STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	**Settlement Tracking No.**
	*	**SA-MM-14-0015**
RAIN CII CARBON LLC	*	
	*	**Enforcement Tracking Nos.**
AI # 3439	*	**AE-CN-08-0036**
	*	**AE-CN-10-01938**
PROCEEDINGS UNDER THE LOUISIANA	*	**WE-CN-11-00587**
ENVIRONMENTAL QUALITY ACT	*	
LA. R.S. 30:2001, ET SEQ.	*	**Docket No. 2013-8172-EQ**

SETTLEMENT

The following Settlement is hereby agreed to between Rain CII Carbon 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 petroleum coke calcining facility located in Calcasieu Parish, Louisiana ("the Facility").

II

On June 30, 2008, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. **AE-CN-08-0036**, which was based upon the following findings of fact:

The Respondent owns and/or operates the Lake Charles Calcining Plant, a petroleum coke calcining facility located at 1920 Pak Tank Road in Carlyss, Calcasieu Parish, Louisiana. This facility is currently permitted to operate under Title V Permit No. 0520-00048-V0, issued on January 23, 2006 and administratively amended on November 11, 2006.

On or about July 5, 2007, the Department began an incident investigation in response to a complaint received on or about July 3, 2007 involving particulate matter deposition in the Vincent Settlement Area, an area that is located approximately 1.3 miles west of the Respondent's facility. According to the complainant, this deposition occurred during the period of July 3 through July 5, 2007. According to meteorological data obtained from the Department's ambient air monitoring station located approximately 2 miles west of the Respondent's facility at the corner of Louisiana Highway 27 and Louisiana Highway 108 (Carlyss Ambient Air Site), there were multiple hours during the period encompassing July 3 through July 5, 2007, when the average hourly wind direction was from the east, the direction of the Respondent's facility. Additionally, the complainant stated that he had observed particulate deposition on his property periodically over the previous few months. During the course of the investigation, the inspector obtained the samples in the following table:

Department's Sample ID	Description	Date Obtained	Laboratory's Sample ID
346-070507-01	Complainant - Carport A	July 5, 2007	346-070507-01
346-070507-02	Complainant - Boat A	July 5, 2007	346-070507-02
346-070507-03	Complainant - Carport B	July 5, 2007	346-070507-03
346-070507-04	Complainant - Boat B	July 5, 2007	346-070507-04
346-070507-05	Neighbor1 - Patio	July 5, 2007	346-070507-05
346-070507-06	School - Parking Lot	July 5, 2007	346-070507-06
346-070907-07	Neighbor2 - Pool	July 9, 2007	346-070507-07
346-070907-08	Neighbor2 - Boat	July 9, 2007	346-070507-08
346-070907-09	Complainant - Pool	July 9, 2007	346-070507-09
346-071007-10	Reference - Calcined Coke A	July 10, 2007	346-071007-10
346-071007-11	Reference - Calcined Coke B	July 10, 2007	346-071007-11

These samples were sent to the Department's contract laboratory, EMSL Analytical, Inc. (Laboratory), for comparative analysis using Stereo Microscopy, Scanning Electron Microscopy, and Energy Dispersive X-ray Spectrometry.

On or about July 16, 2007, the inspector conducted additional surveillance of the

Respondent's facility while parked across the road from its entrance on Pak Tank Road. During the course of this surveillance, the inspector observed and photographed fugitive coke particulate emissions emanating from various points within the facility.

On or about July 23, 2007, the complainant informed the Department that he had observed particulate matter deposition on his property again, after he had just previously washed his boat and patio area and cleaned his pool. He stated that he and his family had left on the morning of July 18, 2007, and that they returned home on July 21, 2007, at which time he observed the particulate matter deposition in his pool and on his patio and boat. The inspector returned to the complainant's residence on or about July 23, 2007, and took photographs of the particulate matter deposition on the complainant's boat and pool. Meteorological data obtained from the Carlyss Ambient Air Site showed that there were multiple hours during the period encompassing July 18 through July 20, 2007, when the average hourly wind direction was from the east.

On or about July 24, 2007, the inspector conducted additional surveillance of the Respondent's facility while parked across the road from its entrance on Pak Tank Road. While the Department's investigation is not yet complete, the following violation was noted during the course of the observation:

> While conducting surveillance of the facility, the inspector observed and photographed fugitive particulate emissions from truck traffic on Pak Tank Road near the entrance of the facility. The Respondent has failed to take all reasonable precautions to prevent particulate matter from becoming airborne. This is a violation of Specific Requirement No. 114 of Title V Permit No. 0520-00048-V0, LAC 33:III.501.C.4, LAC 33:III.1305.A, and La. R.S. 30:2057(A)(2).

On or about August 22, 2007, the Department received another complaint regarding particulate matter deposition in the Vincent Settlement Area. According to the complainant, the deposition occurred between August 21, 2007, and August 22, 2007. The inspector returned to the

complainant's residence on or about August 22, 2007, and took additional photographs of particulate matter deposition on his property, a neighbor's property, and also at Vincent Settlement Elementary School. While at the Vincent Settlement Elementary School, the inspector observed particulate matter deposition on approximately forty (40) vehicles parked in the front parking lot of the school. Meteorological data obtained from the Carlyss Ambient Air Site showed that there were multiple hours on August 22, 2007, when the average hourly wind direction was from the east.

On or about August 29, 2007, an inspector of the Department observed fugitive coke particulate emissions from GCD Hopper & Conveyors (Emission Point 1-87, FUG001) during unloading of a green coke barge. This hopper is equipped with water spray nozzles for fugitive coke particulate suppression. While the Department's investigation is not yet complete, the following violation was noted during the course of the observation and subsequent file review:

> According to the facility's Part 70 Quarterly Deviation Report for the period encompassing July through September 2007, dated December 17, 2007, on August 29, 2007, "Controls were not being utilized during the transfer of material into the GCD Hopper & Conveyors (Emission Point 1-87, FUG001). Due to miscommunications, operations did not halt while an outside vendor was performing a maintenance check on the control system." The failure to use an installed control device is a violation of LAC 33:III.905, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

On or about September 3, 2007, an inspector of the Department observed and photographed fugitive coke particulate emissions from the ship loading area of the Respondent's facility, as well as coke particulate deposition on the water surface of the Calcasieu Ship Channel. The inspector observed and photographed these emissions from a vantage point in a boat on the Calcasieu Ship Channel in the proximity of the Respondent's facility.

