

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

UNITED STATES OF AMERICA and)
LOUISIANA DEPARTMENT OF)
ENVIRONMENTAL QUALITY)

Plaintiffs,)

v.)

ARKLA DISPOSAL L.L.C.,)
ARKLA DISPOSAL SERVICES, INC.,)
CCS MIDSTREAM SERVICES, L.L.C.,)
CCS ENERGY SERVICES (USA), INC.,)
and CCS (USA), INC.,)

Defendants.)

Civil Action No. 5:14-cv-2284

JUDGE FOOTE

MAGISTRATE JUDGE HAYES

STIPULATION OF SETTLEMENT

Concurrently with the filing of this Stipulation of Settlement (“Stipulation”), the United States of America, on behalf of the United States Environmental Protection Agency (“EPA”), and the Louisiana Department of Environmental Quality (“LDEQ”) (collectively “Plaintiffs”) have filed a complaint in this action seeking civil penalties from ARKLA Disposal L.L.C., ARKLA Disposal Services, Inc., CCS Midstream Services, L.L.C. (f/k/a/ CCS Energy Services L.L.C.), CCS Energy Services (USA), Inc., and CCS (USA), Inc., (collectively “Defendants”) for alleged violations of the Clean Water Act (“CWA”), 33 U.S.C. § 1251 *et seq.*, Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6901 *et seq.*, Clean Air Act (“CAA”); 42 U.S.C. § 7401 *et seq.*, the Louisiana Environmental Quality Act (“LEQA”), La. R.S. 30:2001 *et seq.*, and the regulations promulgated pursuant to these statutes, at the wastewater treatment

facility owned and operated by the Defendants at 10845 Highway 1 South, Shreveport, LA 71115 ("Facility").

WHEREAS, the EPA and LDEQ conducted inspections of the Facility in April and June of 2007, May of 2008, and May and June of 2011, among other times. These inspections identified, *inter alia*, violations of the requirements of the CWA, RCRA, CAA, and the LEQA, and regulations promulgated pursuant to these statutes.

WHEREAS, starting on October 22, 2007, the Defendants undertook an internal investigation at the Facility which resulted in the disclosure of certain violations of the CWA to the EPA and the LDEQ.

WHEREAS, the LDEQ issued Administrative Orders to the Defendants, dated September 9, 2008 and May 6, 2009 and these two Administrative Orders, along with others, are being resolved separately from this Stipulation.

WHEREAS, the Defendants have worked with LDEQ to complete the actions required by the various administrative orders and hereby certify that they have ceased the alleged violations of the CWA, RCRA, CAA, LEQA, the regulations promulgated pursuant to these statutes, and of the terms of the federally enforceable pretreatment permit for the Facility issued by the City of Shreveport.

WHEREAS, the Parties recognize, and the Court by entering this Stipulation finds, that this Stipulation has been negotiated by the Parties in good faith and will avoid litigation between the Parties and that this settlement is fair, reasonable, and in the public interest.

WHEREAS, nothing contained in this Stipulation shall be deemed to be, or construed as, an admission of liability by any Party hereto, either with respect to the claims and subject matter of the Complaint or otherwise.

NOW, THEREFORE, before the taking of any testimony, without the adjudication or admission of any issue of fact or law except as provided in Section I, and with the consent of the Parties, IT IS HEREBY ADJUDGED, ORDERED, AND DECREED as follows:

I. JURISDICTION AND VENUE

1. This Court has jurisdiction over the Parties and over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1345, and 1355, and Section 309(b) of the CWA, 33 U.S.C. § 1319(b), Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and Section 113(b) of the CAA, 42 U.S.C. § 7413(b). This Court has supplemental jurisdiction over the State law claims asserted by the State of Louisiana pursuant to 28 U.S.C. § 1367. Venue lies in this District pursuant to CWA Section 309(b), 33 U.S.C. § 1319(b), RCRA Section 3008(a), 42 U.S.C. § 6928(a), and CAA Section 113(b), 42 U.S.C. § 7413(b), and 28 U.S.C. §§ 1391(b) and (c) and 1395(a), because the violations alleged against the Defendants in the Complaint occurred in, and the Defendants conduct business in, this judicial district. The Defendants consent to: a) this Court's subject matter jurisdiction over this Stipulation and any action to enforce it; b) this Court's personal jurisdiction over them; and c) venue in this judicial district. Solely for purposes of this Stipulation, Defendants agree that the Complaint states claims upon which relief may be granted.

