

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

PETROLEUM FUEL AND TERMINAL CO.
WEST BATON ROUGE PARISH
AI # 19338

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

* Settlement Tracking No.
* SA-AE-13-0085
*
* Enforcement Tracking Nos.
* AE-CN-11-00992; AE-CN-11-00992A;
* AE-CN-11-00992B; AE-CN-11-00992C
*
*
*
*

SETTLEMENT

The following Settlement is hereby agreed to between **PETROLEUM FUEL AND TERMINAL COMPANY** (“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 petroleum bulk storage and transfer terminal facility at 995 Ernest Wilson Road in Port Allen, West Baton Rouge Parish, Louisiana (“the Facility”).

II.

On September 19, 2011, a Compliance Order & Notice of Potential Penalty was issued to the Respondent, ENFORCEMENT NO. **AE-CN-11-00992**, which was based upon the following findings of fact:

The Respondent owns and/or operates the Port Allen Terminal, also referred to as the Apex and/or Centerpoint facility (the facility), a petroleum bulk storage and transfer terminal located at

995 Ernest Wilson Road in Port Allen, West Baton Rouge Parish, Louisiana. The facility currently operates under Air Permit No. 3120-00013-04 issued on February 3, 2010.

On or about July 18, 2011, the Louisiana State Police notified the Department of an ongoing release at the Respondent's facility. On July 18, 2011, the Port Allen Fire Department (Fire Department) responded to the release and informed the Department that Tank #8 (EQT0013) was heavily vibrating and continuously releasing a large steam plume. The Fire Department also informed the Department that a "sewer type" smell permeated approximately 14 to 16 blocks of Port Allen. The Department's Emergency Response Section (the inspector) responded to the call on July 18, 2011, to inspect the facility and determine the degree of compliance with the Act and Air Quality Regulations.

During the course of the inspection on July 18, 2011, the inspector noted a large steam plume atop a 110,000 barrel tank, EQT0013, extending to the northeast towards Port Allen. According to a facility representative, asphalt was unloaded from a barge to EQT0013. During the unloading activity, NALCO Sulfa-Check EC9085A, a water based hydrogen sulfide scavenger (the additive) was added to the asphalt. The asphalt's temperature was approximately 240 to 260°C at the time the asphalt was treated with additive. Due to the high temperature of the asphalt, contact between the asphalt and the additive resulted in a sudden release of steam from EQT0013. Unloading activity ceased on July 18, 2011.

On July 19, 2011, a meeting between the Department, the Fire Department, and the Respondent was conducted at the facility to discuss how the July 18, 2011, unauthorized discharge and residual contents in EQT0013 and tank loading lines would be addressed. The Respondent was told that prior to taking any action, a plan to unload the tank contents must be submitted to the Department and the Fire Department. The Respondent was also told to increase monitoring efforts

and to notify the Department and the Fire Department if ammonia (NH₃) readings exceed 35 parts per million (ppm).

Air monitoring conducted by the inspector on July 18, 2011, and July 19, 2011, using a Port-O-Sens II revealed the following concentrations of NH₃ at the facility:

Ammonia (NH ₃) Readings			
Date	Plume Activity	Location	PPM
7/18/2011	Active	Ground Level: Foot of Tank	164-200
7/18/2011	Active	Top of Tank: Sample Port and Vent	601
7/18/2011	Non-Active	Top of Tank	150-174
7/19/2011	Non-Active	Ground Level: Near Facility Office	3
7/19/2011	Non-Active	Top of Tank: Sample Port	3
7/19/2011	Non-Active	Top of Tank: Vent	601
7/19/2011	Non-Active	Northwest Edge of Facility Property	<15

During the period encompassing July 18, 2011, to July 28, 2011, the Department received 15 citizen complaints regarding the odors associated with the July 18, 2011, release.

During the period encompassing July 18, 2011, to September 9, 2011, the Respondent has corresponded with the Department and Fire Department to develop an appropriate plan to address the residual contents of EQT0013. On July 16, 2011, the Respondent forwarded a copy of a Material Transfer Safety Program (the program) to the Department and the Fire Department, which proposed a plan to transfer the residual contents of EQT0013. The program was rejected by the Department on July 26, 2011. On August 15, 2011, the Respondent submitted an Air Monitoring Plan for Scheduled Transfer of Product (the plan) to the Department and Fire Department. In an email message dated August 18, 2011, the Department and Fire Department requested additional information regarding the plan and requested that specific revisions be made. In an email message dated August 30, 2011, the Respondent submitted a response (the response) to the Department and

Fire Department including revisions to the plan. On September 9, 2011, the Department accepted the plan (Attachment A) contingent upon incorporating the revisions noted in the response (Attachment B).