On or about September 5, 2007, an inspector of the Department observed and photographed fugitive particulate emissions emanating from the elevator and shipping bin area of the Respondent's

facility.

On or about September 21, 2007, the Department received the Laboratory's report for the comparative analysis of the samples obtained between July 5, 2007, and July 10, 2007. According to the report, all of the samples obtained from the complainant's property and the surrounding area contained various concentrations of particulate similar to that of the reference samples from the Respondent's facility.

On or about September 24, 2007, an inspection of the Respondent's facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations. While the Department's investigation is not yet complete, the following violations were noted during the course of the inspection:

A. During the course of the inspection, fugitive petroleum coke dust was observed by the inspectors to be blowing from the Trash Coke Pile during a wind gust. The Respondent has failed to take all reasonable precautions to prevent particulate matter from becoming airborne. This is a violation of Specific Requirement No. 114 of Title V Permit No. 0520-00048-V0, LAC 33:III.1305.A, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

B. The inspectors noted the Tennant Sweeper, which was in use near the facility entrance, was generating fugitive dust. The inspectors also noted that part of the skirting on the sweeper was missing. The failure to diligently maintain control equipment in proper working order is a violation of Specific Requirement No. 114 of Title V Permit No. 0520-00048-V0, LAC 33:III.905.A, LAC 33:III.1305.A, and La. R.S. 30:2057(A)(2).

C. The inspectors noted that two (2) conveyor belt covers were missing on Belt Conveyor – 23. The conveyor belt covers help to prevent particulate matter from becoming airborne. Each missing cover is a violation of Specific Requirement No. 114 of Title V Permit No. 0520-00048-V0, LAC 33:III.1305.A and La. R.S. 30:2057(A)(2).

D. At the time of the inspection, it was noted that one (1) conveyor belt cover was dented on Belt Conveyor – 12. As shown in a photograph taken during the course of the inspection, the dented conveyor belt cover left visible gaps in the cover from which airborne particulate matter could escape. This is a violation of Specific Requirement No. 114 of Title V Permit No. 0520-00048-V0, LAC 33:III.1305.A and La. R.S. 30:2057(A)(2).

E. During the course of the inspection, the Respondent failed to provide documentation that green coke feed samples are taken at least as frequently as once every two hours. Since January 23, 2006, it is a violation of Part 70 General Condition J and Specific Requirement No. 133 of Title V Permit No. 0520-00048-V0, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2) for each day that the Respondent does not have records that demonstrate compliance with Part 70 General Condition J of Title V Permit No. 0520-00048-V0.

On or about March 6, 2008, a file review of the Respondent's facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations. While the Department's investigation is not yet complete, the following violations were noted during the course of the file review:

A. According to the facility's Part 70 Quarterly Deviation Report for the period encompassing July through September 2006, dated December 6, 2006, Rotary Kiln No. 1 (Emission Point 4-87a, EQT002) and Rotary Kiln No. 2 (Emission Point 4-87b, EQT003) exceeded their maximum sulfur dioxide concentration limit of 2,000 parts per million (ppm) by volume at standard conditions (three-hour average), as set forth in LAC 33:III.1503.C as well as Specific Requirement Nos. 5 and 12 of Title V Permit No. 0520-00048-V0, on August 6, 2006. This is a violation of Specific Requirement Nos. 5 and 12 of Title V Permit No. 0520-00048-V0, LAC 33:III.501.C.4, LAC 33:III.1503.C, La. R.S. 30:2057(A)(1) and 30:2057(A)(2). This was also listed as an area of concern in the September 24, 2007 inspection.

B. According to the facility's Part 70 Quarterly Deviation Report for the period encompassing July through September 2007, dated December 17, 2007, maintenance was performed on the dust systems listed in the following table on September 3, 2007:

ID	Description (including Emission Point)
EQT006	11-87a Dust System 3 (Groups 2 and 3 Silos & Conveyors) Vent
EQT007	12-87a Dust System 4 (Group 3 Manifold and Shipping Bins to Direct Loadout) Vent
EQT008	14-87a Dust System 6 (B Loader) Vent

The report states that, "Records of maintenance performed on the 11-87a, 12-87a, and 14-87a were not generated and maintained." The failure to keep records of the maintenance inspection performed on EQT006 is a violation of Specific Requirement No. 35 of Title V Permit No. 0520-00048-V0, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2). The failure to keep records of the maintenance inspection performed on EQT007 is a violation of Specific Requirement No. 42 of Title V Permit No. 0520-00048-V0, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2). The failure to keep records of the maintenance inspection performed on EQT008 is a violation of Specific

Requirement No. 49 of Title V Permit No. 0520-00048-V0, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2). This was also listed as an area of concern in the September 24, 2007 inspection.

C. According to the facility's Part 70 Quarterly Deviation Report for the period encompassing July through September 2007, dated December 17, 2007, during transfer of material to shipping bins on July 16, 2007, the manway access on a shipping bin became unlatched. The Respondent has failed to take all reasonable precautions to prevent particulate matter from becoming airborne. This is a violation of Specific Requirement No. 114 of Title V Permit No. 0520-00048-V0, LAC 33:III.501.C.4, LAC 33:III.1305.A, and La. R.S. 30:2057(A)(2). The report further states that, as a corrective action, "All Manways on the shipping bins have been sealed to prevent openings during material transfers."

On or about March 11, 2008, representatives of the Respondent met with the Department to discuss areas of concern that were cited during the inspection that occurred on or about September 24, 2007. Specifically, the Respondent had questions and comments regarding areas of concern that were based on an emission test performed on or about July 25 through July 27, 1990 (1990 Emission Test). According to a representative of the Respondent, data from the 1990 Emission Test was used to develop an equation which is currently used to calculate sulfur dioxide emissions, including quantity and concentration, from the Kiln Stack (Emission Point 4-87, RLP006). The Department inquired as to whether the Kiln Stack had been tested more recently than during the 1990 Emission Test. According to a representative of the Respondent, the Kiln Stack has not had an emission test since then. During the meeting, the Department requested that the Respondent submit production data for calendar years 2003 through 2007. The Respondent submitted this information to the Department by email on March 12, 2008.

