

RESOLUTION NO. 2016- 389

A RESOLUTION AMENDING RESOLUTION NO. 2016-244 AUTHORIZING THE EXECUTION OF A SETTLEMENT AGREEMENT BY AND BETWEEN THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND THE CITY OF VINELAND.

WHEREAS, Vineland Municipal Electric Utility (VMEU) has a permit from the New Jersey Department of Environmental Protection (NJDEP) covering the operation of all sources of air pollution at VMEU's Down Station, the most significant of which is the Unit 11 combustion turbine, which has very low emissions and air permit limits, based on its state-of-the-art emission controls; and

WHEREAS, from 2013 to 2015 some emission exceedances, usually caused by very brief equipment problems, were periodically reported to the NJDEP; and

WHEREAS, the NJDEP evaluated summary reports and as well as incident reports explaining the circumstances surrounding the exceedances; and

WHEREAS, the NJDEP assessed penalties for certain of these exceedances and issued a proposed settlement regarding these alleged violations and penalty assessments; and

WHEREAS, on July 26, 2016, City Council of the City of Vineland adopted Resolution No. 2016-244, entitled "A RESOLUTION AUTHORIZING THE EXECUTION OF A SETTLEMENT AGREEMENT BY AND BETWEEN THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND THE CITY OF VINELAND"; and

WHEREAS, in the time since the adoption of Resolution No. 2016-244, the NJDEP has reviewed the agreement and found that the penalty assessed was higher than its standard procedures would dictate and has revised their agreement and reduced the penalty amount from \$37,800 to \$19,500;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Vineland that the Mayor of the City of Vineland is hereby authorized to execute on behalf of the City of Vineland said revised Settlement Agreement in the form attached hereto.

BE IT FURTHER RESOLVED that the City of Vineland shall pay the sum of \$19,500 to the New Jersey Department of Environmental Protection in full settlement of the penalty assessed.

Adopted:

President of Council

ATTEST:

City Clerk



Memorandum

To: Mayor Ruben Bermudez
Bob Dickenson, Asst. Business Administrator

CC: Joseph Isabella, Director, Electric Utility
Richard P. Tonetta, Esq, City Solicitor

From: Lisa Fleming, Sup. Environmental Health Specialist – Electric Utility *L.F.*

Date: November 21, 2016

Re: DEP Settlement Agreement - NEA160002-75507 - REVISED with Penalty Reduction
alleged air permit violations – Unit 11 turbine, June 2013 to December 2015

In July of this year, Vineland City Council approved a Settlement Agreement offered by the NJDEP with regard to VMEU Unit 11 alleged air permit violations during the above-referenced period of time.

NJDEP had, at that time, proposed the agreement in draft form, and asked for Council approval to process it further. In the time since that approval was given, however, NJDEP has reviewed the agreement and found that the penalty assessed was higher than its standard procedures would dictate. Because of this, NJDEP has revised the original agreement, and **reduced the penalty amount** from \$37,800 to \$19,500.

It is, of course, in the interest of the City to accept the revised agreement. We are therefore requesting that a resolution authorizing execution of this Settlement Agreement, as now revised, be added to the City Council agenda for December 13, 2016.

The revised agreement is attached for your review. If you have any questions about the settlement or facts of the matter, please feel free to call me (x4163). Thanks.



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF AIR ENFORCEMENT
Bureau of Air Compliance and Enforcement-Southern
2 Riverside Drive-Suite 201, Camden, NJ 08103
Tel: (856) 614-3601
Fax: (856) 614-3613

CHRIS CHRISTIE
Governor

BOB MARTIN
Commissioner

KIM GUADAGNO
Lt. Governor

November 21, 2016

Joseph Isabella, Director
VINELAND CITY MUNICIPAL ELECTRIC UTILITY
PO BOX 1508
VINELAND, NJ 08362-1508

RE: VINELAND MUNICIPAL ELECTRIC UTILITY / PI# 75507
HOWARD DOWN GENERATING FACILITY
New Jersey Administrative Code 7:27-22.3(e)
Settlement Agreement with EA ID #: NEA160002

Dear Mr. Isabella:

In accordance with the agreement reached between the Department and VINELAND CITY MUNICIPAL ELECTRIC UTILITY and in conformity with subsequent telephone discussions, a Settlement Agreement regarding compliance with the referenced subchapter has been prepared for signature.

