

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	Settlement Tracking No.
	*	SA-WE-14-0051
UNITED BULK TERMINALS DAVANT, LLC	*	
	*	Enforcement Tracking No.
AI # 10249	*	WE-CN-13-00840
	*	WE-CN-13-00840A
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT	*	
LA. R.S. 30:2001, <u>ET SEQ.</u>	*	

SETTLEMENT

The following Settlement is hereby agreed to between United Bulk Terminals Davant, LLC (“Respondent” or “UBT”) 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

The Respondent owns and/or operates United Bulk Terminals Davant, LLC, a bulk material storage and handling facility, and barge and vessel hold cleaning operation located at 14537 Louisiana Highway 15 in Davant, Plaquemines Parish, Louisiana. The Respondent is granted coverage under Louisiana Pollutant Discharge Elimination System (LPDES) Permit LA0070602 to discharge stormwater runoff and exterior vehicle and equipment washwater from outfalls 001 & 002 to American Bay via Plaquemines Parish drainage canals, waters of the state. LPDES Permit LA0070602 has an effective date of June 1, 2011, and expiration date of May 31, 2016. The Respondent also operates under LPDES Permit LA0116998 for the discharge of barge/vessel washwater, and LPDES General Permit LAG533203 for sanitary discharges. A company name change of the facility from U.S. United Bulk Terminal, LLC to United Bulk

Terminals Davant, LLC was effective on October 21, 2013.

II

Based on an inspection conducted on June 26, 2013, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, No. WE-CN-13-00840 (the CCONPP), on January 23, 2014, which was based upon the following findings of fact:

“An inspection conducted on or about June 26, 2013, and a file review conducted by the Department on or about December 2, 2013, revealed that the Respondent failed to cleanup and dispose of spilled products and spilled wastes immediately. Specifically, at the downstream end of the facility, coke and coal fall from the conveyor belts onto the batture. According to the facility representative, the cleanup occurs as long as the river is low. When the river is high, the piles of coal and coke are submerged in water and cleanup does not occur. At the time of inspection, the river was high. Each failure to utilize all reasonable methods to minimize any adverse impact, and clean up and dispose of all spilled product and spilled waste immediately is a violation of LPDES permit LA0070602 (Narrative Requirements, Condition T-10) and LAC 33:IX.2701.A.

An inspection conducted on or about June 26, 2013, and a file review conducted by the Department on or about December 2, 2013, revealed that the Respondent caused or allowed unauthorized discharges. Specifically, coal and coke were allowed to fall from the conveyor belt onto the batture. During high river conditions, the batture is covered by water. Each unauthorized discharge of a pollutant not specified by the LPDES permit is a violation of La. R.S. 30:2076(A)(1)(a), LAC 33:IX.501.D.”

A file review conducted by the Department on or about December 2, 2013, revealed that

the Respondent failed to submit a Name/Ownership/Operator Change Form (NOC-1 Form) to the Department prior to or no later than 45 days after the change. Specifically, on or about August 2, 2013, a NOC-1 Form was submitted to the Department. According to the Louisiana Secretary of State, the Respondent's named changed from U.S. United Bulk Terminals, LLC, to United Bulk Terminals Davant, LLC, on or about November 28, 2012. Each failure to submit a NOC-1 Form prior to or no later than forty-five (45) days after the change is a violation of LPDES Permit LA0070602 (Part III, Sections A.2, and D.3) and LAC 33:I.1905.A.

On February 21, 2014, the Department issued to Respondent an Amended Consolidated Compliance Order & Notice of Potential Penalty, No. WE-CN-13-00840A (the Amended CCONPP), which amended Paragraph II, as follows:

“An inspection conducted on or about June 26, 2013, and a file review conducted by the Department on or about December 2, 2013, revealed that the Respondent failed to cleanup and dispose of spilled products and spilled wastes immediately. Specifically, at the downstream end of the facility, coke and coal fall from the conveyor belts onto the batture. According to the facility representative, the cleanup occurs as long as the river is low. When the river is high, the piles of coal and coke are submerged in water and cleanup does not occur. At the time of inspection, the river was high. Each failure to utilize all reasonable methods to minimize any adverse impact, and clean up and dispose of all spilled product and spilled waste immediately is a violation of LPDES permit LA0070602 (Narrative Requirements, Conditions T-10 and T-11) and LAC 33:IX.2701.A.”

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 \$17,961.74, of which \$1,461.74 represents the Department's enforcement costs, in settlement of the claims set forth in this agreement.

V

UBT, in addition to the penalty amount specified in Paragraph IV above and as part of this Settlement, agrees to expend the amount of \$16,500.00 to fund the following beneficial environmental project:

A. Respondent shall donate \$16,500.00 directly to the Woodlands Conservancy on behalf of the Woodlands Trail and Bird Park Sanctuary in full payment of the Beneficial Environmental Project. The act of donation or other instrument shall require the Woodlands Conservancy to submit verification to United Bulk Terminal that the donated funds were expended for the project described in paragraph B, below. Upon receiving such verification, United Bulk Terminal will submit a copy of the verification to the Department. Respondent will make good faith efforts to obtain the verification noted above from the Woodlands Conservancy; however, Respondent is not responsible for Woodland Conservancy's failure or refusal to provide said verification. After submitting the proof of payment and verification (or records documenting Respondent's good faith attempts to obtain the verification) to the LDEQ, Respondent's duties and obligations regarding the Beneficial Environmental Project are fulfilled.

B. Woodlands Conservancy, operating the Woodlands Trail and Bird Park Sanctuary, located in Plaquemines Parish, will utilize the funds to remove invasive species, such as Chinese Tallow, Chinese Privet, and Chinaberry, and reforest those areas with native trees in order to regain the habitat impacted by Hurricane Katrina.

C. UBT agrees to expend \$16,500.00 for the Beneficial Environmental Project. If UBT does not expend the amount of \$16,500.00, then it shall propose additional projects for the Department's approval (or pay to the Department) in an amount equal to the difference between the amount of money agreed to be spent and the amount of money actually spent.

D. The total amount of money expended by UBT on cash payments to the Department or beneficial environmental projects, as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

VI

The Respondent shall implement the following projects and/or activities under the compliance schedule set forth herein:

A. The Batture Project, as described in the application for the project and any amendment(s) thereto and as approved by the required regulatory permit(s), attached as Exhibit 1. The Batture Project shall commence when the river stage is such that work may safely be performed and upon receipt of all required permits and authorizations, including authorization from the U.S. Corps of Engineers, and shall be completed on or before 90 days from commencement.

B. The Upgrade Project, as described in the application for the project and any amendment thereto and as approved by the required regulatory permit(s), attached as Exhibit 2. The Upgrade Project shall commence when the river stage is such that work may safely be performed and upon receipt of all required permits and authorizations, including authorization from the U.S. Corps of Engineers, and shall be completed on or before 18 months from commencement.

C. No later than thirty days after the effective date of this Settlement, Respondent shall submit an application to modify LPDES Permit LA0070602 to include additional Best Management Practices relating to any incidental materials that may fall from the conveyor belts.

