

CITY OF VINELAND

RESOLUTION NO. 2021- 393

RESOLUTION AUTHORIZING THE EXECUTION OF A SETTLEMENT AGREEMENT BY AND BETWEEN THE CITY OF VINELAND AND NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION REGARDING THE CLAYVILLE 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 allowed operation of, and air emissions from, equipment located at the Clayville Generating Station, which includes Clayville Unit 1; and

WHEREAS, the emissions from the Clayville Unit 1 turbine are monitored by continuous emission monitors (CEMS) and periodic stack tests, and other operating parameters of Clayville Unit 1 are also monitored according to the provisions of the permit; and

WHEREAS, any emission exceedances recorded by the CEMS or during stack tests, and any deviations from required operating parameters, must be reported to the NJDEP in quarterly and annual reports; and

WHEREAS, exceedances of the stringent emission standards which apply to Clayville Unit 1 have sometimes occurred, usually caused by brief equipment problems, and have been reported to the NJDEP, as required; and

WHEREAS, the NJDEP has recently concluded an evaluation of such filed reports, including quarterly reports filed for 2017, 2018, 2019, and 2020, annual reports filed for 2018, 2019 and 2020, and individual incident reports submitted by the utility explaining the circumstances surrounding reported exceedances; and

WHEREAS, affirmative defenses have been granted, based on submitted incident reports, for certain of the reported exceedances, with associated penalties waived for those exceedances; and

WHEREAS, the NJDEP has, however, assessed penalties for other exceedances, based on a standard schedule of fines contained in the air pollution regulations for incidents identified by continuous monitoring, stack tests and permit reports, and has issued a proposed settlement which covers these alleged violations and penalty assessments; and

WHEREAS, the NJDEP has offered a settlement with an overall 25% penalty reduction from the initially calculated \$21,400 to **\$16,050**; and

WHEREAS, the City Council of the City of Vineland deems it in the best interest of the City to settle this matter rather than proceed on to costly litigation and expenses;

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 a Settlement Agreement in the form attached hereto.

Adopted:

\_\_\_\_\_  
President of Council

ATTEST:

\_\_\_\_\_  
City Clerk

## Memorandum

**To:** Mayor Anthony Fanucci  
Bob Dickenson, Asst. Business Administrator

**CC:** John Lillie, Director, Utilities  
Joseph Isabella, General Manager, Utilities  
Richard P. Tonetta, Esq, City Solicitor

**From:** Jeff Davis, Supervising Engineer, Vineland Municipal Electric Utility

**Date:** August 3, 2021

**Re:** DEP Settlement Agreement – NEA210001 - 75808, 75746 - with Penalty Reduction  
For alleged air permit violations – Clayville Unit 1 Turbine, January 2017 to November 2020

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The electric utility has an air operating permit from the NJDEP covering the operation of all sources of air pollution at VMEU's Clayville Generating Station, the most significant of which is the Clayville Unit 1 combustion turbine which was installed in 2015. Because it is a relatively new source, the Clayville Unit 1 turbine has very low air permit limits, based on its state-of-the-art emission controls. Those controls perform very well, and emissions are usually extremely low and below these limits, but any problems occurring with the turbine or control equipment, even minor problems, can cause an exceedance of these low technologically-based limits, and equipment problems do sometimes occur.

Certain emissions from the Clayville Unit 1 turbine are monitored by continuous emission monitors (CEMS). Summary reports on the emissions recorded by these monitors are submitted quarterly to the NJDEP. Some emission exceedances, usually caused by very brief equipment problems, have been reported over time.

Each year, the Utility must also certify the compliance status of all sources at the station and enumerate any permit deviations, apart from the emissions monitored by the CEMS, that occurred over the prior year. These deviations are sometimes related to the emission exceedances that are included on quarterly reports, but include other permit provisions that are more directly stated, such as the requirement to inject water and ammonia into the control equipment during all operation, which may not show up in the CEMS reports. These deviations can be separately addressed through DEP enforcement actions.

DEP has recently concluded an evaluation of past summary reports for Clayville Station which have not been previously addressed by DEP Enforcement. These include quarterly reports filed for 2017, 2018, 2019, and 2020, annual reports filed for 2018, 2019 and 2020, and individual incident reports submitted by the utility explaining the circumstances surrounding reported exceedances. Affirmative defenses have been granted for a number of the reported exceedances, based on individual incident reports submitted by the utility to explain the circumstances surrounding the exceedances, and associated penalties have been waived in these cases. DEP has, however, assessed penalties for certain of the other exceedances. VMEU has received a proposed settlement from the DEP regional enforcement section regarding these alleged violations and penalty assessments. (See attached.)

