

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

CLECO POWER LLC

AI # 1906

PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT
LA. R.S. 30:2001, ET SEQ.

* Settlement Tracking No.
* SA-AE-20-0007
*
* Enforcement Tracking No.
* AE-PP-17-00545
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SETTLEMENT

The following Settlement is hereby agreed to between Cleco Power 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 fossil-fueled steam electric generator facility located in St. Landry, Evangeline Parish, Louisiana (“the Facility”).

II

On July 19, 2018, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. AE-PP-17-00545 (Exhibit 1).

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 ONE THOUSAND AND NO/100 DOLLARS (\$1,000.00), of which Five Hundred Twenty-Nine and 94/100 Dollars (\$529.94) 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 inspection report(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 Evangeline 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.

CLECO POWER LLC

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
Chuck Carr Brown, Ph.D., Secretary

BY: _____
Lourdes Iturralde, 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: 

Lourdes Iturralde, Assistant Secretary

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
 OFFICE OF ENVIRONMENTAL COMPLIANCE
 ENFORCEMENT DIVISION
 POST OFFICE BOX 4312
 BATON ROUGE, LOUISIANA 70821-4312

NOTICE OF POTENTIAL PENALTY



Enforcement Tracking No.	AE-PP-17-00545	Certified Mail No.	7016 2140 0000 5132 7577
Agency Interest (AI) No.	1906	Contact Name	Dr. Jacqueline Prudente
Alternate ID No.	0920-00002	Contact Phone No.	(225) 219-3347
Respondent:	Cleco Power LLC	Facility Name:	Coughlin Power Station
	c/o Mark D. Pearce	Physical Location:	2180 St. Landry Road
	Agent for Service of Process		
	2030 Donahue Ferry Road	City, State, Zip:	
	Pineville, LA 71360	Parish:	St. Landry, Louisiana 71367

This **NOTICE OF POTENTIAL PENALTY** is issued by the Louisiana Department of Environmental Quality (the Department), under the authority granted by the Louisiana Environmental Quality Act (the Act), La. R.S. 30:2001, et seq., and 30:2050.3(B).

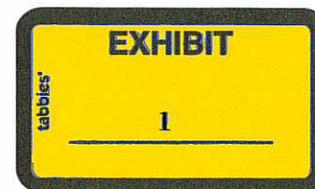
FINDINGS OF FACT

An authorized representative of the Department inspected the abovementioned facility or conducted a file review of the facility to determine the degree of compliance with regulations promulgated in the Louisiana Administrative Code, Title 33. The State regulatory citations for the violation(s) identified during the inspection and/or file review are indicated below.

I.	The Respondent owns and/or operates the Coughlin Power Station (the Facility), a fossil-fueled steam electric generator facility, located at 2180 St. Landry Road in St. Landry, Evangeline Parish, Louisiana. The Facility operates or has operated under the authority of Administrative Amendment to Title V Air Permit No. 0920-00002-V4 issued on November 5, 2014. On or about July 19, 2016, through July 20, 2016, a Chemical Accident Prevention Program (CAPP) inspection of the Respondent's facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations.	
	Date of Violation	Description of Violation
II.	CAPP Inspection July 19, 2016	The Respondent failed to conduct inspections at a frequency consistent with good engineering practice. The facility's mechanical integrity plan requires weekly inspections of the ammonia system and equipment. Only six (6) inspections were performed during the time period which ten (10) weekly inspections were required. The failure to conduct inspections and test of process equipment at a frequency consistent with the manufacturers recommendations and good engineering practice is a violation of 40 CFR 68.73(d)(3), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2). In electronic communication dated August 28, 2017, a Respondent representative stated that the six (6) weekly inspections were not performed during a ten (10) week period from March 9, 2016 through May 23, 2016. Additionally and in electronic communication dated October 16, 2017, the Respondent representative reported that, currently inspections are being performed on a weekly basis.

NOTICE OF POTENTIAL PENALTY

I.	Pursuant to La. R.S. 30:2050.3(B), you are hereby notified that the issuance of a penalty assessment is being considered for the violation(s) described herein. Written comments may be filed regarding the violation(s) and the contemplated penalty. If you elect to submit comments, it is requested that they be submitted within ten (10) days of receipt of this notice.
II.	Prior to the issuance of additional appropriate enforcement action(s), you may request a meeting with the Department to present any mitigating circumstances concerning the violation(s). If you would like to have such a meeting, please contact Dr. Jacqueline Prudente at (225) 219-3347 within ten (10) days of receipt of this NOTICE OF POTENTIAL PENALTY .



III	The Department is required by La. R.S. 30:2025(E)(3)(a) to consider the gross revenues of the Respondent and the monetary benefits of noncompliance in order to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current annual gross revenue statement along with a statement of the monetary benefits of noncompliance for the cited violations to the above named contact person within ten (10) days of receipt of this NOTICE OF POTENTIAL PENALTY . Include with your statement of monetary benefits the method(s) you utilized to arrive at the sum. If you assert that no monetary benefits have been gained, you are to fully justify this statement. If the Respondent chooses not to submit the requested most current annual gross revenues statement within ten (10) days, it will be viewed by the Department as an admission that the Respondent has the ability to pay the statutory maximum penalty as outlined in La. R.S. 30:2025.
VI.	For each violation described herein, the Department reserves the right to seek civil penalties and the right to seek compliance with its rules and regulations in any manner allowed by law, and nothing herein shall be construed to preclude the right to seek such penalties and compliance.
V.	To reduce document handling, please refer to the Enforcement Tracking Number and Agency Interest Number on the front of this document on all correspondence in response to this action.