In addition to the inspection conducted at the Respondent's facility on July 18, 2011, a file review of the Respondent's facility was conducted on September 13, 2011, to determine the degree of compliance with the Act and Air Quality Regulations. While the Department's investigation is not yet complete, the following violations were noted during the course of the July 18, 2011, inspection and subsequent file review:

- A. On or about July 18, 2011, the facility released an unknown amount of pollutants to the atmosphere, including but not limited to ammonia (NH₃) and hydrogen sulfide (H₂S). The Department was made aware of this emergency condition by a call from the Louisiana State Police. LAC 33:I.3915 states, "An emergency condition is any condition which could reasonably be expected to endanger the health and safety of the public, cause significant adverse impact to the land, water, or air environment, or cause severe damage to property." The Respondent's failure to notify the Department no later than one hour after learning of the discharge is a violation of LAC 33:I.3915 and La. R.S. 30:2057(A)(2).
- B. On or about July 18, 2011, the facility released an unknown amount of pollutants to the atmosphere, including but not limited to NH₃ and H₂S. The Respondent failed to submit a written report to Single Point of Contact (SPOC) regarding the unauthorized discharge within seven (7) days after the notification required by LAC 33:I.3915.A, 3917, or 3919.

The Respondent's report was received by the Department on July 29, 2011. This is a violation of LAC 33:I.3925 and La. R.S. 30:2057(A)(2).

- C. On or about July 18, 2011, the facility released an unknown amount of NH₃ to the atmosphere from EQT0013. The facility is not permitted for NH₃ emissions. The inspector collected the following readings using a Port-O-Sens II:

Ammonia (NH ₃) Readings			
Date	Plume Activity	Location	PPM
7/18/2011	Active	Ground Level: Foot of Tank	164-200
7/18/2011	Active	Top of Tank: Sample port and Vent	601
7/18/2011	Non-Active	Top of Tank	150-174

The unpermitted emissions of NH₃ is a violation of LAC 33:III.501.C.2, La. R.S. 30:2057(A)(1), and La. R.S. 30:2057(A)(2).

On November 22, 2011, an Amended Compliance Order & Notice of Potential Penalty was issued to the Respondent, ENFORCEMENT NO. AE-CN-11-00992A, which amended the Findings of Fact portion of ENFORCEMENT NO. AE-CN-11-00992 to add the following paragraph:

“VIII.

On or about September 27, 2011, the Department, the Fire Department, and the Respondent met at the facility in order to implement the plan and response as referred to in paragraph VI of the Findings of Fact portion of CONOPP AE-CN-11-00992. During the course of implementation, the plan and response were found to be insufficient in addressing the residual contents of EQT0013 and all implementation activity ceased. On or about September 30, 2011, the Department requested that a revised plan to address the residual contents of EQT0013 be submitted to the Department for

review. On November 10, 2011, the Respondent submitted the Nalco Company Injection/Treatment Plan (the revised plan) to the Department. On or about November 17, 2011, the Department accepted the revised plan (Attachment C).”

On January 12, 2012, an Amended Compliance Order & Notice of Potential Penalty was issued to the Respondent, ENFORCEMENT NO. **AE-CN-11-00992B**, which amended the Findings of Fact portion of ENFORCEMENT NO. AE-CN-11-00992A to add the following paragraphs:

“IX.

On or about December 6, 2011, the Department and Respondent met at the facility in order to implement the revised plan (Attachment C) as referred to in paragraph VIII of the Findings of Fact portion of this ACONOPP. During the course of the activity, the Department conducted air monitoring using the Mobile Air Monitoring Lab (MAML). On December 6, 2011, implementation of the revised plan (Attachment C) was completed by the Respondent.

X.

On January 5, 2012, the Respondent submitted a Product Transfer Plan (Attachment D) to the Department. On or about January 6, 2012, the Department accepted the Product Transfer Plan (Attachment D).”

