

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

LOUISIANA GENERATING LLC

AI # 38867

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

* Settlement Tracking No.
* SA-AE-18-0041
*
* Enforcement Tracking No.
* AE-CN-15-00985
* AE-CN-15-00985A
* AE-CN-17-00382
*
*
* Docket No. 2018-3107-EQ
* Docket No. 2018-6473-EQ
*

SETTLEMENT

The following Settlement is hereby agreed to between Louisiana Generating 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 facility located in New Roads, Pointe Coupee Parish, Louisiana (“the Facility”).

II

On February 23, 2017, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. AE-CN-15-00985 (Exhibit 1).

On May 17, 2017, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. AE-CN-17-00382 (Exhibit 2).

On June 30, 2017, the Department issued to Respondent an Amended Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. AE-CN-15-00985A (Exhibit 3).

III

In response to the Consolidated Compliance Orders & Notices of Potential Penalty, Respondent made timely requests for hearings.

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 SIXTEEN THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$16,500.00), of which Two Thousand Five Hundred Sixty-Six and 84/100 Dollars (\$2,566.84) 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 Orders & Notices of Potential Penalty, 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 Pointe Coupee 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

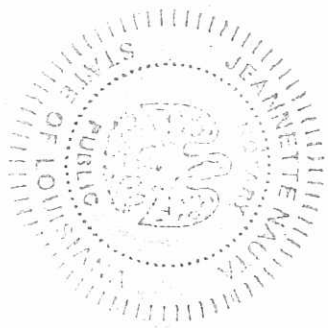
Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his or her respective party, and to legally bind such party to its terms and conditions.

LOUISIANA GENERATING LLC 

BY: Jennifer J. Vosburg
(Signature)
Jennifer J. Vosburg
(Printed)

TITLE: President

THUS DONE AND SIGNED in duplicate original before me this 18th day of October, 20 18, at New Roads, Louisiana.



Jeannette Nauta
NOTARY PUBLIC (ID # 58634)
Jeannette Nauta #58634
Notary Public State of Louisiana
My Commission Expires at Death

(stamped or printed)

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

BY: [Signature]
Lourdes Iturralde, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 11th day of Jan, 20 19, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 19181)

Perry Theriot
(stamped or printed)

Approved: [Signature]
Lourdes Iturralde, Assistant Secretary



JOHN BEL EDWARDS
GOVERNOR

CHUCK CARR BROWN, Ph.D.
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

February 23, 2017

CERTIFIED MAIL (7004 2510 0006 3852 8151)
RETURN RECEIPT REQUESTED

LOUISIANA GENERATING LLC
c/o CT Corporation System
Agent for Service of Process
3867 Plaza Tower Drive
Baton Rouge, LA 70816

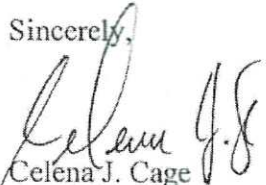
**RE: CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. AE-CN-15-00985
AGENCY INTEREST NO. 38867**

Dear Sir/Madam:

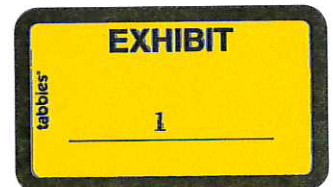
Pursuant to the Louisiana Environmental Quality Act (La. R.S. 30:2001, et seq.), the attached **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is hereby served on **LOUISIANA GENERATING LLC (RESPONDENT)** for the violation(s) described therein.

Compliance is expected within the maximum time period established by each part of the **COMPLIANCE ORDER**. The violation(s) cited in the **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** could result in the issuance of a civil penalty or other appropriate legal actions.

Any questions concerning this action should be directed to Dr. Jacqueline Prudente at (225) 219-3378.

Sincerely,

Celena J. Cage
Administrator
Enforcement Division

CJC/JAP/jap
Alt ID No. 2260-00012
Attachment



c: Louisiana Generating LLC
Big Cajun II Power Plant
c/o Ash Namjoshi
PO Box 39
Ventress, LA 70783

STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

IN THE MATTER OF

LOUISIANA GENERATING LLC
POINTE COUPEE PARISH
ALT ID NO. 2260-00012

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

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ENFORCEMENT TRACKING NO.

AE-CN-15-00985

AGENCY INTEREST NO.

38867

CONSOLIDATED
COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **LOUISIANA GENERATING LLC (RESPONDENT)** by the Louisiana Department of Environmental Quality (the Department), under the authority granted by the Louisiana Environmental Quality Act (the Act), La. R.S. 30:2001, et seq., and particularly by La. R.S. 30:2025(C), 30:2050.2 and 30:2050.3(B).

FINDINGS OF FACT

I.

