

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

ROCKO'S FOOD AND FUEL, LLC

AI # 15726

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

\* Settlement Tracking No.  
\* SA-UE-20-0022  
\*  
\* Enforcement Tracking No.  
\* UE-P-17-00619  
\* UE-PP-18-00524  
\*  
\*  
\* Docket No. 2018-1370-EQ  
\*

SETTLEMENT

The following Settlement is hereby agreed to between Rocko's Food and Fuel, LLC (“Respondent”) and the Department of Environmental Quality (“DEQ” or “the Department”), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. (“the Act”).

I

Respondent is a limited liability company that owned and/or operated a facility located in Houma, Terrebonne Parish, Louisiana (“the Facility”).

II

On November 21, 2017, the Department issued to Respondent a Penalty Assessment, Enforcement No. UE-P-17-00619 (Exhibit 1).

On December 27, 2018, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. UE-PP-18-00524 (Exhibit 2).

III

In response to the Penalty Assessment, Respondent made a timely request for a hearing.

#### IV

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

#### V

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of THIRTEEN THOUSAND EIGHTY-SIX AND 60/100 DOLLARS (\$13,086.60), of which Four Hundred Thirty-Seven and 73/100 Dollars (\$437.73) represents the Department's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to the Department as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

#### VI

Respondent further agrees that the Department may consider the inspection report(s), the Penalty Assessment, 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.

#### VII

This agreement shall be considered a final order of the Secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this

agreement.

## VIII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in La. R. S. 30:2025(E) of the Act.

## IX

As required by law, the Department has submitted this Settlement Agreement to the Louisiana Attorney General for approval or rejection. The Attorney General's concurrence is appended to this Settlement Agreement.

## X

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Terrebonne Parish, Louisiana. The advertisement, in form and wording approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted an original proof-of-publication affidavit and an original public notice to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

## XI

Payment is to be made in thirty-six (36) months. An initial payment of \$1000.00 is to be made within ten (10) days from notice of the Secretary's signature. The remaining \$12,086.60 is to be made in monthly installments of \$335.73, for 35 consecutive months with a final installment of \$336.05 made in the 36<sup>th</sup> month. The monthly installment payments shall begin the first month

following the month in which the initial payment of \$1,000.00 is made. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Accountant Administrator, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

## XII

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

## XIII

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his or her respective party, and to legally bind such party to its terms and conditions.

**ROCKO'S FOOD AND FUEL, 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**  
Chuck Carr Brown, Ph.D., Secretary

BY: \_\_\_\_\_  
Lourdes Iturralde, Assistant Secretary  
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_, at Baton Rouge, Louisiana.

\_\_\_\_\_  
NOTARY PUBLIC (ID # \_\_\_\_\_)

\_\_\_\_\_  
(stamped or printed)

Approved:  \_\_\_\_\_  
Lourdes Iturralde, Assistant Secretary

JOHN BEL EDWARDS  
GOVERNOR



CHUCK CARR BROWN, Ph.D.  
SECRETARY

**State of Louisiana**  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
OFFICE OF ENVIRONMENTAL COMPLIANCE  
November 21, 2017

CERTIFIED MAIL (7016 2140 0000 3607 4403)  
RETURN RECEIPT REQUESTED

**ROCKO'S FOOD AND FUEL, LLC**  
c/o Jerri G. Smitko  
Agent for Service of Process  
622 Belanger Street  
Houma, Louisiana 70360

**RE: PENALTY ASSESSMENT  
ENFORCEMENT TRACKING NO. UE-P-17-00619  
AGENCY INTEREST NO. 15726**

Dear Madam:

Pursuant to the Louisiana Environmental Quality Act (La. R.S. 30:2001, et seq.), the attached **PENALTY ASSESSMENT** is hereby served on **ROCKO'S FOOD AND FUEL, LLC (RESPONDENT)** for the violations described therein.

Any questions concerning this action should be directed to Glenn McNeese at (225) 219-3372.

Sincerely,

A handwritten signature in black ink, appearing to read "Celena J. Cage".

Celena J. Cage  
Administrator  
Enforcement Division

CJC/EGM/egm  
Alt ID No. 55-004142  
Attachment



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

**IN THE MATTER OF**

**ROCKO'S FOOD AND FUEL, LLC  
TERREBONNE PARISH  
ALT ID NO. 55-004142**

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

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**ENFORCEMENT TRACKING NO.**

**UE-P-17-00619**

**AGENCY INTEREST NO.**

**15726**

**PENALTY ASSESSMENT**

The following **PENALTY ASSESSMENT** is issued to **ROCKO'S FOOD AND FUEL, 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. 30:2025(E) and 30:2050.3.

