STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	**Settlement Tracking No.**
	*	**SA-AE-12-0065**
QUIKRETE OF NEW ORLEANS	*	
	*	**Enforcement Tracking No.**
AI # 12375	*	**AE-CN-07-0123**
	*	
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT	*	
LA. R.S. 30:2001, ET SEQ.	*	

SETTLEMENT

The following Settlement is hereby agreed to between Quikrete of New Orleans ("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 concrete materials blending and drying facility located at 200 Hord Street in Harahan, Jefferson Parish, Louisiana ("the Facility").

II

On September 28, 2007, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty (CONOPP), Enforcement No. AE-CN-07-0123, which was based upon the following findings of fact:

"The Respondent owns and/or operates Quikrete of New Orleans (the Facility), a concrete materials blending and drying facility located at 200 Hord Street in Harahan, Jefferson Parish, Louisiana. The facility dries sand and stone in a rotary kiln, storing the processed materials in bulk silos. Various grades are blended from the silo materials. Mixing and bagging are performed

indoors; exhaust air is vented through dust collectors. The storage and handling facilities are vented through separate dust collectors. The facility operates under Small Source Air Permit 1340-00098-01, issued June 18, 1999.

On or about May 15, 2007, a Compliance Evaluation Inspection (CEI) of the facility was conducted in response to complaints registered on or about May 7, 2007, and on or about May 10, 2007, to determine the degree of compliance with the Act and the Air Quality Regulations. The complaints addressed dust escaping from the facility's property and settling on neighboring businesses and vehicles. On or about August 20, 2007, a file review of the facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations.

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

A. During the course of the inspection, the inspector noted dust venting from both the top of the Dry Elevator and from the Sand and Gravel Silos Dust Collector (emission point 10-06) which is the particulate control device for that elevator. Failure to take all reasonable precautions to prevent particulate matter from becoming airborne is a violation of LAC 33:III.1305.A, LAC 33:III.501.C.4, LAC 33:III.501.C.2, and La. R.S. 30:2057(A)(1) and 2057(A)(2).

B. During the course of the inspection, investigation of the facility logs and records revealed that the facility was neither conducting nor recording daily visual observations of the filter vents. Further investigation revealed that the facility was neither conducting nor recording semi-annual inspections of the filter elements. Failure to conduct these inspections is a violation of LAC 33:III.501.C.4, the specific requirement section of the current Air Permit and La. R.S. 30:2057(A)(2).

C. During the course of the inspection, investigation of the facility logs and records revealed that the Sand and Gravel Silos Dust Collector, emission point 10-06, in operation since 2003, is not listed as an emission point on the current Air Permit. Construction, modification, or operation of any facility which ultimately may result in an initiation or increase of air contaminants prior to receiving approval of a permit application is a violation of LAC 33:III.501.C.2, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(1) and 2057(A)(2).

D. During the course of the inspection, review of the facility equipment history revealed that during May 2006, the facility replaced the Dryer Baghouse Dust Collector, emission point 1-72, with a new baghouse. The Respondent, on or about June 27, 2006, requested a Letter of No Objection concerning the replacement. The request was not submitted prior to the replacement. Construction, modification, or operation of any facility which ultimately may result in an initiation or increase of air contaminants prior to receiving approval of a permit application is a violation of LAC 33:III.501.C.2, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(1) and 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 TWO THOUSAND NINE HUNDRED AND NO/100 DOLLARS ($2,900.00), of which Four Hundred Fifty-Four and 85/100 Dollars ($454.85) 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 CONOPP, 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.

QUIKRETE OF NEW ORLEANS

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