STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	**Settlement Tracking No.**
	*	**SA-WE-15-0008**
CHURCHILL DOWNS LOUISIANA	*	
HORSERACING COMPANY, L.L.C.	*	**Enforcement Tracking No.**
AI # 14428	*	**WE-PP-13-01119**
	*	
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT	*	
LA. R.S. 30:2001, ET SEQ.	*	

SETTLEMENT

The following Settlement is hereby agreed to between Churchill Downs Louisiana Horseracing Company, 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 racetrack for horse racing facility located in New Orleans, Orleans Parish, Louisiana ("the Facility").

II

On November 18, 2014, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. WE-PP-13-01119, which was based upon the following findings of fact:

"An inspection conducted on or about March 27, 2013, of the Fair Grounds Race Course, owned and/or operated by Churchill Downs Louisiana Horseracing, L.L.C. (Respondent), and a subsequent file review on August 5, 2014, was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Water Quality Regulations. The

facility is located at 1751 Gentilly Boulevard in New Orleans, Orleans Parish, Louisiana. The facility is currently operating under authority of Louisiana Pollutant Discharge Elimination System (LPDES) permit LA0115282 issued on January 11, 2012, with an effective date of February 1, 2012, and an expiration date of January 31, 2017. Under the terms and conditions of LPDES permit LA0126501, the Respondent is authorized to discharge during a qualifying rain event (10"/24hr), non-contact storm water commingled with horse wash down water to a storm drain via outfalls 001, 002, and 003, thence to Florida Canal (Pump Station #3), thence to London Avenue Canal outfall, thence to Lake Pontchartrain, waters of the state.

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 the subsequent file review:

A. The Respondent failed to timely submit the annual report regarding the adherence to the Nutrient Management Plan (NMP) and other applicable information required in LPDES permit LA0115282. The first annual report was to be submitted to the Department by January 7, 2013. This report was not submitted until October 2, 2013. The failure to timely submit an annual report is a violation of LPDES permit LA0115282 (Other Conditions, Section H, page 2 of 3), La. R. S. 2076(A)(3), LAC:IX.501.A, LAC 33:IX.2701.A. and LAC 33:IX.2703E.4.

B. The Respondent failed to submit DMRs in a timely manner. Specifically, DMRs for the following reporting periods were submitted after the due date, which is the 28th of the month following the close of the reporting period, for outfalls 001, 002, and 003: April – June 2012; July – September 2012;

January – March 2013; and July – September 2013. Each failure to submit DMRs in a timely manner is a violation of LPDES permit LA0115282 (Part I, Submittal/Action Requirements S-1, page 2 of 4 for outfall 001, page 3 of 4 for outfall 002, and page 4 of 4 for outfall 003; and Part III, Section A.2, page 1 of 18), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.L.4."

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 TWO THOUSAND SIX HUNDRED SEVENTY-ONE AND NO/100 DOLLARS ($2,671.00), of which Six Hundred Seventy-One and No/100 Dollars ($671.00) 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 Orleans 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.

CHURCHILL DOWNS LOUISIANA HORSERACING COMPANY, 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: _____
D. Chance McNeely, 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: _____
D. Chance McNeely, Assistant Secretary