VII

Upon signing this Settlement, the Department will issue an Administrative Order on Consent which will include the provisions in Paragraph VI as an enforceable order of the Department. The Administrative Order on Consent is attached as Exhibit 3 and is incorporated herein by reference.

VIII

Respondent further agrees that the Department may consider the inspection report(s), the Consolidated Compliance Order & Notice of Potential Penalty, the Amended 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.

IX

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.

X

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 and the rules relating to beneficial environmental projects set forth in LAC 33:I.Chapter 25.

XI

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, 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 notice from the newspaper of each affected parish 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.

XII

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).

XIII

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

XIV

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 TERMINAL DAVANT, 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

Exhibit 1

Batture Project



Joint Permit Application

For Work Within the Louisiana Coastal Zone

What is the purpose of the Joint Permit Application?

This Joint Permit Application was developed to facilitate the state and federal permit application process administered by the Louisiana Department of Natural Resources/Office of Coastal Management (OCM) and the U.S. Army Corps of Engineers (COE) for work within the Louisiana Coastal Zone.

To simplify the permit application process, the Joint Permit Application is a multi-purpose application. It may be used to apply for a Coastal Use Permit (CUP) and/or a Department of the Army Permit under Section 10 of the Rivers and Harbors Act and/or Section 404 of the Clean Water Act. This application may also be used to apply for a Solicitation of Views (SOV) or an OCM Request for Determination (RFD). Review the instructions below, then proceed to Step 1.

Instructions

How do I complete the Joint Permit Application?

There are two parts to the Joint Permit Application package:

1. Joint Permit Application, and
2. Maps and Drawings.

An accurate/complete application is required for processing; inaccurate/missing information may delay processing. Follow the instructions below to complete the application. Specific instructions are provided with each step.

- Type or print clearly using black or blue ink;
- Steps 1 through 16 must be completed; write "N/A" if information does not apply to your proposed project. It is not necessary to write "N/A" on the Steps that you have been asked to skip;
- When additional space is needed, include an 8½ x 11 sheet of paper identifying the Step number.

When you have questions or need assistance in completing the application package:

- Refer to the "Glossary of Terms" (See page 10.);
- Refer to "Frequently Asked Questions" (See page 11.);
- Contact the Office of Coastal Management at 1-800-267-4019 or 225-342-7591; or
- Contact your local coastal parish program (See page 11.).
<http://dnr.louisiana.gov/CRM/coastmgt/interagencyaff/lcp/lcp.asp>

Step 1 of 16

Who is the applicant for the proposed project?

Note: Applicants may be either the landowner, person or company that is responsible for the proposed project.

Complete the following information about the applicant.

Applicant/Company Name: United Bulk Terminals, Davant, LLC
 Individual Person or Corporation/Company

Mailing Address: 14537 Highway 16
 Street Address or P.O. Box Unit/Apartment #
Davant, LA 70040
 City State Zip

Contact Information: Tyrone Williams tyrone.williams@unitedbulkterminal
 Name of Contact Person (not the agent) E-Mail Address
(504) 333-7318 (504) 682-1388
 Area Code Daytime Telephone Number Area Code Fax Number

Step 2 of 16

Is an agent being used for the proposed project?

Note: An agent is not required.

Is an agent being used for the proposed project?

- NO (If NO, proceed to Step 3.)
- YES (If YES, complete the following information.)

Company Name: ARCADIS US, Inc.
Corporation/Company

Mailing Address: 10352 Plaza Americana Drive
Street Address or P.O. Box

Baton Rouge LA 70816
City State Zip

Contact Information: George Cramer george.cramer@arcadis-us.com
Name of Contact Person E-Mail Address

(225) 292-1004 (225) 218-9677
Area Code Daytime Telephone Number Area Code Fax Number

Step 3 of 16

What type of permit or action would you like to request?

Note: You may need the approval of other federal, state or local agencies for your project.

Note: For questions concerning the CUP, SOV or RFD, call OCM at:

1-800-267-4019 or 225-342-7591

Check the appropriate box(es) to indicate the type of permit or action that you would like to request.

Coastal Use Permit (CUP), Clean Water Act Permit (Section 404), Rivers and Harbors Act (Section 10)

The purpose of the CUP is to ensure that any activity affecting the Coastal Zone is completed in a manner that is consistent with the Louisiana Coastal Resource Program.

The purpose of the Department of the Army permit program under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act is to review and evaluate proposals for dredging, filling, and/or placement of structures in waterways and wetlands in order to determine whether a permit should be granted or denied based on expected impacts to the overall public interest.

Solicitation of Views (SOV)

If you wish to find out if your project is in the Coastal Zone or if you wish to determine if there are special features of the area that may impact your project design you may request a SOV. No application fee is assessed for SOV requests. The following Steps must be completed to obtain an Informal determination.

- Step 1, Step 2, Step 6, Step 14, Step 16; and
- Step 13 - (Vicinity plat showing project location and extent is required; cross section and plan views are useful, if available.)

Request for Determination (RFD) - OCM only

If you wish to obtain a formal determination as to whether or not a CUP would be required for a particular activity, you may submit a RFD. The appropriate application fee will be assessed for RFD requests. The following Steps must be completed to obtain a RFD.

- Step 1, Step 2, Step 5, Step 6, Step 8, Step 10, Step 14, Step 16; and
- Step 13 - (Vicinity plat showing project location and extent is required; cross section and plan views are useful, if available.)
- If you think that no permit is required, you must provide a statement explaining why you think a permit is not required.

Step 4 of 16

Have you participated in a Pre-Application or Geological Review Meeting or obtained a wetland determination?

Note: To schedule a Pre-Application and/or Geological Review Meeting, call OCM at 1-800-267-4019.

Note: To apply for a wetland determination, call the COE at 504-862-1677.

a. **Have you participated in a Pre-Application or Geological Review Meeting for the proposed project?**

- NO (If NO, proceed to Step 4b.) (If you would like to schedule a pre-application meeting, please call 1-800-267-4019)
- YES (If YES, complete the following information.)

Date meeting was held: ___/___/___

Attendees: _____
Individual or Company Representative OCM Representative COE Representative

b. **Have you obtained an official wetland determination from the COE for the project site?**

- NO (If NO, proceed to Step 4c.)
- YES (If YES, include a copy with this application.)

JD Number: _____

c. **Is this application a mitigation plan for another CUP?**

- NO (If NO, proceed to Step 5.)
- YES (If YES, identify the permit number of the project requiring mitigation.)

OCM Permit Number: P

Continue to page 3 for step 5. ➡

Step 7 of 16

Who are the adjacent landowners?

Note: Adjacent landowner information is usually located through the office of the tax assessor in the parish where the project is to be developed.

Note: Adjacent information may be included in the area provided on page 12. Also, extra sheets may be required if there are more than eight adjacent landowners.

Complete the following information to notify adjacent landowners whose property adjoins the proposed project site.

Adjacent Landowner #1: State of Louisiana (Mississippi River)
Name of Adjacent Landowner

Mailing Address: 602 N. Fifth Street
Address
Baton Rouge East Baton Rouge LA 70802
City Parish State Zip

Adjacent Landowner #2: US Army Corps of Engineers (levee)
Name of Adjacent Landowner

Mailing Address: 7400 Leake Avenue
Address
New Orleans Orleans LA 70118
City Parish State Zip

Adjacent Landowner #3: N/A
Name of Adjacent Landowner

Mailing Address:
Address
City Parish State Zip

Adjacent Landowner #4: N/A
Name of Adjacent Landowner

Mailing Address:
Address
City Parish State Zip

Step 8 of 16

What is the purpose of the proposed project?

