

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

UNITED BULK TERMINALS DAVANT, LLC

AI # 10249

PROCEEDINGS UNDER THE LOUISIANA

ENVIRONMENTAL QUALITY ACT

LA. R.S. 30:2001, ET SEQ.

* Settlement Tracking No.
* SA-WE-18-0014
*
* Enforcement Tracking No.
* WE-PP-17-00160
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SETTLEMENT

The following Settlement is hereby agreed to between United Bulk Terminals Davant, LLC (“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 limited liability company that owned and/or operated a bulk materials storage and transfer facility and ship hold and barge/vessel cleaning facility located in Davant, Plaquemines Parish, Louisiana (“the Facility”).

II

On November 8, 2017, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. WE-PP-17-00160 (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 TWO THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$2,500.00), of which Three Hundred Twenty-Seven and 69/100 Dollars (\$327.69) 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), permit record(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 Plaquemines 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

Payment is to be made within ten (10) days from notice of the Secretary's signature. 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.

**UNITED BULK TERMINALS
DAVANT, LLC**

BY: Phillip Kroepf
(Signature)

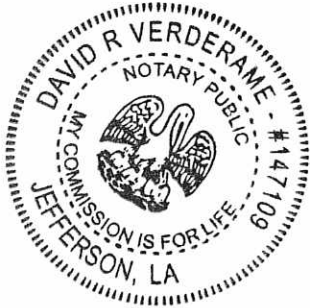
PHILIPP KROEPF
(Printed)

TITLE: GENERAL MANAGER

THUS DONE AND SIGNED in duplicate original before me this 22 day of August, 20 18, at New Orleans, Louisiana

David R. Verderame
NOTARY PUBLIC (ID # 147109)

David R. Verderame
(stamped or printed)



**LOUISIANA DEPARTMENT OF
ENVIRONMENTAL QUALITY**
Chuck Carr Brown, Ph.D., Secretary

BY: Lourdes Iturralde
Lourdes Iturralde, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 11th day of Jan, 20 19, at Baton Rouge, Louisiana.

Perry Theriot
NOTARY PUBLIC (ID # 19181)

Perry Theriot
(stamped or printed)

Approved: Lourdes Iturralde
Lourdes Iturralde, Assistant Secretary



JOHN BEL EDWARDS
GOVERNOR



CHUCK CARR BROWN, Ph.D.
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

November 8, 2017

CERTIFIED MAIL (7016 2140 0000 5132 8543)
RETURN RECEIPT REQUESTED

UNITED BULK TERMINALS DAVANT, LLC
c/o Corporate Creations Network, Inc.
Agent for Service of Process
1070-B West Causeway Approach
Mandeville, LA 70471

**RE: NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. WE-PP-17-00160
AGENCY INTEREST NO. 10249**

Dear Sir:

On or about September 19, 2016, an inspection of **UNITED BULK TERMINALS DAVANT**, a bulk materials storage and transfer facility and ship hold and barge/vessel cleaning facility, owned and/or operated by **UNITED BULK TERMINALS DAVANT, LLC (RESPONDENT)**, was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Water Quality Regulations. A subsequent file review was performed on or about November 2, 2017. The facility is located at or near the Mississippi River between Miles 53.9 and 56.7 M.A.H.P. in Davant, Plaquemines Parish, Louisiana. The Respondent was issued modified Louisiana Pollutant Discharge Elimination System (LPDES) permit LA0070602 on May 1, 2015, which was also effective on that date, and has an expiration date of May 31, 2016, for the intermittent discharge of stormwater runoff, equipment washdown, vehicle rinsewater, and coal and coke vessel stormwater and washwater from Outfalls 001 and 002 via Plaquemines Parish drainage canals to American Bay, waters of the state. LPDES permit LA0070602 has been administratively continued. Renewed coverage under LPDES permit LAG5332013 for treated sanitary wastewater discharges was granted to the Respondent effective February 10, 2014, with an expiration date of November 30, 2017. The Respondent was also issued LPDES Permit LA0116998 for the discharge of dry commodity barge/vessel washwater, coal and coke barge/vessel washwater and ballast water on September 23, 2009, with an effective date of November 1, 2009, and an expiration date of October 31, 2014. Coverage under LPDES Permit LAG030014 was granted to the Respondent on July 15, 2014. Upon the date that coverage was granted under LPDES Permit LAG030014, LPDES permits LAG5332013 and LA0116998 were canceled in their entirety. LPDES Permit LAG030014 has an expiration date of December 31, 2019. Under the terms and conditions of LPDES Permit LAG030014, the Respondent is permitted to discharge treated sanitary wastewater, dry commodity vessel washwater, coal and coke vessel washwater combined with contaminated stormwater, facility ballast water and/or void water, and incoming ballast and/or void water to the Mississippi River in subsegment 070301 of the Mississippi River Basin, waters of the state.

