STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	**Settlement Tracking No.**
	*	**SA-AE-14-0048**
SEWERAGE AND WATER BOARD	*	
OF NEW ORLEANS	*	**Enforcement Tracking No.**
AI # 4859 AND 5673	*	**AE-CN-09-0102**
	*	**AE-CN-09-0102A**
PROCEEDINGS UNDER THE LOUISIANA	*	**AE-CN-11-00573**
ENVIRONMENTAL QUALITY ACT	*	**AE-CN-11-00573A**
LA. R.S. 30:2001, ET SEQ.	*	**AE-CN-12-00443**
	*	
	*	**Docket No. 2011-19233-EQ**

SETTLEMENT

The following Settlement is hereby agreed to between Sewerage and Water Board of New Orleans ("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 water purification facility located in Orleans Parish, Louisiana ("the Facility").

II

On August 29, 2011, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. **AE-CN-09-0102**, which was based upon the following findings of fact:

"The Respondent owns and/or operates the Main Water Purification Plant (facility) located at 8801 Spruce Street in New Orleans, Orleans Parish, Louisiana. The facility is responsible for power generation for the pumping system as well as water purification for the East Bank of the City of New

Orleans. The Respondent currently operates the facility under Title V Air Permit No. 2140-00128-V0 issued on or about January 31, 2006.

On or about December 2, 2008, the Department conducted an inspection at the facility to determine the compliance status with the permit and the Air Quality Regulations. Additionally, the Department conducted a file review for the facility on or about March 1, 2011.

While the Department's investigation is not yet complete, the following violations were discovered during the course of the inspection and file review:

A. On or about July 31, 2008, the Respondent submitted a 2006 first Semiannual Monitoring Report for the facility. The monitoring report due date was September 30, 2006. The failure to submit a timely Semiannual Monitoring Report is a violation of Title V Air Permit No. 2140-00128-V0 General Condition K and Specific Requirement 42, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

B. In the facility's 2006 first Semiannual Monitoring Report submitted to the Department on or about July 31, 2008, the Respondent indicated a failure to determine compliance with LAC 33:III.2131. Specifically, Gasoline Tank 3-96 (EQT013) was not tested by applying the test methods listed in LAC 33:III.2131.E. The failure to determine compliance with LAC 33:III.2131 is a violation of Title V Air Permit No. 2140-00128-V0 Specific Requirement 25, LAC 33:III.2131.E, LAC 33:III.501.C.4 and La. R.S. 30:2057(A)(2).

C. In the facility's 2006 first Semiannual Monitoring Report submitted to the Department on or about July 31, 2008, the Respondent indicated a failure to comply with LAC 33:III.2131 within six (6) months after becoming an affected facility. Since the Respondent failed to utilize test methods listed in LAC 33:III.2131.E for EQT013, the facility was not in compliance within six (6) months of becoming an affected facility. The failure to comply with LAC 33:III.2131 within six (6) months after becoming an affected facility is a violation of Title V Air Permit No. 2140-00128-V0 Specific Requirement 28, LAC 33:III.2131.G, LAC 33:III.501.C.4 and La. R.S. 30:2057(A)(2).

D. In the facility's 2006 first Semiannual Monitoring Report submitted to the Department on or about July 31, 2008, the Respondent indicated a failure to maintain best practical housekeeping and maintenance practices at the highest possible standards to reduce the quantity of organic compounds emissions. Specifically, the Respondent failed to prepare written housekeeping plans.

The failure to maintain best practical housekeeping and maintenance practices at the highest possible standards is a violation of Title V Air Permit No. 2140-00128-V0 Specific Requirement 31, LAC 33:III.2113.A, LAC 33:III.501.C.4 and La. R.S. 30:2057(A)(2).

