

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-21-0052  
\*  
\* Enforcement Tracking No.  
\* AE-PP-16-00216  
\*  
\*  
\*  
\*

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 operates a raw sugar refining facility located in Arabie, St. Bernard Parish, Louisiana (“the Facility”).

II

On December 28, 2017, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. AE-PP-16-00216 (Exhibit 1).

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 SIX THOUSAND SIX HUNDRED AND NO/100 DOLLARS (\$6,600.00), of which One Thousand Two Hundred Thirty-Three and 98/100 Dollars (\$1,233.98) 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 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 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.

## 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.

AMERICAN SUGAR REFINING, INC.



BY: [Signature]  
(Signature)

TERRY TAHAL  
(Printed)

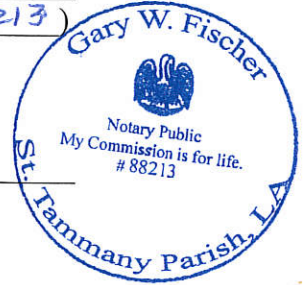
TITLE: PLANT MANAGER

THUS DONE AND SIGNED in duplicate original before me this 18 day of OCT, 20 21, at CHARMETTE LA

[Signature]  
NOTARY PUBLIC (ID # 88213)

**GARY W. FISCHER**  
NOTARY PUBLIC # 88213

(stamped or printed)

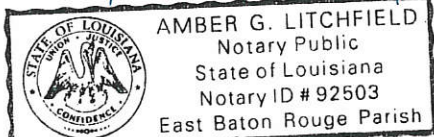


**LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY**  
Chuck Carr Brown, Ph.D., Secretary

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

THUS DONE AND SIGNED in duplicate original before me this 30<sup>th</sup> day of December, 20 21, at Baton Rouge, Louisiana.

[Signature]  
NOTARY PUBLIC (ID # 92503)



(stamped or printed)

Approved: [Signature]  
Lourdes Iturralde, Assistant Secretary

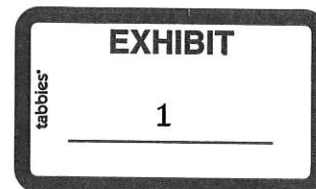


JOHN BEL EDWARDS  
GOVERNOR

CHUCK CARR BROWN, PH.D.  
SECRETARY

**State of Louisiana**  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
OFFICE OF ENVIRONMENTAL COMPLIANCE

December 28, 2017



CERTIFIED MAIL ( 7014 0510 0001 7431 7373 )  
RETURN RECEIPT REQUESTED

**AMERICAN SUGAR REFINING, INC.**  
c/o CORPORATE CREATIONS NETWORK, INC.  
Agent for Service of Process  
1070-B West Causeway Approach  
Mandeville, LA 70471

**RE: NOTICE OF POTENTIAL PENALTY  
ENFORCEMENT TRACKING NO. AE-PP-16-00216  
AGENCY INTEREST NO. 1329**

Dear Sir:

On or about October 21, 2015, an inspection of the **CHALMETTE CANE SUGAR REFINERY** (the Facility), a raw sugar refining facility, owned and/or operated by **AMERICAN SUGAR REFINING, INC. (RESPONDENT)**, was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Air Quality Regulations. On or about October 11, 2017, a file review of the facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations. The facility is located at 7417 North Peters Street in Arabie, St. Bernard Parish, Louisiana. The facility operates, or has operated, under Title V Air Permits shown in Table A:

**TABLE A**

Permit No.	Permit Issue Date	Permit Expiration Date
2500-00009-V2	June 1, 2011	June 1, 2016
2500-00009-V3	June 27, 2013	June 1, 2016
2500-00009-V4	October 20, 2014	June 1, 2016
2500-00009-V5	May 5, 2016	May 5, 2021

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

- A. The inspection revealed that bulk truck loading, bulk rail loading, and bulk barge unloading were not listed in the facility permit as emission points of PM<sub>10</sub> and PM<sub>2.5</sub>.

Notice of Potential Penalty  
 American Sugar Refining Inc.  
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Each failure to accurately list, in any permit application, any source which has the potential for emission of pollutants is a violation of LAC 33:III.517.D, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2). Title V Permit No. 2500-00009-V5 was issued May 5, 2016, incorporating these emissions as Emission Point Nos. FUG 0002 and FUG 0003.

- B. The emission of unpermitted pollutants from each emission source listed in Paragraph A is a violation of LAC 33:III.501.C.2, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- C. During the inspection the Respondent could not provide any maintenance logs for the Diesel Backup Generator (EQT 0086). The generator was first permitted in Title V Permit No. 2500-00009-V2. As a result of the inspection, the Respondent created and implemented a Generator Log. In electronic correspondence dated December 10, 2015, the Respondent submitted the log for the year 2015, derived from the maintenance notes near the generator on a chalk board. The pertinent Specific Requirements of the Title V permits are shown in Table B:

**TABLE B**

Permit No.	Specific Requirement
2500-00009-V2	111
2500-00009-V3	123
2500-00009-V4	141

Each failure to maintain an operational/maintenance log is a violation of the Specific Requirement listed, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