Note: We are required to review the justifications and needs for your project. Providing detailed information at the time of application may expedite processing of your proposal.

Note: Additional sheets may be required to explain why the proposed project is needed.

Complete the following information to identify the purpose and need for the proposed project.

a. Project Name and/or Title: Enhancement of batture area

b. Project Type: (Check the appropriate box. See the "Glossary" on page 10 for the definitions of terms.)
 Non-Residential
 Residential

c. Source of Funding Federal State Local Private

d. Check the appropriate box(es) to identify what will be done for the proposed project.

<input type="checkbox"/> Bridge/Road	<input type="checkbox"/> Drill site	<input type="checkbox"/> Pilings	<input type="checkbox"/> Riprap/Erosion Control
<input type="checkbox"/> Bulkhead/Backfill	<input type="checkbox"/> Fill	<input type="checkbox"/> Pipeline/Flow line	<input type="checkbox"/> Site Clearance
<input type="checkbox"/> Drainage Improvements	<input type="checkbox"/> Home Site/Driveway	<input type="checkbox"/> Plug/Abandon	<input type="checkbox"/> Subdivision
<input type="checkbox"/> Dredging	<input type="checkbox"/> Levee Construction	<input type="checkbox"/> Production Barge/Structure	<input type="checkbox"/> Vegetative Plantings
<input type="checkbox"/> Drill Barge/Structure	<input type="checkbox"/> Major Industrial Commercial	<input type="checkbox"/> Prop Washing	<input type="checkbox"/> Wharf/Pier/Boathouse
<input checked="" type="checkbox"/> Other	<input type="checkbox"/> Marina	<input type="checkbox"/> Remove Structures	

 (Please specify)
 Construction of concrete and sand area on the batture under and around the conveyor belts

e. Why is the proposed project needed?

To enhance compliance with environmental permits by enhancing the removal of coal/coke which may spill from the barge loading/unloading conveyor belts onto the batture. The coal/coke will be routinely removed and reused in accordance with existing permit(s).

Continue to page 5 for step 9.

Step 9 of 16

What is the status of the proposed project?

Note: Show and identify all proposed construction work and dimensions on excavations and fill on the Plan View and Cross Section Drawings.

Complete the following information to indicate the start/end dates and the current status of the proposed project.

a. Proposed project start date: 6 / 1 / 2014 Proposed project completion date: 12 / 31 / 2014

b. Is any of the project work in progress?

NO (If NO, proceed to Step 9c.)

YES (If YES, show and identify the work in progress on the Plan View and Cross Section Drawings.)

⤴ Please explain

c. Is any of the project work complete?

NO (If NO, proceed to Step 10.)

YES (If YES, show and identify the work completed on the Plan View and Cross Section Drawings.)

⤴ Please explain

Step 10 of 16

How would you describe the proposed project?

Note: To apply for a wetland determination call the COE at 604-862-1827

Note: Information provided in this Step must be consistent with Plans and Drawings

Note: For any equipment used show the access route and construction log (or way on the Plans and Drawings)

Complete the following information to describe structures, materials and methods for the proposed project.

Cubic yards are determined by using this formula. (Length (ft.) X Width (ft.) X Depth (ft.) divided by 27 = Cubic Yards)

Example: 25 ft. X 25 ft. X 5 ft. divided by 27 = 115.7 Cubic Yards

Acres are determined by using this formula. (Length (ft.) X Width (ft.) divided by 43,560 = Acres)

Example: 250 ft. X 250 ft. divided by 43,560 = 1.43 Acres

a. Excavation:

0.00

0.00

Cubic Yards

Acres

b. Fill:

7,840.00

3.50

Cubic Yards

Acres

c. What fill materials will be used for the proposed project?

(Check the appropriate box(es) and indicate the cubic yards for each type of fill material.)

Concrete

Cubic Yards

Rock (rip/rap)

Cubic Yards

Crushed Stone or Gravel

Cubic Yards

Sand

7,500.00
Cubic Yards

Excavated & Placed on site

Cubic Yards

Hauled in Topsoil/Dirt

Cubic Yards

Excavated & Hauled off site

Cubic Yards

Other (Please specify): crushed concrete

340.00

Cubic Yards

d. What equipment will be used for the proposed project? (Check the appropriate box(es).)

Airboat

Bulldozer/Grader

Marsh Buggy

Backhoe

Dragline/Excavator

Other Tracked or Wheeled Vehicles

Barge Mounted Bucket Dredge

Handjet

Self Propelled Pipe Laying Barge

Barge Mounted Drilling Rig

Land Based Drilling Rig

Tugboat

Other (Please specify.) _____

Continue to page 6 for step 11. ↗

What impact will the proposed project have?

Note: You will be notified by OCM if a red mitigation is required to address the proposed project and impact wetlands.

Note: Additional steps may be required to adequately respond to (11b), (11c), and (11d).

Note: Providing detailed information at the time of application may expedite processing of your proposal.

a. Total acres of wetlands and/or waterbottoms filled and/or excavated: 3.50

b. What alternative locations, methods and access routes were considered to avoid impact to wetlands and/or waterbottoms?

None - the batture at this location is beneath the permitted conveyor structures. No other locations, methods or access routes will accomplish the containment needed beneath the existing structures to comply with environmental permits.

c. What efforts were made to minimize impact to wetlands and/or waterbottoms?

The enhancement will not continue beyond the batture area under the conveyors (see attached drawings). By using a crushed concrete containment wall on the river side the footprint will be minimized. The 3.5 acres includes all of the batture area between the river and the levee that is under the existing conveyor system.

d. How are unavoidable impacts to vegetated wetlands to be mitigated? (Please note that a willingness to perform mitigation does not relieve the applicant from adequately addressing justification for (step 8e) and alternatives to (step 11b & 11c) the proposed activity)

This area may currently receive coal/coke spilled from the conveyor belts. A USACE Biologist reviewed the area included in this application and determined that it does not include vegetated wetlands. The project is designed to minimize the footprint of the potential spillage and therefore reduce unavoidable impacts to water bottoms, specifically the batture. In addition UBT is in the process of installing collection systems on the conveyor belts to minimize the amount of spillage.

Landowner Rights

- The affected landowner(s) whose property may be impacted by the proposed project has (have) the option of requesting that compensatory mitigation be done on their property.
- Once OCM determines that mitigation is required, they will notify the applicant and all affected landowners of the extent and type of habitat impacted. The landowner(s) will be given thirty (30) days to formally request or waive their mitigation option. (This can cause substantial delays in processing of the application.)

Applicant Responsibilities

- Coordinate with the affected landowner(s) to develop a conceptual compensatory mitigation plan. This plan should be designed to offset the adverse impacts to vegetated wetlands which will occur from the proposed project. (This can also cause substantial delays in processing of the application.)
- To avoid delays, it is recommended that, prior to sending the application to OCM, you contact affected landowner(s) to:
 - Inform them of possible wetland impacts and discuss their compensatory mitigation rights; and
 - Ask them to indicate their intentions regarding compensatory mitigation on the form.
- Submit the Landowner Compensatory Mitigation Request/Waiver form along with your application.

