 33:III.501.C.4 and La. R.S. 30:2057(A)(1) and 30:2057(A)(2). Title V Permit No. 1980-00009-V1, issued on or about July 20, 2009, increased the CO emission limit to 8.95 lbs/hr (maximum).

B. Stack testing was performed on or about October 1 through October 3, 2007 on the facility's Norberg Diesel Engine, 02-53 EQT001, (Emission Point No. 02-53). Test results indicated the Nitrogen Oxides (NOx) emission level was 46.65 lbs/hr, which exceeded the permit limit of 17.46 lbs/hr. The failure to demonstrate compliance with the limit of the permit for emission of NOx is a violation of Title V Permit No. 1980-00009-V0, LAC 33:III.501.C.4 and La. R.S. 30:2057(A)(1) and 30:2057(A)(2). Title V Permit No. 1980-00009-V1, issued on or about July 20, 2009, increased the NOx emission limit to 56.44 lbs/hr (maximum).

C. Stack testing was performed on or about February 12 through February 14, 2008 on the facility's Norberg Diesel Engine, EQT002, (Emission Point 03-53). Test results indicated the NOx emission level was 25.09 lbs/hr, which exceeded the permit limit of 17.46 lbs/hr. The failure to demonstrate compliance with the limit of the permit for emission of NOx is a violation of Title V Permit No. 1980-00009-V0, LAC 33:III.501.C.4 and La. R.S. 30:2057(A)(1) and 30:2057(A)(2). Title V Permit o. 1980-00009-V1, issued on or about July 20, 2009, increased the NOx emission limit to 30.36 lbs/hr (maximum)."

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 THREE THOUSAND AND NO/100 DOLLARS ($3,000.00), of which One Thousand Sixty-Seven and 85/100 Dollars ($1,067.85) 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 NOPP 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

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

CITY OF NATCHITOCHES

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