STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	**Settlement Tracking No.**
	*	**SA-AE-13-0064**
ANGUS CHEMICAL COMPANY	*	
	*	**Enforcement Tracking No.**
AI # 1556	*	**AE-CN-10-01195**
	*	**AE-CN-10-01195A**
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT	*	**Docket No. 2011-20427-EQ**
LA. R.S. 30:2001, ET SEQ.	*	

SETTLEMENT

The following Settlement is hereby agreed to between Angus Chemical Company ("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 chemical manufacturing facility located in Ouachita Parish, Louisiana ("the Facility").

II

On September 29, 2010, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. **AE-CN-10-01195**, which was based upon the following findings of fact:

> The Respondent, Angus Chemical Company, a wholly-owned subsidiary of The Dow Chemical Company, owns and operates Nitroparaffins (NP) Basics plant, a chemical manufacturing facility located at 350 Louisiana Highway 2, which is adjacent to the Town of Sterlington, in Ouachita Parish, Louisiana. The facility

manufactures nitroparaffins that are used as basic synthetic raw materials in the preparation of chemical intermediates used in the production of products ranging from pharmaceuticals and pesticides to surfactants and resins. The NP Basics plant operates under Louisiana Air Permit No. 2772-V5 issued on May 1, 2008, the Nitroparriffins Derivative Plant currently operates under Title V Air Permit No. 2011-V5 issued on June 19, 2009 and the Wastewater System operates under Louisiana Air Permit No. 2771-V2 issued on May 19, 2008. The facility previously operated under Title V Air Permit No. 2011-V4 issued on January 31, 2008.

On or about June 16, 2010, a meeting was held at the Respondent's request. The meeting was between the Respondent and employees of the Department to discuss potential compliance issues relative to the Respondent's RE-15 scrubber wastewater stream which is routed from the NP Basics plant to the ANGUS Wastewater System. A subsequent file review was conducted on August 10, 2010. While the Department's investigation is not yet complete, the following violations were noted during the course of the meeting and subsequent file review:

A. According to the 2008 Amended Annual Report dated March 24, 2009, the Respondent exceeded the average hourly temperature of 95° F on EQT0097-CE-05 Stripper System during the 2006, 2007 and 2008 calendar years. The table below has the dates and duration of the occurrences:

Date	Number of Hourly Periods When Average Temperature is exceeded	Average Temperature (°F)
June 30, 2006	1	95.2
July 15, 2006	4	99.1
July 16, 2006	2	96.1
July 16, 2006	1	95.1
July 17, 2006	5	99.5

Date	Number of Hourly Periods When Average Temperature is exceeded	Average Temperature (°F)
July 18, 2006	7	100.1
July 19, 2006	6	99.8
July 21, 2006	1	96.0
July 30, 2006	3	97.8
July 31, 2006	1	97.5
August 1, 2006	3	98.0
August 2, 2006	3	97.8
August 3, 2006	2	97.4
August 12, 2007	1	95.3
August 14, 2007	2	97.5
August 15, 2007	3	97.9
August 16, 2007	3	96.1
August 21, 2007	1	95.1
August 22, 2007	1	96.1
August 27, 2007	4	98.0
July 21, 2008	1	95.3

Each exceedance of the hourly average temperature is a violation of Specific Condition 12 of Title V Permit No. 2011-V4, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

B. According to the 2008 Amended Annual Report dated March 24, 2009 the Respondent exceeded the average hourly temperature of 95° F on EQT0109–CG-32 TAUP Dryer System during the 2006, 2007 and 2008 calendar years. The table below has the dates and duration of the occurrences:

Date	Number of Hourly Periods When Average Temperature is exceeded	Average Temperature (°F)
July 18, 2006	3	101.4
July 19, 2006	3	105.0
August 11, 2007	3	96.6
August 12, 2007	3	97.1
July 9, 2008	1	96.7

Each exceedance of the hourly average temperature is a violation of Specific Condition 26 of Title V Permit No. 2011-V4, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

C. According to the 2008 Amended Annual Report dated March 24, 2009 the Respondent exceeded the average hourly temperature of 125° F on