Continue to page 7 for step 12. 

Step 12 of 16

What are the requirements for notification of landowners and oyster lease holders of the proposed project site?

Note: OCM and COE both have notification requirements under different laws, rules and regulations, therefore specific agency requirements may vary.

Note: If a property has multiple owners with undivided interest in the property, each person owning an interest is considered to be a landowner and must be notified.

Note: Additional sheets may be required if there are more than two landowners.

Note: Compensatory mitigation is not a monetary settlement to be used at the discretion of the landowner(s).

Note: A copy of the Landowner/Leaseholder/Compensatory Mitigation Request Waiver form is included with this application. To obtain additional copies, visit the OCM website or call (1-800-287-4119) or (225-442-7591).

Note: See our FAQ for a list of regulations that may be applicable. Be aware that this list is for example purposes and does not purport to be complete or indicate applicability in any particular situation or project. It is the applicant's responsibility to be fully aware of all regulatory requirements to which these requirements apply and certify that they will be in compliance.

a. Are you applying for a Coastal Use Permit?

- NO (If NO, proceed to Step 12b.)
- YES (If YES, read the following information.)

Requirements for Notification of Landowners

It is the responsibility of the applicant to notify the landowner(s) of the property about this proposed project. Notification must include providing each impacted landowner with a copy of the permit application (form and plats) at the time the application is submitted to the Office of Coastal Management.

Requirements for Notification to Oyster Lease Holders

It is the responsibility of the applicant to notify all affected oyster lease holders about this proposed project. Notification must include providing each affected oyster lease holder with a copy of the permit application (form and plats) at the time the application is submitted to the Office of Coastal Management. The location of leases, and the name and contact information of the lessee can be obtained by contacting the LDWF Oyster Lease Survey Section at 504-284-5279. You also can use the OCM GIS interactive map on our website at http://sonris-www.dnr.state.la.us/www_root/sonris_portal_1.htm. Please note that copies of the lease holder notification letters must be included with your application packet at the time of submittal. For more information regarding notification requirements please contact the Oyster Lease Survey Section or visit our website at <http://dnr.louisiana.gov/crm/coastmgmt/permitsmitigation/oyster.asp>.

While these are legal requirements to ensure that property owners/oyster lease holders are aware of proposals which might impact their land/oyster lease, it also serves as a proactive measure to initiate communication between the applicant and the landowner(s)/lease holders, especially when mitigation might be necessary. Since mitigation can be a lengthy process, taking proactive steps early in the process may significantly reduce the time necessary to receive an authorization.

b. Are you the sole owner of the property on which the proposed activity is to occur?

- YES (If YES, proceed to Step 12c.)
- NO (If NO, follow the instructions below.)

Check the appropriate box(es) and complete the landowner information to attest to OCM that a copy of this application has been sent to all landowners whose property will be impacted by the project.

- The applicant is an owner of the property on which the proposed described activity is to occur.
- The applicant has made every reasonable effort to determine the identity and current address of the owner(s) of the land on which the proposed described activity is to occur, which included, if necessary, a search of the public records of the parish in which the proposed activity is to occur.
- The applicant hereby attests that a copy of the application has been distributed to the following landowners.

Landowner/Lease Holder #1: _____
Name of Landowner / Lease Holder

Mailing Address:

Street Address or P.O. Box		Unit/Apartment #	
City	Parish	State	Zip Code

Landowner/Lease Holder #2: _____
Name of Landowner / Lease Holder

Mailing Address:

Street Address or P.O. Box		Unit/Apartment #	
City	Parish	State	Zip Code

c. Does the project involve drilling, production, and/or storage of oil and gas?

- NO (If NO, proceed to Step 13.)
- YES (If YES, review and complete the certification below. You must attach a list of all state and federal laws and rules and regulations dealing with spill prevention and containment. Your signature on step 14 certifies that you are aware of the terms and conditions of each requirement and that you will remain in compliance at all times.)

I, _____ hereby certify that I am the _____ of _____
(Name of officer) (Name of Office)

_____, hereinafter referred to as the Applicant and that I have authority to (Full legal name of the entity seeking a permit) act on behalf of and bind that legal entity, and by my signature below I certify that the information in the application is true and correct to the best of my knowledge, that Applicant has provided a complete list of the requirements for protection of health, safety and the environment, and that Applicant is in full compliance with all applicable safety and environmental regulations as listed on the attached sheet, specifically including when applicable, LAC 43:XIX.111 Diverter Systems and Blowout Preventers.

Continue to page 8 for step 13. ↗

Step 13 of 16

What are Maps and Drawings required to obtain a permit?

Maps and Drawings are required to obtain a permit. They must visually reflect what will be done in the proposed project and are key to the overall evaluation.

The following Maps and Drawings must be submitted with the Joint Permit Application and must show both existing and proposed conditions.

- Vicinity Map - Illustrates access to and the location of the proposed project relative to surrounding areas;
- Plan View Drawing - Illustrates an overhead view of the proposed project; and
- Cross Section Drawing - Illustrates a side view of the proposed project.

In general, all Maps and Drawings should be:
• Legible and clearly labeled on single sided 8 1/2 x 11 size paper;
• Drawn to scale with the scale identified graphically on each drawing;
• Black and white ONLY (Colored Maps and Drawings will NOT be accepted);
• Accurate and reproducible;
• Placement of the north arrow, title, legend and scale bar must be consistent on Maps and Drawings; and
• Information provided in Steps 1 through 12 must be consistent with the Maps and Drawings.



Quality Maps and Drawings are required to process the Joint Permit Application and for Public Notice. They must visually reflect what will be done in the proposed project and are key to the overall evaluation.

The following Maps and Drawings must be submitted with the Joint Permit Application and must show both existing and proposed conditions.

- Vicinity Map - Illustrates access to and the location of the proposed project relative to surrounding areas;
- Plan View Drawing - Illustrates an overhead view of the proposed project; and
- Cross Section Drawing - Illustrates a side view of the proposed project.

In general, all Maps and Drawings should be:

- Legible and clearly labeled on single sided 8 1/2 x 11 size paper; (large drawings that are reduced in size to fit the 8 1/2 x 11 format are not acceptable if the scale is no longer accurate and if the dimensions and details are not clear and easy to read after reproduction in the Public Notice);
- Drawn to scale with the scale identified graphically on each drawing; (if you cannot provide Maps and Drawings to scale, you may submit the dimensions of the proposed and existing features of the work area displayed);
- Black and white ONLY (Colored Maps and Drawings will NOT be accepted);
- Accurate and reproducible;
- Placement of the north arrow, title, legend and scale bar must be consistent on Maps and Drawings; and
- Information provided in Steps 1 through 12 must be consistent with the Maps and Drawings.

Inadequate or poor Maps and Drawings are the primary reason for delays in the permitting process. Sample Maps and Drawings are provided with this Joint Permit Application package for your assistance.