On or about March 17, 2008, the Department reexamined the 1990 Emission Test report, which was submitted on or about September 10, 1990. Based on this review, the following issues have been noted:

1. The Kiln Stack was last tested in 1990 when Conoco Inc. owned the facility. The 1990 Emission Test was conducted at operating rates of 70, 72, and 74 tons per hour. Since that test, the maximum operating rate of this facility has increased from 70 to 80 tons per hour.
2. There were three (3) test runs conducted at each operating rate. The average total particulate emission rate at operating rates of 70, 72, and 74 tons per hour was 66.3, 70.3, and 68.6 pounds per hour, respectively, all of which exceed the allowable rate of emissions based on a process weight rate of 80 tons per hour as set forth in LAC 33:III.1311.B.
3. The average sulfur dioxide concentration at operating rates of 70, 72, and 74 tons per hour was 2300.6, 2416.6, and 2470.2 parts per million by volume (ppmv) on a dry basis, respectively. LAC 33:III.1503.C, as well as Specific Requirements No. 5 and 12 of Title V Permit No. 0520-00048-V0, requires that the Kiln Stack not discharge gases that contain concentrations of sulfur dioxide in excess of 2,000 ppmv at standard conditions.

On or about March 17, 2008, the Department reviewed the production data mentioned in Paragraph XIII above. Based on this review, it was noted that the Respondent calculates the discharged sulfur dioxide concentration as a twenty-four hour average. Currently, Title V Permit No. 0520-00048-V0 requires the Respondent to record the twenty-four hour average combined kiln feed rate and to use this information, as well as the daily composite coke sulfur content, to calculate SO_2 emissions.

On February 16, 2012, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. **AE-CN-10-01938**, which was based upon the

following findings of fact:

The Respondent owns and/or operates The Lake Charles Calcining Plant, a petroleum coke calcining facility located at 1920 Pak Tank Road in Carlyss, Calcasieu Parish, Louisiana. This facility is currently permitted to operate under Title V Permit No. 0520-00048-V1, issued on March 16, 2010.

On June 30, 2008, the Department issued Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. AE-CN-08-0036, to the Respondent. The Respondent did not request an adjudicatory hearing; therefore, this is a final enforcement action.

On or about October 8, 2007, the Department received two (2) complaints regarding particulate matter deposition in the Vincent Settlement Area, an area that is located approximately 1.3 miles west of the Respondent's facility. According to the complainants, the deposition occurred on October 7, 2007, between 8:00 and 10:00 a.m. and on October 8, 2007, between 7:00 and 8:00 a.m. An inspector conducted an inspection of the Vincent Settlement Area on or about October 8, 2007, and took photographs of particulate matter deposition on the complainants' properties, a neighbor's property, and also at Vincent Settlement Elementary School. While at the Vincent Settlement Elementary School, the inspector observed particulate matter deposition on approximately forty (40) vehicles parked in the front parking lot of the school. Meteorological data obtained from the Carlyss Ambient Air Site showed that the hourly average wind direction was from the east during the time frame of the deposition on October 7 and October 8, 2007. Additionally, the Department collected particulate samples during the course of the investigation that were found to have significant concentrations of particulate matter similar to that of a reference sample obtained from the Respondent's facility on or about July 10, 2007. According to a representative of the Respondent, the facility began off-loading approximately ninety (90) tons of calcined coke from an

overloaded barge on the morning of October 7, 2007, at around 7:00 a.m. The representative also stated that there were no process upsets or other activities at the facility during the referenced timeframe outside of routine calcining, product handling, and transfer operations. Calcined coke barge unloading is permitted as a fugitive emission source under FUG 16 in Title V Permit No. 0520-00048-V0.

On or about October 12, 2007, the Department received a complaint regarding particulate matter deposition on Ursan Drive in Carlyss, Louisiana. Ursan Drive is located approximately 1.2 miles west-southwest of the Respondent's facility. According to the complainant, the deposition occurred on the mornings of October 7 through October 12, 2007. Additionally, the complainant stated that he had observed particulate deposition on his property intermittently beginning several months prior to filing a complaint. Two (2) inspectors conducted an inspection of the complainant's residence on or about October 12, 2007, and took photographs of particulate matter deposition on the complainant's property. While at the complainant's residence, the inspectors observed particulate matter deposition occurring from approximately 10:15 to 10:30 a.m. An inspector collected a sample during the course of the investigation that was found to have significant concentrations of particulate matter similar to that of a reference sample obtained from the Respondent's facility on or about July 10, 2007. The Department also received complaints on or about October 13 and October 15, 2007, regarding particulate matter deposition near the corner of Sallier Road and Louisiana Highway 1133 in Carlyss, Louisiana. Sallier Road is located approximately 1.7 miles west-southwest of the Respondent's facility. According to the complainants, the deposition occurred intermittently between October 10 and October 12, 2007. An inspector conducted an inspection of the complainant's residence on or about October 16, 2007, and took photographs of particulate matter deposition on the complainant's property and a neighbor's property. Meteorological data

obtained from the Carlyss Ambient Air Site showed that there were multiple hours during the period encompassing October 7 through October 12, 2007, when the average hourly wind direction was from the east-northeast. According to a representative of the Respondent, the facility had been loading a ship on the morning of October 12, 2007, with calcined coke when a loading chute became plugged. The representative also stated that, during efforts to dislodge the obstruction, some of the coke particulate escaped, became airborne, and travelled off-site in the general direction of the complainant's property. The failure to properly operate and/or maintain all proposed control measures and/or equipment is a violation of General Condition I of Title V Permit No. 0520-00048-V0, LAC 33:III.501.C.4, LAC 33:III.905.A, La. R.S. 30:2057(A)(1), and 30:2057(A)(2). The failure to take all reasonable precautions to prevent particulate emissions is a violation of LAC 33:III.1305.A, La. R.S. 30:2057(A)(1), and 30:2057(A)(2).

