

CITY OF VINELAND

RESOLUTION NO. 2019-96

RESOLUTION AUTHORIZING THE EXECUTION OF A SETTLEMENT AGREEMENT BY AND BETWEEN THE CITY OF VINELAND AND NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION REGARDING THE HOWARD DOWN GENERATING STATION

WHEREAS, the Vineland Municipal Electric Utility (VMEU) has an air operating permit from the New Jersey Department of Environmental Protection (NJDEP) covering the operation of air pollution at VMEU generation station including the Down Station (Unit 11); and

WHEREAS, the emissions from Unit 11 turbine are monitored by continuous emission monitors and in 2016 some emission exceedances occurred caused by brief equipment problems; and

WHEREAS, the NJDEP concluded that, based upon the emission monitoring reports, the exceedances violated air pollution standards to which the VMEU submitted defenses; and

WHEREAS, the air pollution regulations contain a standard schedule of fines for incidents identified by continuous monitoring and formed the basis for the NJDEP assessing penalties, however after consideration of the defenses submitted by the VMEU, the NJDEP has offered a settlement amounting to an overall penalty reduction of 25% of the original penalty of \$10,800.00. WHEREAS, the VMEU would consider recommending the payment of the penalty conditioned upon there being no admission of liability on the part of the VMEU which is acceptable to the NJDEP; and

WHEREAS, the Director of the Municipal Utilities has recommended the payment off the settlement offer of \$8,100.00 in as much as protracted litigation would be more costly than the payment of the reduced settlement amount.

NOW THEREFORE BE IT RESOLVED by the Council of the City of Vineland that the Mayor and Clerk are authorized to execute a Settlement Agreement for the dismissal of all alleged permit violations for the year 2016 in exchange for the payment of \$8,100.00 in the form and substance as attached hereto and made a part hereof.
Adopted:

President of Council

ATTEST:

City Clerk

A brief summary of the citations covered by the agreement, as described by the three-hour averages of gas concentrations and pound per hour emissions of nitrogen oxides (NOx) and carbon monoxide (CO) during the exceeding hours, is as follows:

Month	Permit limit		Reading		Duration
	ppm	lb/hr	ppm	lb/hr	
NOx					
March 2016	2.5	5.4	2.9	5.8	3 hrs.
CO					
July 2016	5.0	6.4	5.2	6.6	2 hrs.
August 2016	5.0	6.4	5.1	-	2 hrs.
			5.9	7.2	1 hr.
September 2016	5.0	6.4	5.1	6.6	1 hr.
			5.2	6.8	3 hrs.
			5.2	6.6	3 hrs.
			5.2	6.7	3 hrs.
November 2016	5.0	6.4	-	6.5	1 hr.
			-	6.5	1 hr.
			5.1	6.6	8 hrs.
			5.1	-	1 hr.
December 2016	5.0	6.4	-	6.6	9 hrs.
			5.2	7.0	5 hrs.

Note that control of NOx and CO emissions requires continual balancing of operations, since conditions that decrease one generally increase the other, and changing weather conditions shifts the balance, with cold temperatures tending to increase CO emissions. The utility is preparing to replace the CO catalyst in the Unit 11 controls which should alleviate this situation somewhat and make the balance of controls easier.



State of New Jersey

Department of Environmental Protection
Bureau of Air Compliance and Enforcement - Southern
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PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

CATHERINE R. MCCABE
Commissioner

IN THE MATTER OF	SETTLEMENT AGREEMENT
VINELAND CITY MUNICIPAL ELECTRIC UTILITY HOWARD DOWN GENERATING STATION 211 N. WEST AVE VINELAND, NJ 08362	

EA ID # NEA160003 - 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 Manager, 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 a compliance evaluation of the above location's 2016 EEMPR Submittals (SUB160004 SUB160006 SUB160008 SUB170001), the following violation(s) 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 observed. These violation(s) 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 an offense for future penalty determinations.

FIRST QUARTER 2016

- 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. Based on vendor guarantee / SOTA.

Description of Noncompliance: During the first quarter 2016, on March 16, you exceeded the allowable NOx emission limit of \leq 2.5 ppmvd @ 15% O₂ on Unit 11 in violation of Operating Permit BOP140002-75507, 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 5.4 lb/hr. Based on vendor guarantee.

Description of Noncompliance: During the first quarter 2016, on March 16, you exceeded the allowable NOx emission limit of \leq 5.4 lb/hr on Unit 11 in violation of Operating Permit BOP140002-75507, Subject Item U11 – OS1 – Reference #9 L.

THIRD QUARTER 2016

- C. **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. Based on vendor guarantee.

Description of Noncompliance: During the third quarter 2016, on July 18, August 11, 17, and September 5, 22, 23, 24, 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 – OS1 – Reference #11 L.

- D. **Requirement:** Pursuant to N.J.A.C. 7:27-22.16(a) and N.J.A.C. 7:27-22.3(e), CO \leq 0.012 lb/MMBTU. Based on method 19 calculations and a CO concentration of 5.0 ppm.

Description of Noncompliance: During the third quarter 2016, on August 17, you exceeded the allowable CO emission limit of \leq 0.012 lb/MMBTU on Unit 11 in violation of Operating Permit BOP140002-75507, Subject Item U11 - OS1 - Reference #13 L.

- E. 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. Based on vendor guarantee.

Description of Noncompliance: During the third quarter 2016, on July 18, August 17, and September 5, 22, 23, 24, 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 – OS1 – Reference #15 L.

FOURTH QUARTER 2016

- F. 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. Based on vendor guarantee.

Description of Noncompliance: During the fourth quarter 2016, on November 7, 10, and December 19, 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 – OS1 – Reference #11 L.

- G. 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. Based on vendor guarantee.

Description of Noncompliance: During the fourth quarter 2016, on November 5, 6, 7, and December 15 and 19, 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 – OS1 – Reference #15 L.

3. Therefore, the Department has determined that the VINELAND CITY MUNICIPAL ELECTRIC UTILITY is liable for civil administrative penalties totaling \$10,800.00 for the above referenced violation(s) 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 settlement conference e-mails and on June 13, 2018 have agreed to settle this matter in accordance with the following terms:
 - a. The Department has determined that the above violation(s) has 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 violation(s) VINELAND CITY MUNICIPAL ELECTRIC UTILITY shall pay a penalty of \$8,100.00 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 an 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. 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.
- f. 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.
- g. 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. Anthony Fanucci,
City of Vineland Mayor