Link to sample plots: http://nr.louisiana.gov/crm/consent/crm/sampleplots.asp

Step 14 of 16

Read the following information. Print your name, sign and date to certify this application for processing.

Application is hereby made for a permit or permits to authorize the work described in this application. To the best of my knowledge the proposed activity described in this permit application complies with and will be conducted in a manner that is consistent with the Louisiana Coastal Resources Program.

Read the following information. Print your name, sign and date to certify this application for processing.

- Application is hereby made for a permit or permits to authorize the work described in this application.
- To the best of my knowledge the proposed activity described in this permit application complies with and will be conducted in a manner that is consistent with the Louisiana Coastal Resources Program.
- I certify that the information in this application is complete and accurate.
- If applicable, I also certify that the declarations in Step 12, notification to landowner(s), are complete and accurate.
- If applicable, I also certify that the declarations in Step 12a, oil spill response, are complete and accurate.
- I will abide by the conditions of the permit or license if issued and will not begin work without the appropriate authorization.
- Permission is granted to the agencies responsible for authorization of this work, or their duly authorized representative, to enter the property site during working hours for inspection purposes.
- If applicable, I authorize the agent identified in Step 2 to act in my behalf as agent for this application and the agent will furnish, upon request, information in support of this application.

Tyrone Williams

Clearly Print Name of Applicant

[Handwritten Signature of Tyrone Williams]

Applicant Signature

4/11/14 Date

- As the agent, I further certify that I possess the authority to undertake the work described herein or am acting as the duly authorized agent of the applicant.

George Cramer

Clearly Print Name of Authorized Agent

[Handwritten Signature of George Cramer]

Authorized Agent Signature

4/11/14 Date

Note: If an agent is being used, the applicant and agent must sign and date this application.

18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or disguise a material fact or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statements or entry, shall be fined not more than \$10,000 or imprisoned not more than 5 years or both.

Continues to page 9 for step 15.

Step 15 of 16

What fees are required for permit processing and what methods are available for payment?

OCM and local Parish Program fees will be assessed separately at the end of the process.

Step 16 of 16

How do I submit the Joint Permit Application and Maps and Drawings for processing?

If your project is in the Galveston or Yockabum District of the Corps of Engineers, please see page 12.

Note: Please keep a copy of the completed application for your records.

The following fees apply and must be received in order to process the application.

a. Check the appropriate box to indicate the fee type: (See the "Glossary" on page 10 for the definitions of terms.)

\$100.00 - Non-Residential

\$ 20.00 - Residential

- If your activity involves dredging or filling, OCM will bill you on the basis of \$.04 per cubic yards for residential uses and \$.05 per cubic yards for all other uses.
- Fees may not apply if the Joint Permit Application is being processed by the local Parish.
- Additional fees may be assessed for mitigation processing.

b. Check the appropriate box to indicate payment method:

Check/Money Order

Electronic Transfer

Credit Card (Visa or MasterCard only)

Escrow Account

- Make Check/Money Order payable to the Office of Coastal Management.
- To pay by Credit Card, Electronic Transfer or Escrow Account, call OCM at 1-800-267-4019 to provide specific account information or provide account information on a separate sheet of paper and include with application.
- Cash is not accepted.

To submit this permit application, Maps and Drawings and all supporting documentation, select an option below.



MAIL:

Office of Coastal Management
P.O. Box 44487
Baton Rouge, LA 70804-4487

If you select the MAIL option, submit the original Joint Permit Application, Maps and Drawings and supporting documentation.



EXPRESS MAIL:

Office of Coastal Management
617 North 3rd Street,
Suite 1078
Baton Rouge, LA 70802
Phone: 225-342-7591

If you select the EXPRESS MAIL option, submit the original copies of the Joint Permit Application, Maps and Drawings and supporting documentation.



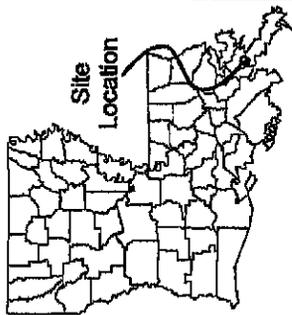
FAX:

225-342-6760

Attention: Office of Coastal Management, Joint Permit Application Processing

- Include a cover sheet with the total number of pages; and
- If you select the FAX option, follow-up with one of the mail options to prevent delay if the fax is not legible.
- Payment arrangements should be made prior to faxing your application by calling OCM at 1-800-267-4019.

Continue to page 10 for "Glossary of Terms".

