

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

PAUL E. RIVIERE, INC.

AI # 72166

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

* Settlement Tracking No.
* SA-UE-21-0022
*
* Enforcement Tracking No.
* UE-CN-16-00193
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SETTLEMENT

The following Settlement is hereby agreed to between Cimsco Incorporated and/or Paul E. Riviere, Inc. (collectively "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 owns and/or operates a municipal piping supply company located in Metairie, Jefferson Parish, Louisiana ("the Facility").

II

On May 19, 2016, the Department issued to Paul E. Riviere, Inc. a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. UE-CN-16-00193 (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 SIX THOUSAND AND NO/100 DOLLARS (\$6,000.00), of which One Thousand Thirty-Three and 15/100 Dollars (\$1,033.15) 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 Consolidated Compliance Order & 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 Jefferson 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.

CIMSCO INCORPORATED and/or
PAUL E. RIVIERE, INC.

BY: Christen C. Riviere
(Signature)

Christen C. Riviere
(Printed)

Title President
CIMSCO INCORPORATED

Title President
PAUL E. RIVIERE, INC.

THIS DONE AND SIGNED in duplicate original before me this 19 day of October, 20 21, at Metairie, Louisiana

[Signature]
NOTARY PUBLIC (ID # _____)

RAYMOND B. LANDRY, BAR# 21696

MOLLERE, FLANAGAN & LANDRY, L.L.C.

2341 Metairie Stamp (stamped or printed)

Metairie, Louisiana 70001

(504) 837-4950

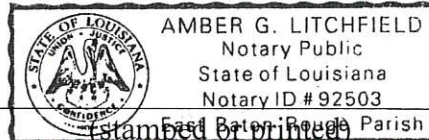
LOUISIANA DEPARTMENT OF
ENVIRONMENTAL QUALITY

Chuck Carr Brown, Ph.D., Secretary

BY: [Signature]
Celena J. Cage, Assistant Secretary
Office of Environmental Compliance

THIS DONE AND SIGNED in duplicate original before me this 8th day of June, 20 22, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 92503)



Approved: [Signature]

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

May 19, 2016

CERTIFIED MAIL (7005 0390 0006 1027 8503/8510)
RETURN RECEIPT REQUESTED

PAUL E. RIVIERE, INC.
c/o Paul E. Riviere, Jr.
Agent for Service of Process
107 Bordeaux Avenue
Metairie, LA 70005

RE: **CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. UE-CN-16-00193
AGENCY INTEREST NO. 72166**

Dear Sir:

Pursuant to the Louisiana Environmental Quality Act (La. R.S. 30:2001, et seq.), the attached **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is hereby served on **PAUL E. RIVIERE, INC. (RESPONDENT)** for the violations described therein.

Compliance is expected within the maximum time period established by each part of the **COMPLIANCE ORDER**. The violations cited in the **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** could result in the issuance of a civil penalty or other appropriate legal actions.

Any questions concerning this action should be directed to Daniel Cristina at (225) 219-3794.

Sincerely,


Celená J. Cage
Administrator
Enforcement Division

CJC/DPC/dpc
Alt ID No. 26-007155
Attachment



c: PAUL E. RIVIERE, INC.
c/o Paul E. Riviere, Jr.
1840 L & A Road
Metairie, LA 70001

**STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE**

IN THE MATTER OF

**PAUL E. RIVIERE, INC.
JEFFERSON PARISH
ALT ID NO. 26-007155**

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

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*
* **ENFORCEMENT TRACKING NO.**
*
* **UE-CN-16-00193**
*
* **AGENCY INTEREST NO.**
*
* **72166**
*

**CONSOLIDATED
COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY**

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **PAUL E. RIVIERE, INC. (RESPONDENT)** by the Louisiana Department of Environmental Quality (the Department), under the authority granted by the Louisiana Environmental Quality Act (the Act), La. R.S. 30:2001, et seq., and particularly by La. R.S. 30:2025(C), 30:2050.2 and 30:2050.3(B).

FINDINGS OF FACT

I.

The Respondent owns and/or operates a municipal piping supply company located at 1840 L&A Road in Metairie, Jefferson Parish, Louisiana. The facility has three (3) two-thousand (2,000) gallon underground storage tanks (USTs). The facility has been assigned alternate identification number 26-007155.

II.