E. On or about July 31, 2008, the Respondent submitted a 2006 second Semiannual Monitoring Report for the facility. The monitoring report due date was March 31, 2007. The failure to submit a timely Semiannual Monitoring Report is a violation of Title V Air Permit No. 2140-00128-V0 General Condition K and Specific Requirement 42, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

F. On or about July 31, 2008, the Respondent submitted a 2006 Annual Compliance Certification for the facility. The monitoring report due date was March 31, 2007. The failure to submit a timely Annual Compliance Certification is a violation of Title V Air Permit No. 2140-00128-V0 General Condition M and Specific Requirement 44, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

G. On or about July 31, 2008, the Respondent submitted a 2007 first Semiannual Monitoring Report for the facility. The monitoring report due date was September 30, 2007. The failure to submit a timely Semiannual Monitoring Report is a violation of Title V Air Permit No. 2140-00128-V0 General Condition K and Specific Requirement 42, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

H. On or about July 31, 2008, the Respondent submitted a 2007 second Semiannual Monitoring Report for the facility. The monitoring report due date was March 31, 2008. The failure to submit a timely Semiannual Monitoring Report is a violation of Title V Air Permit No. 2140-00128-V0 General Condition K and Specific Requirement 42, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

I. On or about July 31, 2008, the Respondent submitted a 2007 Annual Compliance Certification for the facility. The monitoring report due date was March 31, 2008. The failure to submit a timely Annual Compliance Certification is a violation of Title V Air Permit No. 2140-00128-V0 General Condition M and Specific Requirement 44, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

J. In the facility's 2008 first Semiannual Monitoring Report submitted to the Department on or about October 15, 2008, and 2008 second Semiannual Monitoring Report submitted to the Department on or about April 16, 2009, the Respondent reported exceedances of the permit limitations. Specifically,

for Gas Turbine Generator 3-76 (EQT012) the Respondent used No. 2 fuel oil under emergency situations for the following events:

Date:	Time:	Duration:
6/15/2008	9:30am – 11:30am	2.0 hours
6/26/2008	1:30pm – 3:30pm	2.0 hours
6/28/2008	3:10pm – 5:28pm	2.3 hours
6/29/2008	4:29pm – 6:29pm	2.0 hours
6/30/2008	12:10pm – 1:37pm	1.5 hours
7/3/2008	3:20pm – 6:01pm	2.7 hours
7/4/2008	12:22pm – 4:18pm	3.9 hours
7/9/2008	12:00pm – 3:42pm	3.7 hours
7/19/2008	1:17pm – 4:35pm	3.3 hours
8/30/2008	10:15am – 10:30am	.25 hours
9/1-2/2008	6:48am – 1:03pm	30.25 hours

Each use of No. 2 fuel oil under emergency situations is an exceedance in violation of Title V Air Permit 2140-00128-V0 Specific Requirement 23, LAC 33:III.501.C.6, LAC 33:III.501.C.4 and La. R.S. 30:2057(A)(2).

K. On or about April 16, 2009, the Respondent submitted a 2008 second Semiannual Monitoring Report for the facility. The monitoring report due date was March 31, 2009. The failure to submit a timely Semiannual Monitoring Report is a violation of Title V Air Permit No. 2140-00128-V0 General Condition K and Specific Requirement 42, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

L. On or about April 16, 2009, the Respondent submitted a 2008 Annual Compliance Certification for the facility. The monitoring report due date was March 31, 2009. The failure to submit a timely Annual Compliance Certification is a violation of Title V Air Permit No. 2140-00128-V0 General Condition M and Specific Requirement 44, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

M. On or about February 19, 2010, the Respondent submitted a 2009 first Semiannual Monitoring Report for the facility. The monitoring report due date was September 30, 2009. The failure to submit a timely Semiannual Monitoring Report is a violation of Title V Air Permit No. 2140-00128-V0 General Condition K and Specific Requirement 42, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2)."

On January 23, 2013, the Department issued to Respondent an Amended Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. **AE-CN-09-0102A**, which was based upon the following findings of fact:

"The Department hereby deletes paragraphs II.B and II.C from the Order."

On December 21, 2011, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. **AE-CN-11-00573**, which was based upon the following findings of fact:

"The Respondent owns and/or operates the New Orleans East Bank Sewage Treatment Plant (facility) located at 6501 Florida Boulevard in New Orleans, Orleans Parish, Louisiana. The facility is an activated sludge process facility designed to treat 120 million gallons per day of municipal wastewater. The Respondent was issued Title V Air Permit No. 2140-00089-V0 to operate the facility on or about October 1, 2008.

On or about June 7, 2011, the Department conducted a file review for the facility to determine compliance with the Air Quality Regulations.