**FINDINGS OF FACT**

**I.**

The Respondent owns and/or operates Danos Exxon Service Station where five (5) STI-P3 underground storage tanks are located. The three (3) gasoline and one (1) diesel underground storage tanks are active, but the used oil tank has been in temporary closure since approximately November 2013. The tanks were installed in 1998 and the facility operates under identification number 55-004142. The facility is located at 2119 Bayou Black Drive in Houma, Terrebonne Parish, Louisiana.

## II.

On or about November 21, 2012, the Department conducted an inspection at the above referenced facility to determine the degree of compliance with the Act and the supporting Regulations. The following violation was noted during the course of the inspection:

The Respondent failed to use a method or combination of methods of release detection, in violation of LAC 33:XI.703.A.1. Specifically, the five hundred (500) gallon used oil tank was not monitored using one of the release detection methods listed in LAC 33:XI.701.4-8.

## III.

On September 1, 2017, the Department issued an Amended Expedited Penalty Agreement & Notice of Potential Penalty (XP), Enforcement Tracking No. UE-XP-13-00416A to the Respondent for the violation noted in paragraph II above. The Respondent did not enter into the Expedited Penalty Agreement with the Department.

## IV.

On or about August 28, 2015, the Department conducted an inspection at the above referenced facility to determine the degree of compliance with the Act and the supporting Regulations. The following violations were noted during the course of the inspection:

- A. The Respondent failed to properly install the impact valves (shear valves) by failing to properly anchor the dispenser shear valves, in violation of LAC 33:XI.501.A.
- B. The Respondent failed to maintain the records, including but not limited to, release detection records for the underground storage tank system, in violation of LAC 33:XI.509.B.4. Specifically, the Respondent did not have release detection records for 2013. This violation has been addressed.
- C. The Respondent failed to have all Class C UST operators complete an acceptable operator training course, as specified in LAC 33:XI.605.A.2, in violation of LAC 33:XI.607.C. This violation was addressed on August 28, 2015.
- D. The Respondent failed to install, calibrate, operate, and maintain the release detection system in accordance with the manufacturer's instructions, in violation of LAC 33:XI.703.A.2.b. Specifically, the facility's automatic tank gauge indicated a system alarm stating "Sudden Loss Alarm" and "Leak Alarm" for all the tanks. This violation was addressed on September 18, 2015.

- E. The Respondent failed to maintain the cathodic protection system, in accordance with LAC 33:XI.503, in violation of LAC 33:XI.903.A. Specifically, the last cathodic protection test on the "Used Oil" tank performed on January 6, 2014, failed.
- F. The Respondent failed to submit an updated UST registration form (UST-REG-01) to the Office of Environmental Compliance informing the Department that the used oil underground storage tank (tank number 36405) was temporarily closed, in violation of LAC 33:XI.903.B.3.

V.

On November 17, 2016, the Department issued a Compliance Order & Notice of Potential Penalty (CONOPP), Enforcement Tracking No. UE-CN-16-00442 to the Respondent for the violations referenced in paragraph IV above.

VI.

A civil penalty under Section 2025(E) and 2050.3 of the Act may be assessed for the violations described herein.

VII.

Having considered the factors set forth in Section 2025(E)(3) of the Act, and in light of all facts and circumstances presently known, a civil penalty would be appropriate, equitable, and justified.

**ASSESSMENT**

I.

A penalty in the amount of **TWELVE THOUSAND EIGHT HUNDRED THIRTY SIX DOLLARS AND SIXTY CENTS (\$12,836.60)** is hereby assessed together with legal interest as allowed by law and all costs of bringing and prosecuting this enforcement action accruing after the date of issuance.

**THE RESPONDENT SHALL FURTHER BE ON NOTICE THAT:**

I.

The Respondent has a right to an adjudicatory hearing on a disputed issue of material fact or of law arising from this **PENALTY ASSESSMENT**. This right may be exercised by filing a

written request with the Secretary no later than thirty (30) days after receipt of this **PENALTY ASSESSMENT**.

II.

The request for an adjudicatory hearing shall specify the provisions of the **PENALTY ASSESSMENT** on which the hearing is requested and shall briefly describe the basis for the request. This request should reference the Enforcement Tracking Number and Agency Interest Number, which are located in the upper right-hand corner of the first page of this document and should be directed to the following:

Department of Environmental Quality  
Office of the Secretary  
Post Office Box 4302  
Baton Rouge, Louisiana 70821-4302  
**Attn: Hearings Clerk, Legal Division**  
**Re: Enforcement Tracking No. UE-P-17-00619**  
**Agency Interest No. 15726**

III.

