STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	**Settlement Tracking No.**
	*	**SA-HE-12-0018**
BLACKWATER NEW ORLEANS, L.L.C.	*	
	*	**Enforcement Tracking No.**
AI # 1874	*	**HE-PP-10-01584**
	*	
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT	*	
LA. R.S. 30:2001, ET SEQ.	*	

SETTLEMENT

The following Settlement is hereby agreed to between Blackwater New Orleans, L.L.C. ("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 small quantity generator of hazardous waste facility located in Westwego, Jefferson Parish, Louisiana ("the Facility").

II

On January 19, 2011, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. HE-PP-10-01584, which was based upon the following findings of fact:

On or about May 25, 2010, an inspection of Blackwater New Orleans, owned and/or operated by Blackwater New Orleans, L.L.C. (Respondent), was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Hazardous Waste

Regulations. The facility, a small quantity generator of hazardous waste, is located at 660 Labauve Drive in Westwego, Jefferson Parish, Louisiana.

The following violations were noted during the course of the inspection:

A. The Respondent failed to store hazardous waste in a container in good condition as specified in LAC 33:V.2103.A, in violation of LAC 33:V.1109.E.7.a. The Respondent stored sulfuric acid, a hazardous waste generated from lab samples, in a rusted drum labeled with the facility's tracking number WES 091009-01. The Respondent addressed the violation by sending the waste off for disposal on June 16, 2010, and submitted the manifest to the Department for review. The Respondent has also trained employees on identifying containers not suitable for storing hazardous waste.

B. The Respondent failed to store hazardous waste in a closed container as specified in LAC 33:V.2107.A, in violation of LAC 33:V.1109.E.7.a. The Respondent stored sulfuric acid and sodium hydroxide, both hazardous wastes generated from lab samples, in open containers with the facility tracking numbers WES 090127-01 and WES 091117-01, respectively. The Respondent was not adding or removing waste from these containers at the time of inspection. During the inspection, the Respondent corrected the violation by closing the containers during the inspection.

C. The Respondent failed to label containers of hazardous waste with the date upon which each period of accumulation began as required by LAC 33:V.1109.E.1.c, in violation of LAC 33:V.1109.E.7.c. The Respondent stored sulfuric acid and sodium hydroxide, both hazardous wastes generated from lab samples, in containers that did not clearly indicate the accumulation start date. These containers were labeled with the facility tracking numbers WES 090127-01 and WES 091117-01, respectively. The Respondent addressed the violation by sending the waste off for disposal on June 16, 2010, and submitted the manifest to the Department for review. The Respondent has also trained employees to properly label containers of hazardous waste.

D. The Respondent failed to ensure that all employees were thoroughly familiar with proper waste handling procedures, in violation of LAC 33:V.1109.E.7.d.iii. The Respondent failed to ensure that all employees were thoroughly trained in the identification of containers in good condition, the proper labeling of containers of hazardous waste, the proper storage of hazardous waste, and the associated corrective response. The Respondent corrected the violations by conducting additional employee training on or about June 16, 2010, and submitted training records to the Department for review.

E. The Respondent stored hazardous waste for greater than ninety (90) days without having interim status or a standard permit, in violation of LAC 33:V.303.B. The Respondent stored sulfuric acid, a hazardous waste generated from lab samples, with the facility's tracking number WES 090127-01for five hundred and six (506) days with out obtaining interim status or a standard permit. The Respondent corrected the violation by sending

the waste off for disposal on June 16, 2010, and submitted the manifest to the Department for review. The Respondent has also trained employees on hazardous waste storage time limits.

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 FIVE THOUSAND AND NO/100 DOLLARS ($5,000.00), of which Five Hundred Six and 44/100 Dollars ($506.44) 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), 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

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

BLACKWATER NEW ORLEANS, L.L.C.

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