

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

AMERICAN SUGAR REFINING, INC.

AI # 1329

PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT
LA. R.S. 30:2001, ET SEQ.

* Settlement Tracking No.
* SA-AE-17-0016
*
* Enforcement Tracking No.
* AE-CN-08-0054
* AE-CN-08-0054A
*
* Docket No. 2009-10563-EQ
*

SETTLEMENT

The following Settlement is hereby agreed to between American Sugar Refining, 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 operated a facility that produces refined granulated sugar, confectionery sugar, blackstrap molasses and several specialty products located in St. Bernard Parish, Louisiana (“the Facility”).

II

On October 7, 2008, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. **AE-CN-08-0054**, which was based upon the following findings of fact:

“The Respondent owns and/or operates the Chalmette Cane Sugar Refinery located at 7417 North Peters Street in Arabi, St. Bernard Parish, Louisiana. The Respondent currently operates under Title V Permit No. 2500-00009-V0 issued on April 10, 2006.

On or about May 1, 2008, a file review was conducted as a result of a referral from the Air

Quality Assessment Division. While the Department's investigation is not yet complete, the following violations were noted during the file review:

- A. On or about December 15, 2006 the Respondent conducted a performance/emissions test on EQT2 (#1 Boiler). The following table summarizes the performance test data submitted to the Department for EQT2:

Emission Point	NOx Performance Test Results (lbs/hr*)	NOx Permitted limits (lbs/hr*)
EQT2	12.52	9.80(avg)/ 9.80(max)
	*lbs/hr– pounds per hour	avg-average max– maximum

On or about March 11, 2008, the Department issued a Performance Test Review Letter approving the performance test methods and data analysis conducted by the Respondent for the test results for EQT 2 only. Each instance of operating emission point EQT2 above permitted NOx maximum emission rate(s) is a violation of Title V Permit No. 2500-0009-V0, LAC 33:III.501.C.4, La R.S. 30:2057(A)(1) and 30:2057(A)(2).

- B. On or about April 19, 2007, the Respondent failed to conduct three separate runs using an applicable method for performance/emissions testing of EQT1 (#7 Boiler) as described in the Performance Test Review Letter issued by the Department on or about March 11, 2008. The Respondent also did not submit a request for approval of an alternative method for conducting the performance/emissions test conducted on EQT1 (#7 Boiler). This is a violation of Specific Requirement No. 7 of Title V Permit No. 2500-00009-V0, 40 CFR 60.8.f, LAC 33:III.709.B, LAC 33:III.501.C.4 and La R.S. 30:2057(A)(2).

- C. The Respondent failed to complete the performance/emissions testing of EQT1 (#7 Boiler) in the time period specified by Specific Requirement No. 7 of Title V Permit No. 2500-00009-VO. Each failure to conduct a performance/emissions test on EQT1 within 180 days of startup or within 60 days after achieving normal operations is a violation of Specific Requirement No. 7 of Title V Permit No. 2500-00009-VO, LAC 33:III.501.C.4 and La R.S. 30:2057(A)(1) and 30:2057(A)(2).
- D. The Respondent failed to submit the fourth quarter 2006 and second quarter 2007 Quarterly Deviation Report(s) for EQT2 (#1 Boiler) emission rate exceedance(s) and failure to conduct an acceptable performance/emissions testing for EQT1 (#7 Boiler) as noted in Findings of Fact Paragraph II.A and II.C. The failure to submit the two Quarterly Deviation Report is a violation of General Condition R and XI of Title V Permit No. 2500-00009-VO, LAC 33:III.501.C.4 and La R.S. 30:2057(A)(1).
- E. The Respondent failed to submit the semiannual monitoring report form for period encompassing April 10, 2006 through June 30, 2006, by the required September 30, 2006 due date. The failure to submit a semiannual monitoring report by the required due date is a violation of General Condition K of Title V Permit No. 2500-00009-VO, LAC 33:III.501.C.4, 40 CFR 70.6(a)(3)(iii)(A) and La R.S. 30:2057(A)(2).
- F. The Respondent failed to submit a permit modification application with the Department within 45 days after obtaining the performance/emissions rate exceedance test results noted in Findings of Fact Paragraph II.A. The failure to submit a permit modification application within 45 days after obtaining the relevant performance/emissions rate exceedance testing results is a violation of Title V Permit No. 2500-00009-VO, LAC 33:III.501.C.4, LAC 33:III.523.A, La R.S. 30 2057(A)(1) and 30:2057(A)(2).”

On March 18, 2010, the Department issued to Respondent an Amended Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. **AE-CN-08-0054A**, which was based upon the following findings of fact:

[I.

The Department hereby amends the Findings of Fact Paragraph I to read as follows:

“I.

The Respondent owns and/or operates the Chalmette Cane Sugar Refinery located at 7417 North Peters Street in Arabi, St. Bernard Parish, Louisiana. The facility currently operates under Title V Permit No. 2500-00009-V1, issued on or about September 21, 2009. At the time of the violations cited, the facility operated under Title V Permit No. 2500-00009-V0, issued on or about April 10, 2006.”

II.

The Department hereby amends the Findings of Fact by adding Paragraph III to read as follows:

“III.

On or about December 16, 2009, a file review of the facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations.

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

- A. On or about November 6, 2008, the Respondent conducted a stack test on EQT1 (Boiler #7). Test results indicated Nitrogen Oxides (NO_x) emission level of 31.46 pounds per hour (lb/hr) which exceeded the permit limit for NO_x of 23.94 lb/hr maximum. The failure to demonstrate compliance with the limits of the permit for emission of NO_x is a violation of Title V Permit No. 2500-00009-V0, LAC

33:III.501.C.4 and La. R.S. 30:2057(A)(1) and 30:2057(A)(2). Title V Permit No. 2500-00009-V1, issued on or about September 21, 2009, instituted a Boiler Cap limiting natural gas usage and NOx emissions to prevent the facility from exceeding the 250 tons per day PSD major source threshold.

