

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

<b>IN THE MATTER OF:</b>	*	<b>Settlement Tracking No.</b>
	*	<b>SA-AE-16-0028</b>
<b>NATIONAL GYPSUM SERVICES COMPANY</b>	*	
	*	<b>Enforcement Tracking No.</b>
<b>AI # 1405</b>	*	<b>AE-CN-15-00319</b>
	*	
<b>PROCEEDINGS UNDER THE LOUISIANA</b>	*	
<b>ENVIRONMENTAL QUALITY ACT</b>	*	<b>Docket No. 2016-6227-EQ</b>
<b>LA. R.S. 30:2001, <u>ET SEQ.</u></b>	*	

SETTLEMENT

The following Settlement is hereby agreed to between National Gypsum Company (“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 facility located in Westwego, Jefferson Parish, Louisiana (“the Facility”).

II

On April 23, 2015, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. AE-CN-15-00319, which was based upon the following findings of fact:

“The Respondent owns and/or operates New NGC, Inc. – Westwego Plant a wallboard manufacturing facility, located at 10 Louisiana Street in Westwego, Jefferson Parish, Louisiana. The facility currently operates under Permit 1340-00017-08 issued on August 9, 2011.

On or about October 2, 2014, October 3, 2014, October 9, 2014, and October 10, 2014,

the Department's inspectors observed excessive amounts of dust being emitted from the Respondent's facility (See Incident Report #159330). On or about October 10, 2015, the Department received a dust related complaint for the Westwego Plant.

On or about October 16, and October 17, 2014, the Department performed inspections of the Respondent's facility 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 inspections:

- A. During the course of the inspection, the inspector observed heavy amounts of dust being emitted from the rotary screw and ductwork of the Cage Mill Baghouse (EQT0013). The facility's representative stated that the emissions were mostly steam, and the rotary screw was too small for the process. At the time of the inspection, the facility's representative informed the inspector that the rotary screw was scheduled to be replaced on November 3, 2014. The inspector did not observe moisture around the screw and there was little to no dissipation to indicate that the majority of the emissions were steam. The Respondent's failure to maintain control equipment and prevent discharges into the atmosphere of any visible fugitive emissions except emissions from a vent is a violation of Specific Requirement No. 94 of Air Permit No. 1340-00017-08, LAC 33:III.501.C.4, LAC 33:III.905, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- B. During the course of the inspection, the inspector observed that the interior of the Calcidyne building and the equipment located in the building were heavily coated in dust. The inspector observed dust collectors inside of the building emitting dust from various leaks causing a heavy dust cloud to form within the building, which was being allowed to escape through the windows and hatches. The Respondent's failure to diligently maintain control equipment is a violation of LAC 33:III.905, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- C. According to the facility's representatives, daily visual inspections were being conducted once per week prior to August 2014 for the following:

Specific Requirement No.	Source ID No.	Description
9	EQT 0002	15 – Stucco Silo Baghouse
14	EQT 0003	14 – Screw Conveyor Baghouse

Specific Requirement No.	Source ID No.	Description
22	EQT 0004	20 – Hot Stucco Screw and Elevator Baghouse
26	EQT 0005	21 – Raymond No. 1 and Land Plaster Bin Baghouse
33	EQT 0006	24 – Board End Trim Baghouse
62	EQT 0008	29 – Wet End Stucco Screw and Elevator Baghouse
89	EQT 0010	32 – Rock Silo Baghouse
116	EQT 0013	28 – Cage Mill Baghouse
122	EQT 0014	33 – Rock Dryer Baghouse
127	EQT 0015	17 – Calcidyne No. 1 Baghouse
136	EQT 0016	18 – Calcidyne No. 2 Baghouse
145	EQT 0017	19 – Calcidyne No. 3 Baghouse
148	EQT 0018	25 – Calcidyne No. 4 Baghouse

Each failure to monitor visible emissions for the above listed sources by visual inspection/determination daily is a violation of LAC 33:III.501.C.4, LAC 33:III.501.C.6, Specific Requirement Nos. 9, 14, 22, 26, 33, 62, 89, 116, 122, 127, 136, 145, and 148 of Air Permit No. 1340-00017-08, and La. R.S. 30:2057(A)(2).

- D. During the course of the inspection performed on October 16, 2014, the inspector noted that the road running through the facility was heavily covered in dust, making it possible for dust to become airborne by passing vehicles. The Respondent's failure to take all reasonable precautions to prevent particulate matter from becoming airborne is a violation of Specific Requirement No. 92 of Air Permit No. 1340-00017-08, LAC 33:III.501.C.4, LAC 33:III.1305.A and La. R.S. 30:2057(A)(2)."

### III

In response to the Consolidated Compliance Order & Notice of Potential Penalty, Respondent made a timely request for a hearing.

### IV

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

V

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 TWENTY THOUSAND AND NO/100 DOLLARS (\$20,000.00), of which Four Hundred Fifty-Three and 06/100 Dollars (\$453.06) represents the Department's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent in 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).

VI

Respondent further agrees that the Department may consider the inspection 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.

VII

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.

## VIII

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.

## IX

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.

## X

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 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.

## XI

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).

## XII

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

## XIII

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.

NATIONAL GYPSUM COMPANY

BY: Laura C. Budzichowski  
(Signature)

Laura C. Budzichowski  
(Printed)

TITLE: VP, General Counsel + Secretary

THUS DONE AND SIGNED in duplicate original before me this 5<sup>th</sup> day of May, 20 17, at Mecklenburg County, NC

Natalie S. Jones  
NOTARY PUBLIC (ID # 20112370043)

Natalie S. Jones  
(stamped or printed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY  
Chuck Carr Brown, Ph.D., Secretary

BY: [Signature]  
Lourdes Iturralde, Assistant Secretary  
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 20<sup>th</sup> day of Oct, 20 17, at Baton Rouge, Louisiana.

[Signature]  
NOTARY PUBLIC (ID # 19181)

Perry Theriot  
(stamped or printed)

Approved: [Signature]  
Lourdes Iturralde, Assistant Secretary