If this Settlement Agreement meets with your approval, please have the Settlement Agreement executed and return the executed document to this office within 30 days of receipt. **Note: the payment invoice will be included later, with the final copy of the settlement agreement, after it has been fully executed by all parties.**

If you have any questions regarding this matter, please contact John J. Rosania of my staff at (856) 614-3601.

Sincerely,

Mary M. Toogood, Manager
Bureau of Air Compliance & Enforcement -
Southern

Enclosure



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DIVISION OF AIR ENFORCEMENT

Bureau of Air Compliance and Enforcement-Southern

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CHRIS CHRISTIE
Governor

BOB MARTIN
Commissioner

KIM GUADAGNO
Lt. Governor

IN THE MATTER OF
VINELAND CITY MUNICIPAL ELECTRIC
UTILITY
PO BOX 1508
VINELAND, NJ 08362-1508

SETTLEMENT AGREEMENT

EA ID # NEA160002 - 75507

1. This Settlement Agreement is entered into pursuant to the authority vested in the Commissioner of the New Jersey Department of Environmental Protection ("Department") by N.J.S.A. 13:1D-1 et seq., and the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq. (the "Act"), and duly delegated to the Director, Division of Air Enforcement, Bureau of Air Compliance & Enforcement - Southern pursuant to N.J.S.A.13:1B-4.
2. You are hereby NOTIFIED that during compliance evaluations of reports submitted by VINELAND CITY MUNICIPAL ELECTRIC UTILITY, the following violations of the Air Pollution Control Act (N.J.S.A. 26:2C-1 et seq.) and the Air Pollution Control regulations (N.J.A.C. 7:27-1 et seq.) were determined. These violations shall be recorded as part of the permanent enforcement history of VINELAND CITY MUNICIPAL ELECTRIC UTILITY at the above location and will be considered as offenses for future penalty determinations.

- A. Requirement: Pursuant to N.J.A.C. 7:27-22.16(a) and N.J.A.C. 7:27-22.3(e), NOx (Total) \leq 2.5 ppmvd @15% O₂.

Description of Noncompliance: During the third quarter 2013, on August 13, you exceeded the allowable NOx emission limit of \leq 2.5 ppmvd @ 15% O₂ on Unit 11 in violation of Operating Permit BOP130001-75507, Subject Item U11 - OS1 - Reference #5 L.

- B. Requirement: Pursuant to N.J.A.C. 7:27-22.16(a) and N.J.A.C. 7:27-22.3(e), NOx (Total) \leq 0.01 lb/MMBTU. Based on method 19 calculations and a NOx concentration of 2.5 ppm.

Description of Noncompliance: During the third quarter of 2013, on August 13, you exceeded the allowable NOx emission limit of \leq 0.01 lb/MMBTU on Unit 11 in violation of Operating Permit BOP130001-75507, Subject Item U11 - OS1 - Reference #7 L.

- C. Requirement: Pursuant to N.J.A.C. 7:27-22.16(a) and N.J.A.C. 7:27-22.3(e), NOx (Total) \leq 5.4 lb/hr.

Description of Noncompliance: During the third quarter of 2013, on August 13, you exceeded the allowable NOx emission limit of \leq 5.4 lb/hr on Unit 11 in violation of Operating Permit BOP130001-75507, Subject Item U11 - OS1 - Reference #9 L.

- D. Requirement: Pursuant to N.J.A.C. 7:27-22.16(a) and N.J.A.C. 7:27-22.3(e), NOx (Total) \leq 2.5 ppmvd @ 15% O₂.

Description of Noncompliance: During the fourth quarter 2013, on October 24 and December 14, 17 you exceeded the allowable NOx emission limit of \leq 2.5 ppmvd @ 15% O₂ on Unit 11 in violation of Operating Permit BOP130001-75507, Subject Item U11, Reference #5 L.

- E. Requirement: Pursuant to N.J.A.C. 7:27-22.16(a) and N.J.A.C. 7:27-22.3(e), NOx (Total) \leq 5.4 lb/hr.

Description of Noncompliance: During the fourth quarter of 2013, on December 14, you exceeded the allowable NOx emission limit of \leq 5.4 lb/hr on Unit 11 in violation of Operating Permit BOP130001-75507, Subject Item U11 - OS1 - Reference #9 L.

- F. Requirement: Pursuant to N.J.A.C. 7:27-22.16(a) and N.J.A.C. 7:27-22.3(e), NOx (Total) \leq 0.01 lb/MMBTU. Based on method 19 calculations and a NOx concentration of 2.5 ppm.