- B. On or about November 6, 2008, the Respondent conducted a stack test on EQT1 (Boiler #7). Test results indicated a Carbon Monoxide (CO) emission level of 8.06 lb/hr which exceeded the permit limit for CO of 1.18 lb/hr maximum. The failure to demonstrate compliance with the limits of the permit for emission of CO is a violation of Title V Permit No. 2500-00009-V0, LAC 33:III.501.C.4 and La. R.S. 30:2057(A)(1) and 30:2057(A)(2). Title V Permit No. 2500-00009-V1, issued on or about September 21, 2009, instituted a Boiler Cap limiting natural gas usage and CO emissions to prevent the facility from exceeding the 250 tons per day PSD major source threshold.”]

The following violations, although not cited in the foregoing enforcement action(s), are included within the scope of this settlement.

1. In correspondence dated April 30, 2011, the Respondent submitted the facility’s 2010 Annual Compliance Certification for the period encompassing January 1, 2010 through December 31, 2010. The Certification was postmarked May 3, 2011, 33 days after the due date. The failure to submit the 2010 Annual Compliance Certification by the March 31, 2011 due date is a violation of Part 70 General Condition M of Title V Permit No. 1234-56789-V1, LAC 33:III.501.C.4. and La. R.S. 30:2057(A)(2).
2. In correspondence dated January 18, 2010, the Respondent submitted the facility’s 2009 Third Quarter Deviation Report for the period encompassing July 1, 2009

through September 31, 2009. The Report was due no later than December 31, 2010. The failure to submit the Deviation Report by the required December 31, 2009 date is a violation of Specific Requirement 210 of Title V Permit No. 2500-00009-V1, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

3. In correspondence dated March 18, 2013, the Respondent submitted the facility's 2012 Annual Compliance Certification. The certification reported deviations from Specific Requirements (SR) of Title V Permit No. 2500-00009-V2, listed in Table A:

TABLE A				
Emission Source	Deviation Began/Ended	Duration	SR	Deviation
Granulator Rotoclones CRG 0004	1/3/12 – 5/18/12	135 days	15	daily water flows
Rotoclones CRG 0005	4/10/12 – 4/14/12	4 days	21	Operator did not record daily water flows

Each failure to perform monitoring and/or recording requirements or to maintain a pollutant below the permitted level, for each occurrence, is a violation of Title V Permit No. 0520-00011-V2, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

4. In correspondence dated March 18, 2013, the Respondent submitted the facility's 2012 Annual Compliance Certification. The certification reported deviations from Nitrogen Oxides (NOx) emission limits in pounds per hour of Title V Permit No. 2500-00009-V2, listed in Table B:

TABLE B				
Emission Source Four Small Boilers, Common Stack, RLP 0007	Deviation Began – Ended	Duration	Limit	Actual
	1/7/12 - 1/7/12	6 hours	16.05	16.10
	1/16/12 - 1/16/12	12 hours	16.05	16.64
	1/19/12 - 1/19/12	24 hours	16.05	17.60
	1/20/12 - 1/20/12	24 hours	16.05	17.31
	2/22/12 - 2/22/12	15 hours	16.05	16.17
	5/21/12 - 5/22/12	20 hours	16.05	16.53

Each failure to maintain NOx emissions below the permitted level, is a violation of Title V Permit No. 0520-00011-V2, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

III

In response to the Amended Consolidated Compliance Order & Notice of Potential Penalty and Amended Consolidated Compliance Order & Notice of Potential Penalty, 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 SIX THOUSAND AND NO/100 DOLLARS (\$6,000.00), of which One Thousand One Hundred Twenty-Three and 70/100 Dollars (\$1,123.70) 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)/permit record(s), the Consolidated Compliance Order & Notice of Potential Penalty and the Amended 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.

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

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.

X

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

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.

American Sugar Refining, Inc.

BY: 
(Signature)

MICHAEL PARKS
(Printed)

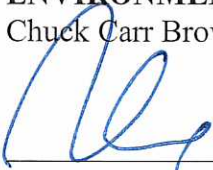
TITLE: VICE PRESIDENT N.A. OPS

THUS DONE AND SIGNED in duplicate original before me this 13th day of November, 20 17, at Yonkers, NY.

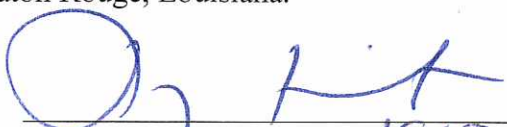

NOTARY PUBLIC (ID # _____)

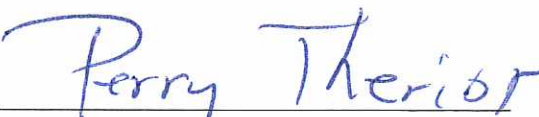
DANICIA A. BLACKWOOD
Notary Public, State of New York
No. 01BL6233156
Qualified in Bronx County
Commission Expires Dec. 20, 2018
(stamped or printed)


LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Chuck Carr Brown, Ph.D., Secretary

BY: 
Lourdes Iturralde, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 28th day of Feb, 20 18, at Baton Rouge, Louisiana.


NOTARY PUBLIC (ID # 19181)


(stamped or printed)

Approved: 
Lourdes Iturralde, Assistant Secretary