The Respondent owns and/or operates Big Cajun II Power Plant (facility), located at 10431 Cajun 2 Road (Louisiana Highway 981), two (2) miles east of Louisiana Highway 415 junction in New Roads, Pointe Coupee Parish, Louisiana. The facility operates or has operated under the authority of the following Title V Air Permits:

UNIT	PERMIT	ISSUE DATE	PERMIT EXPIRATION DATE
Big Cajun II Power Plant	2260-00012-V0	08/22/2005	08/22/2010
Big Cajun II Power Plant	2260-00012-V1	02/14/2011	02/14/2016
Big Cajun II Power Plant	2260-00012-V2	09/20/2013	09/20/2018
Big Cajun II Power Plant	2260-00012-V3	08/22/2014	09/20/2018
Big Cajun II Power Plant	2260-00012-V4	09/26/2014	09/20/2018
Big Cajun II Power Plant	2260-00012-V5	07/01/2015	09/20/2018
Big Cajun II Power Plant	Administrative Amendment to 2260-00012-V5	07/30/2015	9/20/2018

In addition, the facility also operates under a Consent Decree - Civil Action No. 09-CV-100, lodged on November 21, 2012.

II.

On or about May 20, May 26, and June 9, 2015, the Department conducted inspections of the Respondent's facility to determine the degree of compliance with the Act and Air Quality Regulations; subsequent file review was conducted on July 27, 2016. While the investigation is not yet complete, the Department noted the following violations:

- A. The following information was included in the Opacity Excursions Report, which was generated on June 11, 2015 upon request during the inspection:

Year	Report Date	Number of Opacity Exceedance Per Year		
		Emission Source EQT 0027 2B1 (Boiler No. 1)	Emission Source EQT 0028 2B2 (Boiler No. 2)	Emission Source EQT 0029 2B3 (Boiler No. 3)
2013	04/26/2013 07/26/2013 10/28/2013 01/28/2014	1	3	3
2014	04/28/2014 07/29/2014		1	3
2015	04/28/2015 07/30/2015	8		19

Each failure to maintain opacity of less than 20% except for one six-minute period per hour of not more than 27% is a violation of Specific Requirements 26, 89, and 152 of the facility's Title V Air Permit Nos. 2260-00012-V1, 2260-00012-V2, and 2260-00012-V4, LAC 33:III.501.C.4, 40 CFR 60.42(a)(2), which language has been incorporated by reference in LAC 33:III.3003, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

- B. In the 2014 2nd Semiannual Monitoring Report dated March 26, 2015, the 2014 Total Dissolved Solids (TDS) average annual values of Cooling Towers 1 (1453 mg/L) and 2 (1435 mg/L) were higher than permitted limits of 1221 mg/L. The failure to maintain an annual average of 1221 mg/L or less TDS emission is a violation of Title V Air Permit No. 1260-00012-V4, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1) and 30:2057(A)(2). This was also noted during the course of the May 20, May 26, and June 9, 2015, inspections.
- C. Selective Non-Catalytic Reduction Systems were installed and began operating on Units 2B1, 2B2, and 2B3 by May 1, 2014, as required by Consent Decree. However, the Respondent failed to notify the Department within ten (10) calendar days from the date that construction was completed, and to provide the estimated date of start-up of operation. This failure is a violation of LAC 33:III.537, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

COMPLIANCE ORDER

Based on the foregoing, the Respondent is **hereby ordered**:

I.

To take, immediately upon receipt of this **COMPLIANCE ORDER**, any and all steps necessary to meet and maintain compliance with the Act, the Air Quality Regulations, and all applicable permits.

II.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, a written report that includes a detailed description of the circumstances surrounding the cited violations and actions taken or to be taken to achieve compliance with the Order Portion of this **COMPLIANCE ORDER**. This report and all other reports or information required to be submitted to the Enforcement Division by this **COMPLIANCE ORDER** shall be submitted to:

Office of Environmental Compliance
Post Office Box 4312
Baton Rouge, Louisiana 70821-4312
Attn: Dr. Jacqueline A. Prudente
Re: Enforcement Tracking No. AE-CN-15-00985
Agency Interest No. 38867

THE RESPONDENT SHALL FURTHER BE ON NOTICE THAT:

I.

The Respondent has a right to an adjudicatory hearing on a disputed issue of material fact or of law arising from this **COMPLIANCE ORDER**. This right may be exercised by filing a written request with the Secretary no later than thirty (30) days after receipt of this **COMPLIANCE ORDER**.

II.

The request for an adjudicatory hearing shall specify the provisions of the **COMPLIANCE ORDER** on which the hearing is requested and shall briefly describe the basis for the request. This request should reference the Enforcement Tracking Number and Agency Interest Number, which are located in the upper right-hand corner of the first page of this document and should be directed to the following:

Department of Environmental Quality
Office of the Secretary
Post Office Box 4302
Baton Rouge, Louisiana 70821-4302
Attn: Hearings Clerk, Legal Division
Re: Enforcement Tracking No. AE-CN-15-00985
Agency Interest No. 38867

III.