2. Notice of the commencement of this action has been given to the State of Louisiana as required by CWA Section 309(b), 33 U.S.C. § 1319(b), RCRA Section 3008(a)(2), 42 U.S.C. § 6928(a)(2), and CAA Section 113(b), 42 U.S.C. § 7413.

II. DEFINITIONS

3. Terms used in this Stipulation that are defined in the CWA, RCRA, CAA, or the LEQA, or in regulations promulgated pursuant to the CWA, RCRA, CAA, or the LEQA, shall have the meanings assigned to them in those Acts or such regulations, unless otherwise specifically provided in this Stipulation. Whenever the terms set forth below are used in this Stipulation, the following definitions shall apply:

- a. “Complaint” shall mean the complaint filed by the United States and LDEQ in this action;
- b. “Day” shall mean a calendar day unless expressly stated to be a business day. In computing any period of time under this Stipulation, where the last day would fall on a Saturday, Sunday, or federal or State holiday, the period shall run until the close of business of the next business day;
- c. “Defendants” shall mean ARKLA Disposal L.L.C., ARKLA Disposal Services, Inc., CCS Midstream Services L.L.C. (f/k/a/ CCS Energy Services L.L.C.), CCS Energy Services (USA), Inc., and CCS (USA), Inc.;
- d. “EPA” shall mean the United States Environmental Protection Agency and any of its successor departments or agencies;
- e. “Effective Date” shall have the definition provided in Section VIII.

f. "Facility" shall mean the wastewater treatment facility located at 10845 Highway 1 South, Shreveport, Louisiana, that is owned and/or operated by the Defendants.

g. "LDEQ" shall mean the Louisiana Department of Environmental Quality and any of its successor departments or agencies.

h. "Parties" shall mean the United States, LDEQ, and the Defendants;

i. "Section" shall mean a portion of this Stipulation identified by a roman numeral; and

j. "United States" shall mean the United States of America, acting on behalf of EPA.

III. CIVIL PENALTY

4. The obligations of this Stipulation apply to and are binding upon the Plaintiffs and upon the Defendants and their successors. Any change in the Defendants' ownership or corporate status shall not alter their obligations hereunder.

5. Defendants shall pay a civil penalty of \$ 2,500,000.00 as follows:

a. Within thirty (30) Days after the Effective Date of this Stipulation, Defendants shall pay \$ 1,250,000.00 to the United States by FedWire Electronic Funds Transfer ("EFT") to the U.S. Department of Justice in accordance with written instructions, following entry of the Stipulation, to be provided by the Financial Litigation Unit of the U.S. Attorney's Office for the Western District of Louisiana. At the time of payment, Defendants shall send a copy of the EFT authorization form and

the EFT transaction record, together with a transmittal letter, which shall state that the payment is for the civil penalty owed in *United States, et al. v. Arkla Disposal Services, Inc., et al.* (W.D. La.). The transmittal letter shall reference the civil action number and DOJ case number 90-5-1-1-09262 and shall be sent to the United States in accordance with Section VII of this Decree (Notices); by email to

acctsreceivable.CINWD@epa.gov; and by mail to:

EPA Cincinnati Finance Office
26 Martin Luther King Drive
Cincinnati, Ohio 45268

b. Within thirty (30) Days after the Effective Date of this Stipulation, or within thirty (30) days of receiving written instructions on payment whichever is later, pursuant to La. R.S. 30:2031 the Defendants shall deposit \$ 1,250,000.00 into an escrow account administered by LDEQ dedicated to the remediation, removal, treatment, and/or disposal of solid and/or hazardous wastes that have been abandoned at the Camp Minden facility (formerly known as the Louisiana Army Ammunition Plant). Any funds that remain in this escrow account after January 1, 2016, or that have not been committed to the continuing remediation, removal, treatment, and/or disposal activities at the Camp Minden facility, will be transferred by LDEQ to the Louisiana Hazardous Waste Clean-Up Fund.

6. In calculating their federal, State, or local income tax, Defendants shall not deduct any: (a) civil penalty paid pursuant to this Section; (b) the deposit required by Paragraph 5(b) of this Section; and/or (c) any stipulated penalties paid pursuant to Section IV (Stipulated Penalties).

IV. STIPULATED PENALTIES

7. If Defendants fail to pay the civil penalty required to be paid to the United States under Paragraph 5(a) of Section III of this Stipulation when due, Defendants shall pay a stipulated penalty of \$5,000.00 per Day to the United States for each Day that the payment is late. If the payments specified in Section III are not made to the United States when due, then, in addition to other remedies herein, the United States reserves the right to move this Court to vacate this Stipulation of Settlement and judgment and reinstate this action.