Upon the Respondent's timely filing a request for a hearing, a hearing on the disputed issue of material fact or of law regarding this **PENALTY ASSESSMENT** may be scheduled by the Secretary of the Department. The hearing shall be governed by the Act, the Administrative Procedure Act (La. R.S. 49:950, et seq.), and the Department's Rules of Procedure. The Department may amend or supplement this **PENALTY ASSESSMENT** prior to the hearing, after providing sufficient notice and an opportunity for the preparation of a defense for the hearing.

IV.

This **PENALTY ASSESSMENT** shall become a final enforcement action unless the request for a hearing is timely filed. Failure to timely request a hearing constitutes a waiver of the Respondent's right to a hearing on a disputed issue of material fact or of law under Section 2050.4 of the Act for the violations described herein and the assessed penalty.

V.

The Respondent must make full payment of the civil penalty assessed herein no later than fifteen (15) days after the assessment becomes final. Penalties are to be made payable to the Department of Environmental Quality, and mailed to:

Department of Environmental Quality  
Office of Management and Finance  
Post Office Box 4303  
Baton Rouge, Louisiana 70821-4303  
**Attn: Rhonda Mack, Accountant**  
**Re: Enforcement Tracking No. UE-P-17-00619**  
**Agency Interest No. 15726**

Enclose with your payment the attached Penalty Payment form.

VI.

Upon the penalty assessed herein becoming final because of the Respondent's failure to timely file a request for a hearing, and upon the Respondent's failure to pay the civil penalty provided herein or failure to make arrangements satisfactory to the Department for such payment, this matter shall be referred to the Attorney General for collection of the penalty plus all costs associated with the collection.

VII.

For each violation described herein, the Department reserves the right to seek compliance with its rules and regulations in any manner allowed by law and nothing herein shall be construed to preclude the right to seek such compliance.

VIII.

This **PENALTY ASSESSMENT** is effective upon receipt.

Baton Rouge, Louisiana, this 21<sup>st</sup> day of November, 2017.

  
\_\_\_\_\_  
Lourdes Iturralde  
Assistant Secretary  
Office of Environmental Compliance

Copies of a request for a hearing and/or related correspondence should be sent to:

Louisiana Department of Environmental Quality  
Office of Environmental Compliance  
Enforcement Division  
P.O. Box 4312  
Baton Rouge, LA 70821-4312  
Attention: Glenn McNeese

# PENALTY PAYMENT FORM

Please attach this form to your penalty payment  
and submit to:

Department of Environmental Quality  
Office of Management and Finance  
P. O. Box 4303  
Baton Rouge, Louisiana 70821-4303  
Attn: Rhonda Mack, Accountant

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**Respondent: Rocko's Food and Fuel, LLC**

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**Enforcement Tracking Number: UE-P-17-00619**

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**Penalty Amount: \$12,836.60**

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**AI Number: 15726**

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**Alternate ID Number: 55-004142**

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**TEMPO Activity Number: ENF20170001**

**For Official Use Only.  
Do Not write in this Section.**

Check Number:

Check Date:

Check Amount:

Received Date:

PIV Number:

PIV Date:

Stamp "Paid" in the box to the right  
and initial.

Route Completed form to:

Lourdes Iturralde  
Assistant Secretary  
Office of Environmental Compliance

## PENALTY CALCULATION WORKSHEET

**Penalty Event #1 – Paragraph II– The Respondent failed to use a method or combination of methods of release detection, in violation of LAC 33:XI.703.A.1. Specifically, the five hundred (500) gallon used oil tank was not monitored using one of the release detection methods listed in LAC 33:XI.701.4-8.**

### Violation Specific Factors

Degree of Risk/Impact to Human Health Or Property: **Moderate**

Justification: The violation has the potential for measurable detrimental impact on the environment or public health. The used oil tank is a five hundred (500) gallon STI-P3 (cathodically protected steel) UST installed at the facility on or about April 15, 1998. An anode was installed as a form of cathodic protection. The Respondent chooses to use manual tank gauging, and does not have another form of release detection available for the used oil UST. At the time of the inspection the tank was in active status and contained product. The Respondent was not manually gauging the UST and had no records of release detection for the tank for the three (3) years prior to the inspection. If a leak had occurred, the Respondent would have been unaware and unable stop or remediate the leak. The risk is determined to be **moderate**.