EQT0145-DF-74 Falling Film Evaporator System during the 2007 and 2008 calendar years. The table below has the dates and duration of the occurrences:

Date	Number of Hourly Periods When Average Temperature is exceeded	Average Temperature (°F)
April 25, 2007	2	128.9
June 2, 2007	3	130.1
August 7, 2007	1	127.6
September 2, 2007	1	125.3
September 10, 2007	1	128.5
May 22, 2008	1	125.4

Each exceedance of the hourly average temperature is a violation of Specific Condition 104 of Title V Permit No. 2011-V4, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

D. According to the 2008 Certification of Compliance dated March 30, 2009, the Respondent discovered five (5) open ended lines. Each line was corrected upon discovery. Each open ended line is a violation of Specific Condition 387 of Title V Air Permit No. 2011-V4, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

E. According to the 2008 Certification of Compliance dated August 27, 2009, the Respondent discovered four (4) open ended lines. Each line was corrected upon discovery. Each open ended line is a violation of Specific Condition 177 of Title V Air Permit No. 2772-V5, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

F. According to the 2009 Annual Report dated March 29, 2010, the Respondent failed to keep the flow rate greater than 0.5 gallon/ minute for EQT0130- DE-19 Formaldehyde Scrubber for DT-13 and DT-14 for three hundred (300) minutes in June and sixty (60) minutes in October 2009. Each minute of failure to keep the flow rate greater than 0.5 gallon/minute is a violation of Specific Condition 110 of Title V Permit No. 2011-V5, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

G. According to the 2009 Annual Report dated March 29, 2010, the Respondent failed to keep the flow rate greater than 0.5 gallon/ minute for EQT0131-Vent Scrubber for Amines Check Tanks for 69,720 minutes from November 13, 2009 until December 31, 2009. Each minute of failure to keep the flow rate greater than 0.5 gallon/ minute is a violation of Specific Condition 114 of Title V Permit No. 2011-V5, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

H. According to the 2009 Annual Report dated March 29, 2010, the Respondent exceeded the average hourly temperature of 125° F on

EQT0145-DF-74 Falling Film Evaporator System during the 2009 calendar year. The table below has the dates and times of the occurrences:

Date	Number of Hourly Periods When Average Temperature is exceeded	Average Temperature (°F)
April 8-9, 2009	21	142.2
April 10, 2009	2	125.2
July 19, 2009	2	126.5
August 19-20, 2009	10	138.8
August 20, 2009	1	125.2
August 21, 2009	5	125.3
October 2, 2009	3	141.0

Each exceedance of the hourly average temperature is a violation of Specific Condition 136 of Title V Permit No. 2011-V5, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

I. According to the 2009 Second Semiannual Monitoring Report dated March 29, 2010, the Respondent exceeded the 150 °F temperature limit for EQT 0124-DE-05 General Purpose Column System on July 15, 2009. The temperature was exceeded for twenty-seven (27) minutes. Exceeding a permit limit is a violation of Specific Condition 80 Title V Permit No. 2011-V5, LAC 33:III.501.C.4, and La. R.S 30:2057(A)(2).The Respondent failed to submit a report within five (5) days of the exceedances as required by Specific Requirement 81. This is a violation of Specific Condition 81 Title V Permit No. 2011-V5, LAC 33:III.501.C.4, and La. R.S 30:2057(A)(2).

J. Based on the information provided in the meeting on June 16, 2010, the RE-15 Scrubber discharge should be properly classified as a Group 1 wastewater stream. It is currently classified as a Group 2 wastewater stream. This is a violation of 40 CFR 63.133(a) which language has been adopted as a Louisiana Air Quality Regulation in LAC 33:III.5122. This is also a violation of Title V Permit No. 2771-V2, LAC 33:III.501.C.4, and La. R.S 30:2057(A)(2).