On or about June 19, 2007, the Department conducted an inspection of the facility which revealed violations of the Department's regulations. On or about July 1, 2008, the Department issued **COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY UE-CN-07-1125**. The Respondent received **COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY UE-CN-07-1125** on or about July 7, 2008, and submitted a response on or about September 30, 2010. On or

about November 5, 2010, the Department issued **AMENDED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY UE-CN-07-1125A**. The Respondent did not appeal **AMENDED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY UE-CN-07-1125A**; therefore, the Department considers it to be a final action.

III.

On or about January 23, 2013, the Department conducted an inspection at the facility which revealed violations of the Department's regulations. The Respondent stated during the inspection that Statistical Inventory Reconciliation (SIR) was used for release detection. However, the Respondent failed to provide SIR records after several requests by the Department. On or about July 1, 2013, the Department issued Notice of Potential Delivery Prohibition (NOPDP) to the Respondent citing the failure to provide release detection records, failure to pay annual fees, failure to have a Class A or Class B operator, and failure to have a Class C operator. The Respondent received Notice of Potential Delivery Prohibition (NOPDP) on or about July 12, 2013, via certified mail.

IV.

On or about December 15, 2014, the Department conducted a follow-up inspection at the facility. The inspector noted the facility has a trained Class A or B operator and all UST fees had been paid. However, the inspection noted the Respondent was not conducting release detection on any of the three (3) USTs and C operators had not been trained. As a result, all three (3) USTs were red tagged, tag numbers 211, 212, and 213.

V.

On or about November 3, 2015, the Department conducted a follow-up inspection at the facility. During the course of the inspection, it was noted that the Respondent signed a contract with a third-party contractor to conduct SIR in December 2014. However, the facility's SIR contractor stated in an email to the Department dated November 3, 2015, that it had not received any release detection data since the contract was signed. The facility was still under delivery prohibition.

VI.

On or about March 1, 2010; January 23, 2013; December 15, 2014; and November 3, 2015; the Department conducted inspections at the facility which revealed the following violations:

- A. The Respondent failed to maintain documentation of the operation of release detection for a period of no less than three (3) years, in violation of LAC 33:XI.509.B.4. Specifically, the Respondent stated during the January 23,

- 2013, inspection, that SIR was used for release detection, but failed to maintain three (3) years of release detection records.
- B. The Respondent failed to pay the prescribed annual UST registration fees, in violation LAC 33:XI.307.D. Specifically, at the time of the January 23, 2013, inspection, UST fees for 2011 and 2012 were not paid. This violation has been addressed.
 - C. The Respondent failed to have a Class A or B certified UST operator for the facility, in violation of LAC 33:XI.607.B.2. Specifically, the Respondent failed to have a Class A or Class B operator trained for the facility. This violation has been addressed.
 - D. The Respondent failed to have a Class C certified UST operator for the facility, in violation of LAC 33:XI.607.C. Specifically, the Respondent failed to have a Class C operator trained for the facility.
 - E. The Respondent failed to conduct monthly release detection on the UST system in accordance with LAC 33:XI.701, in violation of **COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY UE-CN-07-1125A**, LAC 33:XI.1503.A and LAC 33:XI.703.A.1. Specifically, during the March 1, 2010, inspection, the site representative stated the facility was not conducting any form of release detection. The January 23, 2013, inspection noted the facility did not have any SIR records to demonstrate release detection was being performed. A follow-up inspection on December 15, 2014, revealed the facility was still not conducting release detection on the USTs. The SIR contractor stated on November 3, 2015, that no release detection data had been submitted by the facility. The November 3, 2015, inspection revealed the facility was still not conducting release detection on the USTs.

COMPLIANCE ORDER

Based on the foregoing, the Respondent is **hereby ordered**:

I.

To take, immediately upon receipt of this **COMPLIANCE ORDER**, any and all steps necessary to meet and maintain compliance with the Underground Storage Tank Regulations.

II.

To immediately institute procedures, upon receipt of this **COMPLIANCE ORDER**, which will ensure that all required release detection records are kept for at least three (3) years at the UST site and are made immediately available for the Department's inspection, or kept at a readily available alternative site and provided to the Department for inspection upon request, in accordance with LAC 33:XI.509.

III.

To complete, within thirty (30) days upon receipt of this **COMPLIANCE ORDER**, an acceptable Class C UST operator training course as specified in LAC 33:XI.605.A.2, in accordance with LAC 33:XI.607.C.

IV.