Nature and Gravity of the Violation: **Moderate**

Justification: The Respondent deviated from the regulations to such an extent that resulted in substantially negating the intent of the requirement. The Respondent is required to conduct release detection on the UST monthly. The used oil UST contained product and the Respondent was not conducting any form of release detection on the tank. The Department was made aware of the violation during an inspection on or about November 21, 2012. The Respondent submitted documentation of manual tank gauging being conducted starting on or about March 2, 2013. If a leak had occurred, the Respondent would have been unaware and unable stop or remediate the leak. The nature & gravity has been determined to be **moderate**.

### Violator Specific Factors

Adjustment Factors Per Event – the upward or downward percentage adjustment for each violator-specific factor shall be no more than 100 percent of the difference between the minimum and maximum penalty amount for the chosen matrix cell. The total upward or downward percentage adjustment is also limited to 100 percent.

1. The history of previous violations or repeated noncompliance.  
Adjustment = 20%  
Justification: The Respondent has a history of noncompliance. The Respondent was issued an Expedited Penalty Agreement and Notice of Potential Penalty on or about November 4, 2013, and a Compliance Order & Notice of Potential Penalty on or about November 17, 2016, for violations of the Underground Storage Tanks Regulations.
2. The gross revenues generated by the Respondent.  
Adjustment = 0%  
Justification: Compliance Order and Notice of Potential Penalty Enforcement Tracking No. UE-CN-16-00442 issued to the Respondent on November 17, 2016, requested the submission of the Respondent's most current annual gross revenue statement. The Respondent did not submit the requested gross revenue statement, and therefore has not demonstrated that they have an inability to pay a reasonable penalty.
3. The degree of culpability, recalcitrance, defiance, or indifference to regulations or orders.  
Adjustment = 10%  
Justification: The Respondent is culpable for the violation of failing to monitor USTs for releases. However, the Respondent worked to address the issue following the inspection and showed no recalcitrance, defiance, or indifference to regulations.
4. Whether the person charged has failed to mitigate or to make a reasonable attempt to mitigate the damages caused by the noncompliance or violation.  
Adjustment = 0%  
Justification: The Department does not have evidence that the violation has caused actual damages to the environment or public health.
5. Whether the noncompliance or violation and the surrounding circumstances were immediately reported to the Department, and whether the violation or noncompliance was concealed or there was an attempt to conceal by the person charged.  
Adjustment = 0%  
Justification: No effort was made by the Respondent to conceal the violation. There is no requirement to report this violation to the Department.

Total Percentage for Violator Specific Adjustment Factors: 30%

Penalty Range for the Penalty Event  
(using the Violation Specific Factors  
and the Penalty Matrix)

Minimum (A) \$5,000

Maximum (C) \$8,000

Sum of the Percentages for the Penalty Event  
(using the Violator Specific Factors)

Sum of %s (B) 30%

Formula(s) to obtain a penalty amount for each  
Penalty event

$$P = A + (B \times [C - A])$$

$$P = \$5,000 + (30\% \times [\$8,000 - \$5,000])$$

$$P = \$5,000 + (30\% \times \$3,000)$$

$$P = \$5,000 + \$300$$

$$P = \$5,300$$

\*Note – the subtotal is multiplied by two in circumstances where the penalty event constitutes a violation of a previous enforcement action in accordance with LAC 33:I.705.E.

Penalty Amount for Penalty Event = \$5,300

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**Penalty Event #2 –Paragraph IV.A – The Respondent failed to properly install the impact valves (shear valves) by failing to properly anchor the dispenser shear valves, in violation of LAC 33:XI.501.A.**

### **Violation Specific Factors**

Degree of Risk/Impact to Human Health Or Property: **Minor**

Justification: The violation does not present actual harm or substantial risk of harm to the environment or human health. The Respondent did not anchor the four (4) dispenser shear valves which prevent releases on the event of separation at the dispenser. The Department has no record of a release resulting from this violation. The Respondent's failure to anchor the dispenser shear valves is determined to be **minor** in risk.

Nature and Gravity of the Violation: **Major**

Justification: The Respondent deviated from the regulations to such an extent that little to no implementation of the requirements occurred. The shear valves for all four (4) dispensers at the facility were not anchored. The Respondent was informed at the time of the August 28, 2015 inspection that the shear valves were not anchored. The Respondent received the Department's Notice of Deficiency citing the violation on or about October 13, 2015. However, the violation has not been corrected. The nature & gravity has been determined to be **major**.

### Violator Specific Factors

Adjustment Factors Per Event – the upward or downward percentage adjustment for each violator-specific factor shall be no more than 100 percent of the difference between the minimum and maximum penalty amount for the chosen matrix cell. The total upward or downward percentage adjustment is also limited to 100 percent.