On or about October 30, 2007, the Department received three (3) complaints regarding particulate matter deposition on Ursan Drive and near the corner of Sallier Road and Louisiana Highway 1133. An inspector conducted inspections of the complainants' residences on or about October 30, 2007, and November 2, 2007. According to the complainants, the deposition occurred intermittently between October 28 and October 31, 2007. During the inspections conducted on or about October 30, 2007, the inspector photographed particulate matter deposition on the complainants' properties and two (2) adjacent residential properties. On or about October 31, 2007, the inspector conducted an inspection of the Respondent's facility and met with a representative of the Respondent. According to the representative, Rotary Kiln Nos. 1 and 2 (EQT002, EQT003) had not operated since October 22, 2007, to allow for replacement of eroded refractory in the secondary combusticlone. The representative also stated that coke handling and transfer operations continued during the period when the kilns were shut down. On or about November 2, 2007, the inspection

conducted of the third complainant's residence, an inspector took photographs of particulate matter deposition on his property and a neighbor's property. While at the neighbor's property, the inspector collected samples that were later found to have significant concentrations of particulate matter similar to that of reference samples obtained from the Respondent's facility on or about July 10, 2007, and November 7, 2007. Meteorological data obtained from the Carlyss Ambient Air Site showed that there were multiple hours during the period encompassing October 28 through October 31, 2007, when the average hourly wind direction was from the east-northeast.

On or about November 7 and November 9, 2007, the Department received complaints regarding particulate matter deposition on Ursan Drive and near the corner of Sallier Road and Louisiana Highway 1133. According to the complainants, the deposition occurred between November 3 and November 4, 2007. An inspector conducted an inspection of the complainants' residences on or about November 7 and November 9, 2007, and took photographs of particulate matter deposition on the complainants' properties. The inspector collected samples during the course of these visits that were found to have significant concentrations of particulate matter similar to that of reference samples obtained from the Respondent's facility on or about July 10, 2007 and November 7, 2007. Also, meteorological data obtained from the Carlyss Ambient Air Site showed that there were multiple hours during the period encompassing November 3 through November 4, 2007, when the average hourly wind direction was from the east-northeast. On or about November 7, 2007, the inspector conducted an inspection of the Respondent's facility and met with a representative of the Respondent. According to the representative, Rotary Kiln Nos. 1 and 2 were restarted on November 2, 2007, and calcining was resumed on November 3, 2007. While at the facility, the inspector obtained two (2) additional reference samples of calcined coke.

On or about December 4, 2007, the Department received a complaint regarding particulate

matter deposition on Ursan Drive. According to the complainant, the deposition occurred on the evening of December 3 and the morning of December 4, 2007. An inspector conducted an inspection of the complainant's residence on or about December 5, 2007, and took photographs of particulate matter deposition on the complainant's property. The inspector collected samples during the course of the investigation that were found to have significant concentrations of particulate matter similar to that of reference samples obtained from the Respondent's facility on or about July 10, 2007 and November 7, 2007. Also, meteorological data obtained from the Carlyss Ambient Air Site showed that there were multiple hours during the period encompassing December 3 through December 4, 2007, when the average hourly wind direction was from the east-northeast. On or about December 5, 2007, the inspector conducted an inspection of the Respondent's facility and met with a representative of the Respondent. According to the representative of the Respondent, the conveyor belt system plugged several times during the night shift on December 3, 2007. The inspector noted that the Respondent's records indicated a two (2) minute dust event occurred while Belt Conveyor 12 was plugged. The failure to properly operate and/or maintain all proposed control measures and/or equipment is a violation of General Condition I of Title V Permit No. 0520-00048-V0, LAC 33:III.501.C.4, LAC 33:III.905.A, La. R.S. 30:2057(A)(1), and 30:2057(A)(2). The failure to take all reasonable precautions to prevent particulate emissions is a violation of LAC 33:III.1305.A, La. R.S. 30:2057(A)(1), and 30:2057(A)(2).

On or about February 11, 2008, the Department received a complaint regarding particulate matter deposition on Ursan Drive. According to the complainant, the deposition occurred on the evening of February 9 and the morning of February 10, 2008. An inspector conducted an inspection of the complainant's residence on or about February 11, 2008, and took photographs of particulate matter deposition on the complainant's property. The inspector collected samples during the course

of this investigation that were found to have significant concentrations of particulate matter similar to that of a reference sample obtained from the Respondent's facility on or about July 10, 2007. Also, meteorological data obtained from the Carlyss Ambient Air Site showed that there were multiple hours during the period encompassing February 9 through February 10, 2008, when the average hourly wind direction was from the east-northeast. On or about February 11, 2008, the inspector conducted an inspection of the Respondent's facility and met with a representative of the Respondent. According to the representative of the Respondent, the facility was engaged in calcined coke handling and transfer operations during the timeframe that the deposition occurred.

On or about February 25, 2008, the Department received a complaint regarding particulate matter deposition on Ursan Drive. According to the complainant, the deposition occurred intermittently between February 23 and February 25, 2008. An inspector conducted an inspection of the complainant's residence on or about February 25, 2008, and took photographs of particulate matter deposition on the complainant's property. The inspector collected samples during the course of this investigation that were found to have significant concentrations of particulate matter similar to that of a reference sample obtained from the Respondent's facility on or about July 10, 2007. Also, meteorological data obtained from the Carlyss Ambient Air Site showed that there were multiple hours during the period encompassing February 23 through February 25, 2008, when the average hourly wind direction was from the east-northeast. On or about February 26, 2008, the inspector conducted an inspection of the Respondent's facility and met with a representative of the Respondent. According to the representative of the Respondent, a chute on the conveyor belt system had a hole and was "puffing dust" on the morning of February 23, 2008. The failure to properly operate and/or maintain all proposed control measures and/or equipment is a violation of General Condition I of Title V Permit No. 0520-00048-V0, LAC 33:III.501.C.4, LAC 33:III.905.A, La. R.S.

30:2057(A)(1), and 30:2057(A)(2). The failure to take all reasonable precautions to prevent particulate emissions is a violation of LAC 33:III.1305.A, La. R.S. 30:2057(A)(1), and 30:2057(A)(2).