While the Department's investigation is not yet complete, the following violations were discovered during the course of the file review:

A. On or about September 16, 2009, the Respondent submitted the facility's 2009 first Semiannual Monitoring Report. The report indicated that the Respondent failed to continuously monitor and record differential pressure across the venturi scrubber for Fluidized Bed Incinerator 02-77 (EQT0001). Specifically, the pressure gauge malfunctioned on June 28, 2009, from 3:30am to 5:45am. Additionally, the pressure gauge malfunctioned from 8:45am on June 29, 2009, until 7:30am on July 2, 2009. Each failure to monitor and record venturi scrubber differential pressure is a violation of Title V Air Permit No. 2140-00089-V0 Specific Requirement 48, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

B. The Respondent failed to submit the facility's 2008 Annual Compliance Certification by the March 31, 2009 due date. Specifically, the certification was received by the Department postmarked May 1, 2009. The failure to timely submit the certification is a violation of Title V Air Permit No. 2140-

00089-V0 General Condition M, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

C. The Respondent failed to submit the facility's 2008 second Semiannual Monitoring Report by the March 31, 2009 due date. Specifically, the report was received by the Department postmarked May 1, 2009. The failure to timely submit the report is a violation of Title V Air Permit No. 2140-00089-V0 General Condition K, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

D. On or about July 15, 2009, February 23, 2010, August 16, 2010, and February 4, 2011, the Respondent submitted 40 CFR Part 61 Subpart C & E reports to the Department for the first semiannual monitoring period of 2009, second semiannual monitoring period of 2009, first semiannual monitoring period of 2010 and second semiannual monitoring period of 2010 respectively. The reports indicated that the Respondent failed to maintain emissions of Beryllium at or below 10 grams (g) over a 24-hour period according to 40 CFR 61.32(a). Specifically, the Respondent reported the following Beryllium emissions: 30.30 g/day for April 2, 2009; 10.30 g/day for December 28, 2009; 53.01 g/day for June 16, 2010; 30.77 g/day for September 21, 2010; and 146.20 g/day for December 27, 2010. Each failure to maintain a 24-hour average for Beryllium emissions at or below 10 grams is a violation of Title V Air Permit No. 2140-00089-V0 Specific Requirement 17, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2)."

On April 5, 2012, the Department issued to Respondent an Amended Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. **AE-CN-11-00573A**, which was based upon the following findings of fact:

"The Department hereby amends paragraph II.D to read as follows:

D. On or about July 15, 2009, February 23, 2010, and August 16, 2010, the Respondent submitted 40 CFR Part 61 Subpart C & E reports to the Department for the first semiannual monitoring period of 2009, second semiannual monitoring period of 2009 and first semiannual monitoring period of 2010 respectively. The reports indicated that the Respondent failed to maintain emissions of Beryllium at or below 10 grams (g) over a 24-hour period according to 40 CFR 61.32(a). Specifically, the Respondent reported the following Beryllium emissions: 16.3 g/day for June 9, 2009; 13.3 g/day for December 2, 2009; 10.3 g/day for March 2, 2010; and 10.6 g/day for June 2, 2010. Each failure to maintain a 24-hour average for Beryllium emissions at or below 10 grams is a violation of Title V Air Permit No. 2140-00089-V0 Specific Requirement 17, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2)."

On January 23, 2013, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. **AE-CN-12-00443**, which was based upon the following findings of fact:

"The Respondent owns and/or operates the Main Water Purification Plant (facility) located at 8801 Spruce Street in New Orleans, Orleans Parish, Louisiana. The facility is responsible for power generation for the pumping system as well as water purification for the East Bank of the City of New Orleans. The Respondent operated the facility under Title V Air Permit No. 2140-00128-V0 issued on January 31, 2006. The Respondent currently operates the facility under Title V Air Permit No. 2140-00128-V1 issued on January 24, 2012.

On or about June 14, 2011, the Department conducted an inspection at the facility to determine compliance with the permit and the Air Quality Regulations. Additionally, the Department conducted a file review for the facility on or about May 2, 2012.