Description of Noncompliance: During the first quarter 2014, on February 11 and 17, you exceeded the allowable NOx emission limit of \leq 0.01 lb/mmbtu on Unit 11 in violation of Operating Permit BOP140001-75507, Subject Item U11, Reference #7 L.

- G. Requirement: Pursuant to N.J.A.C. 7:27-22.16(a) and N.J.A.C. 7:27-22.3(e), NOx (Total) \leq 2.5 ppmvd @15% O2.

Description of Noncompliance: During the first quarter 2014, on February 3, 11, 17, 26 and March 3, you exceeded the allowable NOx emission limit of \leq 2.5 ppmvd @ 15% O2 on Unit 11 in violation of Operating Permit BOP130001-75507, Subject Item U11, Reference #5 L.

- H. Requirement: Pursuant to N.J.A.C. 7:27-22.16(a) and N.J.A.C. 7:27-22.3(e), NOx (Total) \leq 5.4 lb/hr.

Description of Noncompliance: During the first quarter of 2014, on February 3, 11, 17 and 26 you exceeded the allowable NOx emission limit of \leq 5.4 lb/hr on Unit 11 in violation of Operating Permit BOP130001-75507, Subject Item U11 - OS1 - Reference #9 L.

- I. Requirement: Pursuant to N.J.A.C. 7:27-22.16(a) and N.J.A.C. 7:27-22.3(e), NOx (Total) \leq 2.5 ppmvd @ 15% O2.

Description of Noncompliance: During the third quarter 2014, on July 21 and 23, September 8 and 22, you exceeded the allowable NOx emission limit of \leq 2.5 ppmvd @ 15% O2 on Unit 11 in violation of Operating Permit BOP090001-75507, Subject Item U11, Reference #5 L.

- J. Requirement: Pursuant to N.J.A.C. 7:27-22.16(a) and N.J.A.C. 7:27-22.3(e), NOx (Total) \leq 5.4 lb/hr.

Description of Noncompliance: During the third quarter 2015, on July 13 and September 1, you exceeded the allowable NOx emission limit of \leq 5.4 lb/hr. on Unit 11 in violation of Operating Permit BOP140003-75507, Subject Item U11 - OS1 - Reference #9 L.

- K. Requirement: Pursuant to N.J.A.C. 7:27-22.16(a) and N.J.A.C. 7:27-22.3(e), NO_x (Total) \leq 2.5 ppmvd @ 15% O₂.

Description of Noncompliance: During the fourth quarter 2014, on November 8, you exceeded the allowable NO_x emission limit of \leq 2.5 ppmvd @ 15% O₂ on Unit 11 in violation of Operating Permit BOP140001-75507, Subject Item U11, Reference #5 L.

- L. Requirement: Pursuant to N.J.A.C. 7:27-22.16(a) and N.J.A.C. 7:27-22.3(e), NO_x (Total) \leq 5.4 lb/hr.

Description of Noncompliance: During the fourth quarter 2014, on November 8 you exceeded the allowable NO_x emission limit of \leq 5.4 lb/hr. on Unit 11 in violation of Operating Permit BOP140003-75507, Subject Item U11 - OS1 - Reference #9 L.

- M. Requirement: Pursuant to N.J.A.C. 7:27-22.16(a) and N.J.A.C. 7:27-22.3(e), NO_x (Total) \leq 2.5 ppmvd @ 15% O₂.

Description of Noncompliance: During the first quarter 2015, on January 8, February 16, you exceeded the allowable NO_x emission limit of \leq 2.5 ppmvd @ 15% O₂ on Unit 11 in violation of Operating Permits BOP140001 and 140003-75507, Subject Item U11, Reference #5 L.

- N. Requirement: Pursuant to N.J.A.C. 7:27-22.16(a) and N.J.A.C. 7:27-22.3(e), NO_x (Total) \leq 5.4 lb/hr.

Description of Noncompliance: During the first quarter 2015, on January 8 and February 16, you exceeded the allowable NO_x emission limit of \leq 5.4 lb/hr. on Unit 11 in violation of Operating Permit BOP140003-75507, Subject Item U11 - OS1 - Reference #9 L.

- O. Requirement: Pursuant to N.J.A.C. 7:27-22.16(a) and N.J.A.C. 7:27-22.3(e), CO \leq 5 ppmvd @ 15% O₂.

Description of Noncompliance: During the fourth quarter 2015, on October 5 and 19, November 2, 3, 5, 9, and 30, December 3, you exceeded the allowable CO emission limit of \leq 5 ppmvd @ 15% O₂ on Unit 11 in violation of Operating Permit BOP140002-75507, Subject Item U11, Reference #11 L.