K. Based on the information provided in the meeting on June 16, 2010, the RE-15 Scrubber discharge should be properly classified as a Group 1 wastewater stream as early as mid-January 2010. Within 180 days after the change in status the Respondent was required to submit an updated Notice of Compliance Status Report to the Department in Accordance with the requirements of 40 CFR 63.151(j) and 40 CFR 63.151(b). As of September 24, 2010, the notification has not been received by the Department. Failure to submit the report is a violation of 40 CFR 63.151(j) and 40 CFR 63.151(b) which language has been adopted as a Louisiana Air Quality Regulation in LAC 33:III.5122. This is also a violation of Title V Permit No. 2771-V2, LAC 33:III.501.C.4, and La. R.S 30:2057(A)(2).

Upon the Respondent's request the Department met with them on June 16, 2010. The meeting was held to discuss the finding of a recent audit performed by the Respondent. A letter dated September 3, 2010, requested that a Compliance Order be issued to put in place a time line for resolution while allowing the facility to operate.

On April 4, 2011, the Department issued to Respondent an Amended Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. **AE-CN-10-01195A**, which was based upon the following findings of fact:

The Department hereby deletes Paragraphs II.I, II.J and II.K of the Finding of Facts of Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. AE-CN-10-01195 in their entirety.

The Department hereby adds Paragraph IV to the Finding of Facts of Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. AE-CN-10-01195 to read as follows:

"IV.

On or about March 16, 2011, a file review was conducted by the Department to determine the degree of compliance with the Act and Air Quality Regulations. While the Department's investigation is not yet complete, the following violations were noted during the course of the June 16, 2010 meeting and subsequent file review:

Based on information provided by the Respondent to the Department in a letter dated November 2, 2010, the RE-15 Scrubber discharge should have been properly classified as a Group 1 wastewater stream. It is currently classified as a Group 2 wastewater stream. The Respondent had tested the stream in 1994 and 1999, but did not test for methanol at the time. On or about January 14, 2005, the Respondent received its initial Title V Permit No. 2772-V0. This new permit allowed the Respondent to make some production changes. According to the Respondent, after making the change it did not retest the RE-15 Scrubber discharge, because "there was no indication that the production changes had introduced methanol into the stream." Recently, the Respondent decided to retest all wastewater streams since the last test data was old (1999). The Respondent

designated the 2010 calendar year as the "12 month period" over which to determine Group status in accordance with 40 CFR 63.144(b)(1). Samples were collected and tested in January 2010. The initial results confirmed that all wastewater streams, except the RE-15 Scrubber discharge, were Group 2 streams. RE-15 Scrubber discharge is a Group 1 wastewater stream. This is a violation of 40 CFR 63.100(l)(4)(B), which language has been adopted as a Louisiana Regulation LAC 33:III.5122. This is also a violation of Title V Permit No. 2772-V5, LAC 33:III.501.C.4, and La. R.S 30:2057(A)(2)."

The Department hereby amends Section II, paragraphs B and C of the Compliance Order Section of Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. AE-CN-10-01195 to read as follows:

B. Within eighteen (18) months of the effective date of this Compliance Order, the Respondent shall determine the changes necessary to fully comply with the requirements of the wastewater provisions of 40 CFR 63, and include an outline of the necessary changes in a report to the Department. The Respondent shall submit quarterly reports to the Enforcement Division on the status of the project.

C. Within eighteen (18) months of determining the necessary changes, the Respondent shall implement the changes necessary to fully comply with the requirements of the wastewater provisions of 40 CFR 63.

The Department incorporates all of the remainder of the original Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. AE-CN-10-01195 and Agency Interest No. 1556 as if reiterated herein.

III

In response to the Consolidated Compliance Order & Notice of Potential Penalty, and the 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 TWELVE THOUSAND AND NO/100 DOLLARS ($12,000.00), of which One Thousand Seven Hundred Thirty-Four and 46/100 Dollars ($1,734.46) 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), 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

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

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.

ANGUS CHEMICAL COMPANY

BY: _____
(Signature)

_____
(Printed)

TITLE: _____

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20 _____, at _____.

_____
NOTARY PUBLIC (ID #_____)

_____
(stamped or printed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Peggy M. Hatch, Secretary

BY: _____
Cheryl Sonnier Nolan, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20_____, at Baton Rouge, Louisiana.

_____
NOTARY PUBLIC (ID # _____)

_____
(stamped or printed)

Approved: _____
Cheryl Sonnier Nolan, Assistant Secretary