STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	**Settlement Tracking No. SA-MM-15-0059**
CENTRAL OIL & SUPPLY CORPORATION	*	
AI # 75497, 11478, 162298	*	**Enforcement Tracking No. UE-CN-07-0359 MM-CN-12-00209 MM-CN-12-00842**
PROCEEDINGS UNDER THE LOUISIANA ENVIRONMENTAL QUALITY ACT	*	**Docket No. 2013-13626-EQ 2013-15760-EQ**
LA. R.S. 30:2001, ET SEQ.	*	

SETTLEMENT

The following Settlement is hereby agreed to between Central Oil & Supply Corporation ("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 facilities located in Richland Parish, Caddo Parish, and East Baton Rouge Parish, Louisiana ("the Facilities").

II

On July 3, 2008, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. UE-CN-07-0359, which was based upon the following findings of fact:

"The Respondent is the registered owner of four (4) underground storage tanks (USTs) on property known to the Department as Harde Mart #6 (the Site) located at 664 Highway 17 in Delhi, Richland Parish, Louisiana. The UST System is registered with the Department and was assigned

alternate identification number 42-012875.

On or about December 20, 2006, and April 3, 2008, inspections of the Site and a subsequent record review revealed the following:

A. At the time of the December 20, 2006, inspection, the Respondent failed to provide cathodic protection for the metal diesel pump which had wet dirt around it, in violation of LAC 33:XI.303.B.2. The April 3, 2008, report noted that anodes were added to the submerged pumps on January 4, 2007.

B. The Respondent continued to use monthly inventory control and tank tightness testing as the sole method of release detection for tanks meeting the performance standard in LAC 33:XI.303B or C more than 10 years after the tanks were upgraded, in violation of LAC 33:XI.703B.1.

C. At the time of the April 3, 2008, inspection, the Respondent failed to perform inventory control using a stick capable of measuring the level of product over the full range of the tank's height to the nearest 1/8 of an inch, in violation of LAC 33.XI.701.A.1.b. Specifically, the first ¾ inch was missing from the measuring stick."

On June 26, 2012, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. MM-CN-12-00209, which was based upon the following findings of fact:

"The Respondent owns and/or operates Central Oil & Supply Corporation, a used oil transporter/transfer facility, located at 4041 Ratcliff Road in Shreveport, Caddo Parish, Louisiana. The Respondent operates under the Environmental Protection Agency's identification number LAD 985176874. The facility is also a small quantity handler of Universal Waste (antifreeze). The Respondent does not have a Louisiana Pollutant Discharge Elimination System (LPDES) permit or any other authority to discharge wastes and/or other substances to waters of the state.

On or about May 26, 2011, the Department conducted an inspection at the facility. This inspection revealed drums containing used oil were not properly labeled and failure to store used oil in containers that are in good condition. As a result of this inspection, a Notice of Deficiency (NOD)

was issued to the Respondent on July 21, 2011. A response to the NOD was received on August 29, 2011, and a Deficiency Clear Letter (DCL) was issued on or about September 30, 2011.

On or about October 20, 2011, and February 2, 2012, inspections were conducted by representatives of the Department which revealed the following violations:

A. The Respondent failed to provide secondary containment for containers storing used oil, in violation of LAC 33:V.4035.D. Specifically, the five (5) tote tanks, and forty-three (43) 55-gallon drums of used oil were not stored within secondary containment. The follow up inspection on or about February 2, 2012, revealed all drums and one (1) tote tank containing used oil had been removed from the facility. Four (4) tote tanks containing used oil remained on-site during the follow up inspection on February 2, 2012; however, only one (1) of the totes was within secondary containment. The Respondent also failed to implement an adequate spill prevention and control (SPC) plan in accordance with LAC 33:IX:907 and a spill prevention control and countermeasures (SPCC) plan in accordance with 40 CFR 112, in violation of La R.S. 30:2076 (A)(3), LAC 33:IX.907.D, and LAC 33:V.4035. Specifically, the Respondent failed to meet the minimum spill prevention standards by failing to provide secondary containment and/or other diversionary structures for the containers storing used oil to prevent releases from reaching waters of the state.

B. The Respondent failed to clean up and properly manage released used oil, in violation of LAC 33:V.4035.H. Specifically, stained soil was observed around the 55-gallon drums and tote tanks containing used oil. The area observed near the tote tanks was noted in the NOD issued on or about May 26, 2011.