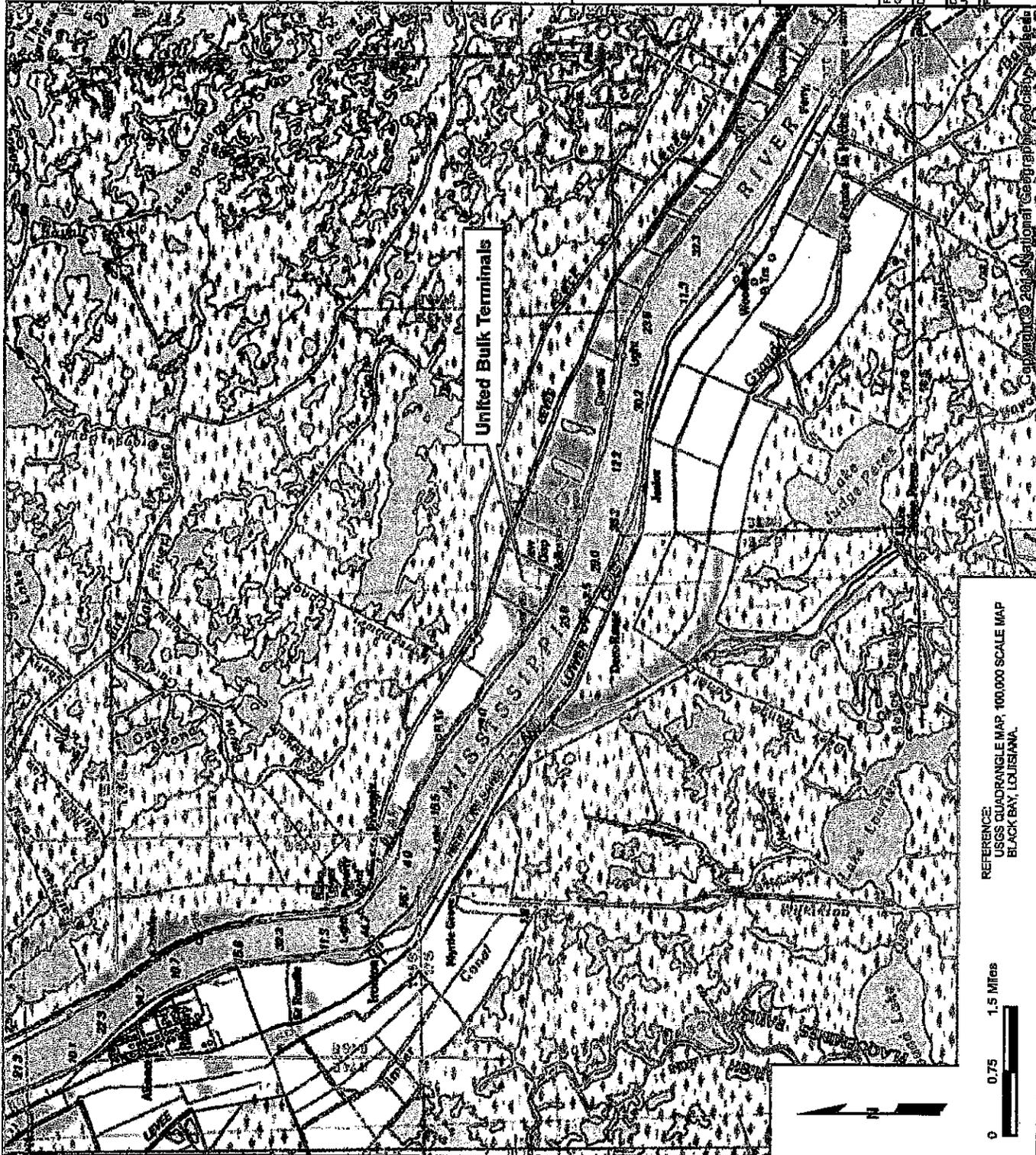


SITE LOCATION MAP

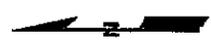
UNITED BULK TERMINALS, DAVANT LLC
 Davant, Louisiana

ARCADIS
 10852 PLAZA AMERICANA DRIVE
 BATON ROUGE, LA 70816
 TEL: 225-952-1004
 FAX: 225-278-9677
 WWW.ARCADIS.US.COM

PROJECT MANAGER: GHC	CHECKED BY: GHC
DRAWING FILE:	GIS FILE: LA003228-01-01
DATE: 12/16/2013	DATE: 12/16/2013
PROJECT NUMBER: LA003228.0001	FIGURE NUMBER: 1

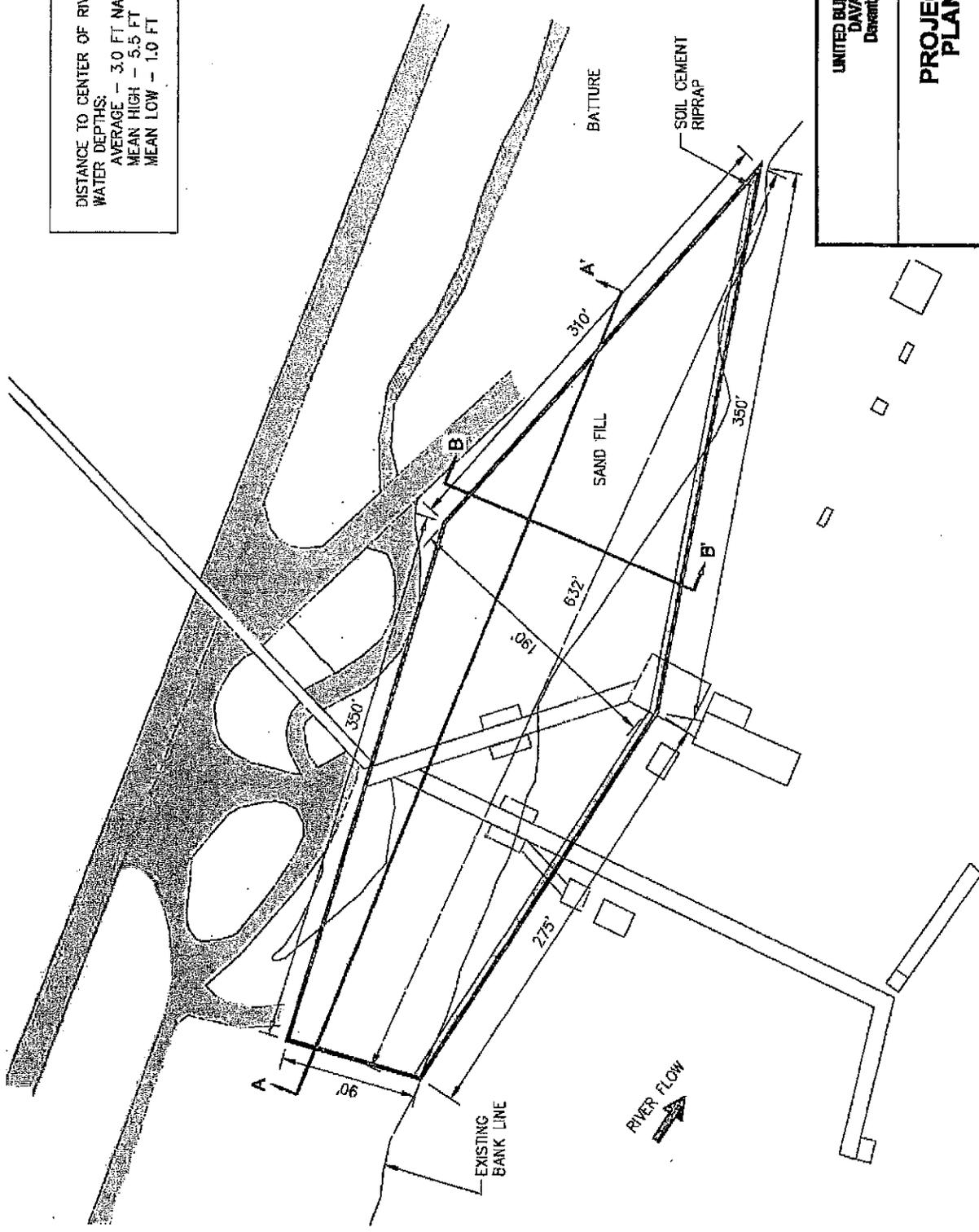


REFERENCE:
 USGS QUADRANGLE MAP, 100,000 SCALE MAP
 BLACK BAY, LOUISIANA.



DRAWN BY: MEB CHECKED BY: TOM PROJECT MANAGER: DRE
G:\PROJECTS\2014\14-0000\14-0000.dwg PLOTTED: 09/23/14 2:25 PM BY: MEB, BATHON

DISTANCE TO CENTER OF RIVER - APPROX. 1,000 FT
WATER DEPTHS:
AVERAGE - 3.0 FT NAVD88
MEAN HIGH - 5.5 FT
MEAN LOW - 1.0 FT