On or about December 1 through December 6, 2008, air emissions tests were performed on the Kiln Stack (Emission Point 4-87, RLP006) to measure sulfur dioxide (SO_2), nitrogen oxides (NO_x), carbon monoxide (CO), particulate matter (PM), particulate matter less than 10 microns in diameter (PM_{10}), and volatile organic compounds (VOC). These tests were performed to demonstrate compliance with the emission limits of Title V Permit No. 0520-00048-V0 as required by Paragraph II of the Compliance Order portion of Consolidated Compliance Order & Notice Of Potential Penalty, Enforcement Tracking No. AE-CN-08-0036. The report for these tests was submitted to the Department under cover letter dated January 5, 2009.

On or about April 14, 2009, a file review of the Respondent's facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations. While the Department's investigation is not yet complete, the following violations were noted during the course of the review:

> According to the stack test report submitted under cover letter dated January 5, 2009, RLP006 emitted an average of 220.52 pounds of PM and 78.95 pounds of PM_{10} per hour while operating at a combined kiln feed rate of 79.95 tons per hour. Each of these emission rates exceeds the maximum permitted emission limits as set forth in Title V Permit No. 0520-00048-V0, or 85.06 pounds of PM and 58.7 pounds of PM_{10} per hour. The PM emission rate also exceeds the allowable rate of emissions based on a process weight rate of 80 tons per hour as set forth in Table 3 of LAC 33:III.Chapter 13. This is a violation of Part 70 General Condition C of Title V Permit No. 0520-00048-V0, LAC 33:III.501.C.4, LAC 33:III.1311.B, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

The Department met with representatives of the Respondent on June 3, 2009, to discuss the results of the Kiln Stack test conducted December 1 through December 6, 2008. According to a

representative of the Respondent, the facility temporarily reduced its operating rate from 80 tons per hour to 50 tons per hour until it could perform stack testing to demonstrate compliance with LAC 33:III.1311.B.

On or about June 23 and June 24, 2009, an inspection of the Respondent's facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations. On June 23, 2009, the inspectors noted that six (6) conveyor belt covers were missing on Belt Conveyor – 3 and three (3) covers were missing on Belt Conveyor – 4. The conveyor belt covers help to prevent particulate matter from becoming airborne. However, the inspector did not observe the conveyor belt in operation. On or about June 24, 2009, the Respondent replaced the missing covers.

On or about July 2, 4-9, 15, and 16, 2009, air emissions tests were performed on the Kiln Stack (Emission Point 4-87, RLP006) to measure particulate matter (PM) and particulate matter less than 10 microns in diameter (PM_{10}). Three (3) one (1) hour runs were performed for each of the operating conditions shown in the table below except Operating Condition II for which only one (1) run was performed. The report for these tests was submitted to the Department under cover letter dated August 19, 2009:

Operating Condition	Kiln 1		Kiln 2	
	Coke Type	Charge Rate	Coke Type	Charge Rate
I	Anode	38	Anode	38
II	Anode	37	Anode	37
IV	Anode	35	Anode	35
V	Anode	34	Anode	34
VI	Ti	37	Anode	37
VIII	Ti	36	Anode	36

On or about October 8, 2009, a file review of the Respondent's facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations. While the

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

A. According to the stack test report submitted under cover letter dated August 19, 2009, RLP006 emitted an average of 195.15 and 65.88 pounds of PM_{10} per hour during Operating Conditions I and II, respectively. Each of these emission rates exceeds the maximum permitted emission limit as set forth in Title V Permit No. 0520-00048-V0, or 58.7 pounds of PM_{10} per hour. This is a violation of Part 70 General Condition C of Title V Permit No. 0520-00048-V0, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

B. According to the stack test report submitted under cover letter dated August 19, 2009, RLP006 emitted an average of 448.62, 337.86, and 92.98 pounds of PM per hour during Operating Conditions I, II, and IV, respectively. Each of these emission rates exceeds the maximum permitted emission limit as set forth in Title V Permit No. 0520-00048-V0, or 85.06 pounds of PM per hour. The PM emission rates also exceed the allowable rate of emissions based on a process weight rate of 80 tons per hour as set forth in Table 3 of LAC 33:III.Chapter 13. This is a violation of Part 70 General Condition C of Title V Permit No. 0520-00048-V0, LAC 33:III.501.C.4, LAC 33:III.1311.B, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

Under cover letter dated September 28, 2009, the Respondent submitted an Air Permit Minor Modification request to incorporate the results of the stack testing discussed in Paragraph XIV above in accordance with Paragraph IV of the Compliance Order section of Consolidated Compliance Order & Notice Of Potential Penalty, Enforcement Tracking No. AE-CN-08-0036. Additionally, the Respondent states in its Air Permit Minor Modification request that, "A Heat Recovery Project is being proposed at this facility to capture lost energy from the existing stack and generate steam.... The proposed Heat Recovery Project will consist of the installation of a Waste Heat Boiler (WHB) and Baghouse system. The proposed WHB will convert heat from the exhaust currently routed to the existing stack to steam, prior to its release to the atmosphere. This exhaust will be cooled to approximately 400°F and the boiler would produce approximately 300,000 lb/hr of superheated steam at 900 psig and 900°F.... Once cooled to approximately 400°F, the exhaust will contain trace

sulfur trioxide vapor (due to cooling the stream close to the dew point). Therefore, a baghouse system using lime injection is proposed as part of this Heat Recovery Project to scrub the sulfur trioxide from the exhaust stream before release to the atmosphere. This baghouse system will also reduce particulate emissions when the Heat Recovery System is in use. The installation of a Continuous Emissions Monitoring System (CEMS) for Sulfur Dioxide, Nitrogen Oxides, and Carbon Dioxide is also proposed for the exhaust stream leaving the WHB/Baghouse system (since this technology is feasible due to the cooling of the exhaust gasses)."