C. The Respondent failed to label containers storing used oil with the words "Used Oil," in violation of LAC 33:V.4035.G.1. Specifically, unlabeled tote tanks and 55-gallon drums containing used oil were observed at the facility. This violation was addressed before the follow up inspection on February 2, 2012.

D. The Respondent failed to label a container storing universal waste antifreeze with the words "Universal Waste – Antifreeze," or "Waste Antifreeze," or Used Antifreeze," in violation of LAC 33:V.3823.A.8. Specifically, the follow up inspection performed on or about February 2, 2012, noted one (1) unlabeled tote tank containing universal waste antifreeze.

Inspections conducted by the Department on or about October 20, 2011, and February 2, 2012, and a subsequent file review conducted on June 4, 2012, revealed that the Respondent failed to apply for an LPDES Multi-Sector General Permit (MSGP) for Storm Water Discharges Associated

with Industrial Activities. Specifically, the facility's operations are classified under Standard Industrial Classification (SIC) code number 5093, and the Respondent is required to submit an application for and obtain permit coverage under Sector N of the LPDES MSGP for Storm Water Discharges Associated with Industrial Activities. The Respondent's failure to apply for and obtain permit coverage is a violation of La. R.S. 30:2076 (A)(3) and LAC 33:IX.2511.C.1."

On September 7, 2012, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. MM-CN-12-00842, which was based upon the following findings of fact:

"The Respondent owns and/or operates Central Oil & Supply Corporation – Flannery Bulk Fuel Plant, located at 2775 North Flannery Road in Baton Rouge, East Baton Rouge Parish, Louisiana. The Respondent operates as a used oil transporter/transfer facility and as a bulk fuel and oil storage facility. The Respondent does not have a Louisiana Pollutant Discharge Elimination System (LPDES) permit or any other authority to discharge wastes and/or other substances to waters of the state.

An inspection conducted by the Department on or about January 26, 2012, revealed that the Respondent did cause or allow the discharge of diesel fuel into waters of the state. Specifically, on January 13, 2012, during an unsuccessful attempt, by persons unknown, to steal red dye diesel fuel from the facility yard, the fuel pump was left on causing over pressurization and rupture of the pump seal at which time 200 to 300 gallons of diesel fuel spewed over the containment wall into the parking lot. On January 17, 2012, the Respondent's employees initiated clean up by applying a degreaser, Power Plus 9, and pressure washing the diesel fuel into the drainage ditch, thence into Lively creek, waters of the state. The clean up efforts were unsuccessful and an off-site discharge of red dye diesel was observed and photographed at the time of the inspection. The discharge could

have been prevented if the pump handle had been locked down per the Respondent's SPC/SPCC (Spill Prevention Control/Spill Prevention Control and Countermeasures) plan. The Respondent failed to verbally notify the Department within twenty-four (24) hours of the incident's discovery. The unauthorized discharge was discovered by an employee of the Respondent on January 14, 2012, and the verbal notification was not made until January 16, 2012. The Respondent failed to submit a written report to the Department within seven (7) calendar days after the expiration of the time allowed for the required verbal notification. The unauthorized discharge of diesel into waters of the state is a violation of La. R. S. 30:2075. The Respondent's failure to implement an adequate SPC plan in accordance with LAC 33:IX.907 and an adequate SPCC plan in accordance with 40 CFR 112, is a violation of La. R.S. 30:2076 (A)(3), LAC 33:IX.907.F, and LAC 33:V.4035. The failure to submit a timely verbal notification is a violation of La. R.S. 30:2076 (A)(3) and LAC 33:I.3917.A. The failure to submit a written report to the Department is a violation of La. R.S. 30:2076 (A)(3) and LAC 33:I.3925.A.