The air pollution regulations contain a standard schedule of fines for incidents identified by continuous monitoring, as well as those shown through stack testing and other types of site monitoring, and these are the basis of the DEP penalty assessments. (Calculations have been provided by DEP with the proposed settlement document.) In further consideration of all circumstances, however, and the fact that all

incidents have been resolved, DEP has offered a settlement with an overall 25% penalty reduction. In the agreement, the penalty has been reduced from the initially calculated \$21,400 to \$16,050. Because further litigation would likely cost more than any reduction that might be realized through an appeal process (and an appeal might instead result in assessment of a greater penalty), it is recommended that the proposed settlement agreement be approved and signed by the mayor, and the proposed penalty paid. (As noted above, this total represents penalties accrued over four years from 2017 to 2020.)

We are requesting that a resolution authorizing execution of this Settlement Agreement be added to the City Council agenda for August 24, 2021.

If you have any questions about the settlement or facts of the matter, please feel free to contact me at [jdavis@vinelandcity.org](mailto:jdavis@vinelandcity.org) or call me at City Extension x4541.

Thank you.





State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DIVISION OF AIR ENFORCEMENT

BUREAU OF AIR COMPLIANCE & ENFORCEMENT- SOUTHERN

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Camden, New Jersey 08103

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PHILIP D. MURPHY  
Governor

SHAWN M. LATOURETTE  
Commissioner

SHEILA Y. OLIVER  
Lt. Governor

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

SETTLEMENT AGREEMENT

EA ID # NEA210001 – 75808, 75746

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. The Department has completed its compliance evaluations of the following reports submitted by VINELAND CITY MUNICIPAL ELECTRIC UTILITY CLAYVILLE, located at 4087 South Lincoln Ave, City of Vineland, County of Cumberland, State of New Jersey:

<u>SUB170003</u>	<u>75746</u>	<u>1<sup>st</sup> Quarter 2017 EEMPR</u>
<u>SUB170005</u>	<u>75746</u>	<u>2<sup>nd</sup> Quarter 2017 EEMPR</u>
<u>SUB170007</u>	<u>75746</u>	<u>General Submittal Permit Violations 2017</u>
<u>SUB180003</u>	<u>75746</u>	<u>1<sup>st</sup> Quarter 2018 EEMPR</u>
<u>SUB180007</u>	<u>75746</u>	<u>General Submittal Permit Violations 2018</u>
<u>SUB200002</u>	<u>75808</u>	<u>4<sup>th</sup> Quarter 2019 EEMPR</u>
<u>SUB200008</u>	<u>75808</u>	<u>3<sup>rd</sup> Quarter 2020 EEMPR</u>
<u>SUB210001</u>	<u>75808</u>	<u>4<sup>th</sup> Quarter 2020 EEMPR</u>

3. As the result of the above compliance evaluations, the Department has determined that VINELAND CITY MUNICIPAL ELECTRIC UTILITY CLAYVILLE failed to comply with applicable requirements as follows:

**Air PI# 75746**

- A. Requirement: Pursuant to N.J.A.C. 7:27-8.3(e) and N.J.A.C. 7:27-8.13(h), NO<sub>x</sub> (Total) ≤ 5.52 lb/hr. Based on manufacturer guarantee. This emission limit based on manufacturer's worst case operating data (100% load at 40 degrees Fahrenheit).
- Description of Noncompliance: During the first quarter 2017, on January 8 and 9, you exceeded the allowable NO<sub>x</sub> emission limit of ≤ 5.52 lb/hr on Unit 1 in violation of Preconstruction Permit and Operating Certificate PCP140001-75746, Subject Item U1, OS2, Reference #11L.
- 01/08/2017  
01/09/2017  
(SUB170003-75746)
- B. Requirement: Pursuant to N.J.A.C. 7:27-8.3(e) and N.J.A.C. 7:27-8.13(h), CO ≤ 5 ppmvd @ 15% O<sub>2</sub>. Based on vendor guarantee.
- Description of Noncompliance: During the first quarter 2017, on January 8, you exceeded the allowable CO emission limit of ≤ 5.0 ppmvd @ 15% O<sub>2</sub> on Unit 1 in violation of Preconstruction Permit and Operating Certificate PCP140001-75746, Subject Item U1, OS2, Reference #13 L.
- 01/08/2017  
(SUB170003-75746)
- C. Requirement: Pursuant to N.J.A.C. 7:27-8.3(e) and N.J.A.C. 7:27-8.13(h), CO ≤ 6.72 lb/hr. Based on manufacturer guarantee. This emission limit based on manufacturer's worst case operating data (100% load at 40 degrees Fahrenheit).
- Description of Noncompliance: During the first quarter 2017, on January 8, you exceeded the allowable CO emission limit of ≤ 6.72 lb/hr on Unit 1 in violation of Preconstruction Permit and Operating Certificate PCP140001-75746, Subject Item U1, OS2, Reference #15L.
- 01/08/2017  
(SUB170003-75746)