On April 4, 2012, an Amended Compliance Order & Notice of Potential Penalty was issued to the Respondent, ENFORCEMENT NO. **AE-CN-11-00992C**, which amended the Findings of Fact portion of ENFORCEMENT NO. AE-CN-11-00992B to add the following paragraphs:

“XI.

On January 20, 2012, the Department and Respondent met at the facility in order to implement the Product Transfer Plan (Attachment D) as referred to in paragraph X of the Findings of Fact portion of this ACONOPP. During the course of the activity, the Department conducted air

monitoring using a MAML. On January 20, 2012, implementation of the Product Transfer Plan (Attachment D) was completed by the Respondent.

XII.

On or about March 9, 2012, the Department received a letter from the Respondent requesting interim authorization and emission limits pending issuance of a permit modification submitted to the Department on or about February 25, 2011. The Respondent also requested to resume normal business activities as they relate to the management of asphalt and heavy fuel oils. According to the Respondent, such operations require the use of additive treatments (scavengers). Emissions associated with scavenger use include pollutants that the facility is not currently permitted to emit, including H₂S, naphthalene, ethyl benzene, and methanol.”

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 One Thousand Seven Hundred Nineteen And 53/100 Dollars (\$1,719.53) which represents the Department’s enforcement costs, in settlement of the claims set forth in this agreement.

V.

Respondent, in lieu of any additional penalty that could be imposed by the Department, and in addition to the amount specified in Paragraph IV above and as part of this Settlement, agrees to expend no less than the amount of \$692,000 to implement and/or perform the following beneficial environmental projects:

- A. To install the Odor Reduction System (ORS) which will consist of the "T-valve" configuration on four tanks (110-8, 110-9, 110-10, and 110-11), three CECO Units, three 15 hp blowers, two carbon beds, a vent stack, containment structures, and associated piping and valves. The CECO Units with 15 hp blowers will cost approximately \$24,000 each. The two carbon beds will cost approximately \$44,000. Additional carbon to be retained on-site will cost approximately \$12,500. The containment pads will cost approximately \$60,000. Venting and piping on the tanks will cost approximately \$75,000. Finally, the cost of installation (including labor and other piping materials) will be \$428,000.
- B. Respondent shall submit monthly reports regarding its progress on the project. The first shall be due on the 5th of the month following the date the Department signs this Settlement. Monthly reports shall be submitted on the 5th of every month thereafter until the project is completed. Each such monthly report shall include a description of the project, tasks completed, tasks remaining, the percentage completed, and money expended on each project through the date of the report. Upon completion of the project required under this Settlement, Respondent shall submit a final report to include a summary of all the information previously submitted and a total amount spent on the project listed above. It shall also contain a certification that the project was completed as described.
- C. If Respondent does not spend the amount of \$692,000, then it shall, in its final report, propose additional projects for the Department's approval or pay to the Department 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 Respondent on cash payments to the Department and on 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.

Respondent further agrees that the Department may consider the inspection report(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 stopped 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 LSA- R. S. 30:2025(E) of the Act and the rules relating to beneficial environmental projects set forth in LAC 33:I.Chapter 25”.

IX.

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in West Baton Rouge Parish, Louisiana as well as in a newspaper

of general circulation in that parish. 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 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.

PETROLEUM FUEL AND TERMINAL CO.

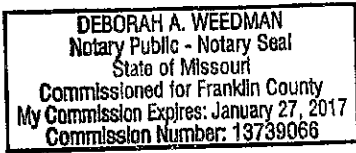
BY: *Kenneth E. Fenton*
(Signature)

Kenneth E. FENTON
(Print)

TITLE: President

THUS DONE AND SIGNED in duplicate original before me this 12th day of MARCH, 20 14, at St. Louis County, Missouri

Deborah A. Weedman
NOTARY PUBLIC (ID #13739066)



Deborah A. Weedman
(Print)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Peggy M. Hatch, Secretary

BY: *CSH*
Cheryl Sonnier Nolan, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 14th day of April, 20 14, at Baton Rouge, Louisiana.

Perry Theriot
NOTARY PUBLIC (ID #19181)
Perry Theriot
(Print)

Approved: *CSH*
Cheryl Sonnier Nolan, Assistant Secretary