STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	**Settlement Tracking No.**
	*	**SA-WE-15-0026**
SUNDOWN ENERGY LP	*	
	*	**Enforcement Tracking No.**
AI # 32563	*	**WE-CN-13-00195**
	*	
PROCEEDINGS UNDER THE LOUISIANA ENVIRONMENTAL QUALITY ACT LA. R.S. 30:2001, ET SEQ.	* * *	

SETTLEMENT

The following Settlement is hereby agreed to between Sundown Energy LP ("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 partnership that owns and/or operates an oil and gas facility located in Plaquemines Parish, Louisiana ("the Facility").

II

On November 4, 2013, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. WE-CN-13-00195, which was based upon the following findings of fact:

"The Respondent owns and/or operates an oil and gas production facility known as the East Potash Facility located 8.5 miles southeast of Pointe a la Hache, Plaquemines Parish, Louisiana. The Respondent was issued LPDES permit LAG33A585 effective on July 12, 2006, which expired on November 30, 2010, but was administratively continued. The Respondent was re-issued LPDES

permit LAG33A585 effective on November 17, 2011, which will expire on January 31, 2016. Under the terms and condition of LPDES permit LAG33A585, the Respondent is authorized to discharge oil & gas related wastewaters to the Mississippi River, waters of the state.

On July 19, 2012, an inspection conducted by the Department, and a subsequent file review conducted on June 12, 2013, revealed that the Respondent failed to submit DMRs. Specifically, LPDES permit LAG33A585 requires DMRs to be submitted quarterly; however, in lieu of submitting DMRs for outfalls in which there have been absolutely no discharge, these outfalls can be listed as no discharge on the DMR submittal cover letter. Since the issuance and subsequent reissuance of LPDES permit LAG33A585, the Respondent has neither submitted DMRs nor indicated in any letter to the Department that no discharge occurred at any particular outfall. The failure to submit DMRs prior to November 17, 2011, is a violation of LPDES permit LAG33A585 (Facility Requirements Section; Part II, Section P; and Part III, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.L.4.a. The failure to submit DMRs after November 17, 2011, is a violation of LPDES permit LAG33A585 (Facility Requirements Section; Part II, Section U; and Part III, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.L.4.a.

On July 19, 2012, an inspection conducted by the Department revealed that the Respondent failed to have a duly authorized representative sign the Storm Water Pollution Prevention Plan (SWPPP). Specifically, the SWPPP was signed by the consultant who prepared it, but does not have operational control over the facility. The failure to have a duly authorized representative sign the SWPPP is a violation of LPDES permit LAG33A585 (Part III, Sections A.2 and D.10) La. R.S. 30:2076(A)(3) and LAC 33:IX.2503.B.

On July 19, 2012, an inspection conducted by the Department revealed that the Respondent failed to amend the SWPPP. Specifically, the SWPPP dated 2007 indicated equipment on the site

map that is no longer present at the facility, and did not reflect other equipment that is currently present at the facility. The failure to amend the SWPPP is a violation of LPDES permit LAG33A585 (Part II, Section S.4.i and Part III, Section A.2), La. R.S. 30:2076(A)(3) and LAC 33:IX.501.A.

On July 19, 2012, an inspection conducted by the Department revealed that the Respondent failed to conduct annual inspections of the facility required by the SWPPP. Specifically, the Respondent has not conducted annual inspections in accordance with SWPPP requirements since before 2009 as made evident by the outdated site map referenced in Paragraph IV, and the inability to provide records of required inspections. The failure to conduct annual inspections of the facility required by the SWPPP is a violation of LPDES permit LAG33A585 (Part II, Section S.4.a and Part III, Section A.2), La. R.S. 30:2076(A)(3) and LAC 33:IX.501.A.

On July 19, 2012, an inspection conducted by the Department revealed that the Respondent failed to amend the Spill Prevention and Control (SPC) Plan. Specifically, the SPC Plan indicated equipment on the site map that is no longer present at the facility, and did not reflect other equipment that is currently present at the facility. The failure to amend the SPC Plan is a violation of LPDES permit LAG33A585 (Facility Requirements Section, Page 1 of 19; and Part III, Section A.2), La. R.S. 30:2076(A)(3) and LAC 33:IX.905.E.

On July 19, 2012, an inspection conducted by the Department revealed that the Respondent failed to provide necessary records to determine compliance. Specifically, on August 8, 2012, upon reviewing the SPC Plan for the facility following the inspection, the Department requested necessary records and/or documentation from the Respondent to determine compliance with the SPC Plan. The Respondent formally responded in writing on January 13, 2013, but failed to provide the following: records and/or documentation for inspections and training conducted, flow line integrity monitoring through a combination of visual inspections and pressure testing or through the use of an

approved alternate method, and results and methods used on the flow line pressure testing chart recording provided by the Respondent. The failure to provide necessary records to determine compliance is a violation of LPDES permit LAG33A585 (Part III, Sections A.2 and C.1.b), La. R.S 30:2076(A)(3), and LAC 33:IX.6513.A.2.

On July 19, 2012, an inspection conducted by the Department revealed that the Respondent caused and/or allowed the unauthorized discharge of oil and/or produced water to the ground. Specifically, an unknown amount of oil and/or produced water spilled to the ground as made evident from visible oil stains outside of the oil storage tank containment area as well as an oil sheen in storm water accumulated beneath the produced water pump platform observed during the inspection. The two areas where these spills were located were not inside any kind of secondary containment and near a bayou. Following the inspection, the Respondent corrected the areas by removing the stained sediment and installing a catch pan below the platform as made evident by photographs provided by the Respondent. The unauthorized discharge of oil and/or produced water to the ground is a violation of LPDES permit LAG33A585 (Facility Requirements Section, Page 1 of 19; and Part III, Section A.2), La. R.S. 30:2076(A)(3), LAC 33:IX.1701.B, and LAC 33:IX.708.C.1.a."

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 TWELVE THOUSAND FOUR HUNDRED AND NO/100 DOLLARS ($12,400.00) of which Six Hundred Ninety-Three and 51/100 Dollars ($693.51) 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), Consolidated Compliance Order & 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 Plaquemines 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.

SUNDOWN ENERGY LP

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