- D. Requirement: Pursuant to N.J.A.C. 7:27-8.3(e) and N.J.A.C. 7:27-8.13(h), NO<sub>x</sub> (Total)  $\leq 2.5$  ppmvd @ 15% O<sub>2</sub>. Based on vendor guarantee / SOTA.  
Description of Noncompliance: During the first quarter 2017, on January 8 and 9, you exceeded the allowable NO<sub>x</sub> emission limit of  $\leq 2.5$  ppmvd @ 15% O<sub>2</sub> on Unit 1 in violation of Preconstruction Permit and Operating Certificate PCP140001-75746, Subject Item U1, OS2, Reference #9 L.  
01/08/2017  
01/09/2017  
(SUB170003-75746)
- E. Requirement: Pursuant to N.J.A.C. 7:27-8.3(e) and N.J.A.C. 7:27-8.13(a), Continuous Emission Monitoring System (CEMS) Requirement: (NO<sub>x</sub>, CO, and O<sub>2</sub>). Install and operate Continuous emission monitoring System (CEMS) and conduct Performance Specification Test (PST) in accordance with the NJDEP Technical Manual 1005, to demonstrate compliance with NO<sub>x</sub>, CO, and O<sub>2</sub> emitted from emission point PT1, as specified in the compliance plan for OS Summary and OS2. Continuous Emission Monitoring (CEM) system must comply with USEPA performance and siting specifications (40 CFR Part 60, Appendix B). Emissions shall be monitored during all operation of the turbine. Continuous parametric monitors and continuous parametric data recorders shall be installed and operated to demonstrate compliance with monitoring parameters, for example, fuel flow rate, temperature, etc.  
Description of Noncompliance: The Department has determined that during the second quarter of 2017, you failed to fulfill all the conditions and provisions of Preconstruction Permit and Operating Certificate PCP140001, Operating Scenario OS, Reference #6, by not meeting 90% data availability for the Carbon Monoxide and Nitrogen Oxide Continuous Emission Monitors as specified in the approved protocol. The CO and NO<sub>x</sub> monitor was not providing valid data (11.0% downtime).  
(SUB170005-75746)
- F. Requirement: Pursuant to N.J.A.C. 7:27-8.3(e) and N.J.A.C. 7:27-8.13(a), the SCR (CD1) shall be operated and reagent shall be injected at all times that the turbine is operating, except during periods of start-up and shutdown as defined in OS Summary. This requirement shall not apply during commissioning of the turbine within the "shakedown period", defined in OS1, up to a maximum of 120 hours.  
Description of Noncompliance: SCR reagent was not properly injected at all times of Clayville Combustion Turbine operation on the dates listed below, therefore you

failed to fulfill all conditions and provisions of PCP140001 - U1 - OS Summary - Ref# 20.

01/08/17 07:57 - 08:54

01/09/17 03:09 - 03:13 and 08:13 - 09:31

(SUB170007-75746)

- G. Requirement: Pursuant to N.J.A.C. 7:27-8.3(e) and N.J.A.C. 7:27-8.13(h), NOx (Total)  $\leq$  5.79 lb/hr. Based on permitted maximum heat input (628 MMBtu/hr) and a lb/MMBtu value equivalent to the 2.5 ppm SOTA limit (0.00921 lb/MMBtu) from PCP160001.

