STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	**Settlement Tracking No.**
	*	**SA-AE-10-0041**
RAIN CII CARBON LLC	*	
	*	**Enforcement Tracking No.**
AI # 2557	*	**AE-CN-09-0084**
	*	
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT	*	
LA. R.S. 30:2001, ET SEQ.	*	

SETTLEMENT

The following Settlement is hereby agreed to between Rain CII Carbon 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 petroleum coke calcining facility located in Chalmette, St. Bernard Parish, Louisiana. ("the Facility").

II

On October 29, 2009, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. AE-CN-09-0084, which was based upon the following findings of fact:

The Respondent owns and/or operates the Chalmette Coke Plant, a petroleum coke calcining facility located at 700 Coke Plant Road in Chalmette, St. Bernard Parish, Louisiana. This facility is currently permitted to operate under Title V Permit No. 2500-00006-VO, issued on August 7, 1997.

The Waste Heat Boiler stack (Emission Point No. 199) is the primary stack at the Respondent's facility and is not used concurrently with the pyroscrubber "hot stack" (Emission Point No. 200). State Only Specific Condition 1 of Title V Permit No. 2500-00006-V0 requires the Respondent to report unauthorized discharges in compliance with the provisions of LAC 33:III.927 when Emission Point No. 200 is used to vent gases to the atmosphere. LAC 33:III.927 requires that, "The unauthorized discharge of any air pollutant into the atmosphere shall be reported in accordance with the provisions of LAC 33:I.Chapter 39, Notification Regulations and Procedures for Unauthorized Discharges. Written reports pursuant to LAC 33:I.3925 must be submitted to the department. Timel y and appropriate follow-up reports should be submitted detailing methods and procedures to be used to prevent similar atmospheric releases."

On or about January 14, 2009 and May 21, 2009, an investigation and subsequent file review of the unauthorized discharges in the following table were performed to determine the degree of compliance with the Act and the Air Quality Regulations:

Incident No.	Written Report Date	Description
103446	5/20/2008	"The [facility] changed emission points from 199 to 200 at 02:35 am. This incident was due to the ID Fan tripping off line. The ID Fan was reset and back online at 02:38 am."
103936	3/18/2008 (5/14/2008 follow-up)	"On March 13, 2008 at 11:27 am the [facility] shut down due to the Turbine Generator trip. The Turbine Generators exciter brushes were changed."
104346	4/2/2008	"On March 29, 2008 at 00:09 am the [facility] changed emission points from 199 to 200. This was due to the Boiler level indicator malfunction. After several attempts, the level indicator was assumed to be fixed. The [facility] went back to normal operating procedures at 20:00. At 20:19 the facility went back to emission point 200 to fix a small leak on instrumentation lines, at 20:26 then going back to normal operating procedures."

Incident No.	Written Report Date	Description
105013	5/20/2008	"The [facility] changed emission points on 4/22/08 from 199 to 200 at 16:45 pm. This incident was due to bag house work, to decrease ID Fan amps. At 17:00 pm 4/22/08 the facility was back to normal operating procedures."
105511	6/17/2008	"While filling out the SO_2 spread sheet [the Respondent] noticed the daily SO_2 was exceeded on 2/10/08 by 42 pounds per hour for a 24 hour average."
106189	6/11/2008	"The [facility] changed emission points (from point 199 to point 200) at 05:11 am on 6/5/08 due to ID [Induced Draft] Fan trip. The emission points went back and forth several times during these hours to trouble shoot. The problem was identified as a bad cooler fan in the MCC drive. The problem was corrected at 11:00 on 6/5/08.
106574	6/24/2008	"On 6/17/08 at 18:15 the [facility] changed emission points from 199 to 200. This was due to the Turbine Generator tripping offline. The emission point change lasted for 29 minutes."
106575	6/24/2008	"On 6/17/08 at 19:45 the [facility] changed emission points from 199 to 200. This was due to the Turbine Generator tripping offline. The emission point change lasted for 90 minutes."
106647	6/30/2008	"On 6/23/08 at 01:35 am the [facility] changed emission points from 199 to 200. This was due to the Turbine Generator tripping offline. The emission point change lasted for 70 minutes."
106648	6/24/2008	"On 6/17/08 at 19:30 the [facility] changed emission points from 199 to 200. This was due to the Turbine Generator tripping offline. The emission point change lasted for 14 minutes."
106845	7/3/2008	"On 6/27/08 at 20:08 pm the [facility] changed emission point from 199 to 200 for 30 minutes due to ID fan trip on high amps. The ID fan was reset and the [facility] was back to normal operating procedures at 20:38 pm..."
107409	7/25/2008	"On 7/19/08 at 18:44 pm the [facility] bypassed bag house due to high amps on the ID Fan. During the trip a "cleaning cycle" was performed to decrease ID Fan amps. The ID Fan was reset and amps lowered. The [facility] was back to normal operations at 19:50 pm."
107561	10/1/2008	"On 7/27/08 at 09:42 am the [facility] changed emission point due to ID Fan high amps. This occurred again at 15:26 pm also causing the bag house to be placed on bypass to reduce ID Fan amps to prevent a shut down."
107562		