- P. Requirement: Pursuant to N.J.A.C. 7:27-22.16(a) and N.J.A.C. 7:27-22.3(e), CO \leq 6.4 lb/hr.

Description of Noncompliance: During the fourth quarter 2015, on October 5 and 19, November 5, 9 and 30 and December 3, you exceeded the allowable CO emission limit of \leq 6.4 lb/hr on Unit 11 in violation of Operating Permit BOP140002-75507, Subject Item U11, Reference #15 L.

- Q. Requirement: Pursuant to N.J.A.C. 7:27-22.16(a) and N.J.A.C. 7:27-22.3(e), NO_x (Total) \leq 2.5 ppmvd @ 15% O₂.

Description of Noncompliance: During the third quarter 2015, on July 13, September 1 and 7, you exceeded the allowable NO_x emission limit of \leq 2.5 ppmvd @ 15% O₂ on Unit 11 in violation of Operating Permit BOP140003-75507, Subject Item U11 - OS1 - Reference #5 L.

- R. Requirement: Pursuant to N.J.A.C. 7:27-22.16(a) and N.J.A.C. 7:27-22.3(e), NO_x (Total) \leq 5.4 lb/hr.

Description of Noncompliance: During the third quarter 2014, on July 21, September 8 and 22, you exceeded the allowable NO_x emission limit of \leq 5.4 lb/hr on Unit 11 in violation of Operating Permit BOP090001-75507, Subject Item U11, Reference #9L.

3. Therefore, the Department has determined that VINELAND CITY MUNICIPAL ELECTRIC UTILITY is liable for civil administrative penalties totaling \$26,000.00 for the above referenced violations pursuant to N.J.S.A. 26:2C-19 and N.J.A.C. 7:27A-3.1 et seq.
4. The Department and VINELAND CITY MUNICIPAL ELECTRIC UTILITY had communications on May 12, June 23, July 28, and November 21, 2016 and have agreed to settle this matter in accordance with the following terms:
 - a. The Department has determined that the above violations have been corrected and thus is willing to accept a reduced penalty as follows. VINELAND CITY MUNICIPAL ELECTRIC UTILITY agrees to operate in compliance with all applicable regulations and permits.

- b. In full settlement of the aforementioned violations VINELAND CITY MUNICIPAL ELECTRIC UTILITY shall pay a penalty of \$19,500.00 by check made payable to "Treasurer, State of New Jersey" and remit to the Division of Revenue at the address stated on the enclosed invoice within thirty (30) calendar days from the date of full execution of this Settlement Agreement.
- c. Neither the entry into this Settlement Agreement nor the payment of the settlement amount shall constitute admission of liability by VINELAND CITY MUNICIPAL ELECTRIC UTILITY for the violations listed herein.
- d. If VINELAND CITY MUNICIPAL ELECTRIC UTILITY fails to pay the above reduced penalty in accordance with the terms and conditions of this Settlement Agreement, then VINELAND CITY MUNICIPAL ELECTRIC UTILITY is liable for the full penalty amount. The full penalty amount will be included in a formal enforcement action that will also include formal withdrawal of this settlement agreement.
- e. If VINELAND CITY MUNICIPAL ELECTRIC UTILITY fails to pay the above reduced penalty in accordance with the terms and conditions of this Settlement Agreement, then VINELAND CITY MUNICIPAL ELECTRIC UTILITY is liable for the full penalty amount. The full penalty amount will be included in a formal enforcement action that will also include formal withdrawal of this settlement agreement.
- f. Nothing in this Settlement Agreement shall preclude the Department from taking enforcement action against VINELAND CITY MUNICIPAL ELECTRIC UTILITY for violations not set forth in this Settlement Agreement.
- g. VINELAND CITY MUNICIPAL ELECTRIC UTILITY hereby waives its right to an administrative hearing with respect to the violation(s) which are listed in paragraph 2 above.
- h. This Settlement Agreement shall be effective upon execution by both parties. The Department does not waive its right to consider any violations set forth above as an offense in determining penalties in any future enforcement action.

NJ Department of Environmental Protection

DATE: _____

BY: _____

Mary M. Toogood, Manager
Bureau of Air Compliance &
Enforcement - Southern

VINELAND CITY MUNICIPAL
ELECTRIC UTILITY

DATE: _____

BY: _____
Mr. Ruben Bermudez, City of Vineland
Mayor