STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	**Settlement Tracking No.**
	*	**SA-AE-13-0080**
XTO ENERGY INC.	*	
	*	**Enforcement Tracking No.**
AI # 3269	*	**AE-PP-10-00557**
	*	**AE-PP-10-00557A**
	*	
PROCEEDINGS UNDER THE LOUISIANA ENVIRONMENTAL QUALITY ACT LA. R.S. 30:2001, ET SEQ.	*	

SETTLEMENT

The following Settlement is hereby agreed to between XTO Energy Inc. ("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 corporation that owns and/or operates a facility located in Cotton Valley, Webster Parish, Louisiana ("the Facility").

II

On December 20, 2010, the Department issued to Respondent a Notice of Potential Penalty (NOPP), Enforcement No. AE-PP-10-00557, which was based upon the following findings of fact:

"On or about February 2, 2010, an inspection of **COTTON VALLEY GAS PLANT (FACILITY)**, owned and/or operated by **XTO ENERGY INC. (RESPONDENT)**, was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Air Quality Regulations. The facility is located at 1256 Marathon Road in Cotton Valley, Webster Parish, Louisiana. The facility currently operates under Title V Permit No. 3080-00019-V5,

issued on June 14, 2010.

The following violations were noted during the course of the inspection and subsequent file review conducted on May 13, 2010:

A. During the course of the inspection, the inspector noted two (2) compressor engines, identified as Emission Source Nos. 10.05 and 10.08 in the facility's permit renewal application, which were onsite and not in the facility's permit. The inspector noted that Engine 10.05 has been running continuously under normal operations, and Engine 10.08 serves as backup. The Respondent's failure to submit a permit application prior to construction, reconstruction, or modification of the facility is a violation of LAC 33:III.501.C.1 and La. R.S. 30:2057(A)(2).

B. During the course of the inspection, the inspector noted two (2) compressor engines, identified as Emission Source Nos. 10.05 and 10.08 in the facility's permit renewal application, which were onsite and not in the facility's permit. The inspector noted that Engine 10.05 has been running continuously under normal operations, and Engine 10.08 serves as backup. The unauthorized operation of each emission source is violation of LAC 33:III.501.C.2, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

C. In the Respondent's 2008 Title V 1st Semiannual Monitoring Report dated September 29, 2008, the Respondent reported that the data logger was not operating for an unknown period of time. The data logger is associated with EQT 0030 and recording the exhaust temperature. This is a violation of 40 CFR 63.6655(d), which language has been adopted as a Louisiana regulation in LAC 33:III.5122, and La. R.S. 30:2057(A)(2).

D. In the Respondent's 2008 Title V 1st Semiannual Monitoring Report dated September 29, 2008, the Respondent reported that there was no pressure measurement across catalyst for an unknown period of time. This is associated with EQT0030. This is a violation of 40 CFR 63.6655(d), which language has been adopted as a Louisiana regulation in LAC 33:III.5122, and La. R.S. 30:2057(A)(2).

E. In the Respondent's 2008 Title V 1st Semiannual Monitoring Report dated September 29, 2008, the Respondent reported that the testing required by 40 CFR 63.6610(a) was delayed seven (7) days on EQT0030. The Respondent's failure to conduct the performance test

within the required timeframe is a violation of 40 CFR 63.6610(a), which language has been adopted as a Louisiana regulation in LAC 33:III.5122, and La. R.S. 30:2057(A)(2).

On July 25, 2011, the Department issued to Respondent an Amended Notice of Potential Penalty (NOPP), Enforcement No. AE-PP-10-00557A, which was based upon the following findings of fact:

The Department hereby removes Paragraph A of the Notice of Potential Penalty, Enforcement Tracking No. AE-PP-10-00557.

The Department hereby amends the Notice of Potential Penalty, Enforcement Tracking No. AE-PP-10-00557, to add Paragraphs F and G as follows:

F. In the Respondent's Title V Annual Compliance Certification dated March 18, 2011, and correspondence dated February 9, 2010, the Respondent reported an unauthorized discharge occurred at the facility on February 3, 2010. According to the Respondent, the duration of the release was 13 hours and resulted in the following emissions. These emissions are associated with the thermal oxidizer (EQT 39).

Pollutant	Permit Limit (Max lbs/hr)	Amount Released (lbs/hr)	Total Amount Released (lbs)
Benzene	1.20	2.23	28.99
Toluene	0.63	0.96	12.50
Xylene	n/a	0.14	1.82

Each incident of emissions in excess of a permitted emission limit is a violation of Title V Permit No. 3080-00019-V4, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2). Each incident of unpermitted emissions is a violation of LAC 33:III.501.C.2 and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

G. In the Respondent's Title V Annual Compliance Certification dated March 18, 2011, the Respondent reported the temperature recorder malfunctioned and failed to record the inlet temperature to the catalyst. This occurred for 215 hours during September 2010. This is associated with EQT 30. Each incident of the Respondent's failure to record the inlet temperature to the catalyst is a violation of 40 CFR 63.6640(a), which language has been adopted as a Louisiana

regulation in LAC 33:III.5122, Title V Permit No. 3080-00019-V5, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

The Department incorporates all of the remainder of the original **NOTICE OF POTENTIAL PENALTY, ENFORCEMENT TRACKING NO. AE-PP-10-00557** and **AGENCY INTEREST NO. 3269** as if reiterated herein."

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 SEVENTEEN THOUSAND THREE HUNDRED AND NO/100 DOLLARS ($17,300.00), of which One Thousand Two Hundred Forty-Four and 48/100 Dollars ($1,244.48) represents the Department's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to the Department as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

V

Respondent further agrees that the Department may consider the inspection report(s), permit record(s), the NOPPs and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VI

This agreement shall be considered a final order of the Secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

VII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in La. R. S. 30:2025(E) of the Act.

VIII

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Webster Parish, Louisiana. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted an original proof-of-publication affidavit and an original public notice to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

IX

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed

or delivered to the attention of Accountant Administrator, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

X

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

XI

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his or her respective party, and to legally bind such party to its terms and conditions.

XTO ENERGY INC.

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