Incident No.	Written Report Date	Description
108048	8/20/2008	"On 8/14/08 at 12:24 the [facility] changed emission points from 199 to 200 due to an ID Fan trip on high amps. The ID Fan was reset and amps lowered by pulsing bag house modules. The [facility] was back to normal operations at 13:01 pm 8/14/08."
108242	10/2/2008	"On 8/20/08 at 22:02 am the [facility] shut down due to Heat Recovery Boiler Problems. On 8/21/08 Feed was introduced to the system for start up at 05:31 am. At 08:36 am on the same day the ID Fan tripped offline but was immediately reset. At 12:52 pm on 8/21/08 the facility stopped feed again due to a Boiler tube leak. On 8/23/08 at 00:10 feed was introduced to the Rotary Kiln again for start up preparations. On 8/24/08 the plant stopped feed due to Bucket Elevator problems at 12:01. At 20:20 pm on 8/24/08 the Turbine Generator tripped off line. On 8/25/08 feed was restarted to the Kiln at 10:00 with the Boiler and Turbine on line at 08:20 am 8/26/08. On 8/27/08 the facility shut down again due to a Boiler Tube leak and remained down for Hurricane Gustav."
108243		
108313		
108314		
108363		
110878	11/24/2008	"The [facility] started to introduce feed to the Rotary Kiln on 11/18/08 at 12:53 to start the start up process after the refractory 'bake out process' through emission point 200. On 11/21/08 at 18:28 the Turbine Generator was placed on line. On 11/22/08 at 03:55 D-3 was closed with emissions going through point 199..."
111144	12/5/2008	"The [facility] changed emission points from point 199 to point 200 due to an ID Fan high amp trip. This event occurred on 11/29/08 at 18:43 lasting to 12/2/08 at 00:48 (54.08 hours) the ID Fan was being ramped up and shut down for trouble shooting. With emission points changing again on 12/2/08 at 01:22 till 01:46 (24 min), again at 06:46 till 08:05 (1.32 hours), again at 15:38 till 15:52 (24 min), and at 16:55 till 19:48 (2.88 hours)."
111167		
111228	12/8/2008	"The facility changed emission points from 199 to 200 due to an ID fan high amp trip. This event occurred on 12/3/08 at 16:51 lasting to 12/3/2008 at 18:42 (1.02 hours) the ID Fan was reset..."
111237	1/22/2009	"The [facility] changed emission points from 199 to 200 due to the ID Fan trip [starting at 07:34 on 12/4/08 and lasting 5.016 hours]. This was due to low Kiln draft causing ID Fan amps to climb and trip. The Steam Turbine then tripped due to Boiler Steam Drum level fluctuation from flue gas changes in the process."

Incident No.	Written Report Date	Description
111297	12/11/2008	"The [facility] changed emission points from 199 to 200 due to an ID Fan high amp trip. This event occurred at 18:27 on 12/5/2008 and lasted for 1.133 hours (19:35)."

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

A. The Respondent failed to include an estimate of the amount of each specific pollutant that was released as the result of an unauthorized discharge for Incident Nos. 103936, 104346, 105511, 106189, 106575, 106647, 106845, 107409, 107561, 107562, 108048, 108242, 108243, 108313, 108314, 108363, 110878, 111144, 111167, 111228, 111237, and 111297. Specifically, the Respondent failed to include the amount of particulate matter that was released for each of the abovementioned incidents. This is a violation of State Only Specific Condition 1 of Title V Permit No. 2500-00006-V0, LAC 33:I.3925.B.5, LAC 33:III.927.A, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2);

B. The Respondent failed to submit the written follow-up reports to the Department's Office of Environmental Compliance, Emergency and Radiological Services Division, Single Point of Contact for Incident Nos. 105511, 107561, 107562, 108242, 108243, 108313, 108314, 108363, and 111237 within seven (7) calendar days after the notification required by LAC 33:I.3917. This is a violation of State Only Specific Condition 1 of Title V Permit No. 2500-00006-V0, LAC 33:I.3925.A, LAC 33:III.927.A, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2);

C. According to the written follow-up report for Incident No. 105511 dated June 17, 2008, Emission Point No. 199 emitted an average of 2064 pounds of sulfur dioxide per hour for eleven (11) hours on February 10, 2008. This exceeds the maximum permitted emission limit, or 2022.7 pounds of sulfur dioxide per hour, as set forth in Title V Permit No. 2500-00006-V0. This is a violation of Part 70 General Condition C of Title V Permit No. 2500-00006-V0, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1) and 30:2057(A)(2);

D. According to the written follow-up reports for Incident Nos. 103446, 105013, 106189, 106845, 107409, 107561, 107562, 108048, 108243, 111144, 111167, 111228, 111237, and 111297, the Respondent bypassed Emission Point No. 199 on multiple occasions due to high amps on the Induced Draft (ID) Fan. According to correspondence from the Respondent dated December 5, 2006, "A high amp alarm has been added to the Distributed Control System (DCS) to signal the board operator in enough time to make proper changes to prevent a [ID Fan] trip due to high amps." Each failure to use and diligently maintain in proper working order air pollution control facilities is a violation of LAC 33:III.905, La. R.S. 30:2057(A)(1), and 30:2057(A)(2);

E. According to the written follow-up reports for Incident Nos. 103936, 106574, 106575, 106647, 106648, and 108314, the Respondent bypassed Emission Point No. 199 on multiple occasions due to problems with the Turbine Generator. Each failure to use and diligently maintain in proper working order air pollution control facilities is a violation of LAC 33:III.905, 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 NINE HUNDRED AND NO/100 DOLLARS ($7,900.00), of which ONE THOUSAND THREE HUNDRED EIGHTY-ONE AND 94/100 DOLLARS ($1,381.94) 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 file review report(s), the Consolidated Compliance Order & 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 LSA- 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 St. Bernard 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.

RAIN CII CARBON LLC

BY: _____
(Signature)

_____
(Print)

TITLE: _____

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20 _____, at _____.

_____
NOTARY PUBLIC (ID #_____)

_____
(Print)

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 # _____)

_____
(Print)

Approved: _____
Beau James Brock, Assistant Secretary