1. The history of previous violations or repeated noncompliance.  
Adjustment = 20%  
Justification: The Respondent has a history of noncompliance. The Respondent was issued an Expedited Penalty Agreement and Notice of Potential Penalty on or about November 4, 2013, and a Compliance Order & Notice of Potential Penalty on or about November 17, 2016, for violations of the Underground Storage Tanks Regulations.
2. The gross revenues generated by the Respondent.  
Adjustment = 0%  
Justification: Compliance Order and Notice of Potential Penalty Enforcement Tracking No. UE-CN-16-00442 issued to the Respondent on November 17, 2016, requested the submission of the Respondent's most current annual gross revenue statement. The Respondent did not submit the requested gross revenue statement, and therefore has not demonstrated that they have an inability to pay a reasonable penalty.
3. The degree of culpability, recalcitrance, defiance, or indifference to regulations or orders.  
Adjustment = 30%  
Justification: The Respondent is culpable for the violation of failing to properly anchor the dispenser shear valves. The August 28, 2015 inspection noted that the shear valves were not anchored and the Respondent has shown indifference and recalcitrance by not anchoring the shear valves to address the violation, even after the Department issued a Notice of Deficiency citing the violation on October 7, 2015, and a Compliance Order & Notice of Potential Penalty citing the violation on November 17, 2016.
4. Whether the person charged has failed to mitigate or to make a reasonable attempt to mitigate the damages caused by the noncompliance or violation.  
Adjustment = 0%  
Justification: The Department does not have evidence that the violation has caused actual damages to the environment or public health.
5. Whether the noncompliance or violation and the surrounding circumstances were immediately reported to the Department, and whether the violation or noncompliance was concealed or there was an attempt to conceal by the person charged.  
Adjustment = 0%  
Justification: No effort was made by the Respondent to conceal the violation. There is no requirement to report this violation to the Department.

Total Percentage for Violator Specific Adjustment Factors: 50%

Penalty Range for the Penalty Event  
(using the Violation Specific Factors  
and the Penalty Matrix)

Minimum (A) \$1,500

Maximum (C) \$3,000

Sum of the Percentages for the Penalty Event  
(using the Violator Specific Factors)

Sum of %s (B) 50%

Formula(s) to obtain a penalty amount for each  
Penalty event

$$P = A + (B \times [C-A])$$

$$P = \$1,500 + (50\% \times [\$3,000 - \$1,500])$$

$$P = \$1,500 + (50\% \times \$1,500)$$

$$P = \$1,500 + \$750$$

$$P = \$2,250$$

\*Note – the subtotal is multiplied by two in circumstances where the penalty event constitutes a violation of a previous enforcement action in accordance with LAC 33:I.705.E.

Penalty Amount for Penalty Event = \$2,250

**Penalty Event #3 –Paragraph IV.D – The Respondent failed to install, calibrate, operate, and maintain the release detection system in accordance with the manufacturer’s instructions, in violation of LAC 33:XI.703.A.2.b. Specifically, the facility’s automatic tank gauge indicated a system alarm stating “Sudden Loss Alarm” and “Leak Alarm” for all the USTs.**

### **Violation Specific Factors**

Degree of Risk/Impact to Human Health Or Property: **Minor**

Justification: This violation had little to no potential for measurable detrimental effect on the environment or public health. The facility has four (4) USTs that use automatic tank gauging as the method of release detection. At the time of the inspection on or about August 28, 2015, the facility’s automatic tank gauge indicated a system alarm stating “Sudden Loss Alarm” and “Leak Alarm” for all four (4) USTs. A “Sudden Loss Alarm” is caused by the system detecting loss of fuel during an idle period. The corrective action is to check for a gross leak. A “Leak Alarm” is caused when a static in-tank test fails. The corrective action is to rerun the in-tank leak test to achieve a pass. The release detection report for the day of the inspection and prior months showed passing results for all USTs showing that although an alarm was present, a leak had not occurred. The automatic tank gauge for all tanks was recalibrated and all alarms returned to normal on or about September 18, 2015. The risk is determined to be **minor**.

Nature and Gravity of the Violation: **Minor**

Justification: The Respondent deviated somewhat from the requirements of the regulations but substantial implementation of the requirements occurred. The facility has four (4) USTs that use automatic tank gauging as the sole method of release detection. At the time of the inspection on or about August 28, 2015, the facility’s automatic tank gauge indicated a system alarm stating “Sudden Loss Alarm” and “Leak Alarm” for all four (4) USTs. However, the release detection report for the day of the inspection and prior months showed passing results for all USTs. The automatic tank gauge for all tanks was recalibrated and all alarms returned to normal on or about September 18, 2015. Although, the automatic tank gauge showed an alarm, the USTs were monitored for releases as required and no releases had occurred. The nature & gravity has been determined to be **minor**.

