STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	**Settlement Tracking No.**
	*	**SA-AE-15-0061**
LULA-WESTFIELD, L.L.C.	*	
	*	**Enforcement Tracking No.**
AI # 42344	*	**AE-PP-11-00216**
	*	
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT	*	
LA. R.S. 30:2001, ET SEQ.	*	

SETTLEMENT

The following Settlement is hereby agreed to between Lula-Westfield, 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 sugar manufacturing facility located in Paincourtville, Assumption Parish, Louisiana ("the Facility").

II

On January 10, 2013, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. AE-PP-11-00216, which was based upon the following findings of fact:

"On or about November 30, 2010 and December 17, 2010, and October 14, 2011, Air Quality inspections of Westfield Raw Sugar Factory (the Facility), owned and or operated by Lula-Westfield, L.L.C. (RESPONDENT) were performed to determine the degree of compliance with the Act and the Air Quality Regulations. On or about March 28, 2012, a file review of the facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations. The facility is

located at 451 Louisiana Highway 1005 in Paincourtville, Assumption Parish, Louisiana. The Respondent currently operates under Title V Permit No. 0200-00004-V6, issued on or about April 20, 2011, and administratively amended on or about November 7, 2011. The facility's previous permit history is shown in Table A:

TABLE A

Permit Number	Permit Issue Date	Permit Expiration Date
0200-00004-V3	3/6/2009	5/3/2011
0200-00004-V4	9/30/2010	5/3/2011
0200-00004-V5	4/12/2011	4/12/2016
0200-00004-V6	4/20/2011	4/12/2016

While the investigation by the Department is not yet complete, the following violations were noted during the course of the inspections and file review:

A. The inspections conducted in November and December 2010 revealed that during the 2009 and 2010 crushing seasons, the facility exceeded the limits of Title V Permit No. 0200-00004-V3 and Title V Permit No. 0200-00004-V4 for Diesel Fuel consumption. The excess Diesel Fuel consumed during the 2009 and 2010 crushing seasons is shown in Table B:

TABLE B

Crushing Season	**Permit No.**	**Permit Issued**	**Permitted Diesel Fuel, gallons/year**	**Diesel Fuel Used, gallons**
2009	0200-00004-V3	3/6/2009	84,000	**290,802**
2010	0200-00004-V4	9/30/2010	84,000	**109,224**

Each failure to restrict the consumption of Diesel Fuel to the permit limit is a violation of Title V Permit No. 0200-00004-V3, Title V Permit No. 0200-00004-V4, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1) and 30:2057(A)(2). Title V Permit No.

0200-00004-V5 increased the limit on Diesel Fuel consumption to 400,000 gallons per year.

B. The inspections conducted in November and December 2010 revealed that during the 2009 crushing season, the facility exceeded the limits of Title V Permit No. 0200-00004-V3 for Hydrochloric Acid (HCl) consumption as shown in Table C:

TABLE C

Crushing Season	Permit No.	Permit Issued	Permitted HCl, gallons/year	HCl Used, gallons
2009	0200-00004-V3	3/6/2009	27,000	**31,304**

The failure to restrict the consumption of HCl to the permit limit is a violation of Title V Permit No. 0200-00004-V3, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

C. Review of the facility records of the 2010 crushing season, noted during the inspection, encompassing the period from October 1, 2010 at 8:00 am through November 30, 2010 at 8:00 am, showed 224 instances (once every four hours) out of 240 instances recorded, the scrubber cooling water pressure was less than fifty (50) pounds per square inch (psi). Each failure to maintain the scrubber cooling water pressure at greater than or equal to (>=) 50 psi is a violation of Specific Requirements 84 and 103 of Title V Permit No. 0200-00004-V4, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1), and 30:2057(A)(2).

D. In correspondence dated March 18, 2010, the Respondent submitted the facility's 2009 Annual Compliance Certification for the period encompassing January 1, 2009 through December 31, 2009. The certification failed to report the deviations of

excess consumption of diesel fuel and hydrochloric acid. In correspondence dated March 29, 2011, the Respondent submitted the facility's 2010 Annual Compliance Certification for the period encompassing January 1, 2010 through December 31, 2010. The certification failed to report the deviations of scrubber cooling water pressure that occurred from on or about October 1, 2010 through on or about November 30, 2010. Each failure to submit a complete and accurate Annual Compliance Certification is a violation of Part 70 General Condition M of Title V Permit No. 0200-00004-V3, Part 70 General Condition M of Title V Permit No. 0200-00004-V4, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2). An amended 2010 Annual Compliance Certification dated April, 23, 2012, has been submitted to the Department.

E. In correspondence dated March 28, 2011, the Respondent submitted the facility's 2010 Annual Scrubber Compliance Report for the period encompassing January 1, 2010 through December 31, 2010. The report incorrectly stated that all scrubbers operated within the permit requirements during 2010. The correspondence failed to report the deviations of scrubber cooling water pressure that occurred from on or about October 1, 2010 through on or about November 30, 2010. The failure to submit the report completely and accurately is a violation of Specific Requirements 86 and 108 of Title V Permit No. 0200-00004-V4, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2). An amended 2010 Annual Scrubber Compliance Report dated March 30, 2012, has been submitted to the Department.

F. During the course of the inspection conducted on or about October 14, 2011, the inspectors obtained the records of the opacity observations conducted by the

Respondent for Boiler No. 7 (EQT007). In electronic correspondence dated April 5, 2012, the Respondent provided the opacities recorded for the days following the date of inspection through the end of the 2011 crushing season. Opacity observations in excess of 20% are shown in Table D:

TABLE D

Date	Opacity	Date	Opacity
9/29/11	40.2	10/10/11	28.1
9/30/11	Failed to observe	10/12/11	25.4
10/1/11	25.4	10/14/11	30.0
10/4/11	36.4	10/15/11	24.5
10/5/11	36.3	10/21/11	35.8
10/7/11	42.9	10/23/11	26.3
10/8/11	39.1	10/25/11	65.4
10/9/11	42.1		

Each failure to maintain the opacity for Boiler No.7 (EQT007) below 20% is a violation of Specific Requirement 107 of Title V Permit No. 0200-00004-V6, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

G. In correspondence dated March 10, 2011, the Respondent submitted an application to renew Title V Permit No. 0200-00004-V4, sixty days prior to the May 3, 2011 expiration date. The failure to submit an application to renew a Title V Permit sooner than 180 days prior to the permit expiration date is a violation of Part 70 General Condition A, LAC:III.507.E.4, LAC:III.501.C.4, and La. R. S. 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 TEN THOUSAND AND NO/100 ($10,000.00) DOLLARS, of which Eight Hundred Sixty-Four and 18/100 ($864.18) Dollars 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 Assumption Parish, Louisiana. The advertisement, in form and wording 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.

LULA-WESTFIELD, 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