

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

**BROOKFIELD DISTRICT ENERGY,
USA, LLC**

AI # 187722

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

* **Settlement Tracking No.**
* **SA-AE-23-0053**
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* **Enforcement Tracking No.**
* **AE-PP-17-00655**
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SETTLEMENT AGREEMENT

The following Settlement Agreement is hereby agreed to between Centrio Energy South LLC f/k/a Brookfield District Energy, USA, 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 boiler plant located in New Orleans, Orleans Parish, Louisiana (“the Facility”).

II

On October 2, 2019, the Department issued to Respondent a Notice of Potential Penalty, Enforcement Tracking No. AE-PP-17-00655 (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 SEVEN THOUSAND AND NO/100 DOLLARS (\$7,000.00), of which Seven Hundred Six and 62/100 Dollars (\$706.62) represents the Department's enforcement costs, in settlement of the claims set forth in this Settlement 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 Agreement 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 Settlement 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 Settlement Agreement in any action by the Department to enforce this Settlement Agreement.

VII

This Settlement Agreement 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 Agreement, 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 Orleans Parish, Louisiana. The advertisement, in form and wording approved by the Department, announced the availability of this Settlement Agreement 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 Agreement 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 Settlement 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 attached hereto.

XI

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

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.

**CENTRIO SOUTH ENERGY LLC
F/K/A BROOKFIELD DISTRICT
ENERGY, USA, LLC**

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**
Roger W. Gingles, Secretary

BY: _____
Celena J. Cage, 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:  _____
Celena J. Cage, Assistant Secretary



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

NOTICE OF POTENTIAL PENALTY

Enforcement Tracking No.	AE-PP-17-00655	Certified Mail No.	7014 0510 0002 3595 4318
Agency Interest (AI) No.	187722	Contact Name	Stacy Martinez
Alternate ID No.	2140-00195	Contact Phone No.	(225) 219-3378
Respondent:	Brookfield District Energy, USA, LLC	Facility Name:	Thermal Steam Plant
	c/o Phil Hymel	Physical Location:	2104 Gravier St.
	Agent for Service of Process		
	1661 Gravier St.	City, State, Zip:	New Orleans, Louisiana 70112
	New Orleans, LA 70112	Parish:	Orleans

This **NOTICE OF POTENTIAL PENALTY** is issued 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 30:2050.3(B).

FINDINGS OF FACT

An authorized representative of the Department inspected the abovementioned facility or conducted a file review of the facility to determine the degree of compliance with regulations promulgated in the Louisiana Administrative Code, Title 33. The State regulatory citations for the violation(s) identified during the inspection and/or file review are indicated below.

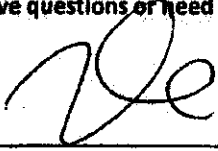
I.	The Respondent owns and/or operates the Thermal Steam Plant (the Facility), a boiler plant, located at 2104 Gravier St., in New Orleans, Orleans Parish, Louisiana. The Facility operates or has operated under the authority of State (Synthetic) Minor Air Permit No. 2140-00195-01, issued on July 19, 2019.
	Date of Violation
	Description of Violation
II.	<p>Inspection(s) & File Review May 15, 2017 and August 8, 2019</p> <p>The Respondent failed to submit Boilers in Oil Operations reports for Steam Boiler No. 1 (EQT 0008) and Steam Boiler No. 2 (EQT 0009), due semiannually by the 30th day following the end of the reporting period as specified in 40 CFR 60.48c(e). The reports have not been submitted semiannually since 2013. Each failure to submit an Operations report is a violation of Specific Requirement 6 of Synthetic Minor Air Permit No. 2140-00195-00, 40 CFR 60.48c(e), which language has been incorporated by reference in LAC 33:III.3003, LAC 33:III.501.C.4 and La. R.S. 30:2057(A)(2). The requirement to submit Boilers in Oil Operations reports for Steam Boiler No. 1 (EQT 0008) and Steam Boiler No. 2 (EQT 0009), due semiannually by the 30th day following the end of the reporting period as specified in 40 CFR 60.48c(e) was removed and not included in Synthetic Minor Air Permit No. 2140-00195-01. However, the Respondent is required to maintain all records required under 40 CFR 60.48(c) for a period of two (2) years following the date of such record for Steam Boiler No. 1 (EQT 0001), Steam Boiler No. 2 (EQT 0002), and Steam Boiler No. 3 (EQT 0003) in Synthetic Minor Air Permit No. 2140-00195-01.</p>
III.	<p>Inspection(s) & File Review May 15, 2017 and August 8, 2019</p> <p>The Respondent failed to conduct applicable performance (stack) tests in accordance with 40 CFR 63.11212 for EQT 0008 and EQT 0009. The failure to conduct stack tests on a triennial basis is a violation of Specific Requirement 21 of Synthetic Minor Air Permit No. 2140-00195-00, 40 CFR 63.11220(a), which language has been incorporated by reference in LAC 33:III.5311, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(2). The requirement to conduct applicable performance (stack) tests in accordance with 40 CFR 63.11212 was removed and not included in Synthetic Minor Air Permit No. 2140-00195-01.</p>
IV.	<p>Inspection(s) & File Review May 15, 2017 and August 8, 2019</p> <p>The Respondent failed to prepare the annual compliance certification reports for EQT 0008 and EQT 0009, which should include the information specified in 40 CFR 63.11225(b) by March 1st of each year for the preceding calendar year. The report has not been prepared annually since 2013. Each failure to prepare the annual compliance certification report is a violation of Specific Requirement 32 of Synthetic Minor Air Permit No. 2140-00195-00, 40 CFR 63.11225(b), which language has been incorporated by reference in LAC 33:III.5311, LAC 33:III.501.C.4 and La. R.S. 30:2057(A)(2). The requirement to prepare the annual compliance certification reports for EQT 0008 and EQT 0009, which should include the information specified in 40 CFR 63.11225(b) by March 1st of each year for the preceding calendar year was removed and not included in Synthetic Minor Air Permit No. 2140-00195-01.</p>
V.	<p>Inspection(s) & File Review May 15, 2017 and August 8, 2019</p> <p>The Respondent failed to submit annual reports electronically by March 31st for the preceding calendar year as required by 40 CFR 60.4214(d) for Emergency Generator No. 1 (EQT 0004) and Emergency Generator No. 5 (EQT 0005). The Respondent failed to submit the report electronically using the subpart reporting form in the Compliance and Emissions Data Reporting Interface (CEDRI). The reports have not been submitted</p>