Upon the Respondent's timely filing a request for a hearing, a hearing on the disputed issue of material fact or of law regarding this **COMPLIANCE ORDER** may be scheduled by the Secretary of the Department. The hearing shall be governed by the Act, the Administrative Procedure Act (La. R.S. 49:950, et seq.), and the Department's Rules of Procedure. The Department may amend or supplement this **COMPLIANCE ORDER** prior to the hearing, after providing sufficient notice and an opportunity for the preparation of a defense for the hearing.

IV.

This **COMPLIANCE ORDER** shall become a final enforcement action unless the request for hearing is timely filed. Failure to timely request a hearing constitutes a waiver of the Respondent's right to a hearing on a disputed issue of material fact or of law under Section 2050.4 of the Act for the violation(s) described herein.

V.

The Respondent's failure to request a hearing or to file an appeal or the Respondent's withdrawal of a request for hearing on this **COMPLIANCE ORDER** shall not preclude the Respondent from contesting the findings of facts in any subsequent penalty action addressing the same violation(s), although the Respondent is estopped from objecting to this **COMPLIANCE ORDER** becoming a permanent part of its compliance history.

VI.

Civil penalties of not more than twenty-seven thousand five hundred dollars (\$27,500) for each day of violation for the violation(s) described herein may be assessed. For violations which occurred on August 15, 2004, or after, civil penalties of not more than thirty-two thousand five hundred dollars (\$32,500) may be assessed for each day of violation. The Respondent's failure or refusal to comply with this **COMPLIANCE ORDER** and the provisions herein will subject the Respondent to possible enforcement procedures under La. R.S. 30:2025, which could result in the assessment of a civil penalty in an amount of not more than fifty thousand dollars (\$50,000) for each day of continued violation or noncompliance.

VII.

For each violation described herein, the Department reserves the right to seek civil penalties in any manner allowed by law, and nothing herein shall be construed to preclude the right to seek such penalties.

NOTICE OF POTENTIAL PENALTY

I.

Pursuant to La. R.S. 30:2050.3(B), you are hereby notified that the issuance of a penalty assessment is being considered for the violation(s) described herein. Written comments may be filed regarding the violation(s) and the contemplated penalty. If you elect to submit comments, it is requested that they be submitted within ten (10) days of receipt of this notice.

II.

Prior to the issuance of additional appropriate enforcement action(s), you may request a meeting with the Department to present any mitigating circumstances concerning the violation(s). If you would like to have such a meeting, please contact Dr. Jacqueline A. Prudente at (225) 219-3378 or via email at Jackie.Prudente@la.gov within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

III.

The Department is required by La. R.S. 30:2025(E)(3)(a) to consider the gross revenues of the Respondent and the monetary benefits of noncompliance to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current annual gross revenue statement along with a statement of the monetary benefits of noncompliance for the cited violation(s) to the above named contact person within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**. Include with your statement of monetary benefits the method(s) you utilized to arrive at the sum. If you assert that no monetary benefits have been gained, you are to fully justify that statement. If the Respondent chooses not to submit the requested most current annual gross revenues statement within ten (10) days, it will be viewed by the Department as an admission that the Respondent has the ability to pay the statutory maximum penalty as outlined in La. R.S. 30:2025.

IV.

The Department assesses civil penalties based on LAC 33:I.Subpart1.Chapter7. To expedite closure of this **NOTICE OF POTENTIAL PENALTY** portion, the Respondent may offer a settlement amount to resolve any claim for civil penalties for the violation(s) described herein. The Respondent may offer a settlement amount, but the Department is under no obligation to enter into settlement negotiations. The decision to proceed with a settlement is at the discretion of the Department. The settlement offer amount may be entered on the attached "**CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY REQUEST TO CLOSE**" form. The Respondent must include a justification of the offer. **DO NOT** submit payment of the offer amount with the form. The Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.

V.

The **NOTICE OF POTENTIAL PENALTY** will not be closed if the Respondent owes outstanding fees to the Department. Please contact the Financial Services Division at 225-219-3865 or via email at _DEQ-WWWFinancialServices@la.gov to determine if you owe outstanding fees.

VI.

This **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is effective upon receipt.

Baton Rouge, Louisiana, this 23rd day of February, 2017.



