STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	**Settlement Tracking No.**
	*	**SA-AE-14-0016**
BENGAL PIPELINE COMPANY LLC	*	
	*	**Enforcement Tracking No.**
AI # 588	*	**AE-CN-07-0179**
	*	**AE-CN-07-0179A**
	*	
PROCEEDINGS UNDER THE LOUISIANA ENVIRONMENTAL QUALITY ACT LA. R.S. 30:2001, ET SEQ.	*	

SETTLEMENT

The following Settlement is hereby agreed to between Bengal Pipeline Company 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 owns and/or operates a petrochemical storage and transfer facility located in Port Hudson, East Feliciana Parish, Louisiana ("the Facility").

II

On September 7, 2011, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty (CONOPP), Enforcement No. AE-CN-07-0179, which was based upon the following findings of fact:

"The Respondent owns and/or operates the Baton Rouge Tank Farm, a petrochemical storage and transfer facility, located at 1475 Highway 61 in Port Hudson, East Feliciana Parish, Louisiana. Prior to June 6, 2006, the facility contained approximately twenty four (24) storage tanks and was owned and/or operated by Colonial Pipeline Company and Shell Pipeline Company. On June 26,

2006, all of the Shell Pipeline Company facility was transferred to the Respondent and Title V Permit No. 0880-00007-V4 was transferred to the Respondent by the Department. In addition, on June 6, 2006, all of the Colonial Pipeline Company facility except for Tank 132 was transferred to the Respondent along with Title V Permit No. 3034-V0 (AI# 27646). On or about September 14, 2007, the Respondent submitted a permit modification application to the Department. The application served to do the following: combine both Title V permits transferred to the Respondent on June 6, 2006, and June 26, 2006; update emission limits for the facility based on updated tank leg height information, increased tank landing information, updated AP-42 emission factors, and new tank fitting information; reconcile emission reduction projects and tank cleanings without approval from the Department; and permit the facility as a major source of TAPs. On May 16, 2008, Title V Permit No. 0880-00007-V4 was modified to combine the two (2) permits due to common ownership. The Respondent currently operates the facility under Title V Permit No. 0880-00007-V6 issued on July 11, 2011.

On or about July 18, 2007, and November 4, 2009, file reviews of the Baton Rouge Tank Farm, owned and/or operated by the Respondent, were performed to determine the degree of compliance with the Act and the Air Quality Regulations in response to a meeting with the Department requested by the Respondent conducted on July 18, 2007, to report tank emission deviations and corrective actions to be taken.

While the Department's investigation is not yet complete, the following violation(s) were noted during the course of the file reviews:

A. During the meeting, the Respondent self reported emission exceeedances on certain tanks due to incorrect tank leg heights utilized in the emission calculations as submitted to the Department and subsequently incorporated into Title V Permit No. 3034-V0 issued on May 12, 2006, Title V Permit No. 0880-00007-V4 issued on May 10, 2006, and 2006 annual emissions calculations. By letter

submitted to the Department on July 20, 2007, the Respondent self-reported the incorrect tank leg heights for Tank 1472 (EQT030), Tank 1473 (EQT002), Tank 1474 (EQT004), Tank 1475 (EQT005), Tank 1476 (EQT006), Tank 1477 (EQT007), Tank 1478 (EQT011), Tank 1479 (EQT008), Tank 1480 (EQT012), Tank 1481 (EQT013), Tank 1486 (EQT015), Tank 1493 (EQT009), Tank 1520 (EQT014), Tank 1521 (EQT010), and Tank 1522 (EQT003). Each exceedance of the permit limits due to a failure to properly permit the emissions associated with the tank leg heights is a violation of Title V Permit No. 3034-V0, Title V Permit No. 0880-00007-V4, LAC 33:III.501.C.4, La R.S. 30:2057(A)(1), and 30:2057(A)(2).