		annually since 2013. Each failure to submit the annual report electronically is a violation of Specific Requirement 50 of A Synthetic Minor Air Permit No. 2140-00195-00, 40 CFR 60.4214(d), which language has been incorporated by reference in LAC 33:III.3003, LAC 33:III.501.C.4 and La. R.S. 30:2057(A)(2). The requirement to submit annual reports electronically by March 31 st for the preceding calendar year as required by 40 CFR 60.4214(d) for Emergency Generator No. 1 (EQT 0004) and Emergency Generator No. 5 (EQT 0005) was removed and not included in Synthetic Minor Air Permit No. 2140-00195-01.
VI.	Inspection(s) & File Review May 15, 2017 and August 8, 2019	The Respondent failed to annually report the operating time for GRP 0001 BOILERCAP (EQT 0001, EQT 0002 and EQT 0003) by the April 30 th deadline for the preceding calendar year. The reports have not been submitted annually since 2013. Each failure to submit the annual operating time report is a violation of Specific Requirement 65 of Synthetic Minor Air Permit No. 2140-00195-00, LAC 33:III.501.C.4 and La. R.S. 30:2057(A)(2). According to the 2018 Annual Operating Report dated April 23, 2019, the Respondent provided the 2015 through 2018 operating time for EQT 0001, EQT 0002 and EQT 0003.
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 Stacy Martinez at 225-219-3378 or stacy.martinez@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 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 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.	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.	
V.	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.	

CONTACTS AND SUBMITTAL OF INFORMATION	
Enforcement Division: Louisiana Department of Environmental Quality Office of Environmental Compliance Air Enforcement Division P.O. Box 4312 Baton Rouge, LA 70821 Attn: Stacy Martinez	Physical Address (if hand delivered): Department of Environmental Quality 602 N Fifth Street Baton Rouge, LA 70802
HOW TO REQUEST CLOSURE OF THIS NOTICE OF POTENTIAL PENALTY	
To expedite closure of the NOTICE OF POTENTIAL PENALTY , the Respondent may offer a settlement amount to resolve any claim for civil penalties for the violation(s) described herein.	
<ul style="list-style-type: none"> The Department assesses civil penalties based on LAC 33:I.Subpart1.Chapter7. The Respondent may offer a settlement amount but the Department is under no obligation to enter into settlement negotiations. It is decided upon on a discretionary basis. 	

- The Respondent may offer a settlement amount but the Department is under no obligation to enter into settlement negotiations. It is decided upon on a discretionary basis.
- 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.

If you have questions or need more information, you may contact Stacy Martinez at 225-219-3378 or stacy.martinez@la.gov.



Date: 10-2-19

Lourdes Iturralde
Assistant Secretary
Office of Environmental Compliance

Attachment(s)

- Request to Settle



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

**NOTICE OF POTENTIAL PENALTY
REQUEST TO SETTLE (OPTIONAL)**

Enforcement Tracking No.	AE-PP-17-00655	Contact Name	7014 0510 0002 3595 4318
Agency Interest (AI) No.	187722	Contact Phone No.	Stacy Martinez
Alternate ID No.	2140-00195		(225) 219-3378
Respondent:	Brookfield District Energy, USA, LLC	Facility Name:	Thermal Steam Plant
	c/o Phil Hymel	Physical Location:	2104 Gravier St.
	Agent for Service of Process		
	1661 Gravier St	City, State, Zip:	New Orleans, Louisiana 70112
New Orleans, LA 70112	Parish:	Orleans	

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 33:1.Subpart1.Chapter7.
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (AE-PP-17-00655) , 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-17-00655) , 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.
<input type="checkbox"/>	The Respondent has reviewed the violations noted in NOTICE OF POTENTIAL PENALTY (AE-PP-17-00655) 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: Stacy Martinez

if you have questions or need more information, you may contact Stacy Martinez at 225-219-3378 or stacy.martinez@la.gov.