Lourdes Iturralde
Assistant Secretary
Office of Environmental Compliance

Copies of a request for a hearing and/or related correspondence should be sent to:

Louisiana Department of Environmental Quality
Office of Environmental Compliance
Enforcement Division
P.O. Box 4312
Baton Rouge, LA 70821-4312
Attention: Dr. Jacqueline A. Prudente

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY OFFICE OF ENVIRONMENTAL COMPLIANCE ENFORCEMENT DIVISION POST OFFICE BOX 4312 BATON ROUGE, LOUISIANA 70821-4312		CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY REQUEST TO CLOSE		
Enforcement Tracking No.	AE-CN-15-00985	Contact Name	Dr. Jacqueline A. Prudente	
Agency Interest (AI) No.	38867	Contact Phone No.	(225) 219-3378	
Alternate ID No.	2260-00012			
Respondent:	Louisiana Generating LLC	Facility Name:	Big Cajun II Power Plant	
	c/o CT Corporation	Physical Location:	10431 Cajun 2 Road, 2 miles East Louisiana Highway 415 Junction	
	Agent for Service of Process	City, State, Zip:	New Roads, LA 70760	
	3867 Plaza Tower Drive Baton Rouge, LA 70816	Parish:	Pointe Coupee	
STATEMENT OF COMPLIANCE				
STATEMENT OF COMPLIANCE			Date Completed	Copy Attached?
A written report was submitted in accordance with Paragraph II of the "Order" portion of the COMPLIANCE ORDER.				
All necessary documents were submitted to the Department within 30 days of receipt of the COMPLIANCE ORDER in accordance with Paragraph(s) ? of the "Order" portion of the COMPLIANCE ORDER.			N/A	
All necessary documents were submitted to the Department within 45 days of receipt of the COMPLIANCE ORDER in accordance with Paragraph(s) ? of the "Order" portion of the COMPLIANCE ORDER.			N/A	
All necessary documents were submitted to the Department within 90 days of receipt of the COMPLIANCE ORDER in accordance with Paragraph(s) ? of the "Order" portion of the COMPLIANCE ORDER.			N/A	
All items in the "Findings of Fact" portion of the COMPLIANCE ORDER were addressed and the facility is being operated to meet and maintain the requirements of the "Order" portion of the COMPLIANCE ORDER. Final compliance was achieved as of:				
SETTLEMENT OFFER (OPTIONAL)				
<i>(check the applicable option)</i>				
_____	The Respondent is not interested in entering into settlement negotiations with the Department with the understanding that the Department has the right to assess civil penalties based on LAC 33:i.Subpart1.Chapter7.			
_____	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (AE-CN-15-00985), the Respondent is interested in entering into settlement negotiations with the Department and would like to set up a meeting to discuss settlement procedures.			
_____	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (AE-CN-15-00985), the Respondent is interested in entering into settlement negotiations with the Department and offers to pay \$ _____ which shall include LDEQ enforcement costs and any monetary benefit of non-compliance. <ul style="list-style-type: none"> • Monetary component = \$ _____ • Beneficial Environmental Project (BEP) component (optional)= \$ _____ • DO NOT SUBMIT PAYMENT OF THE OFFER WITH THIS FORM- the Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted. The Respondent has reviewed the violations noted in NOTICE OF POTENTIAL PENALTY (AE-CN-15-00985) and has attached a justification of its offer and a description of any BEPs if included in settlement offer.			

CERTIFICATION STATEMENT

I certify, under provisions in Louisiana and United States law that provide criminal penalties for false statements, that based on information and belief formed after reasonable inquiry, the statements and information attached and the compliance statement above, are true, accurate, and complete. I also certify that I do not owe outstanding fees or penalties to the Department for this facility or any other facility I own or operate. I further certify that I am either the Respondent or an authorized representative of the Respondent.

Respondent's Signature	Respondent's Printed Name	Respondent's Title
Respondent's Physical Address	Respondent's Phone #	Date

MAIL COMPLETED DOCUMENT TO THE ADDRESS BELOW:

Louisiana Department of Environmental Quality
 Office of Environmental Compliance
 Enforcement Division
 P.O. Box 4312
 Baton Rouge, LA 70821
 Attn: Dr. Jacqueline A. Prudente



JOHN BEL EDWARDS
GOVERNOR

CHUCK CARR BROWN, PH.D.
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

May 17, 2017

CERTIFIED MAIL (7004 2510 0006 3853 8907)
RETURN RECEIPT REQUESTED

LOUISIANA GENERATING LLC
c/o CT Corporation System
Agent for Service of Process
3867 Plaza Tower Drive
Baton Rouge, LA 70816

**RE: CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. AE-CN-17-00382
AGENCY INTEREST NO. 38867**

Dear Sir/Madam:

Pursuant to the Louisiana Environmental Quality Act (La. R.S. 30:2001, et seq.), the attached **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is hereby served on **RESPONDENT'S NAME (RESPONDENT)** for the violation(s) described therein.

Compliance is expected within the maximum time period established by each part of the **COMPLIANCE ORDER**. The violation(s) cited in the **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** could result in the issuance of a civil penalty or other appropriate legal actions.

Any questions concerning this action should be directed to Dr. Jacqueline Prudente at (225) 219-3347 or via email at Jackie.Prudente@la.gov.

