STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

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| **IN THE MATTER OF:** | * | **Settlement Tracking No.** |
| | * | **SA-AE-12-0074** |
| **SOUTHERN IONICS INCORPORATED** | * | |
| | * | **Enforcement Tracking No.** |
| **AI # 155459** | * | **AE-CN-10-00552** |
| | * | **AE-CN-10-00552A** |
| **PROCEEDINGS UNDER THE LOUISIANA** | * | |
| **ENVIRONMENTAL QUALITY ACT** | * | |
| **LA. R.S. 30:2001, ET SEQ.** | * | |

## SETTLEMENT

The following Settlement is hereby agreed to between Southern Ionics Incorporated ("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 an inorganic chemical manufacturing facility located in East Baton Rouge Parish, Louisiana ("the Facility").

II

On October 20, 2010, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. AE-CN-10-00552, which was based upon the following findings of fact:

The Respondent owns and/or operates the Baton Rouge North, an inorganic chemical manufacturing facility located at 1250 Neosho Avenue in Baton Rouge, East Baton Rouge Parish, Louisiana. This facility is currently permitted to operate under Air Permit No. 0840-

00272-01, issued on September 8, 2009. The facility operated previously under Air Permit No. 0840-00272-00 from January 25, 2008, through September 8, 2009.

On or about May 7, 2010, a file review of the Respondent's 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 review:

A. Specific Requirement 14 of Air Permit Nos. 0840-00272-00 and 0840-00272-01 requires the flow rate of the Aluminum Chloride Process Barometric Condenser Scrubber (EQT0014) to be maintained at 100 gallons per minute or greater during operation. According to a report dated March 30, 2010, EQT0014 operated below the minimum flow range for 72 hours during the 2009 calendar year based on the daily scrubber flow records. This is a violation of Specific Requirement 14 of Air Permit Nos. 0840-00272-00 and 0840-00272-01, LAC 33:III.501.C.4, LAC 33:III.905, and La. R.S. 30:2057(A)(2);

B. Specific Requirement 21 of. Air Permit No. 0840-00272-00 and Specific Requirement 22 of Air Permit No. 0840-00272-01 requires the flow rate of the Aluminum Chloride Process Packed Bed Scrubber (EQT0015) to be maintained at 175 gallons per minute or greater during operation. According to a report dated March 30, 2010, EQT0015 operated below the minimum flow range for 504 hours during the 2009 calendar year based on the daily scrubber flow records. This is a 'violation of Specific Requirement 21 of Air Permit No. 0840-00272-00, Specific Requirement 22 of Air Permit No. 0840-00272-01, LAC 33:III.501 .C.4, LAC 33:III.905, and La. R.S. 30:2057(A)(2);

C. Specific Requirement 24 of Air Permit No. 0840-00272-00 and Specific Requirement 25 of Permit No. 0840-00272-01 requires the pH of the Aluminum Chloride Process Packed Bed Scrubber'(EQT0015) fluid to be maintained between 6 and 10. According to a report dated March 30, 2010, EQT0015 operated outside of the required pH range for 408- hours during the 2009 calendar year based on the daily pH records. This is a violation of Specific Requirement 24 of Air Permit No. 0840-00272-00, Specific Requirement 25 of Air Permit No. 0840-00272-01, LAC 33:III.501.C.4, LAC 33:III.905, and La. R.S. 30:2057(A)(2);

On March 16, 2011, the Department issued to Respondent an Amended Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. AE-CN-10-00552A, which amended Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. AE-CN-10-00552 as follows:

The Department hereby amends paragraph II of the Findings of Fact to read as follows:

"A. Specific Requirement of Air Permit No. 0840-00272-00 required the flow rate of the Aluminum Chloride Process Barometric Condenser Scrubber (EQT0014) to be maintained at 100 gallons per minute or greater during operation. According to a report dated November 18> 2010, EQT0014 operated below The minimum flow rate on January 22 and 23, 2009, based on the daily scrubber flow records. Each failure to maintain the flow rate of EQT0014 at 100 gallons per minute or greater is a violation of Specific Requirement 14 of Air Permit No. 0840-00272-00; LAC 33:III.501.C.4, LAC 33:III.905, and La. R.S. 30:2057(A)(2);"

