STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	**Settlement Tracking No.**
	*	**SA-AE-12-0006**
BAYOU HOLDINGS OF NEW IBERIA, LLC	*	
	*	**Enforcement Tracking No.**
AI # 5688	*	**AE-PP-10-01556**
	*	
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT	*	
LA. R.S. 30:2001, ET SEQ.	*	

SETTLEMENT

The following Settlement is hereby agreed to between Bayou Holdings of New Iberia, 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 fusion-bonded pipe coating facility located in New Iberia, Iberia Parish, Louisiana ("the Facility").

II

On June 7, 2011, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. AE-PP-10-01556, which was based upon the following findings of fact:

On or about October 21, 2010, and May 31, 2011, file reviews of New Iberia Facility (the facility), a fusion-bonded pipe coating facility owned and/or operated by Bayou Holdings of New Iberia, LLC (Respondent), were performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Air Quality Regulations. The facility is located at 5200 Curtis Lane in New Iberia, Iberia Parish, Louisiana. On or about February 25, 2009, ownership and

operatorship of the facility was transferred to The Bayou Companies, Inc. The facility previously operated under Minor Source Air Permit No. 1260-00102-00 from September 15, 1998, to August 26, 2007, Title V Air Permit No. 1260-00102-V0 from August 27, 2007, to July 23, 2008, and Title V Air Permit No. 1260-00102-V1 from July 23, 2008, to June 8, 2010. The facility currently operates under Title V Permit No. 1260-00102-V2, issued June 9, 2010.

The following violations were noted during the course of the file reviews:

A. Specific Condition No. 3 of Air Permit No. 1260-00102-00, issued September 15, 1998, required the Respondent to submit a report to the Department by February 15 for the preceding calendar year listing the hours that the Steam Stripping Scrubber (Emission Point No. 98-1) operated out of the ranges specified. The Respondent failed to submit an annual report for each of the following calendar years: 1998, 1999, 2000, and 2001. Each incident of the Respondent's failure to submit an annual report is a violation of Specific Condition No. 3 of Air Permit No. 1260-00102-00, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

B. According to Specific Requirement No. 43 of Title V Air Permit No. 1260-00102-V0, issued on August 27, 2007, the facility's diesel throughput was limited to 77,000 gallons per twelve consecutive month period. The Department received the Respondent's 2007 Title V Annual Compliance Certification, 2008 Title V First Semiannual Monitoring Report, and 2008 Third Quarter Deviation Report dated March 20, 2008, September 25, 2008, and December 24, 2008, respectively. According to the reports, the facility exceeded the diesel throughput during the 2007 and 2008 calendar years. In an email dated July 17, 2009, the Respondent reported the following diesel throughput exceedances:

Diesel Storage Tank (EQT010)	
Month/Year Exceeded	**12 month consecutive total of diesel fuel**
August 2007	153,940 gallons
September 2007	175,451 gallons
October 2007	203,962 gallons
November 2007	222,988 gallons

Each incident of the Respondent's failure to maintain the facility's annual diesel throughput equal to or below the permitted limit is a violation of

Specific Requirement No. 43 of Title V Permit No. 1260-00102-V0, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

C. According to Specific Requirement No. 49 of Title V Air Permit No. 1260-00102-V0, issued on August 27, 2007, the facility's gasoline throughput was limited to 19,740 gallons per twelve consecutive month period. The Department received the Respondent's 2007 Title V Annual Compliance Certification, 2008 Title V First Semiannual Monitoring Report, and 2008 Third Quarter Deviation Report dated March 20, 2008, September 25, 2008, and December 24, 2008, respectively. According to the documents, the facility exceeded the gasoline throughput during the 2007 and 2008 calendar years. In an email dated July 17, 2009, the Respondent reported the following gasoline throughput exceedances:

Gasoline Storage Tank (EQT011)	
Month/Year Exceeded	**12 month consecutive total**
October 2007	21,083 gallons
November 2007	22,570 gallons
December 2007	24,570 gallons
January 2008	24,087 gallons
February 2008	25,093 gallons
March 2008	26,099 gallons
April 2008	25,154 gallons
May 2008	23,304 gallons
June 2008	21,504 gallons

Each incident of the Respondent's failure to maintain the facility's annual gasoline throughput equal to or below the permitted limit is a violation of Specific Requirement No. 49 of Title V Permit No. 1260-00102-V0, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

D. The Department received the Respondent's Notification of Compliance Status Report dated September 10, 2009, in accordance with Specific Condition No. 212 of Title V Air Permit No. 1260-00102-V1. According to the report, the facility emitted the following unpermitted toxic air pollutants (TAP) during the period encompassing August 27, 2008, through August 31, 2009:

Toxic Air Pollutant	**12 Month Actual Emissions (tons)**
Cumene	0.09
Methyl isobutyl ketone (MIBK)	0.93

Each incident of emissions of each of the unpermitted pollutants is a violation of LAC 33:III.501.C.2, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

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 FIVE HUNDRED AND NO/100 DOLLARS ($7,500.00), of which Five Hundred Seventy and 20/100 Dollars ($570.20) 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 permit record(s), the Notice of Potential Penalty, Enforcement No. AE-PP-10-01556, 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

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

IX

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).

X

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

XI

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.

BAYOU HOLDINGS OF NEW IBERIA, 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
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