Sincerely,

Celena J. Cage
Administrator
Enforcement Division

CJC/JAP/jap
Alt ID No. 2260-00012
Attachment



c: Louisiana Generating LLC
Big Cajun II Power Plant
c/o Ash Namjoshi
P.O. Box 39
Ventress, LA 70783

**STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE**

IN THE MATTER OF

**LOUISIANA GENERATING LLC
POINTE COUPEE PARISH
ALT ID NO. 2260-00012**

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

*
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* **ENFORCEMENT TRACKING NO.**
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* **AE-CN-17-00382**
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* **AGENCY INTEREST NO.**
* **38867**
*

**CONSOLIDATED
COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY**

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **RESPONDENT'S NAME (RESPONDENT)** by the Louisiana Department of Environmental Quality (the Department), under the authority granted by the Louisiana Environmental Quality Act (the Act), La. R.S. 30:2001, et seq., and particularly by La. R.S. 30:2025(C), 30:2050.2 and 30:2050.3(B).

FINDINGS OF FACT

I.

The Respondent owns and/or operates Big Cajun II Power Plant (facility), located at 10431 Cajun 2 Road (Louisiana Highway 981), two (2) miles east of Louisiana Highway 415 junction in New Roads, Pointe Coupee Parish, Louisiana. The facility operates or has operated under the authority of the following Title V Air Permits:

UNIT	PERMIT	ISSUE DATE	PERMIT EXPIRATION DATE
Big Cajun II Power Plant	2260-00012-V0	08/22/2005	08/22/2010
Big Cajun II Power Plant	2260-00012-V1	02/14/2011	02/14/2016
Big Cajun II Power Plant	2260-00012-V2	09/20/2013	09/20/2018
Big Cajun II Power Plant	2260-00012-V3	08/22/2014	09/20/2018
Big Cajun II Power Plant	2260-00012-V4	09/26/2014	09/20/2018
Big Cajun II Power Plant	2260-00012-V5	07/01/2015	09/20/2018
Big Cajun II Power Plant	Administrative Amendment to 2260-00012-V5	07/30/2015	9/20/2018

In addition, the facility also operates under a Consent Decree - Civil Action No. 09-CV-100, lodged on November 21, 2012.

II.

In a meeting with the Department on or about April 3, 2017, the Respondent discussed the facility's noncompliance with the Mercury and Air Toxics Standards (MATS). Specifically, the Hydrogen Chloride (HCl) standard limit was exceeded during the quarterly testing and subsequent retesting of the facility's Boiler No. 3 (Unit 3) conducted on January 31, 2017 and March 28, 2017, respectively. The retest was done by a secondary vendor. On or about April 11, 2017, the Respondent submitted the results of the facility's quarterly hydrogen chloride (HCl) test as shown below. According to the Respondent, Unit 3 was shut down following receipt of the preliminary retest results, and will remain in a maintenance outage through April 30, 2017.

Quarterly Test Date	Source	Result (lbs HCl/mmBtu)	MATS Emission Standard (lbs HCl/mmBtu)
01/31/2017 (original test)	Boiler No. 3 (2B3)	0.0032	0.0020
03/28/2017 (retest)	Boiler No. 3 (2B3)	0.0029	0.0020

Each instance of the Respondent failing to meet the regulatory requirements is a violation of 40 CFR 63 Subpart UUUUU, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

III.

On or about April 11, 2017, the Respondent requested that the Department issue an order that incorporates an implementation and/or compliance schedule to achieve compliance using an averaging plan for HCl under 40 CFR 63.10009 by June 30, 2017.

COMPLIANCE ORDER

Based on the foregoing, the Respondent is hereby ordered:

I.

To complete testing of the facility's emission source, Unit 3, in order to demonstrate compliance with 40 CFR 63 Subpart UUUUU by June 30, 2017.

II.

To maintain compliance with MATS HCl limits by using an averaging plan for HCl under 40 CFR 63.10009 during the investigation period.

III.

To submit to the Enforcement Division monthly progress reports until the facility is in full compliance with 40 CFR 63 Subpart UUUUU. The progress reports shall be postmarked by the thirtieth day of each month, and shall detail the actions taken by the Respondent during the preceding month to bring the facility into compliance with 40 CFR 63 Subpart UUUUU.

IV.

To submit to the Enforcement Division a summary report after the facility achieves compliance with 40 CFR 63 Subpart UUUUU. The summary report shall list all instances of noncompliance with 40 CFR 63 Subpart UUUUU. This summary report shall be due within thirty (30) days of achieving the milestone listed in Paragraph II of this **COMPLIANCE ORDER**.

V.

To take, immediately upon receipt of this **COMPLIANCE ORDER**, any and all steps necessary to meet and maintain compliance with the Air Regulations.

