STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:
UNITED BULK TERMINALS DAVANT, LLC
AI # 10249

PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT

* Settlement Tracking No.
  * SA-WE-14-0051
  * Enforcement Tracking No.
    * WE-CN-13-00840
    * WE-CN-13-00840A

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:IX.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 battrue. 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)
   Scott C. Beene
   (Printed)

TITLE: CCO

THUS DONE AND SIGNED in duplicate original before me this 29th day of July, 2014, at __________________________.

________________________
NOTARY PUBLIC (ID # __________________________)

DEDY LYN WILSON
Notary Public, State of Texas
My Commission Expires
June 01, 2016
(stamped or printed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Peggy M. Haton Secretary

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

THUS DONE AND SIGNED in duplicate original before me this 6th day of January, 2015, at Baton Rouge, Louisiana.

________________________
NOTARY PUBLIC (ID # 19181)

(stamped or printed)

Approved: __________________________
           Cheryl Sonnier Nolan, Assistant Secretary
Exhibit 1

Batture Project
Joint Permit Application
For Work Within the Louisiana Coastal Zone

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.

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 10 must be completed;
- 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 1-800-267-4010 or 225-342-7691; or
- Contact your local coastal parish program (See page 11).
(http://dnr.louisiana.gov/CRW/coastal/interagencyapplication/step1.asp)

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
Davant, LA 70040
City

Contact Information: Tyrone Williams tyrone.williams@unitedbulkterminal.com
Name of Contact Person (not the owner)
E-Mail Address

(504) 333-7318
Area Code Daytime Telephone Number

(504) 682-1388
Area Code Fax Number

Continue to page 2 for step 2.
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, LA Zip

Contact Information: George Cramer
Name of Contact Person
gcramer@arcadis-us.com
E-Mail Address
Area Code (225) 282-1004
Daytime Telephone Number (225) 218-9877
Fax Number

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. A 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 18; 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 6, Step 8, Step 10, Step 14, Step 18; 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.

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.
a. Describe the project.
Placement of crushed concrete erosion protection on the outside (water side) with sand fill behind, to build up the batters under and around the conveyor belts to enhance the removal of coal/char that may fall from the conveyor belts to the batters area in order to enhance compliance with existing permits during times of high water.

b. Is this application a change to an existing permit?

- [ ] NO  (If NO, proceed to Step 5a.)
- [x] YES  (If YES, identify the existing permit number.)

OCM Permit Number: P___________________________
Please explain

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c. Have you previously applied for a permit or emergency authorization for all or any part of the proposed project?

- [ ] NO  (If NO, proceed to Step 6.)
- [x] YES  (If YES, complete the following information for the proposed project.)

<table>
<thead>
<tr>
<th>Agency Name</th>
<th>Permit Number</th>
<th>Decision Status</th>
<th>Decision Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>OCM</td>
<td>P20131779</td>
<td>[ ] Approved</td>
<td>[ ] Denied</td>
</tr>
<tr>
<td>COE</td>
<td></td>
<td>[ ] Approved</td>
<td>[ ] Denied</td>
</tr>
<tr>
<td>Other</td>
<td></td>
<td>[ ] Approved</td>
<td>[ ] Denied</td>
</tr>
</tbody>
</table>

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Complete the following information to identify the exact location of the proposed project.

a. Physical Location:
- Parish: Plaquemines
- City: Davenport
- Zip: 70040
- Street Address (if known): 14537 Highway 16
- Water Body (if known): Mississippi River

b. Latitude and Longitude:
- Latitude: 29 37 4.100
- Longitude: 89 53 28.300

- [ ] Must be included in all applications.

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c. Section, Township, Range:
- (If available)

<table>
<thead>
<tr>
<th>Section #(s)</th>
<th>Township # (Specify North or South)</th>
<th>Range # (Specify East or West)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Section #(s)</th>
<th>Township # (Specify North or South)</th>
<th>Range # (Specify East or West)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

d. Lot #, Tract #, Parcel # or Subdivision Name:
- (If known)

<table>
<thead>
<tr>
<th>Lot #</th>
<th>Parcel #</th>
<th>Subdivision Name</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Tract #</th>
<th>Subdivision Name</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

e. Site Directions: Directions to the proposed project site must be identified in order to process the application.

START - I-10 toward Baton Rouge. Exit #155 toward Port Allen. US-190 West/LA-1 North ramp. RIGHT onto LA-987 1/Bridge Side Road. RIGHT onto LA-988 North River Road to Popular Grove Plantation directly behind guest parking lot in rear. —END

On the east bank of the Mississippi River between mile markers 53.9 and 56.7.
Complete the following information to notify adjacent landowners whose property adjoins the proposed project site.