The Department hereby amends paragraph II.B of the Findings of Fact to read as follows:

"B. Specific Requirement 21 of Air Permit No. 0840-00272-00 required the flow rate of the Aluminum Chloride Process Packed Bed Scrubber (EQT0015) to be maintained at 175 gallons per minute or greater during operation. According to a report dated November 18, 2010, EQTOOl5 operated below the minimum flow rate on January 22 and 23, 2009, based on the daily scrubber flow records. Each failure to maintain the flow rate of EQTOO15 at 175 gallons per minute or greater is a violation of Specific Requirement 21 of Air Permit No. 084 00272-00, LAC 33:III.501.C.4, LAC 33:III.905, and La. R.S. 30:2057(A)(2);"

The Department hereby amends paragraph 1I.C of the Findings of Fact to read as follows:

"C. Specific Requirement 24 of Air Permit No. 0840-00272-00 and Specific Requirement 25 of Air Permit No. 0840-00272-01 requires the pH of the Aluminum Chloride Process Packed Bed Scrubber (EQT0015) fluid to be maintained between 6 and 10 standard units. According to reports dated March 30 and November 18, 2010, EQTOO15 operated outside of the required pH range on February 17, 2009; February 22 through February 24, 2009; March 2, 2009; March 4, 2009; March 29 through March 31, 2009; April 4, 2009; April 9 through April 10, 2009; April 15, 2009; May 16, 2009; May 18, 2009; October 9, 2009; October 18 through October 19, 2009; November 13, 2009; November 18 through November 20, 2009; November 26, 2009; December 2 through - December 7, 2009; and December 9 through December 10, 2009. Each day that EQTOOI 5 was operated outside of the required pH range is a violation of Specific Requirement 24 of Air Permit No. 0840-00272-00 or Specific Requirement 25 of Air Permit No. 0840-00272-01; LAC 33:III.501.C.4; LAC 33:III.905; and La. R.S. 30:2057(A)(2)."

The Department hereby adds paragraph III to the Findings of Fact to read as follows:

"III

By letter dated November 18, 2010, the Respondent submitted the written report as required by paragraph V of the Compliance Order portion of Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. AE-CN-10-00552. On or about November 22, 2010, the Department reviewed this report 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 review:

A. Specific Requirement 22 of Air Permit No. 0840-00272-00 required the Respondent to monitor the flow rate of the Aluminum Chloride Process Packed Bed Scrubber (EQT0015) once every shift during operation. The Respondent failed to monitor the flow rate of EQTOO15 from January 24 through February 11, 2009. Specifically, the Respondent removed the flow meter on January 24, 2009, when it was discovered that the meter was malfunctioning. The replacement flow meter was installed on February 12, 2009. Each operating shift that the Respondent failed to monitor the flow rate of EQT0015 is a violation of Specific Requirement 22 of Air Permit No. 0840-00272-00, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2);

B. Specific Requirement 27 of Air Permit No. 0840-00272-00 and Specific Requirement 24 of Air Permit No. 0840-00272-01 required the Respondent to record the pH of the Aluminum Chloride Process Packed Bed Scrubber (EQT0015) once every shift during operation. The Respondent failed to record the pH of EQT0015 on January 1 through January 21, 2009; February 10, 2009; April 11, 2009; and December 24, 2009. Each operating shift that the Respondent failed to record the pH of EQT0015 is a violation of Specific Requirement 27 of Air Permit No. 0840-00272-00 or Specific Requirement 24 of Air Permit No. 0840-00272-01; LAC 33:III.501 C.4; and La. R.S. 30:2057(A)(2);

C. Specific Requirement 23 of Air Permit No. 0840-00272-00 and Specific Requirement 23 of Air Permit No. 0840-00272-01 required the Respondent to record the flow rate of the Aluminum Chloride Process Packed Bed Scrubber (EQTOOI 5) once every shift during operation. The Respondent failed to record the flow rate of EQT0015 on January 1 through January 21, 2009; February 10, 2009; and December 24, 2009. Each operating shift that the Respondent failed to record the flow rate of EQT0015 is a violation of Specific Requirement 23 of Air Permit No. 0840-00272-00 or Specific Requirement 23 of Air Permit No. 0840-00272-01; LAC 33:III.501 .C.4; and La. R.S. 30:2057(A)(2);