8. If Defendants fail to make the deposit required by Paragraph 5(b) of Section III of this Stipulation when due, Defendants shall pay a stipulated penalty of \$5,000.00 per Day to the LDEQ for each Day that the deposit is late. If the deposit specified in Paragraph 5(b) of Section III of this Stipulation is not made to the LDEQ when due, then, in addition to other remedies herein, the LDEQ reserves the right to move this Court to vacate this Stipulation of Settlement and judgment and reinstate this action.

9. Stipulated penalties shall accrue regardless of whether Defendants have been notified of a violation or demand for payment by the United States and/or the LDEQ. Defendants shall pay any stipulated penalty within thirty (30) Days of receiving the United States' and/or LDEQ's written demand.

10. Defendants shall pay stipulated penalties owing to the United States in the manner set forth and with the confirmation notices required by Paragraph 5(a) of Section III of this Stipulation, except that the transmittal letter shall state that the payment is for stipulated penalties assessed pursuant to the Stipulation. Defendants shall pay stipulated penalties owing to LDEQ in the following manner:

Defendants shall pay any stipulated penalties due to LDEQ either by: 1) certified check made payable to the Louisiana Department of Environmental Quality and sent to: Fiscal Director, Financial Services Division, LDEQ, P.O. Box 4303, Baton Rouge, Louisiana 70821-4303; or 2) by EFT to LDEQ in accordance with written instructions to be provided to Defendants, upon request.

Defendants shall include a transmittal letter stating that the payment is for stipulated penalties assessed pursuant to the Stipulation.

11. If Defendants fail to pay stipulated penalties according to the terms of this Stipulation, Defendants shall be liable for interest on such penalties, as provided for in 28 U.S.C. § 1961, accruing as of the date payment became due. Nothing in this Paragraph shall be construed to limit the United States or LDEQ from seeking any remedy otherwise provided by law for Defendants' failure to pay any stipulated penalties.

V. EFFECT OF SETTLEMENT/RESERVATION OF RIGHTS

12. Payment of the civil penalty required by Section III and any stipulated penalties and interest required by Section IV shall resolve the civil claims of the United States and LDEQ for the violations alleged in the Complaint filed in this action.

13. The United States and LDEQ reserve all legal and equitable remedies available to enforce the provisions of this Stipulation. This Stipulation shall not be construed to limit the rights of the United States or LDEQ to otherwise obtain penalties or injunctive relief

under the CWA, RCRA, CAA, LEQA, or their implementing regulations, or under other federal or State laws, regulations, or permit conditions, except as expressly specified in Paragraph 12. The United States and LDEQ further reserve all legal and equitable remedies to address any imminent and substantial endangerment to the public health or welfare or the environment arising at, or posed by, the Facility, whether related to the violations addressed in this Stipulation or otherwise.

14. In any subsequent administrative or judicial proceeding initiated by the United States or LDEQ for injunctive relief, civil penalties, other appropriate relief relating to the Facility, Defendants shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, *res judicata*, collateral estoppel, issue preclusion, claim preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the United States or the LDEQ in the subsequent proceeding were or should have been brought in this case, except with respect to claims that have been specifically resolved pursuant to Paragraph 12 of this Section.

15. This Stipulation is not a permit, or a modification of any permit, under any federal, State, or local laws or regulations. Defendants are responsible for achieving and maintaining complete compliance with all applicable federal, State, and local laws, regulations, and permits; and Defendants' compliance with this Stipulation shall be no defense to any action commenced pursuant to any such laws, regulations, or permits, except as set forth herein. The United States and LDEQ do not, by their consent to the approval of this Stipulation, warrant or aver in any manner that Defendants' compliance with any aspect of this Stipulation will result in

compliance with provisions of the CWA, RCRA, CAA, or LEQA, or with any other provisions of federal, State, or local laws, regulations, or permits.

16. This Stipulation does not limit or affect the rights of Defendants or of the United States or LDEQ against any third parties, not party to this Stipulation, including John Emerson Tuma. This Stipulation furthermore does not limit the rights of third parties, not party to this Stipulation, against Defendants, except as otherwise provided by law.

17. This Stipulation shall not be construed to create rights in, or grant any cause of action to, any third party not party to this Consent Decree.

