

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

POTEET'S PIT STOP, INC.

AI # 74279

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

* Settlement Tracking No.
* SA-UE-19-00109
*
* Enforcement Tracking No.
* UE-PP-17-00466
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SETTLEMENT

The following Settlement is hereby agreed to between Poteet's Pit Stop, Inc. ("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 owned and/or operated a facility located in DeRidder, Beauregard Parish, Louisiana ("the Facility").

II

On September 22, 2017, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. UE-PP-17-00466 (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 FIVE THOUSAND AND NO/100 DOLLARS (\$5,000.00), of which Six Hundred Twenty-One and 29/100 Dollars (\$621.29) 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 Beauregard 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

An initial payment of \$2,000.00 is to be made within ten (10) days from notice of the Secretary's signature. The remaining \$3,000.00 is to be paid over a period of six (6) months in the amount of \$500.00 per month. 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.

POTEET'S PIT STOP, INC.

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
Roger W. Gingles, Secretary

BY: _____
Celena J. Cage, 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:  _____
Celena J. Cage, Assistant Secretary



JOHN BEL EDWARDS
GOVERNOR

CHUCK CARR BROWN, PH.D.
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE
September 22, 2017

CERTIFIED MAIL (7016 2140 0000 3607 5196)
RETURN RECEIPT REQUESTED

POTEET'S PIT STOP, INC.
c/o Kathy Poteet
Agent for Service of Process
3215 Highway 171
DeRidder, LA 70634

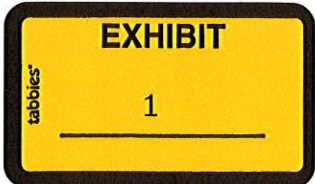
**RE: NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. UE-PP-17-00466
AGENCY INTEREST NO. 74279**

Dear Sir/Madam:

On or about November 21, 2016, and November 29, 2016, inspections of **GET N GO**, owned and/or operated by **POTEET'S PIT STOP, INC. (RESPONDENT)**, were performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Underground Storage Tank Regulations. The facility is located at 3215 Highway 171 in DeRidder, Beauregard Parish, Louisiana.

While the investigation by the Louisiana Department of Environmental Quality (the Department) is not yet complete, the following violations were noted during the course of the inspections:

- A. The Respondent failed to meet performance requirements when performing release detection, in violation of LAC 33:XI.703.A.2.c. Specifically, the automatic tank gauge (ATG) is not testing each manifolded tank separately. Additionally, the Respondent failed to ensure that tanks had an adequate fuel level to conduct release detection from January 2014-October 2016. All product was removed from the tanks on or about December 19, 2016. This violation has been addressed.
- B. The Respondent failed to notify the Office of Environmental Compliance within twenty-four (24) hours of a monitoring result from a release detection method indicating a release may have occurred, in violation of LAC 33:XI.707.A.3. Specifically, the Respondent failed to notify the Department of failed results for monthly release detection method for February 2014-October 2015, August 2016 and October 2016. The Respondent began notifying the



Office of Environmental Compliance of possible releases in November 2016. This violation has been addressed.

- C. The Respondent failed to investigate and confirm any suspected release of a regulated substance that requires reporting under LAC 33:XI.707 within seven (7) days, in violation of LAC 33:XI.711.A.1. Specifically, the Respondent failed to investigate suspected releases for February 2014-October 2015, August 2016 and October 2016. On or about November 21, 2016, the Respondent investigated a suspected release. A tank tightness test and automatic line leak detector test were performed with passing results. This violation has been addressed.
- D. The Respondent failed to continue operation and maintenance of release detection in accordance with LAC 33:XI.701-705 to the temporarily closed UST system that contains more than one (1) inch of product in violation of LAC 33:XI.903.A. Specifically, the Respondent failed to perform release detection on the Supreme tank which contained 6.5 inches of product. On or about December 19, 2016, all product was removed from the tank. This violation has been addressed.
- E. The Respondent failed to submit an updated registration form UST-REG-02 to the Office of Environmental Compliance, in violation of LAC 33:XI.303.E.6.b. Specifically, the Respondent failed to submit an updated UST-REG-02 indicating a change in piping material. An amended UST-REG-02 was submitted on December 5, 2016. This violation has been addressed.
- F. The Respondent failed to complete an acceptable Class A/B operator training course in accordance with LAC 33:XI.607.B.2, in violation of LAC 33:XI.603.A.2. The Respondent completed the Class A/B operator training course on or about April 12, 2017. This violation has been addressed.

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.

Prior to the issuance of any additional appropriate enforcement action, 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 Kelly O'Neal at (225) 219-3932 within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

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.

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.

The Department assesses civil penalties based on LAC 33:I.Subpart1.Chapter7. To expedite closure of this **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 Respondent may offer a settlement amount, but the Department is under no obligation to enter into settlement negotiations. The decision to proceed with a settlement is at the discretion of the Department. 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.

The **NOTICE OF POTENTIAL PENALTY** will not be closed if the Respondent owes outstanding fees to the Department. Please contact the Financial Services Division at 225-219-3865 or via email at _DEQ-WWWFinancialServices@la.gov to determine if you owe outstanding fees.

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.

Sincerely,



Lourdes Iturralde
Assistant Secretary
Office of Environmental Compliance

LI/KAO/kao
Alt ID No. 06-003284

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.	UE-PP-17-00466	Contact Name	Kelly O'Neal
Agency Interest (AI) No.	74279	Contact Phone No.	(225) 219-3932
Alternate ID No.	06-003284		
Respondent:	POTEET'S PIT STOP, INC.	Facility Name:	Get N Go
	c/o Kathy Poteet	Physical Location:	3215 Highway 171
	Agent for Service of Process		
	3215 Highway 171	City, State, Zip:	DeRidder, LA 70634
	DeRidder, LA 70634	Parish:	Beauregard

SETTLEMENT OFFER (OPTIONAL)

(check the applicable option)

<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.Subpart1.Chapter7.
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (7016 2140 0000 3607 5196), 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 (), 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 () and has attached a justification of its offer and a description of any BEPs if included in settlement offer.

CERTIFICATION STATEMENT

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.

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: Kelly O'Neal