### Violator Specific Factors

Adjustment Factors Per Event – the upward or downward percentage adjustment for each violator-specific factor shall be no more than 100 percent of the difference between the minimum and maximum penalty amount for the chosen matrix cell. The total upward or downward percentage adjustment is also limited to 100 percent.

1. The history of previous violations or repeated noncompliance.  
Adjustment = 20%  
Justification: The Respondent has a history of noncompliance. The Respondent was issued an Expedited Penalty Agreement and Notice of Potential Penalty on or about November 4, 2013, and a Compliance Order & Notice of Potential Penalty on or about November 17, 2016, for violations of the Underground Storage Tanks Regulations.
2. The gross revenues generated by the Respondent.  
Adjustment = 0%  
Justification: Compliance Order and Notice of Potential Penalty Enforcement Tracking No. UE-CN-16-00442 issued to the Respondent on November 17, 2016, requested the submission of the Respondent's most current annual gross revenue statement. The Respondent did not submit the requested gross revenue statement, and therefore has not demonstrated that they have an inability to pay a reasonable penalty.
3. The degree of culpability, recalcitrance, defiance, or indifference to regulations or orders.  
Adjustment = 10%  
Justification: The Respondent is culpable for the violation of failing to calibrate the release detection system in accordance with the manufacturer's instructions. Following the inspection the Respondent corrected the violation and showed no recalcitrance, defiance, or indifference to regulations.
4. Whether the person charged has failed to mitigate or to make a reasonable attempt to mitigate the damages caused by the noncompliance or violation.  
Adjustment = 0%  
Justification: The Department does not have evidence that the violation has caused actual damages to the environment or public health.
5. Whether the noncompliance or violation and the surrounding circumstances were immediately reported to the Department, and whether the violation or noncompliance was concealed or there was an attempt to conceal by the person charged.  
Adjustment = 0%  
Justification: No effort was made by the Respondent to conceal the violation. There is no requirement to report this violation to the Department.

Total Percentage for Violator Specific Adjustment Factors: 30%

Penalty Range for the Penalty Event  
(using the Violation Specific Factors  
and the Penalty Matrix)

Minimum (A) \$100

Maximum (C) \$500

Sum of the Percentages for the Penalty Event  
(using the Violator Specific Factors)

Sum of %s (B) 30%

Formula(s) to obtain a penalty amount for each  
Penalty event

$$P = A + (B \times [C - A])$$

$$P = \$100 + (30\% \times [\$500 - \$100])$$

$$P = \$100 + (30\% \times \$400)$$

$$P = \$100 + \$120$$

$$P = \$220$$

\*Note – the subtotal is multiplied by two in circumstances where the penalty event constitutes a violation of a previous enforcement action in accordance with LAC 33:1.705.E.

Penalty Amount for Penalty Event = \$220

Enforcement Tracking #: UE-P-17-00619

AI #: 15726

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**Penalty Event #4 –Paragraph IV.E – The Respondent failed to maintain the cathodic protection system, in accordance with LAC 33:XI.503, in violation of LAC 33:XI.903.A. Specifically, the last cathodic protection survey on the “Used Oil” tank performed on January 6, 2014, failed.**

#### **Violation Specific Factors**

Degree of Risk/Impact to Human Health Or Property: **Minor**

Justification: The violation had no measurable detrimental effect to the environment or public health. The used oil UST was emptied prior to the inspection and has been in temporary closure since approximately November 2013, according to the facility’s manager and A/B operator. The risk is determined to be **minor**.

Nature and Gravity of the Violation: **Major**

Justification: The Respondent deviated from the regulations to such an extent that little to no implementation of the requirement occurred. The used oil UST in temporary closure is required to have continuous cathodic protection even though the UST contains no product. The three (3) year cathodic protection survey conducted on or about January 6, 2014, failed and required the galvanic anode to be replaced or another form of cathodic protection to be provided. There is no cathodic protection for the UST and as of September 13, 2017, the galvanic anode has not been replaced or another form of cathodic protection added. The nature & gravity has been determined to be **major**.

### Violator Specific Factors

Adjustment Factors Per Event – the upward or downward percentage adjustment for each violator-specific factor shall be no more than 100 percent of the difference between the minimum and maximum penalty amount for the chosen matrix cell. The total upward or downward percentage adjustment is also limited to 100 percent.