UNITED BULK TERMINALS
DAVANT, LLC
Davant, Louisiana

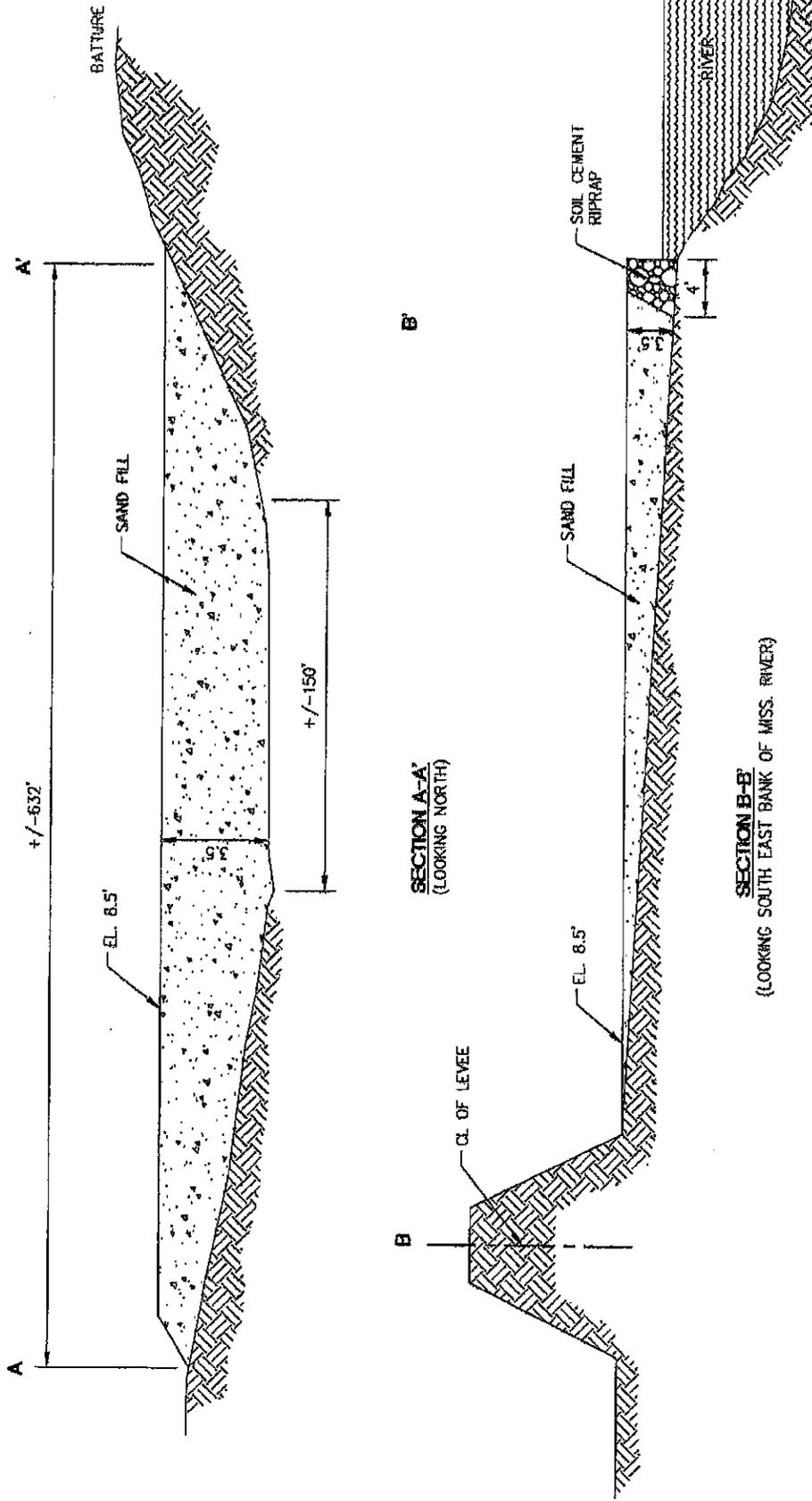
PROJECT AREA
PLAN VIEW



FIGURE
2

SCALE: AS SHOWN

DRAWN BY: E. MEN, CHECKED BY: T. MEN, PROJECT MANAGER: DRE
 C:\PROJ\5121\5121.dwg, AutoCAD 2007, PLOTTER: 4220N4.327 A4, 810 LINES, 4070 X



UNITED GULF TERMINALS
 DAVANT, LLC
 Denart, Louisiana

CROSS-SECTIONS



FIGURE
3

SCALE: AS SHOWN

DISTANCE TO CENTER OF RIVER - APPROX. 1,000 FT
 WATER DEPTHS:
 AVERAGE - 3.0 FT NAVD88
 MEAN HIGH - 5.5 FT
 MEAN LOW - 1.0 FT

Exhibit 2

Upgrade Project

UBT PROJECT - TERMINAL MODERNIZATION CAPACITY IMPROVEMENT

Schedule Projection - upon Receipt of COE Permit CPRA Letter of No Objection

WEEKS
 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31

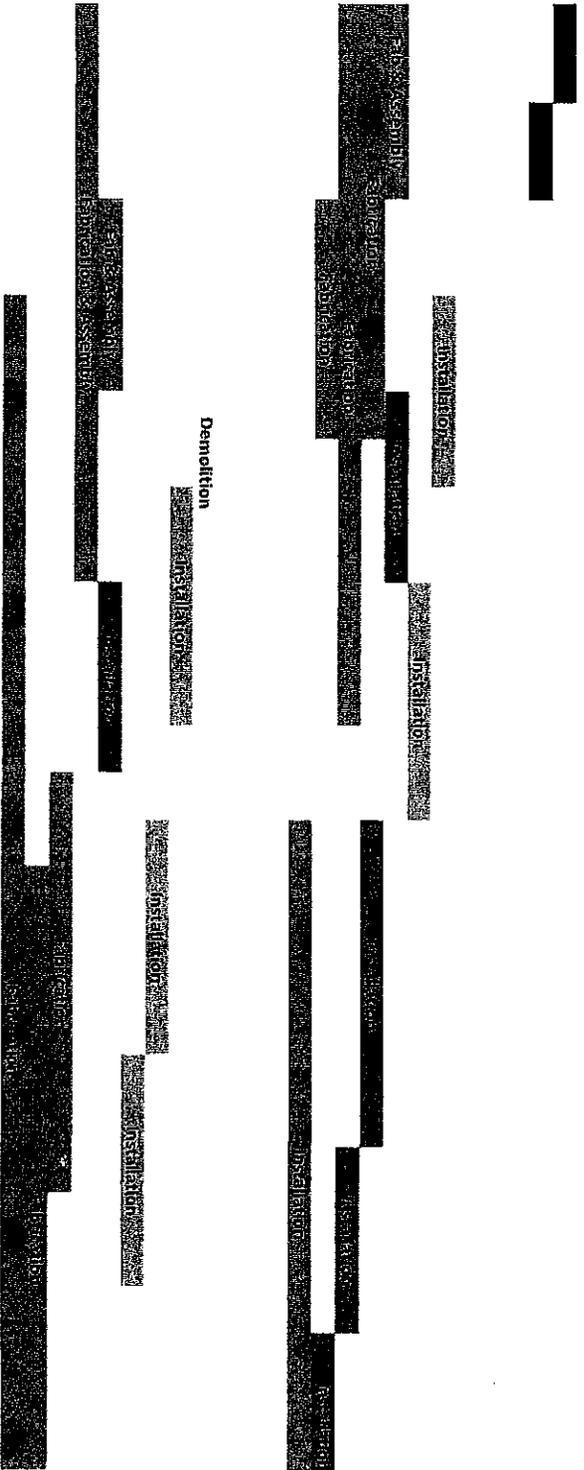
General Arrangement - Drawings Approval
 Engineering Finalization
 UBT Review & Approval

C System

- Landside Foundations
- Riverside Foundations
- C System Yard Stackers
- C2 Riverside Truss
- C2 Tubular Gallery
- C1 Intermediate Trusses & Tower
- Electrical Power Feed & Controls
- C System Tie-In & Commissioning