VI.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, a written report that includes a detailed description of the circumstances surrounding the cited violations and actions taken or to be taken to achieve compliance with the Order. Portion of this **COMPLIANCE ORDER**. This report and all other reports or information required to be submitted to the Enforcement Division by this **COMPLIANCE ORDER** shall be submitted to:

Office of Environmental Compliance
Post Office Box 4312
Baton Rouge, Louisiana 70821-4312
Attn: Dr. Jacqueline Prudente
Re: Enforcement Tracking No. AE-CN-17-00382
Agency Interest No. 38867

THE RESPONDENT SHALL FURTHER BE ON NOTICE THAT:

I.

The Respondent has a right to an adjudicatory hearing on a disputed issue of material fact or of law arising from this **COMPLIANCE ORDER**. This right may be exercised by filing a written request with the Secretary no later than thirty (30) days after receipt of this **COMPLIANCE ORDER**.

II.

The request for an adjudicatory hearing shall specify the provisions of the **COMPLIANCE ORDER** on which the hearing is requested and shall briefly describe the basis for the request. This request should reference the Enforcement Tracking Number and Agency Interest Number, which are located in the upper right-hand corner of the first page of this document and should be directed to the following:

Department of Environmental Quality
Office of the Secretary
Post Office Box 4302
Baton Rouge, Louisiana 70821-4302
Attn: Hearings Clerk, Legal Division
Re: Enforcement Tracking No. AE-CN-17-00382
Agency Interest No. 38867

III.

Upon the Respondent's timely filing a request for a hearing, a hearing on the disputed issue of material fact or of law regarding this **COMPLIANCE ORDER** may be scheduled by the Secretary of the Department. The hearing shall be governed by the Act, the Administrative Procedure Act (La. R.S. 49:950, et seq.), and the Department's Rules of Procedure. The Department may amend or supplement this **COMPLIANCE ORDER** prior to the hearing, after providing sufficient notice and an opportunity for the preparation of a defense for the hearing.

IV.

This **COMPLIANCE ORDER** shall become a final enforcement action unless the request for hearing is timely filed. Failure to timely request a hearing constitutes a waiver of the Respondent's right to a hearing on a disputed issue of material fact or of law under Section 2050.4 of the Act for the violation(s) described herein.

V.

The Respondent's failure to request a hearing or to file an appeal or the Respondent's withdrawal of a request for hearing on this **COMPLIANCE ORDER** shall not preclude the Respondent from contesting the findings of facts in any subsequent penalty action addressing the same violation(s), although the Respondent is estopped from objecting to this **COMPLIANCE ORDER** becoming a permanent part of its compliance history.

VI.

Civil penalties of not more than twenty-seven thousand five hundred dollars (\$27,500) for each day of violation for the violation(s) described herein may be assessed. For violations which occurred on August 15, 2004, or after, civil penalties of not more than thirty-two thousand five hundred dollars (\$32,500) may be assessed for each day of violation. The Respondent's failure or refusal to comply with this **COMPLIANCE ORDER** and the provisions herein will subject the Respondent to possible enforcement procedures under La. R.S. 30:2025, which could result in the assessment of a civil penalty in an amount of not more than fifty thousand dollars (\$50,000) for each day of continued violation or noncompliance.

VII.

For each violation described herein, the Department reserves the right to seek civil penalties in any manner allowed by law, and nothing herein shall be construed to preclude the right to seek such penalties.

NOTICE OF POTENTIAL PENALTY

I.

Pursuant to La. R.S. 30:2050.3(B), you are hereby notified that the issuance of a penalty assessment is being considered for the violation(s) described herein. Written comments may be filed regarding the violation(s) and the contemplated penalty. If you elect to submit comments, it is requested that they be submitted within ten (10) days of receipt of this notice.

II.

Prior to the issuance of additional appropriate enforcement action(s), you may request a meeting with the Department to present any mitigating circumstances concerning the violation(s). If you would like to have such a meeting, please contact Enforcement Contact Name at phone number within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

III.

The Department is required by La. R.S. 30:2025(E)(3)(a) to consider the gross revenues of the Respondent and the monetary benefits of noncompliance to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current annual gross revenue statement along with a statement of the monetary benefits of noncompliance for the cited violation(s) to the above named contact person within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**. Include with your statement of monetary benefits the method(s) you

utilized to arrive at the sum. If you assert that no monetary benefits have been gained, you are to fully justify that statement. If the Respondent chooses not to submit the requested most current annual gross revenues statement within ten (10) days, it will be viewed by the Department as an admission that the Respondent has the ability to pay the statutory maximum penalty as outlined in La. R.S. 30:2025.


IV.

The Department assesses civil penalties based on LAC 33:I.Subpart1.Chapter7. To expedite closure of this **NOTICE OF POTENTIAL PENALTY** portion, the Respondent may offer a settlement amount to resolve any claim for civil penalties for the violation(s) described herein. The Respondent may offer a settlement amount, but the Department is under no obligation to enter into settlement negotiations. The decision to proceed with a settlement is at the discretion of the Department. The settlement offer amount may be entered on the attached "**CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY REQUEST TO CLOSE**" form. The Respondent must include a justification of the offer. **DO NOT** submit payment of the offer amount with the form. The Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.