To immediately, upon receipt of this **COMPLIANCE ORDER**, conduct monthly release detection using a method or combination of the methods listed in LAC 33:XI.701.A.4-7, in accordance with LAC 33:XI.701-705 and to immediately institute procedures to ensure release detection is conducted each month thereafter in accordance with the requirements. Documentation of compliance with the release detection requirements shall be submitted to the Enforcement Division within thirty (30) days of receipt of the **COMPLIANCE ORDER**.

V.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, a written report that includes a detailed description of the circumstances surrounding the cited violations and actions taken or to be taken to achieve compliance with the Order. Portion of this **COMPLIANCE ORDER**. This report and all other reports or information required to be submitted to the Enforcement Division by this **COMPLIANCE ORDER** shall be submitted to:

Office of Environmental Compliance
Post Office Box 4312
Baton Rouge, Louisiana 70821-4312
Attn: Daniel Cristina
Re: Enforcement Tracking No. UE-CN-16-00193
Agency Interest No. 72166

THE RESPONDENT SHALL FURTHER BE ON NOTICE THAT:

I.

The Respondent has a right to an adjudicatory hearing on a disputed issue of material fact or of law arising from this **COMPLIANCE ORDER**. This right may be exercised by filing a written request with the Secretary no later than thirty (30) days after receipt of this **COMPLIANCE ORDER**.

II.

The request for an adjudicatory hearing shall specify the provisions of the **COMPLIANCE ORDER** on which the hearing is requested and shall briefly describe the basis for the request. This request should reference the Enforcement Tracking Number and Agency Interest Number, which are located in the upper right-hand corner of the first page of this document and should be directed to the following:

Department of Environmental Quality
Office of the Secretary
Post Office Box 4302
Baton Rouge, Louisiana 70821-4302
Attn: Hearings Clerk, Legal Division
Re: Enforcement Tracking No. UE-CN-16-00193
Agency Interest No. 72166

III.

Upon the Respondent's timely filing a request for a hearing, a hearing on the disputed issue of material fact or of law regarding this **COMPLIANCE ORDER** may be scheduled by the Secretary of the Department. The hearing shall be governed by the Act, the Administrative Procedure Act (La. R.S. 49:950, et seq.), and the Department's Rules of Procedure. The Department may amend or supplement this **COMPLIANCE ORDER** prior to the hearing, after providing sufficient notice and an opportunity for the preparation of a defense for the hearing.

IV.

This **COMPLIANCE ORDER** shall become a final enforcement action unless the request for hearing is timely filed. Failure to timely request a hearing constitutes a waiver of the Respondent's right

to a hearing on a disputed issue of material fact or of law under Section 2050.4 of the Act for the violation(s) described herein.

V.

The Respondent's failure to request a hearing or to file an appeal or the Respondent's withdrawal of a request for hearing on this **COMPLIANCE ORDER** shall not preclude the Respondent from contesting the findings of facts in any subsequent penalty action addressing the same violation(s), although the Respondent is estopped from objecting to this **COMPLIANCE ORDER** becoming a permanent part of its compliance history.

VI.

Civil penalties of not more than twenty-seven thousand five hundred dollars (\$27,500) for each day of violation for the violation(s) described herein may be assessed. For violations which occurred on August 15, 2004, or after, civil penalties of not more than thirty-two thousand five hundred dollars (\$32,500) may be assessed for each day of violation. The Respondent's failure or refusal to comply with this **COMPLIANCE ORDER** and the provisions herein will subject the Respondent to possible enforcement procedures under La. R.S. 30:2025, which could result in the assessment of a civil penalty in an amount of not more than fifty thousand dollars (\$50,000) for each day of continued violation or noncompliance.

VII.

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

NOTICE OF POTENTIAL PENALTY

I.

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.

II.

Prior to the issuance of additional appropriate enforcement action(s), 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 Daniel Cristina at (225) 219-3794 within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

III.

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 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 violation(s) 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 that statement.

IV.

This **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is effective upon receipt.

Baton Rouge, Louisiana, this 19th day of May, 2016.



Lourdes Iturralde
Assistant Secretary
Office of Environmental Compliance

Copies of a request for a hearing and/or related correspondence should be sent to:

Louisiana Department of Environmental Quality
Office of Environmental Compliance
Enforcement Division
P.O. Box 4312
Baton Rouge, LA 70821-4312
Attention: Daniel Cristina