On or about August 30, 2010, the Department received a complaint regarding particulate matter deposition near the corner of Sallier Road and Louisiana Highway 1133. According to the complainant, the deposition occurred between August 27 and August 29, 2010. Two (2) inspectors conducted an inspection of the complainant's residence on or about August 30, 2010, and took photographs of particulate matter deposition on the complainant's property. An inspector collected samples during the course of the investigation that were found to contain less than one (1) percent of particulate matter similar to that of a reference sample obtained from the Respondent's facility on or about August 30, 2010. Also, meteorological data obtained from the Carlyss Ambient Air Site showed that the hourly average wind direction was predominantly from the northeast during the period encompassing August 27 through August 29, 2010. On or about August 30, 2010, the inspectors conducted an inspection of the Respondent's facility and met with a representative of the Respondent. Prior to entering the facility, the inspectors observed and photographed particulate emissions coming from two (2) open garage doors located at the upper part of the west end of the calcined coke storage building. During the course of the inspection, the inspectors also observed and photographed particulate emissions from the transfer point area of Belt Conveyor 14 and Belt Conveyor 15 as well as from the conveyor drop point located at the top of the west end of the

calcined coke storage building. Each failure to properly operate and/or maintain all proposed control measures and/or equipment is a violation of General Condition I of Title V Permit No. 0520-00048-V0, LAC 33:III.501.C.4, LAC 33:III.905.A, La. R.S. 30:2057(A)(1), and 30:2057(A)(2). The failure to take all reasonable precautions to prevent particulate matter emissions is a violation of LAC 33:III.1305.A, La. R.S. 30:2057(A)(1), and 30:2057(A)(2).

On or about September 7, 2010, the Department received a complaint regarding particulate matter deposition on Ursan Drive. According to the complainant, the deposition occurred between September 3 and September 5, 2010. An inspector conducted an inspection of the complainant's residence on or about September 7, 2010, and took photographs of particulate matter deposition on the complainant's property. Additionally, the complainant stated that he had observed particulate deposition on his property on several occasions from June to August 2010. Meteorological data obtained from the Carlyss Ambient Air Site showed that the hourly average wind direction was from the northeast for several hours during the period encompassing September 4 through September 5, 2010. On or about September 7, 2010, the inspector conducted an inspection of the Respondent's facility and met with a representative of the Respondent. During the course of this inspection, the inspector reviewed additional records consisting of operating logs, kiln charge rates, dust suppressant usage, and environmental checklists for the period when the alleged particulate deposition occurred. Based on this review, the inspector did not note any areas of concern during this inspection.

On or about February 24, 2011, a file review of the Respondent's facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations. While the Department's investigation is not yet complete, the following violations were noted during the course of the review:

A. According to the Annual Compliance Certification dated March 30, 2009, the average combined kiln feed rate exceeded 80 tons per hour on January 1, January 3, January 9, and February 16, 2008. Each exceedance is a violation of Part 70 General Condition C of Title V Permit No. 0520-00048-V0, LAC 33:III.501.C.4 and La. R.S. 30:2057(A)(2). According to an email from the Respondent dated November 30, 2009, "The setpoint was set below 80 tons/hr, but the Readings/Records of the twenty-four hour average combined feed rate show greater than 80 tons/hr...Based on experience, [the Respondent believes] that the actual feed rate did not exceed the 80 tons/hr, it was the drift causing the reading/records to show > 80 tons/hr." As a measure to prevent recurrence, "The setpoint is not set above 39 tons/hr [per kiln] to ensure that drift is accounted for."

B. According to the Annual Compliance Certification dated March 30, 2009, "Some minor dusting was observed during loading operations [on April 6 and May 16, 2008].... Loading operations were ceased. A vacuum truck was situated to provide an additional pick-up point for dusting. Once the vacuum truck was operational, loading was resumed with no visible emissions." The initial failure to take all reasonable precautions to prevent particulate matter from becoming airborne is a violation of Specific Requirement 114 of Title V Permit No. 0520-00048-V0, LAC 33:III.501.C.4, LAC 33:III.1305.A, La. R.S. 30:2057(A)(1), and 30:2057(A)(2).

C. According to the Annual Compliance Certification dated March 30, 2009, the Respondent failed to keep records of visible emission checks on April 2, 2008, for the emission sources in the following table:

Emission Source ID	Description
EQT004 (9-87a)	Dust System 5 (Railcar & Truck Receiving Hopper) Vent
EQT005 (10-87a)	Dust System 2 (Group 1 Silos & Conveyors) Vent
EQT006 (11-87a)	Dust System 3 (Groups 2 and 3 Silos and Conveyors) Vent
EQT007 (12-87a)	Dust System 4 (Group 3 Manifold and Shipping Bins to Direct Loadout) Vent
EQT008 (14-87a)	Dust System 6 (B Loader) Vent
EQT009 (17a)	Dust System (Railcar & Truck Loading at Calcined Coke Building) Vent
EQT010 (18a)	Dust System (Truck Loader Bag Filter) Vent
EQT011 (18b)	Dust System (Truck Loader Cartridge Filter) Vent
EQT013 (24a)	Dust System 7 Vent

Each failure is a violation of Specific Requirements 19, 26, 33, 40, 47, 54, 61, 68, and 76 of Title V Permit No. 0520-00048-V0, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

D. According to the Annual Compliance Certification dated March 30, 2009, the Respondent failed to keep records of visible emission checks on August 27 and 28, 2008, for the emission sources in the following table:

Emission Source ID	Description
EQT004 (9-87a)	Dust System 5 (Railcar & Truck Receiving Hopper) Vent
EQT005 (10-87a)	Dust System 2 (Group 1 Silos & Conveyors) Vent
EQT006 (11-87a)	Dust System 3 (Groups 2 and 3 Silos and Conveyors) Vent
EQT007 (12-87a)	Dust System 4 (Group 3 Manifold and Shipping Bins to Direct Loadout) Vent
EQT008 (14-87a)	Dust System 6 (B Loader) Vent
EQT009 (17a)	Dust System (Railcar & Truck Loading at Calcined Coke Building) Vent
EQT010 (18a)	Dust System (Truck Loader Bag Filter) Vent
EQT011 (18b)	Dust System (Truck Loader Cartridge Filter) Vent
EQT013 (24a)	Dust System 7 Vent

Each failure is a violation of Specific Requirements 19, 26, 33, 40, 47, 54, 61, 68, and 76 of Title V Permit No. 0520-00048-V0, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