V.

This **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is effective upon receipt.

Baton Rouge, Louisiana, this 17th day of May, 2017.



Lourdes Itturalde
Assistant Secretary
Office of Environmental Compliance

Copies of a request for a hearing and/or related correspondence should be sent to:

Louisiana Department of Environmental Quality.
Office of Environmental Compliance
Enforcement Division
P.O. Box 4312
Baton Rouge, LA 70821-4312
Attention: Dr. Jacqueline Prudente

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
 OFFICE OF ENVIRONMENTAL COMPLIANCE
 ENFORCEMENT DIVISION
 POST OFFICE BOX 4312
 BATON ROUGE, LOUISIANA 70821-4312

COMPLIANCE ORDER
 REQUEST TO CLOSE



Enforcement Tracking No.	AE-C-17-00382	Contact Name	Dr. Jacqueline Prudente
Agency Interest (AI) No.	38867	Contact Phone No.	(225) 219-3347
Alternate ID No.	2260-00012		
Respondent:	Louisiana Generating LLC	Facility Name:	Big Cajun II Power Plant
	c/o CT Corporation System	Physical Location:	10431 Cajun 2 Road (LA Highway), 2 miles east of LA Highway 415 junction
	Agent for Service of Process	City, State, Zip:	New Roads, LA 70760
	3867 Plaza Tower Drive	Parish:	Pointe Coupee
	Baton Rouge, LA 70816		

STATEMENT OF COMPLIANCE

STATEMENT OF COMPLIANCE	Date Completed	Copy Attached?
Testing of the facility's Unit 3 emission source for HCl was completed in accordance with Paragraph I of the "Order" portion of the COMPLIANCE ORDER.		
Monthly progress reports postmarked by the thirtieth day of each month were submitted until the facility is in full compliance with 40 CFR 63 Subpart UUUUU in accordance with Paragraph II of the "Order" portion of the COMPLIANCE ORDER.		
All necessary documents, including summary reports after the facility achieved compliance with 40 CFR 63 Subpart UUUUU, were submitted to the Department within 30 days of receipt of the COMPLIANCE ORDER in accordance with Paragraph III of the "Order" portion of the COMPLIANCE ORDER.		
A written report that includes a detailed description of the circumstances surrounding the cited violations and actions taken or to be taken to achieve compliance was submitted within thirty (30) days after receipt of the COMPLIANCE ORDER in accordance with Paragraph V of the "Order" portion of the COMPLIANCE ORDER.		
All items in the "Findings of Fact" portion of the COMPLIANCE ORDER were addressed and the facility is being operated to meet and maintain the requirements of the "Order" portion of the COMPLIANCE ORDER. Final compliance was achieved as of:		

CERTIFICATION STATEMENT

I certify, under provisions in Louisiana and United States law that provide criminal penalties for false statements, that based on information and belief formed after reasonable inquiry, the statements and information attached and the compliance statement above, are true, accurate, and complete. I also certify that I do not owe outstanding fees or penalties to the Department for this facility or any other facility I own or operate. I further certify that I am either the Respondent or an authorized representative of the Respondent.

Respondent's Signature	Respondent's Printed Name	Respondent's Title
Respondent's Physical Address	Respondent's Phone #	Date

MAIL COMPLETED DOCUMENT TO THE ADDRESS BELOW:

Louisiana Department of Environmental Quality
 Office of Environmental Compliance
 Enforcement Division
 P.O. Box 4312
 Baton Rouge, LA 70821
 Attn: Dr. Jacqueline Prudente



JOHN BEL EDWARDS
GOVERNOR

CHUCK CARR BROWN, Ph.D.
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

June 30, 2017

CERTIFIED MAIL (7004 2510 0006 3852 8434)
RETURN RECEIPT REQUESTED

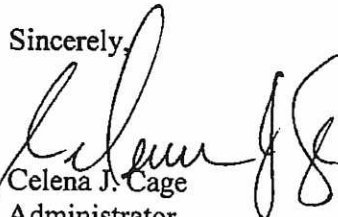
LOUISIANA GENERATING LLC
c/o CT Corporation System
Agent for Service of Process
3867 Plaza Tower Drive
Baton Rouge, LA 70816

**RE: AMENDED CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. AE-CN-15-00985A
AGENCY INTEREST NO. 38867**

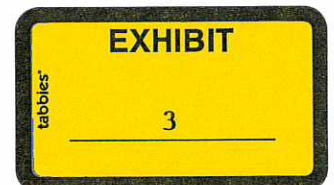
Dear Sir/Madam:

Pursuant to the Louisiana Environmental Quality Act (La. R.S. 30:2001, et seq.), the attached **AMENDED CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is hereby served on **LOUISIANA GENERATING LLC (RESPONDENT)** for the violation(s) described therein.