Description of Noncompliance: During the first quarter 2018, you exceeded the allowable NOx LB/HR emission limit of  $\leq$  5.79 lb/hr on Unit 1 Clayville Combustion Turbine in violation of your Preconstruction Permit and Operating Certificate PCP160001, U1 - OS1 - Reference #9 L, on the following date:

01/04/18

(SUB180003-75746)

- H. Requirement: Pursuant to N.J.A.C. 7:27-8.3I and N.J.A.C. 7:27-8.13(a), the permittee shall operate and maintain the Water Injection System, as per manufacturer's requirements, during all periods of operation, except during periods of start-up and shut down as defined in this permit.

Description of Noncompliance: Water Injection System did not properly operate during all periods at the Clayville Combustion Turbine as required, specifically on the date listed below. Therefore, you failed to fulfill all conditions and provisions of Preconstruction Permit and Operating Certificate PCP180001 – U1 – OS Summary – Ref# 18.

01/04/18

(SUB180007-75746)

**Air PI# 75808**

- I. Requirement: Pursuant to N.J.A.C. 7:27-22.3(e) and N.J.A.C. 7:27-22.16(a), NOx (Total)  $\leq$  2.5 ppmvd @ 15% O<sub>2</sub>. Based on vendor guarantee / SOTA.

Description of Noncompliance: During the 4th Quarter 2019, you exceeded the allowable NOx PPM emission limit of  $\leq$  2.5 ppmvd @ 15% O<sub>2</sub> on Unit 1 Clayville Combustion Turbine in violation of your Operating Permit BOP170001, U1 - OS1 - Reference #7 L, on the following date:

10/13/19

(SUB200002-75808)



- J. Requirement: Pursuant to N.J.A.C. 7:27-22.3(e) and N.J.A.C. 7:27-22.16(a), NOx (Total)  $\leq$  2.5 ppmvd @ 15% O<sub>2</sub>. Based on vendor guarantee / SOTA.  
Description of Noncompliance: During the 3rd Quarter 2020, you exceeded the allowable NOx PPM emission limit of  $\leq$  2.5 ppmvd @ 15% O<sub>2</sub> on the Clayville Combustion Turbine in violation of your Operating Permit BOP190002, U1 - OS1 - Reference #7 L, on the following date:  
07/23/2020  
(SUB200008-75808)
- K. Requirement: Pursuant to N.J.A.C. 7:27-22.3(e) and N.J.A.C. 7:27-22.16(a), NOx (Total)  $\leq$  2.5 ppmvd @ 15% O<sub>2</sub>. Based on vendor guarantee / SOTA.  
Description of Noncompliance: During the 4<sup>th</sup> Quarter 2020, you exceeded the allowable NOx PPM emission limit of  $\leq$  2.5 ppmvd @ 15% O<sub>2</sub> on the Clayville Combustion Turbine in violation of your Operating Permit BOP190002, U1 - OS1 - Reference #7 L, on the following date:  
11/25/20  
(SUB210001-75808)
4. Therefore, the Department has determined that the VINELAND CITY MUNICIPAL ELECTRIC UTILITY CLAYVILLE is liable for civil administrative penalties totaling \$21,400.00 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.
5. The Department and VINELAND CITY MUNICIPAL ELECTRIC UTILITY CLAYVILLE had settlement communications on July 26, 2021 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 CLAYVILLE 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 CLAYVILLE shall pay a penalty of \$16,050.00 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. If VINELAND CITY MUNICIPAL ELECTRIC UTILITY CLAYVILLE fails to pay the above reduced penalty in accordance with the terms and conditions of this Settlement Agreement, then VINELAND CITY MUNICIPAL ELECTRIC UTILITY CLAYVILLE 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.
- d. Nothing in this Settlement Agreement shall preclude the Department from taking enforcement action against VINELAND CITY MUNICIPAL ELECTRIC UTILITY CLAYVILLE for violations not set forth in this Settlement Agreement.
- e. VINELAND CITY MUNICIPAL ELECTRIC UTILITY CLAYVILLE hereby waives its right to an administrative hearing with respect to the violations which are listed in paragraph 3 above.
- f. Nothing in this Settlement Agreement restricts the ability of the Department to raise the above findings in any other proceeding, specifically including, but not limited to, proceedings pursuant to N.J.S.A. 13:1E-126 et seq., (commonly referred to as A-901).
- 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  
CLAYVILLE

DATE: \_\_\_\_\_

BY: \_\_\_\_\_  
Anthony Fannucci  
Mayor, City of Vineland