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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 inspection and file review:

- A. The Respondent failed to comply with LPDES permit LA0116998 and LAG030014. Specifically, the Respondent reported exceedances of permit effluent limitations for biochemical oxygen demand (BOD), total suspended solids (TSS), and fecal coliform. Each exceedance of a permitted limitation is a violation of LPDES permit LA0116998 (Part I, Effluent Limitations and Monitoring Requirements (Outfall 003), page 2 of 4 and Part III, Section A.2), LPDES permit LAG030014 (Part I, Section B (Outfall 01B), page 8 of 27 and Part III, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A. [See Attachment 1]
- B. The Respondent failed to comply with LPDES permit LAG030014. Specifically, the Respondent failed to submit monthly discharge monitoring reports (DMRs) for Outfall 002 and monthly and quarterly DMRs for Outfall 005 since issuance of LPDES Permit LAG030014 on July 15, 2014. Each failure to submit DMRs is a violation of LPDES Permit LAG030014 (Part I, Section B, Schedule B, page 10 of 27 (Outfall 002); Part I, Section B, Schedule E (Outfall 005), pages 13-15 of 27; Part I, Section C.6; and Part III, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.L.4.

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 Richard Ober, Jr. at (225) 219-3135 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.

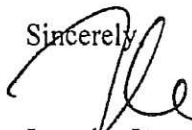
For each violation described herein, the Department reserves the right to seek civil penalties and the right to seek compliance with its rules and regulations in any manner allowed by law, and nothing herein shall be construed to preclude the right to seek such penalties and compliance.

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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.

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/RO/ro
Alt ID Nos. LA0070602, LAG030014

c: Mr. Tyrone Williams
Terminal Manager
United Bulk Terminals Davant, LLC
14537 Highway 15
Davant, Louisiana 70040

Attachment
- Attachment I

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.	WE-PP-17-00160	Contact Name	Richard Ober, Jr.
Agency Interest (AI) No.	10249	Contact Phone No.	(225) 219-3135
Alternate ID Nos.	LA0070602, LAG030014		
Respondent:	United Bulk Terminals Davant, LLC	Facility Name:	United Bulk Terminals Davant
	c/o Corporate Creations Network, Inc.	Physical Location:	Mississippi River between Miles 53.9 and 56.7 M.A.H.P.
	Agent for Service of Process		
	1070-B West Causeway Approach	City, State, Zip:	Davant, LA 70040
	Mandeville, LA 70471	Parish:	Plaquemines

SETTLEMENT OFFER (OPTIONAL)

(check the applicable option)

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 33:1.Subpart1.Chapter7.

In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (WE-PP-17-00160), the Respondent is interested in entering into settlement negotiations with the Department and would like to set up a meeting to discuss settlement procedures.

In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (WE-PP-17-00160), 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.

- 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.

The Respondent has reviewed the violations noted in NOTICE OF POTENTIAL PENALTY (WE-PP-17-00160) 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: Richard Ober, Jr.

Attachment 1
Effluent Exceedances

Date	Outfall	Parameter	Permit Limit	Sample Value
6/2016	01B	TSS (daily maximum)	45 mg/L	52 mg/L
		TSS (monthly average)	30 mg/L	52 mg/L
		BOD ₅ (daily maximum)	45 mg/L	83 mg/L
		BOD ₅ (monthly average)	30 mg/L	83 mg/L
12/2013	003	Fecal Coliform (daily maximum)	400 col/100ml	740 col/100ml
		Fecal Coliform (monthly average)	200 col/100ml	371 col/100ml