E. Specific Requirement 133 of Title V Permit No. 0520-00048-V0 requires the Respondent to take samples of the green coke fed to each rotary kiln at least as frequently as once every two (2) hours. The Respondent uses auto samplers to maintain compliance with Specific Requirement 133. On February 6, 2009, the Respondent changed the location of the auto samplers from the filling side of the feed tank to the outlet side of the feed tank. According to the Semiannual Monitoring Report dated September 17, 2009, "The removal of these samplers [from the filling side of the feed tank] provided openings that could be covered. Covers were ordered and then installed on June 24, 2009." According to an email dated November 30, 2009, "[the Respondent] covered these openings with material that was already in plant. There were no special orders for covers." By failing to cover these openings until approximately twenty (20) weeks after the relocation of the auto samplers, the Respondent failed to take all reasonable precautions to prevent particulate matter from becoming airborne. This is a violation of Specific Requirement 114 of Title V Permit No. 0520-00048-V0, LAC 33:III.501.C.4, LAC 33:III.1305.A, La. R.S. 30:2057(A)(1), and 30:2057(A)(2).

F. Specific Requirement 133 of Title V Permit No. 0520-00048-V0 requires the Respondent to take samples of the green coke fed to each rotary kiln at least as frequently as once every two (2) hours. According to the Semiannual Monitoring Report dated September 17, 2009, "The log sheet recording

samples taken at two hour intervals is not available for [January 24 through February 6, 2009 and February 19, 2009]." Additionally, the Respondent failed to fully complete the log sheet on March 12 and 19, 2009. This is a violation of Specific Requirement 133 and Part 70 General Condition J of Title V Permit No. 0520-00048-V0; LAC 33:III.501.C.4; and La. R.S. 30:2057(A)(2).

G. According to the Semiannual Monitoring Report dated September 17, 2009, "A coke sample was not taken for a four hour period due to the feed tank being emptied for a feed change out [on March 10 and June 28, 2009]." In an email dated February 3, 2010, a representative of the Respondent stated that, "On March 10th, the kiln was being fed during this period, One [*sic*] 2 hour sample was not taken during the blend transition period. The new blend in which the sample was missed was a one blend coke that would have had no variability. On June 28th the kiln was being fed, it appears that the operator did not pull the sample or missed logging the sample. There were no blend changes or feed interruptions during this period." Each failure to take a sample of the green coke being fed to each rotary kiln is a violation of Specific Requirement 133 of Title V Permit No. 0520-00048-V0, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

H. Specific Requirement 133 of Title V Permit No. 0520-00048-V0 requires the Respondent to take samples of the green coke fed to each rotary kiln at least as frequently as once every two (2) hours. According to the Semiannual Monitoring Report dated March 23, 2010, the Respondent failed to complete the log sheet to document that this sampling had been completed for 47 sampling periods. This is a violation of Specific Requirement 133 of Title V Permit No. 0520-00048-V0; LAC 33:III.501.C.4; LAC 33:III.535.A, General Condition J; and La. R.S. 30:2057(A)(2).

I. Specific Requirement 136 of Title V Permit No. 0520-00048-V0 states that, "Permittee shall maintain the primary combusticlone exit temperature above 2400°F when operating both kilns and 1900°F when operating one kiln." According to the Semiannual Monitoring Report dated March 23, 2010, the primary combusticlone exit temperature dropped below 2400°F to 2370°F on August 12, 2009, for 54 minutes. This is a violation of Specific Requirement 136 of Title V Permit No. 0520-00048-V0, LAC 33:III.501.C.4, LAC 33:III.905.A, and La. R.S. 30:2057(A)(2).

J. According to the revised Semiannual Monitoring Report dated November 8, 2010, gases discharged from the Kiln Stack (Emission Point 4-87, RLP006) had a daily sulfur dioxide (SO_2) concentration in excess of 2,000 parts per million by volume (ppmv) at standard conditions on May 15 and June 1, 2010. Specifically, the daily SO_2 concentration in the Kiln Stack was 2,013 ppmv on May 15, 2010, and 2,036 ppmv on June 1, 2010. Each three-hour period during which gases were discharged from the Kiln Stack with an SO_2 concentration exceeding 2,000 ppmv is a violation of Specific Requirement

122 of Title V Permit No. 0520-00048-V1, LAC 33:III.501.C.4, LAC 33:III.905, LAC 33:III.1503.C, La. R.S. 30:2057(A)(1), and 30:2057(A)(2).

K. Specific Requirement 149 of Title V Permit No. 0520-00048-V1 requires the Coke Feed Rate to be less than or equal to 34 tons per hour per kiln when anode grade coke is fed to both kilns. According to the revised Semiannual Monitoring Report dated February 1, 2011, the Coke Feed Rate to Kiln No. 1 was 34.54 tons per hour on June 7, 2010, while anode grade coke was being fed to both kilns. Additionally the Coke Feed Rate to Kiln No. 2 was 34.83 tons per hour on June 10, 2010, and 35.38 tons per hour on June 17, 2010, while anode grade coke was being fed to both kilns. This is a violation of Specific Requirement 149 of Title V Permit No. 0520-00048-V1, LAC 33:III.501.C.4 and La. R.S. 30:2057(A)(2). The report also states that, "accumulated coke was removed from the weigh feeder scales when the feed rate was noticed to have increased, even though the set point was not changed during these periods."

L. According to the revised Semiannual Monitoring Report dated February 1, 2011, the Respondent operated a non-certified emergency spark ignition internal combustion engine prior to demonstrating compliance with the emission standards specified in 40 CFR 60.4233(d). This engine, which is rated for 47 horsepower, was manufactured on November 19, 2009. The failure to demonstrate compliance with the emission standards specified in 40 CFR 60.4233(d) prior to engine operation is a violation of 40 CFR 60.4243(b)(2), which language has been adopted as a Louisiana regulation in LAC 33:III.3003; LAC 33:III.535, General Condition S; La. R.S. 30:2057(A)(1); and 30:2057(A)(2). The Respondent ceased operation of the emergency engine on the same day it discovered the certification requirements. In lieu of a compliance demonstration, the Respondent subsequently purchased pre-certified parts for the engine, including a catalytic converter, to satisfy the requirements of 40 CFR 60.4243(b). The manufacturer's certification for this engine was submitted to the Department as Appendix B of the permit application dated June 22, 2010.