Any questions concerning this action should be directed to Dr. Jacqueline A. Prudente at (225) 219-3347 or via email at jackie.prudente@la.gov.

Sincerely,

Celena J. Cage
Administrator
Enforcement Division

CJC/JAP/jap
Alt ID No. 2260-00012
Attachment



c: Louisiana Generating LLC
Big Cajun II Power Plant
c/o Ash Namjoshi
PO Box 39
Ventress, LA 70783

**STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE**

IN THE MATTER OF

**LOUISIANA GENERATING LLC
POINTE COUPEE PARISH
ALT ID NO. 2260-00012**

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

*
*
* **ENFORCEMENT TRACKING NO.**
*
* **AE-CN-15-00985A**
*
* **AGENCY INTEREST NO.**
*
* **38867**
*

**AMENDED CONSOLIDATED COMPLIANCE ORDER &
NOTICE OF POTENTIAL PENALTY**

The Louisiana Department of Environmental Quality (the Department) hereby amends the **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY, ENFORCEMENT TRACKING NO. AE-CN-15-00985** issued to **LOUISIANA GENERATING LLC (RESPONDENT)** on February 23, 2017, in the above captioned matter as follows:

FINDINGS OF FACT

I.

The Department hereby amends Paragraph II.A of the Findings of Fact to read as follows:

“II

A. The following information was included in the Opacity Excursions Report, which was generated on June 11, 2015 upon request during the inspection:

Year	Report Date	Number of Opacity Exceedance Per Year		
		Emission Source EQT 0027 2B1 (Boiler No. 1)	Emission Source EQT 0028 2B2 (Boiler No. 2)	Emission Source EQT 0029 2B3 (Boiler No. 3)
2013	04/26/2013 07/26/2013 10/28/2013 01/28/2014	1	3	3

Year	Report Date	Number of Opacity Exceedance Per Year		
		Emission Source EQT 0027 2B1 (Boiler No. 1)	Emission Source EQT 0028 2B2 (Boiler No. 2)	Emission Source EQT 0029 2B3 (Boiler No. 3)
2014	04/28/2014 07/29/2014		1	3
2015	04/28/2015 07/30/2015	2		

Each failure to maintain opacity of less than 20% except for one six-minute period per hour of not more than 27% is a violation of Specific Requirements 26, 89, and 152 of the facility's Title V Air Permit Nos. 2260-00012-V1, 2260-00012-V2, and 2260-00012-V4, LAC 33:III.501.C.4, 40 CFR 60.42(a)(2), which language has been incorporated by reference in LAC 33:III.3003, La. R.S. 30:2057(A)(1) and 30:2057(A)(2)."

II.

The Department hereby adds Paragraph II.D to the Findings of Fact to read as follows:

"D. On or about May 11, 2017, the Respondent's representative met with the Department and self-reported the following opacity exceedance events:

Year	Quarterly Report/ Date	Number of Opacity Exceedance		
		Emission Source EQT 0029 2B3 (Boiler No. 3) E < 30*	Emission Source EQT 0029 2B3 (Boiler No. 3) E ≥ 30**	Emission Source EQT 0029 2B3 (Boiler No. 3) Total/Year
2015	3 rd / 10/30/2015	10	1	18
	4 th / 01/28/2016	7		
2016	1 st / 04/28/2016	3		13
	2 nd / 07/29/2016			
	3 rd / 10/27/2016			
	4 th / 01/30/2017	10		
2017	1 st / 04/27/2017	7		7

*Exceedance < 30 minutes

**Exceedance ≥ 30 minutes

Each failure to maintain opacity of less than 20% except for one six-minute period per hour of not more than 27% is a violation of Specific Requirements 26, 89, and 152 of the facility's Title V Air Permit Nos. 2260-00012-V1, 2260-00012-V2, and 2260-00012-V4,

LAC 33:III.501.C.4, 40 CFR 60.42(a)(2), which language has been incorporated by reference in LAC 33:III.3003, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).”

III.

The Department incorporates all of the remainder of the original **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY, ENFORCEMENT TRACKING NO. AE-CN-15-00985** and **AGENCY INTEREST NO. 38867** as if reiterated herein.

IV.

This **AMENDED CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is effective upon receipt.

Baton Rouge, Louisiana, this 30th day of June, 2017.



Lourdes Iturralde
Assistant Secretary
Office of Environmental Compliance

Copies of a request for a hearing and/or related correspondence should be sent to:

Louisiana Department of Environmental Quality
Office of Environmental Compliance
Enforcement Division
P.O. Box 4312
Baton Rouge, LA 70821-4312
Attention: Dr. Jacqueline A. Prudente