While the Department's investigation is not yet complete, the following violations were discovered during the course of the inspection and file review:

A. The Respondent failed to submit the facility's 2010 Annual Compliance Certification. The due date of the document was March 31, 2011; however, the Department has not received the certification from the Respondent. The failure to submit an annual compliance certification is a violation of Title V Air Permit No. 2140-00128-V0 40 CFR Part 70 General Condition M, LAC 33:III.501.C.4 and La. R.S. 30:2057(A)(2).

B. In the facility's 2011 Annual Compliance Certification submitted to the Department on or about March 21, 2012, the Respondent reported an exceedance of the permit limitations. Specifically, for 1-96 Natural Gas Fired Steam Boiler Stack (RLP001) the Respondent reported an exhaust opacity greater than twenty percent (20%) on or about October 3, 2011, from 10:00am until 2:00pm, approximately four (4) hours. The permit states that the exhaust may have opacity greater than twenty percent (20%) not more than a six (6) minute period in any sixty (60) consecutive minutes. The equipment is to achieve this by using sweet natural gas as fuel. The

certification indicated that the equipment was not run on sweet natural gas during this time period. This is a violation of Title V Air Permit No. 2140-00128-V0 Specific Requirement 45, LAC 33:III.1101.B, LAC 33:III.501.C.4 and La. R.S. 30:2057(A)(1) and 30:2057(A)(2)."

III

In response to Consolidated Compliance Order & Notice of Potential Penalty, AE-CN-09-0102, Respondent made a timely request for a hearing.

IV

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

V

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 SEVEN THOUSAND FOUR HUNDRED FIFTY- FOUR AND 73/100 DOLLARS ($7,454.73), of which One Thousand Six Hundred Fifty-Four and 73/100 Dollars ($1,654.73) represents the Department's enforcement costs, in settlement of the claims set forth in this agreement

VI

Respondent, in addition to the Consolidated Compliance Order & Notice of Potential Penalty amount specified in Paragraph V above and as part of this Settlement, agrees to expend the amount of $7,500.00 to implement and/or perform the following beneficial environmental projects:

A. The Board will contribute funding in the amount of $5,000.00 and an in-kind donation of $2,500.00 to the Conrad Park Green Infrastructure Project. Said funding and donation will be made to assist with manpower for the installation of a rain garden and bioswale, equipment for the installation of the rain garden and bioswale, and hosting an educational

event for the residents of Hollygrove neighborhood. Conrad Park is a recreational facility in the Hollygrove neighborhood, and is prone to flooding, which has damaged the facilities at the park and prevented its use by the residents. With the installation of the proposed green infrastructures, Conrad Park will become a more desirable and usable park. Other benefits include reduction in the volume of storm water runoff and improved water quality of storm water that is discharged in this area.

B. Respondent shall submit monthly reports regarding its progress on the projects. The reports shall be submitted to: Administrator, Enforcement Division, Post Office Box 4312, Baton Rouge, Louisiana 70821-4312. The first shall be due on the 5th of the month following the date the Department signs this Settlement. Monthly reports shall be submitted on the 5th of every month thereafter until the project is completed. Each such monthly report shall include a description of the project, tasks completed, tasks remaining, the percentage completed, and money expended on each project through the date of the report. Upon completion of all projects required under this Settlement, Respondent shall submit a final report to include a summary of all the information previously submitted and a total amount spent on the projects listed above. It shall also contain a certification that the projects were completed as described.

C. If Respondent does not spend the amount of $7,500.00, then it shall, in its final report, propose additional projects for the Department's approval, or pay to the Department, an amount equal to the difference between the amount of money agreed to be spent and the amount of money actually spent.

D. The total amount of money expended by Respondent on cash payments to the Department and on beneficial environmental projects, as described above, shall be considered a civil

penalty for tax purposes, as required by La. R.S. 30: 2050.7(E)(1).

VII

Respondent further agrees that the Department may consider the inspection report(s), the 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.

VIII

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.

IX

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 and the rules relating to beneficial environmental projects set forth in LAC 33:I.Chapter 25.

X

The Respondent has caused a public notice advertisement to be placed in the official journal

of the parish governing authority in Orleans 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.

XI

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).

XII

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XIII

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.

SEWERAGE AND WATER BOARD OF NEW ORLEANS

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