An inspection conducted by the Department on or about January 26, 2012, revealed that the Respondent failed to implement an adequate plan that meets the regulatory SPC/SPCC requirement. Specifically, the Respondent failed to provide adequate secondary containment for the Used Oil Storage Tank #3. The containment area consisted of a concrete pad with a secondary containment made of cinder blocks. At the time of the inspection, there were significant cracks and gaps observed in the containment wall and floor. Additionally, a storage area containing over 1,320 gallons of fuel and oil products did not have secondary containment. Since there is an aggregate total of over 1,320 gallons in storage capacity of applicable substances, the Respondent is required to provide secondary containment. This area has a floor drain that discharges to the storm water ditch, thence into Lively Creek, waters of the state. No controls were installed to prevent a potential discharge due to spill

from entering waters of the state. The following deficiencies in the Respondent's implementation of an adequate SPC/SPCC plan were also noted during the January 26, 2012 inspection:

A. The Respondent failed to follow spill response procedures;

B. The Respondent failed to clean up and dispose of spilled oil;

C. The Respondent failed to document all quarterly inspections;

D. The Respondent failed to conduct weekly inspections;

E. The Respondent failed to properly train personnel on spill prevention procedures as outlined in the SPC/SPCC plan;

F. The Respondent failed to update the management and contact information in the SPC/SPCC plan; and

G. The Respondent did not follow the proper notification procedures, as outlined in the SPC/SPCC plan, for the January 13, 2012 spill.

The Respondent's failure to implement an adequate SPC plan in accordance with LAC 33:IX.907 and an adequate SPCC plan in accordance with 40 CFR 112, is a violation of La. R.S. 30:2076 (A)(3), LAC 33:IX.907.F, and LAC 33:V.4035.

An inspection conducted by the Department on or about January 26, 2012, and a subsequent file review conducted by the Department on or about August 13, 2012, revealed that the Respondent failed to apply for an LPDES Multi-Sector General Permit (MSGP) for Storm Water Discharges Associated with Industrial Activities. Specifically, the facility's operations are classified under Standard Industrial Classification (SIC) code number 5093, and the Respondent is required to submit an application for and obtain permit coverage under Sector N of the LPDES MSGP for Storm Water Discharges Associated with Industrial Activities. The Respondent's failure to apply for and obtain permit coverage is a violation of La. R.S. 30:2076 (A)(3) and LAC 33:IX.2511.C.1.

On or about January 26, 2012, an inspection was conducted by representatives of the Department which revealed the following violations:

A. The Respondent failed to provide a containment system for an above ground tank storing used oil, including walls and floors that are sufficiently impervious to used oil to prevent any used oil which is released into the containment system from migrating out of the system to the soil, groundwater, or surface water, in violation of LAC 33:V.4035.E.2. Specifically, the concrete pad and cinder block walls, used as the secondary containment system for used oil storage tank #3, have significant cracks and gaps in the wall and floor. Several areas of visible contamination have migrated through the secondary containment system to the ground outside, including:

1. the ground outside along the back wall of the facility storage warehouse;
2. the walls and ground of the back wall of the Drum Storage Area;
3. oily liquid spilled from containers of lubricating oil had seeped through the wall to the outside ground;
4. spills in the tank storage areas had migrated through an opening of the building wall to the ground outside causing two areas of oily, black contamination along the back wall.

B. The Respondent failed to clean up and properly manage released used oil, in violation of LAC 33:V.4035.H. Specifically, contaminated soil as the result of seepage from failures in the secondary containment system around the used oil tanks were observed on the ground outside the building walls.

C. The Respondent failed to properly determine if a generated solid waste was a hazard, in violation of LAC 33:V.1103. Specifically, used aerosol cans were noted in garbage containers.

During the January 26, 2012 inspection, the Department observed four (4) 275-gallon totes labeled "Bad Fuel Off Road Mix with Gas". The origin of these totes could not be determined."

III

In response to the Consolidated Compliance Orders & Notices of Potential Penalty, Respondent made timely requests for hearing.

IV

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

V

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 SIXTY-FIVE THOUSAND SIX HUNDRED THIRTY-SEVEN NO/100 DOLLARS ($65,637.00), of which Five Thousand One Hundred Ninety-One and 68/100 Dollars ($5,191.68) 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).

VI

Respondent further agrees that the Department may consider the inspection report(s), permit record(s), the Consolidated Compliance Orders & Notices 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.

VII

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.

VIII

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.

IX

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.

X

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Richland Parish, Caddo Parish, and East Baton Rouge 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.

XI

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).

XII

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

XIII

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.

CENTRAL OIL & SUPPLY CORPORATION

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
Chuck Carr Brown, Ph.D., Secretary

BY: _____
Lourdes Iturralde, 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: _____
Lourdes Iturralde, Assistant Secretary