1. The history of previous violations or repeated noncompliance.  
Adjustment = 20%  
Justification: The Respondent has a history of noncompliance. The Respondent was issued an Expedited Penalty Agreement and Notice of Potential Penalty on or about November 4, 2013, and a Compliance Order & Notice of Potential Penalty on or about November 17, 2016, for violations of the Underground Storage Tanks Regulations.
2. The gross revenues generated by the Respondent.  
Adjustment = 0%  
Justification: Compliance Order and Notice of Potential Penalty Enforcement Tracking No. UE-CN-16-00442 issued to the Respondent on November 17, 2016, requested the submission of the Respondent's most current annual gross revenue statement. The Respondent did not submit the requested gross revenue statement, and therefore has not demonstrated that they have an inability to pay a reasonable penalty.
3. The degree of culpability, recalcitrance, defiance, or indifference to regulations or orders.  
Adjustment = 30%  
Justification: The Respondent is culpable for the violation of failing to maintain cathodic protection on the used oil UST. The used oil UST failed the last cathodic protection survey on or about January 6, 2014, and the Respondent has shown indifference and recalcitrance by not replacing the galvanic anode or installing another form of cathodic protection to address the violation, even after the Department issued a Notice of Deficiency citing the violation on October 7, 2015 and a Compliance Order and Notice of Potential Penalty citing the violation on November 17, 2016.
4. Whether the person charged has failed to mitigate or to make a reasonable attempt to mitigate the damages caused by the noncompliance or violation.  
Adjustment = 0%  
Justification: The Department does not have evidence that the violation has caused actual damages to the environment or public health.
5. Whether the noncompliance or violation and the surrounding circumstances were immediately reported to the Department, and whether the violation or noncompliance was concealed or there was an attempt to conceal by the person charged.  
Adjustment = 0%  
Justification: No effort was made by the Respondent to conceal the violation. There is no requirement to report this violation to the Department.

Total Percentage for Violator Specific Adjustment Factors: 50%

Penalty Range for the Penalty Event  
(using the Violation Specific Factors  
and the Penalty Matrix)

Minimum (A) \$1,500

Maximum (C) \$3,000

Sum of the Percentages for the Penalty Event  
(using the Violator Specific Factors)

Sum of %s (B) 50%

Formula(s) to obtain a penalty amount for each  
Penalty event

$$P = A + (B \times [C-A])$$

$$P = \$1,500 + (50\% \times [\$3,000 - \$1,500])$$

$$P = \$1,500 + (50\% \times \$1,500)$$

$$P = \$1,500 + \$750$$

$$P = \$2,250$$

\*Note – the subtotal is multiplied by two in circumstances where the penalty event constitutes a violation of a previous enforcement action in accordance with LAC 33:I.705.E.

Penalty Amount for Penalty Event = \$2,250

**Penalty Event #5 –Paragraph IV.F – The Respondent failed to submit an updated UST registration form (UST-REG-01) to the Office of Environmental Compliance informing the Department that the used oil underground storage tank (tank number 36405) was temporarily closed, in violation of LAC 33:XI.903.B.3.**

#### **Violation Specific Factors**

Degree of Risk/Impact to Human Health Or Property: **Minor**

Justification: The violation does not present actual harm or substantial risk of harm to the environment or human health. The Respondent did not submit a UST registration form to the Department informing that the used oil tank is in temporary closure. The violation is administrative in nature. The Respondent's failure to submit a registration form is determined to be **minor** in risk.

Nature and Gravity of the Violation: **Moderate**

Justification: The Respondent deviated from the regulations to such an extent that resulted in substantially negating the intent of the requirement. The Respondent submitted a UST registration form to notify of ownership on or about April 16, 2008, as required, but failed to update the UST registration form to notify of temporary closure. A UST registration form notifying of temporary closure has not been submitted to the Department as of October 9, 2017. The Respondent is required to submit a UST-REG-01 to the Department within three (3) months of placing a UST in temporary closure. The UST was placed in temporary closure approximately November 2013. The nature & gravity has been determined to be **moderate**.

### Violator Specific Factors

Adjustment Factors Per Event – the upward or downward percentage adjustment for each violator-specific factor shall be no more than 100 percent of the difference between the minimum and maximum penalty amount for the chosen matrix cell. The total upward or downward percentage adjustment is also limited to 100 percent.