On or about August 31, 2011, a file review of the Respondent's facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations. While the Department's investigation is not yet complete, the following violations were noted during the course of the review:

Specific Requirement 120 of Title V Permit No. 0520-00048-V1 states that, "Primary Combusticlone Exit Temperature shall be maintained above 2400°F when operating both kilns and above 1900°F when operating one kiln. This condition is waived during periods of startup and shutdown." According to

> the Annual Compliance Certification dated March 28, 2011, the primary combusticlone exit temperature dropped below 2400°F on November 17, 2010, for 1 hour and 5 minutes. Both kilns were running during this event. This is a violation of Specific Requirement 120 of Title V Permit No. 0520-00048-V1, LAC 33:III.501.C.4, LAC 33:III.905.A, and La. R.S. 30:2057(A)(2).

On March 2, 2012, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. **WE-CN-11-00587**, which was based upon the following findings of fact:

The Respondent owns and/or operates a petroleum coke calcining plant located at 1920 Pak Tank Road in Sulphur, Calcasieu Parish, Louisiana. Venture Coke Company L.L.C. was issued Louisiana Pollutant Discharge Elimination System (LPDES) permit LA0054062 on January 29, 2004, with an effective date of March 1, 2004. The Department issued a minor modification to transfer LPDES permit LA0054062 from Venture Coke Company L.L.C. to CII Carbon, L.L.C., on September 21, 2005, with an effective date of November 1, 2005. The Department issued a second minor modification to reflect a name change of the Respondent from CII Carbon, L.L.C., to Rain CII Carbon LLC on April 30, 2008, with an effective date of February 22, 2008. LPDES permit LA0054062 expired on February 28, 2009, but was administratively continued until it was re-issued on June 23, 2009, with an effective date of August 1, 2009, and an expiration date of July 31, 2014. Under the terms and conditions of LPDES permit LA0054062, the Respondent is authorized to discharge process wastewater, utility wastewater, process area storm water, and non-process area storm water from Internal Outfall 101; untreated non-process area storm water and the authorized discharges from Internal Outfall 101 from Outfall 001; treated sanitary wastewater from Outfall 102; and, non-process area storm water and the authorized discharges from Internal Outfall 102 from Outfall 002 to the Calcasieu River, waters of the state.

An inspection conducted by the Department on or about April 21, 2010, revealed that the Respondent did cause and/or allow the unauthorized discharge of calcined petroleum coke. Specifically, the Respondent discharged approximately 14,000 pounds (7 tons) of calcined petroleum coke into the Calcasieu River on April 21, 2010. While transferring the product to a barge, the facility's operator started-up the wrong equipment causing the spout to become plugged. Approximately 44,000 pounds of material filled the spout with 10,000 pounds remaining in the spout, 20,000 pounds being released to the dock structure and river banks, and the other 14,000 pounds being released into the Calcasieu River Ship Canal. The 20,000 pounds of material released to the dock and river banks was reclaimed to an onsite storage pad leaving the 14,000 pounds of material in the Calcasieu River. The unauthorized discharge of calcined petroleum coke to waters of the state is a violation of La. R.S. 30:2076 (A) (1) (a) and LAC 33:IX.501.D. The inspection noted floating, suspended, and settleable solids deposited in the Calcasieu River Ship Canal created by the discharge. The discharge of a substance in a concentration sufficient to produce distinctly visible solids is a violation of La. R.S. 30:2076 (A) (3) and LAC 33:IX.1113.B.3.

A file review conducted by the Department on or about February 22, 2012, revealed that the Respondent exceeded the effluent limitations contained in LPDES permit LA0054062. These effluent exceedances, as reported by the Respondent on Discharge Monitoring Reports (DMRs), are summarized below:

DATE	OUTFALL	PARAMETER	PERMIT LIMIT	SAMPLE VALUE
12/2009	101	TSS Daily Maximum	70 mg/L	94 mg/L
05/2010	001	TOC Daily Maximum	50 mg/L	50.9 mg/L
	101	TSS Daily Maximum	70 mg/l	76.0 mg/L

Each effluent exceedance is a violation of LPDES permit LA0054062 (Part I, pages 2 and 3 of 5; Part II, Section G; and Part III, Section A.2), La. R.S. 30:2076 (A) (3), and LAC 33:IX.501.A.

A file review conducted by the Department on or about February 22, 2012, revealed that the Respondent submitted the following incomplete and/or inaccurate DMRs:

DATE(S)	OUTFALL	VIOLATION
10/2008 and 11/2008	101	Reported sample results, but reported a value of '0' for the flow Monthly Average and Daily Maximum.
09/2009 and 09/2010	101	Reported a value for the flow Monthly Average, but reported a '0' for the flow Daily Maximum.
2nd half of 2009 and the 1st half of 2010	102	Failed to report the BOD_5 and TSS Monthly Average values and failed to report the Fecal Coliform permit limits.
05/2010	001	Failed to report a value in the number of exceedances column when a TOC exceedance was reported
05/2010	101	Failed to report a value in the number of exceedances column when a TSS exceedance was reported

Each failure to submit a complete and accurate DMR is a violation of LPDES permit LA0054062 (Part I, pages 2, 3, and 5 of 5 and Part III, Sections A.2 and D.4), La. R.S. 30:2076 (A) (3), and LAC 33:IX.2701.L.4.d.

A file review conducted by the Department on or about February 22, 2012, revealed that the Respondent failed to submit a timely DMR for Outfall 102 for the 1st half of 2008. Specifically, the DMR was due by July 28, 2008, but was received by the Department on or about November 3, 2008. The failure to submit a timely DMR is a violation of LPDES permit LA0054062 (Part II, Section K and Part III, Sections A.2 and D.4), La. R.S. 30:2076 (A) (3), and LAC 33:IX.2701.L.4.

III

In response to the Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. AE-CN-10-01938, 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 EIGHTY SEVEN THOUSAND AND NO/100 DOLLARS ($87,000.00) of which Eight Thousand Three Hundred Thirty-Five and 42/100 Dollars ($8,335.42) 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).

VI

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.

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 Calcasieu 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.

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.

RAIN CII CARBON 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: _____
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