VI. COSTS

18. The Parties shall bear their own costs of this action, including attorneys' fees, except that the United States and LDEQ shall be entitled to collect the costs (including attorneys' fees) incurred in any action necessary to collect any portion of the civil penalty or any stipulated penalties due but not paid by Defendants.

VII. NOTICES

19. Unless otherwise specified herein, whenever notifications, submissions, or communications are required by this Stipulation, they shall be made in writing and addressed as follows:

As to the United States:

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
Box 7611 Ben Franklin Station
Washington, D.C. 20044-7611
Re: DOJ No. 90-5-1-1-09262

– and –

to EPA Region 6 at the address below:

Associate Director
Air Toxics Inspection and Coordination Branch
U.S. Environmental Protection Agency
Region 6
1445 Ross Avenue, Suite 1200
Mailcode 6EN-A
Dallas, TX 75202

As to LDEQ:

Celena J. Cage
Administrator, Enforcement Division
Office of Environmental Compliance
Louisiana Department of Environmental Quality
P. O. Box 4312
Baton Rouge, LA 70821-4312

and

Jay Glorioso
Legal Division, Office of the Secretary
Louisiana Department of Environmental Quality
P.O. Box 4302
Baton Rouge, LA 70821-4302

As to Defendant(s):

Rob Van Wallegem
Executive Vice President, Legal and Corporate Secretary
10613 W Sam Houston Pkwy N
Suite 300
Houston, TX 77064

20. Any Party may, by written notice to the other Parties, change its designated notice recipient or notice address provided above.

VIII. EFFECTIVE DATE

21. The Effective Date of this Stipulation shall be the date when this Stipulation is signed and entered by the Court, as recorded on the Court's docket.

IX. RETENTION OF JURISDICTION

22. The Court shall retain jurisdiction over this case for the purpose of interpreting this Stipulation and enforcing compliance with its terms.

X. PUBLIC PARTICIPATION

23. The Parties agree and acknowledge that final approval by LDEQ, and entry of this Stipulation is subject to the requirements of La. R.S. 30:2050.7, which provides for public notice of this Stipulation in the official journal of the parish governing authority for the parish in which the violations giving rise to this Stipulation occurred, an opportunity for public comment, consideration of any comments, and concurrence by the State Attorney General. The LDEQ reserves the right to withdraw or withhold consent if the comments regarding this Stipulation disclose facts or considerations which indicate that this Stipulation is inappropriate, improper or inadequate.

XI. TERMINATION

24. After Defendants have: a) paid the civil penalty and made the deposit required by Paragraph 5 and b) paid any accrued stipulated penalties as required by this Stipulation, this Stipulation will be terminated. Within ten (10) business days of receiving all amounts due under this Stipulation, the United States and LDEQ shall file a notice with the Court stating that full payment has been made and requesting that the Complaint be dismissed with prejudice.

XII. SIGNATORIES/SERVICE

25. Each undersigned representative of the Defendants, LDEQ, and the Acting Assistant Attorney General for the Environment and Natural Resources Division of the Department of Justice certifies that he or she is fully authorized to enter into the terms and conditions of this Stipulation and to execute and legally bind the Party he or she represents to this Stipulation.

26. This Stipulation may be signed in counterparts, and its validity shall not be challenged on that basis. The Defendants agree to accept service of process by mail with respect to all matters arising under or relating to this Stipulation and to waive the formal service requirements set forth in Rules 4 and 5 of the Federal Rules of Civil Procedure and any applicable Local Rules of this Court including, but not limited to, service of a summons.

XIII. INTEGRATION

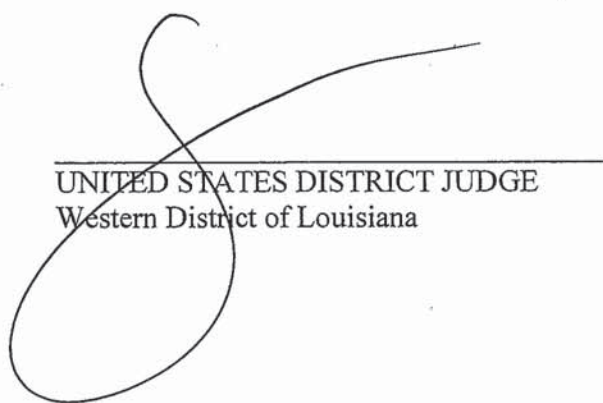
27. This Stipulation constitutes the final, complete, and exclusive agreement and understanding among the Parties with respect to the settlement embodied in the Stipulation and supersedes all prior agreements and understandings, whether oral or written, concerning the settlement embodied herein. No other document, nor any representation, inducement, agreement, understanding, or promise, constitutes any part of this Stipulation or the settlement it represents, nor shall it be used in construing the terms of this Stipulation.