D System

- C4 Conveyor & Upper Surge Bin
- Landside Foundations
- Shiploader Foundation
- Riverside Foundations
- D System Yard Stackers
- Shiploader & D4 Conveyor
- D Truss & Tower
- D1 & D2 Tubular Galleries
- B2 High Angle Conveyor
- Electrical Power Feed & Controls
- C & E Conveyor & F Boom Loader
- D System Tie-In & Commissioning
- Existing Riverside D Conv & Tunnel



UBT PROJECT - TERMINAL MODERNIZATION CAPACITY IMPROVEMENT

Schedule Projection - upon Receipt of COE Permit/CPPA Letter of No Objection

32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62

General Arrangement - Drawings Approval
 Engineering Finalization
 UBT Review & Approval

C System

Landside Foundations
 Riverside Foundations
 C System Yard Stackers
 C2 Riverside Truss
 C2 Tubular Gallery
 C1 Intermediate Trusses & Tower
 Electrical Power Feed & Controls
 C System Tie-in & Commissioning

D System

C4 Conveyor & Upper Surge Bin
 Landside Foundations
 Shiploader Foundation
 Riverside Foundations
 D System Yard Stackers
 Shiploader & D4 Conveyor
 D Truss & Tower
 D1 & D2 Tubular Galleries
 B2 High Angle Conveyor
 Electrical Power Feed & Controls
 C & E Conveyor & F Boom Loader
 D System Tie-in & Commissioning
 Existing Riverside D Conv & Tunnel

[Redacted] Commissioning



Demolition

Demolition

Exhibit 3

Administrative Order on Consent

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

IN THE MATTER OF	*	
	*	
UNITED BULK TERMINALS DAVANT, LLC	*	ENFORCEMENT TRACKING NO.
PLAQUEMINES PARISH	*	
ALT ID NO. LA0070602	*	WE-AO-14-xxxx
	*	
	*	AGENCY INTEREST NO.
	*	
PROCEEDINGS UNDER THE LOUISIANA	*	10249
ENVIRONMENTAL QUALITY ACT,	*	
La. R.S. 30:2001, ET SEQ.	*	

ADMINISTRATIVE ORDER ON CONSENT

The following **ADMINISTRATIVE ORDER ON CONSENT** is issued this day to United Bulk Terminal Davant, LLC (**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. 30:2011(D)(6) and (D)(14). The Respondent consents to the requirements set forth below.

FINDINGS OF FACT

I.

The Respondent owns and/or operates United Bulk Terminals Davant, LLC, a bulk material storage and handling facility, and barge and vessel hold cleaning operation located at 14537 Louisiana Highway 15 in Davant, Plaquemines Parish, Louisiana. The Respondent is granted coverage under Louisiana Pollutant Discharge Elimination System (LPDES) Permit LA0070602 to discharge stormwater runoff and exterior vehicle and equipment washwater from outfalls 001 & 002 to American Bay via Plaquemines Parish drainage canals, waters of the state. LPDES Permit LA0070602 has an effective date of June 1, 2011, and expiration date of May 31, 2016. The Respondent also operates under LPDES Permit LA0116998 for the discharge of barge/vessel washwater, and LPDES General Permit LAG533203 for sanitary discharges. A company name change of the facility from U.S. United Bulk Terminal, LLC to United Bulk Terminals Davant, LLC was effective on October 21, 2013.

II.

Respondent was issued Consolidated Compliance Order & Notice of Potential Penalty, No. WE-CN-13-00840, on January 23, 2014, which was amended by Amended Consolidated Compliance Order & Notice of Potential Penalty, No. WE-CN-13-00840A, on February 21, 2014 (collectively, the CCONPP). The CCONPP, in pertinent part, alleges the following:

An inspection conducted on or about June 26, 2013, and a file review conducted by the Department on or about December 2, 2013, revealed that the Respondent failed to cleanup and dispose of spilled products and spilled wastes immediately. Specifically, at the downstream end of the facility, coke and coal fall from the conveyor belts onto the batture. According to the facility representative, the cleanup occurs as long as the river is low. When the river is high, the piles of coal and coke are submerged in water and cleanup does not occur. At the time of inspection, the river was high. Each failure to utilize all reasonable methods to minimize any adverse impact, and clean up and dispose of all spilled product and spilled waste immediately is a violation of LPDES permit LA0070602 (Narrative Requirements, Conditions T-10 and T-11) and LAC 33:IX.2701.A.

An inspection conducted on or about June 26, 2013, and a file review conducted by the Department on or about December 2, 2013, revealed that the Respondent caused or allowed unauthorized discharges. Specifically, coal and coke were allowed to fall from the conveyor belt onto the batture. During high river conditions, the batture is covered by water. Each unauthorized discharge of a pollutant not specified by the LPDES permit is a violation of La. R.S. 30:2076(A)(1)(a), LAC 33:IX.501.D.

III.

The Department and Respondent entered into a Settlement Agreement in which the allegations noted above were resolved and settled, without an admission of liability by Respondent. In the Settlement, the Respondent agreed to a compliance schedule under which certain projects and/or activities would be undertaken and further agreed to the issuance of this Administrative Order on Consent.

ADMINISTRATIVE ORDER

Based on the foregoing, the Department **hereby orders**, and the Respondent hereby **agrees that**:

I.

The Respondent shall implement the following projects and/or activities under the compliance schedule set forth herein:

A. The Batture Project, as described in the application for the project and any amendment thereto and as approved by the required regulatory permit(s). The Batture Project shall commence when the river stage is such that work may safely be performed and upon receipt of all required permits and authorizations, including authorization from the U.S. Corps of Engineers, and shall be completed on or before 90 days from commencement.

B. The Upgrade Project, as described in the application for the project and any amendment thereto and as approved by the required regulatory permit(s). The Upgrade Project shall commence when the river stage is such that work may safely be performed and upon receipt of all required permits and authorizations, including authorization from the U.S. Corps of Engineers, and shall be completed on or before 18 months from commencement.

C. No later than thirty days after the effective date of this Settlement, Respondent shall submit an application to modify LPDES Permit LA0070602 to include additional Best Management Practices relating to any incidental materials that may fall from the conveyor belts.

II.

To the extent required by law, further proceedings relating to this **ADMINISTRATIVE ORDER** will be governed by the Administrative Procedure Act, La. R.S. 49.950, *et seq.*

III.

This **ADMINISTRATIVE ORDER ON CONSENT** may be executed in counterparts, each of which may be executed by one or more of the signatory parties hereto. Signature pages may be detached from the counterparts and attached to one or more copies of this Agreement to form multiple legally effective documents. Facsimile signatures shall be sufficient in lieu of original signatures.

IV.

For each action or event 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, nothing herein shall be construed to preclude the right to seek such penalties and compliance.

V.

This **ADMINISTRATIVE ORDER ON CONSENT** shall be final and effective upon signature by an authorized representative of the Department and signature by the authorized representative of the Respondent.

Baton Rouge, Louisiana, this _____ day of _____, 2014.

Cheryl Sonnier Nolan
Assistant Secretary
Office of Environmental Compliance

United Bulk Terminal Davant, LLC

By: _____

Date: _____

Name: _____

Title: _____