D. Specific Requirement 16 of Air Permit 'No. 0840-00272-00 and Specific Requirement 15 of Air Permit No. 0840-00272-01 required the Respondent to record the flow rate of the Aluminum Chloride Process Barometric Condenser Scrubber (EQT0014) once every shift during operation. The Respondent failed to record the flow rate of EQT0014 on January 1 through January 21, 2009; February 10, 2009; February 27, 2009; March 3, 2009; and December 24, 2009. Each operating shift that the Respondent failed to record the flow rate of EQT0014 is a violation of Specific Requirement 16 of Air Permit No. 0840-00272-00 or

Specific Requirement 15 of Air Permit No. 0840-00272-01; LAC 33:III.50I.C.4; and La. R.S. 30:2057(A)(2);

E. Specific Requirement 20 of Air Permit No. 0840-00272-00 and Specific Requirement 16 of Air Permit No. 0840-00272-01 required the Respondent to record the pH of the Aluminum Chloride Process Barometric Condenser Scrubber (EQT0014) once every shift during operation. The Respondent failed to record the pH of EQT0014 on January 1 through January 21, 2009; January 31, 2009; February 10: 2009; April 11, 2009; May 3, 2009; December 2, 2009; and December 24, 2009. Each operating shift that the Respondent failed to record the pH of EQT0014 is a violation of Specific Requirement 20 of Air Permit No. 0840-00272-00 or Specific Requirement I6 of Air Permit No. 0840-00272-01; LAC 33:III.501.C.4; and La. R.S. 30:2057(A)(2);

F. Specific Requirement 17 of Air Permit No. 0840-00272-00 and Specific Requirement 13 of Air Permit No. 0840-00272-01 requires the pH of the Aluminum Chloride Process Barometric Condenser Scrubber (EQT0014) fluid to be maintained between 6 and 10 standard units. EQT0014 operated outside of the required pH range for 96 days during the 2009 calendar year based on the daily pH records. Each day that EQT0014 was operated outside of the required pH range is a violation of Specific Requirement 17 of Air Permit No. 0840-00272-00 or Specific Requirement 13 of Air Permit No. 0840-00272-01; LAC 33:III.501.C.4; LAC 33:III.905; and La. R.S. 30:2057(A)(2);

G. Under cover letter dated March 30, 2010, the Respondent submitted a report which included hours that the Aluminum Chloride Process Barometric Condenser Scrubber (EQT0014) and Aluminum Chloride Process Racked Bed Scrubber. (EQT0015) operated out of the ranges specified in Air Permit Nos. 0840-00272-00 and 0840-00272-01. However, the Respondent failed to include all hours that .EQT0014 and EQT0015 operated out of the specified ranges as indicated by a report dated November 18, 2010. The failure to submit a complete report by March 31, 2010, which included all hours that the scrubber operated out of the specified ranges is a violation of Specific Requirements 18 and 25 of Air 'Permit No. 0840-00272-00; Specific Requirements 18 and 21 of Air Permit No. 0840-00272-01; LAC 33:III.501.C.4; and La. R.S. 30:2057(A)(2)."

"The Department incorporates all of the remainder of the original Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. AE-CN-10-00552 and Agency Interest No. 155459 as if reiterated herein."

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 THREE THOUSAND NINE HUNDRED THIRTY-SIX AND 40/100 ($3,936.40) of which Nine Hundred Thirty-Six and 40/100 Dollars ($936.40) 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 Consolidated Compliance Order & Notice of Potential Penalty and the Amended 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 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 East Baton Rouge 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.

**SOUTHERN IONICS INCORPORATED**

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: _____

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

_____
NOTARY PUBLIC (ID # _____)

_____
(stamped or printed)

Approved: Peggy M. Hatch