CONTACTS AND SUBMITTAL OF INFORMATION

<i>Enforcement Division:</i>	<i>Physical Address (if hand delivered):</i>
Louisiana Department of Environmental Quality Office of Environmental Compliance Air Enforcement Division P.O. Box 4312 Baton Rouge, LA 70821 Attn: Dr. Jacqueline Prudente	Department of Environmental Quality 602 N Fifth Street Baton Rouge, LA 70802

HOW TO REQUEST CLOSURE OF THIS NOTICE OF POTENTIAL PENALTY

To expedite closure of the **NOTICE OF POTENTIAL PENALTY**, the Respondent may offer a settlement amount to resolve any claim for civil penalties for the violation(s) described herein.

- The Department assesses civil penalties based on LAC 33:I.Subpart1.Chapter7.
- The Respondent may offer a settlement amount but the Department is under no obligation to enter into settlement negotiations. It is decided upon on a discretionary basis.
- The settlement offer amount may be entered on the attached "NOTICE OF POTENTIAL PENALTY REQUEST TO SETTLE" form. The Respondent must include a justification of the offer.
- **DO NOT** submit payment of the offer amount with the form. The Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.

If you have questions or need more information, you may contact Dr. Jacqueline Prudente at (225) 219-3347 or Jacqueline.prudente@la.gov.



 Lourdes Iturralde
 Assistant Secretary
 Office of Environmental Compliance

Date: 7-19-18

c: Cleco Evangeline LLC
 c/o Joe Sepulvado
 P.O. Box 70
 St. Landry, LA 71367

Attachment
 Request to Settle

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY OFFICE OF ENVIRONMENTAL COMPLIANCE ENFORCEMENT DIVISION POST OFFICE BOX 4312 BATON ROUGE, LOUISIANA 70821-4312		NOTICE OF POTENTIAL PENALTY REQUEST TO SETTLE (OPTIONAL)		
Enforcement Tracking No.	AE-PP-17-00545	Contact Name	Dr. Jacqueline Prudente	
Agency Interest (AI) No.	1906	Contact Phone No.	(225) 219-3347	
Alternate ID No.	0920-00002			
Respondent:	Cleco Power LLC	Facility Name:	Coughlin Power Station	
	c/o Mark D. Pearce Agent for Service of Process	Physical Location:	2180 St. Landry Road	
	2030 Donahue Ferry Road	City, State, Zip:		
	Pineville, LA 71360	Parish:	St. Landry, Louisiana 71367	
SETTLEMENT OFFER (OPTIONAL)				
<i>(check the applicable option)</i>				
<input type="checkbox"/>	The Respondent is not interested in entering into settlement negotiations with the Department with the understanding that the Department has the right to assess civil penalties based on LAC 33:I Subpart 1. Chapter 7.			
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (AE-PP-17-00545), the Respondent is interested in entering into settlement negotiations with the Department and would like to set up a meeting to discuss settlement procedures.			
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (AE-PP-17-00545), the Respondent is interested in entering into settlement negotiations with the Department and offers to pay \$ _____ which shall include LDEQ enforcement costs and any monetary benefit of non-compliance.			
	<ul style="list-style-type: none"> • Monetary component = \$ _____ • Beneficial Environmental Project (BEP) component (optional) = \$ _____ • DO NOT SUBMIT PAYMENT OF THE OFFER WITH THIS FORM- the Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted. 			
<input type="checkbox"/>	The Respondent has reviewed the violations noted in NOTICE OF POTENTIAL PENALTY (AE-PP-17-00545) and has attached a justification of its offer and a description of any BEPs if included in settlement offer.			
CERTIFICATION STATEMENT				
<i>I certify, under provisions in Louisiana and United States law that provide criminal penalties for false statements, that based on information and belief formed after reasonable inquiry, the statements and information attached and the compliance statement above, are true, accurate, and complete. I also certify that I do not owe outstanding fees or penalties to the Department for this facility or any other facility I own or operate. I further certify that I am either the Respondent or an authorized representative of the Respondent.</i>				
Respondent's Signature		Respondent's Printed Name		Respondent's Title
Respondent's Physical Address		Respondent's Phone #		Date
MAIL COMPLETED DOCUMENT TO THE ADDRESS BELOW:				
Louisiana Department of Environmental Quality Office of Environmental Compliance Enforcement Division P.O. Box 4312 Baton Rouge, LA 70821 Attn: Dr. Jacqueline Prudente				

If you have questions or need more information, you may contact Dr. Jacqueline Prudente at (225) 219-3347 or Jacqueline.prudente@la.gov.