B. By letter submitted to the Department on July 20, 2007, the Respondent self-reported tank landings above permitted levels for Tank 124 (EQT035), Tank 1472 (EQT030), Tank 1473 (EQT002), Tank 1474 (EQT004), Tank 1475 (EQT005), Tank 1477 (EQT007), Tank 1479 (EQT008), Tank 1493 (EQT009) and Tank 1521 (EQT010). Each failure to maintain a floating roof floating on the liquid at all times (i.e. off of the roof leg supports) except during initial fill until the roof is lifted or when the tank is completely emptied is a violation of Title V Permit No. 0880-00007-V4, LAC 33:III.905, La R.S. 30:2057(A)(1), and 30:2057(A)(2).

C. On or about December 27, 2007, the Respondent submitted a Quarterly Deviation Report for the third quarter monitoring period of 2007. The Respondent reported that as a result of updated AP-42 emissions factors, which occurred in November 2006, the facility became a major source of TAPs. According to 40 CFR 63 NESHAPS Subpart R the Respondent is required to have a fugitive emissions monitoring program. The Respondent failed to develop and implement a fugitive emissions monitoring program. The failure to control emissions of TAPs to a degree that constitutes Maximum Achievable Control Technology (MACT) is a violation of Title V Permit No. 0880-00007-V4, Title V Permit No. 3034-V0, LAC 33:III.5122, LAC 33:III.5109.A.1, LAC 33:III.501.C.4, La R.S. 30:2057(A)(1), and 30:2057(A)(2).

D. On or about September 28, 2007, the Respondent submitted a Title V semiannual monitoring report to the Department. The report indicated that the Respondent began emission reduction projects and tank cleanings for Tank 1472 (EQT030), Tank 1475 (EQT005), Tank 1477 (EQT007), and Tank 1518 (EQT016) during the first half of 2007 without receiving prior approval from the Department. This is a violation of Title V Permit No. 0880-00007-V4, LAC 33:III.501.C.4, La R.S. 30:2057(A)(1), and 30:2057(A)(2).

E. On or about March 31, 2008, the Respondent submitted a 2007 Annual Compliance Certification for the Baton Rouge Tank Farm. According to the Certification, emissions from tank cleaning events for Tank 1472 (EQT030), Tank 1475 (EQT005), Tank 1477 (EQT007), and Tank 1518 (EQT016) exceeded

the threshold limits of five (5) tons per year as established in the permit as a General Condition XYII activity. This is a violation of Title V Permit No. 0880-00007-V4, LAC 33:III.501.C.4, La R.S. 30:2057(A)(1), and 30:2057(A)(2).

F. On or about April 30, 2009, the Respondent submitted a Title V permit modification application to the Department. According to the application, the facility contains two (2) emergency generators and one (1) fire pump engine that are not permitted. The failure to obtain prior approval for any construction, modification, or operation of a source which ultimately may result in an initiation or increase in emission of air contaminants is a violation of LAC 33:III.501.C.2, LAC 33:III.501.C.4, La R.S. 30:2057(A)(1), and 30:2057(A)(2).

G. According to LAC 33:III.2103, tanks, reservoirs or other containers greater than 250 gallons and below 40,000 gallons with a maximum true vapor pressure of 1.5 psia or greater at storage conditions must be equipped with either a submerged fill pipe or a vapor loss control system. On or about April 30, 2009, the Respondent submitted a Title V permit modification application to the Department. According to the application, the facility contains Sump 004 (EQT025) which is subject to LAC 33:III.2103, but does not have a submerged fill pipe or a vapor loss control system. This is a violation of LAC 33:III.2103.A and La R.S. 30:2057(A)(2).

On October 22, 2012, the Department issued to Respondent an Amended Consolidated Compliance Order & Notice of Potential Penalty (CONOPP), Enforcement No. AE-CN-07-0179A, which was based upon the following findings of fact:

The Department hereby amends Paragraph II.A of the Findings of Fact to read as follows:

A. During the meeting, the Respondent self reported in their 2006 and 2007 annual emissions calculations emissions exceedances on certain tanks due to incorrect tank leg heights and number of tank landings utilized in the emissions calculations as submitted to the Department and subsequently incorporated into Title V Permit No. 3034-V0 issued on May 12, 2006 and Title V Permit No. 0880-00007-V4 issued on May 10, 2006. By letters submitted to the Department on July 20, 2007, and October 21, 2011, the Respondent self-reported volatile organic compounds (VOCs) emissions totaling 39.95 tons per year above permitted limits in 2006 for the following tanks: Tank 124 (EQT008), Tank 1472 (EQT030), Tank 1473 (EQT002), Tank 1474 (EQT004), Tank 1475 (EQT005), Tank 1476 (EQT006), Tank 1477 (EQT007), Tank 1479 (EQT008), Tank 1493 (EQT009), Tank 1521 (EQT010), and Tank 1522 (EQT003). Additionally by letter submitted to the Department on October 21, 2011, the Respondent self-reported VOCs emissions totaling 175.33 tons per year above permitted limits in 2007 for the following tanks: Tank 1473, Tank 1474, Tank

1475, Tank 1476, Tank 1477, Tank 1479, Tank 1493, Tank 1518 (EQT016), Tank 1519 (EQT017), Tank 1521, and Tank 1522. Each exceedance of the permit limits due to a failure to properly permit the emissions associated with the tank leg heights and number of tank landings is a violation of Title V Permit No. 3034-V0, Title V Permit No. 0880-00007-V4, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

The Department hereby deletes Paragraphs II.B, II.C, and II.E of the Findings of Fact from the Order.

The Department hereby adds Paragraphs II.H, II.I, II.J and II.K to the Findings of Fact, which shall read as follows:

H. The Respondent self-reported by letter submitted to the Department on October 21, 2011, that three oil/water separators and two sting-water tanks were operated at the facility without being included in the permit. Specifically, due to a revision in emission calculation methodologies in part due to information obtained from AP-42, API and other engineering publications, the oil/water separators and sting-water tanks were not previously considered to be emission sources. The emission sources were included in Title V Permit 0880-00007-V6 issued to the Respondent on July 11, 2011. Operation of each equipment prior to being included in the permit is a violation of LAC 33:III.501.C.2, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

I. The Respondent self-reported by letter submitted to the Department on October 21, 2011, that due to revised emission calculation methodologies permitted emissions rates for 2009 and 2010 were exceeded for Tank 1472, Tank 1473, Tank 1475, Tank 1479 and Tank 1522. Each exceedance of the permit limits is a violation of Title V Permit No. 0880-00007-V5, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

J. The Respondent self-reported by letter submitted to the Department on October 21, 2011, that due to a revised speciation for diesel fuel xylene permit limits were exceeded in 2010 for Tanks 171 and 172. Each exceedance of the permit limits is a violation of Title V Permit No. 0880-00007-V5, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

K. The Respondent self-reported by letter submitted to the Department on October 21, 2011, that tank inspections and associated notifications were not provided as required. Specifically, Tanks 1479 and 1480 were taken out of service for maintenance in 2007 and secondary seal gap measurements were performed; however, the inspections were not performed while the tanks were off their legs. Additionally in 2009, Tank 1480 was taken out of service, but an out of service

inspection was not performed and a notification of intent to refill was not provided. Each failure to provide inspections and associated notifications is a violation of Title V Permit No. 0880-00007-V4 prior to May 16, 2008, Title V Permit No. 0880-00007-V5 prior to July 11, 2011, LAC 33:III.501.C.4 and La. R.S. 30:2057(A)(2).

The Department incorporates all of the remainder of the original **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY, ENFORCEMENT TRACKING NO. AE-CN-07-0179,** and **AGENCY INTEREST NO. 588** as if reiterated herein."

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 TWENTY-FOUR THOUSAND AND NO/100 DOLLARS ($24,000.00), of which Eight Hundred Nineteen and 47/100 Dollars ($819.47) 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 permit record(s), the CONOPPs 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

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in East Feliciana Parish, Louisiana. The advertisement, in form, wording, and size 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 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.

IX

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).

X

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XI

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.

BENGAL PIPELINE COMPANY LLC

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
Peggy M. Hatch, Secretary

BY: _____
Cheryl Sonnier Nolan, 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: _____
Cheryl Sonnier Nolan, Assistant Secretary