XIV. FINAL JUDGMENT

28. Upon approval and entry of this Stipulation by the Court, this Stipulation shall constitute a final and enforceable judgment of the Court as to the United States, LDEQ, and Defendants.

SO ORDERED.

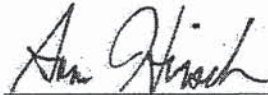
Dated and entered this 10th day of October, 2014.



UNITED STATES DISTRICT JUDGE
Western District of Louisiana

THE UNDERSIGNED PARTIES enter into this Stipulation in the matter of the *United States et al. v. Arkla Disposal Service, Inc., et al.* (W.D. La.).

FOR THE UNITED STATES OF AMERICA



SAM HIRSCH
Acting Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice



STEVEN D. SHERMER
Senior Attorney
(Designated Trial Attorney pursuant to L.R. 11.2)
Environmental Enforcement Section
Environment and Natural Resources Division
United States Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
(202) 514-1134
Steven.Shermer@usdoj.gov

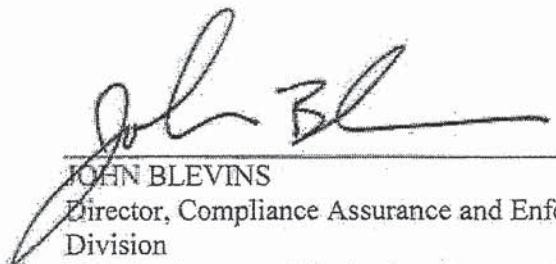
STEPHANIE A. FINLEY
United States Attorney
Western District of Louisiana

s/Katherine W. Vincent

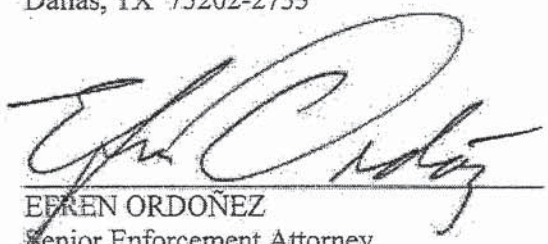
KATHERINE W. VINCENT (18717)
United States Attorney's Office
Western District of Louisiana
800 Lafayette Street, Suite 2200
Lafayette, LA 70501-6832
Phone: 337-262-6706

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**FOR THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY,
REGION 6**



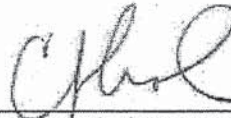
JOHN BLEVINS
Director, Compliance Assurance and Enforcement
Division
U.S. Environmental Protection Agency, Region 6
1445 Ross Ave.
Dallas, TX 75202-2733



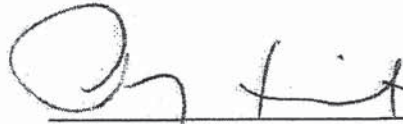
EREN ORDONEZ
Senior Enforcement Attorney
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 6
1445 Ross Avenue (RC-EW)
Dallas, TX 75202-2733

Subject to the public notice and comment requirements of La. R.S. 30:2050.7, THE UNDERSIGNED PARTIES enter into this Stipulation in the matter of the *United States et al. v. Arkla Disposal Service, Inc., et al.* (W.D. La.).

FOR THE LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY



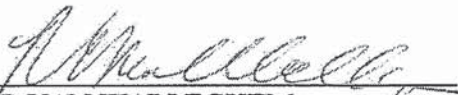
CHERYL SONNIER NOLAN
Assistant Secretary
Office of Environmental Compliance
Louisiana Department of Environmental Quality
P.O. Box 4312
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Jay Glorioso, Trial Attorney (LA #28050)
Perry Theriot, Attorney Supervisor (LA#19181)
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THE UNDERSIGNED PARTIES enter into this Stipulation in the matter of the *United States et al. v. Arkla Disposal Service, Inc., et al.* (W.D. La.).

**FOR ARKLA DISPOSAL, L.L.C., ARKLA
DISPOSAL SERVICES, INC., CCS
MIDSTREAM SERVICES, L.L.C. (f/k/a CCS
ENERGY SERVICES L.L.C.), CCS ENERGY
SERVICES (USA), INC., and CCS (USA), Inc.**



ROB VAN WALLEGHEM
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