- D. In correspondence dated May 23, 2017, the Respondent submitted the facility's 2015 Annual Compliance Certification. The failure to submit the Certification by the March 31, 2016 due date is a violation of Part 70 General Condition M of Title V Permit No. 2500-00009-V4, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).
- E. In correspondence postmarked May 17, 2016, the Respondent submitted the facility's 2015 Second Semiannual Monitoring Report. The failure to submit the report by the March 31, 2016 due date is a violation of Part 70 General Condition K of Title V Permit No. 2500-00009-V4, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).
- F. In correspondence dated October 12, 2016, the Respondent reported that an alternative calculation methodology more accurately reflects ammonia emissions in tons per year (tpy) from the Aqua Ammonia Tank (EQT 0075), for prior years of operation. Those emissions exceeded the Title V permit limits for the years shown in Table C:

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 American Sugar Refining Inc.  
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**TABLE C**

Ammonia			
Year	Actual emissions, tpy	Permit limit, tpy	Permit No.
2012	<b>0.23</b>	0.20	2500-00009-V2
2013	<b>0.21</b>	0.20	2500-00009-V3
2014	<b>0.22</b>	0.20	2500-00009-V4

The exceedance of the permitted emission limits for each pollutant is a violation of the listed Title V permit, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2). In correspondence signed October 12, 2016 the Respondent submitted a request for this source to be considered an insignificant activity on a case-by-case basis under the criteria of LAC 33:III.501.B.5.d. The emissions were incorporated in Title V Permit No. 2500-00009-V4.

- G. The Respondent failed to report the excess emissions of ammonia, as reported in Paragraph F of this enforcement action in the facility's 2012, 2013, and 2014 Annual Compliance Certifications and Semiannual Monitoring Reports. Each failure to submit a complete and accurate Annual Compliance Certification is a violation of Part 70 General Condition M of the pertinent Title V Permit, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2). Each failure to submit a complete and accurate Semiannual Monitoring Report is a violation of Part 70 General Condition K of the pertinent Title V Permit, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2). In correspondence postmarked June 26, 2017, the Respondent submitted Amended 2012, 2013, and 2014 Annual Compliance Certifications and Semiannual Monitoring Reports, incorporating the corrected ammonia emissions.

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 violations described herein. Written comments may be filed regarding the violations 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.

Prior to the issuance of any additional appropriate enforcement action, you may request a meeting with the Department to present any mitigating circumstances concerning the violations. If you would like to have such a meeting, please contact Mark E. Brown at (225) 219-3782 within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

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 in order 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 violations 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 this statement. If the Respondent chooses not to submit the requested most current annual gross



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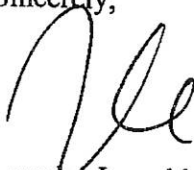
revenues statement within ten (10) days, it will be viewed by the Department as an admission that the Respondent has the ability to pay the statutory maximum penalty as outlined in La. R.S. 30:2025.

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

The Department assesses civil penalties based on LAC 33:I.Subpart1.Chapter7. To expedite closure of this **NOTICE OF POTENTIAL PENALTY**, 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 "**NOTICE OF POTENTIAL PENALTY REQUEST TO SETTLE**" 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.

To reduce document handling, please refer to the Enforcement Tracking Number and Agency Interest Number on the front of this document on all correspondence in response to this action.

Sincerely,



Lourdes Iturralde  
Assistant Secretary  
Office of Environmental Compliance

LI/MEB/meb  
Alt ID No. 2500-00009

c: American Sugar Refining, Inc.  
Lauren Carpenter  
7417 North Peters Street  
Arabic, LA 70032

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**LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY  
OFFICE OF ENVIRONMENTAL COMPLIANCE  
ENFORCEMENT DIVISION** **NOTICE OF POTENTIAL  
PENALTY**  
POST OFFICE BOX 4312 **REQUEST TO SETTLE**  
(OPTIONAL)  
BATON ROUGE, LOUISIANA



Enforcement Tracking No.	AE-PP-16-00216	Contact Name	Mark E. Brown
Agency Interest (AI) No.	1329	Contact Phone No.	(225) 219-3782
Alternate ID No.	2500-00009		
Respondent:	American Sugar Refining, Inc.	Facility Name:	Chalmette Cane Sugar Refinery
	c/o Corporate Creations Network, Inc.	Physical Location:	7417 North Peters Street
	Agent for Service of Process	City, State, Zip:	Arabic, LA 70032
	1070-B West Causeway Approach Mandeville, LA 70471	Parish:	St. Bernard

**SETTLEMENT OFFER (OPTIONAL)**

(check the applicable option)

<input type="checkbox"/>	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.
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY AE-PP-16-00216, the Respondent is interested in entering into settlement negotiations with the Department and would like to set up a meeting to discuss settlement procedures.
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY AE-PP-16-00216, 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"> <li>• Monetary component = \$ _____</li> <li>• Beneficial Environmental Project (BEP) component (optional)= \$ _____</li> <li>• 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.</li> </ul>
<input type="checkbox"/>	The Respondent has reviewed the violations noted in NOTICE OF POTENTIAL PENALTY AE-PP-16-00216, 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:**

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Louisiana Department of Environmental Quality  
Office of Environmental Compliance  
Enforcement Division  
P.O. Box 4312  
Baton Rouge, LA 70821  
Attn: «ES\_Name»