**Adjacent Landowner #1:**
- **State:** Louisiana (Mississippi River)
- **Name of Adjacent Landowner:**
- **Mailing Address:**
  - 802 N. Fifth Street
  - Baton Rouge
  - LA 70802
  - East Baton Rouge
  - Parish: LA

**Adjacent Landowner #2:**
- **US Army Corps of Engineers (Levee):**
- **Name of Adjacent Landowner:**
- **Mailing Address:**
  - 7400 Leake Avenue
  - New Orleans
  - LA 70118
  - Orleans
  - Parish: LA

**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

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**Step 8 of 16**

**What is the purpose of 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
- [x] Private

**d. Check the appropriate box(es) to identify what will be done for the proposed project.**
- [ ] Bridge/Road
- [ ] Bulkhead/Backfill
- [ ] Drainage Improvements
- [ ] Dredging
- [ ] Drill Barge/Structure
- [ ] Other

- [ ] Drill site
- [ ] Fill
- [ ] Home Site/Driveway
- [ ] Levee Construction
- [ ] Major Industrial Commercial

- [ ] Pipings
- [ ] Pipeline/Flow line
- [ ] Plug/Abandon
- [ ] Production Barge/Structure
- [ ] Prop Washing

- [ ] Riprap/Erosion Control
- [ ] Site Clearance
- [ ] Subdivision
- [ ] Vegetative Plantings
- [ ] Wharf/Pier/Boathouse

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

<table>
<thead>
<tr>
<th>a. Proposed project start date: 6/1/2014</th>
<th>Proposed project completion date: 12/31/2014</th>
</tr>
</thead>
</table>

b. Is any of the project work in progress?  
- [ ] NO (If NO, proceed to Step 10.)  
- [ ] 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

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

Cubic yards are determined by using this formula: \((\text{Length (ft.)} \times \text{Width (ft.)} \times \text{Depth (ft.)}) \div 27 = \text{Cubic Yards}\)

**Example:** 25 ft. x 25 ft. x 8 ft. divided by 27 = 116.7 Cubic Yards

Acres are determined by using this formula: \((\text{Length (ft.)} \times \text{Width (ft.)}) \div 43,560 = \text{Acres}\)

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

<table>
<thead>
<tr>
<th>a. Excavation: 0.00</th>
<th>0.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cubic Yards</td>
<td>Acres</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>b. Fill: 7,840.00</th>
<th>3.50</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cubic Yards</td>
<td>Acres</td>
</tr>
</tbody>
</table>

| 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  
- [ ] Crushed Stone or Gravel  
- [ ] Excavated & Placed on site  
- [ ] Excavated & Hauled off site  
- [ ] Other (Please specify): crushed concrete

<table>
<thead>
<tr>
<th>Rock (rip/rap)</th>
<th>Cubic Yards</th>
<th>Sand</th>
<th>Cubic Yards</th>
</tr>
</thead>
<tbody>
<tr>
<td>7,500.00</td>
<td>Cubic Yards</td>
<td></td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Hauled In Topsoil/Dirt</th>
<th>Cubic Yards</th>
</tr>
</thead>
<tbody>
<tr>
<td>340.00</td>
<td>Cubic Yards</td>
</tr>
</tbody>
</table>

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

- [ ] Airboat  
- [ ] Backhoe  
- [ ] Barge Mounted Bucket Dredge  
- [ ] Barge Mounted Drilling Rig  
- [ ] Other (Please specify.)

- [ ] Bulldozer/Grader  
- [ ] Dredge/Excavator  
- [ ] Handjet  
- [ ] Land Based Drilling Rig  
- [ ] Tugboat  
- [ ] Marsh Buggy  
- [ ] Other Tracks or Wheeled Vehicles  
- [ ] Self Propelled Pipe Laying Barge

Continue to page 6 for step 11.
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.
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 may also use the OCM GIS interactive map on our website at http://ocmsite-web.state.la.us/www.3dgis/portal/index.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/ocm/coastalperm/perm Notification/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 the owner of the property on which the proposed 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 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: ________________________________

City: ________________________________  Parish: ________________________________  State: __________  Zip Code: ________________________________

Landowner/Lease Holder #2:

Name of Landowner / Lease Holder: ________________________________

Mailing Address: ________________________________

Street Address or P.O. Box: ________________________________

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, ________________________________ (Name of officer), hereby certify that I am the ________________________________ (Name of Office) hereinafter referred to as the Applicant and that I have authority to 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.
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:

- Vizibility 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 8½ x 11 size paper; drawings are reduced in size to fit the 8½ 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 in scale, you may submit the dimensions of the proposed and existing features of the work area displayed);
- Black and white ONLY (Color maps and Drawings will NOT be accepted);
- Accurate and reproducible;
- Placement of the north arrow, title, legend and scale bar must 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 convenience.

Link to sample plots: http://www.dmr.louisiana.gov/coastal/permitting/permitdocs.asp

Step 13 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.
- 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 representatives, to enter the property site during working hours for inspection purposes.
- If applicable, I authorize the agent identified in Step 2 to act on 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
Applicant Signature
Date

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

George Cramer
Clearly Print Name of Authorized Agent
Authorized Agent Signature
Date

18 U.S.C. Section 1007 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 device any material fact or makes any false, fictitious or fraudulent statement or representation, 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.

Page 3 of 12
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 yard for residential uses and $.05 per cubic yard 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
   - ☑ Credit Card (Visa or MasterCard only)
   - ☐ Electronic Transfer
   - ☐ 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". 
Exhibit 2

Upgrade Project
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
PLAQUEMINES PARISH
ALT ID NO. LA0070602

ENFORCEMENT TRACKING NO.
WE-AO-15-00014

AGENCY INTEREST NO.
10249

PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT,

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 battrue. 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 battrue. During high river conditions, the battrue 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.
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 **6th** day of **January**, 2015.

_Peggy M. Hatch_
Secretary

United Bulk Terminal Davant, LLC

By: ____________________________

Name: **SCOTT C. BECNEL**

Title: **CHIEF OPERATING OFFICER**

Date: **JANUARY 9, 2015**