6. The history of previous violations or repeated noncompliance.  
Adjustment = 20%  
Justification: The Respondent has a history of noncompliance. The Respondent was issued an Expedited Penalty Agreement and Notice of Potential Penalty on or about November 4, 2013, and a Compliance Order & Notice of Potential Penalty on or about November 17, 2016, for violations of the Underground Storage Tanks Regulations.
7. The gross revenues generated by the Respondent.  
Adjustment = 0%  
Justification: Compliance Order and Notice of Potential Penalty Enforcement Tracking No. UE-CN-16-00442 issued to the Respondent on November 17, 2016, requested the submission of the Respondent's most current annual gross revenue statement. The Respondent did not submit the requested gross revenue statement, and therefore has not demonstrated that they have an inability to pay a reasonable penalty.
8. The degree of culpability, recalcitrance, defiance, or indifference to regulations or orders.  
Adjustment = 30%  
Justification: The Respondent is culpable for the violation of failing to submit an updated UST-REG-01 informing the Department that the used oil UST was temporarily closed. The August 28, 2015 inspection noted that an updated UST-REG-01 was not submitted to the Department and the Respondent has shown indifference and recalcitrance by not submitting an updated UST-REG-01 to address the violation, even after the Department issued a Notice of Deficiency citing the violation on October 7, 2015 and a Compliance Order & Notice of Potential Penalty citing the violation on November 17, 2016.
9. Whether the person charged has failed to mitigate or to make a reasonable attempt to mitigate the damages caused by the noncompliance or violation.  
Adjustment = 0%  
Justification: The Department does not have evidence that the violation has caused actual damages to the environment or public health.
10. Whether the noncompliance or violation and the surrounding circumstances were immediately reported to the Department, and whether the violation or noncompliance was concealed or there was an attempt to conceal by the person charged.  
Adjustment = 0%  
Justification: No effort was made by the Respondent to conceal the violation. There is no requirement to report this violation to the Department.

Total Percentage for Violator Specific Adjustment Factors: 50%

Penalty Range for the Penalty Event  
(using the Violation Specific Factors  
and the Penalty Matrix)

Minimum (A) \$500  
Maximum (C) \$1,500

Sum of the Percentages for the Penalty Event  
(using the Violator Specific Factors)

Sum of %s (B) 50%

Formula(s) to obtain a penalty amount for each  
Penalty event

$P = A + (B \times [C - A])$   
 $P = \$500 + (50\% \times [\$1,500 - \$500])$   
 $P = \$500 + (50\% \times \$1,000)$   
 $P = \$500 + \$500$   
 $P = \$1,000$

\*Note – the subtotal is multiplied by two in circumstances where the penalty event constitutes a violation of a previous enforcement action in accordance with LAC 33:I.705.E.

Penalty Amount for Penalty Event = \$1,000

**MONETARY BENEFIT OF NONCOMPLIANCE**  
LAC 33:I.705.G

The Department shall consider the monetary benefits realized through noncompliance. Any monetary benefits calculated may be added to the penalty subtotal. However, the amount calculated may not cause the penalty subtotal to exceed the maximum penalty amount allowed by law. A cash penalty should be collected unless it has been demonstrated and documented that the violator cannot pay the cash penalty.

Justification/Explanation/Calculation of Benefit of Noncompliance

**Penalty Event #1:** The Respondent failed to manually gauge the five hundred (500) gallon UST for release detection. Due to the size of the UST, manual tank gauging is a valid form of release detection. A representative of the facility can gauge the USTs for release detection at no added cost to the Respondent. The Department has determined there is no benefit of noncompliance for this violation.

**Penalty Event #2:** The Respondent failed to properly install the impact valves (shear valves) by failing to properly anchor the dispenser shear valves. Anchoring the shear valve does not require a certified worker, so the compliance officer or a representative of the Respondent can properly anchor the shear valves at little to no added cost to the Respondent. The Department has determined there is no benefit of noncompliance for this violation.

**Penalty Event #3:** The Respondent failed to install, calibrate, operate, and maintain the release detection system in accordance with the manufacturer's instructions, in violation of LAC 33:XI.703.A.2.b. All USTs were in alarm at the time of inspection. The compliance officer for the Respondent recalibrated the automatic tank gauge and all alarms returned to normal. No repair was required to address the violation. The Department has determined there is no benefit of noncompliance for this violation.

**Penalty Event #4:** The Respondent failed to maintain the cathodic protection system, in accordance with LAC 33:XI.503, in violation of LAC 33:XI.903.A. Specifically, the last cathodic protection survey on the used oil UST performed on January 6, 2014, failed. No repair has been performed on the cathodic protection for the UST. The estimated cost to replace the galvanic anode was quoted as \$3,200 by the contractor the Respondent used to conduct the cathodic protection survey. According to the regulation LAC XI.507.A.6, after the anode is replaced a cathodic protection survey would need to be conducted to ensure the galvanic anode is operational. After six (6) months another cathodic protection survey would be conducted. According to quote sheets from the contractor the Respondent used to conduct the last cathodic protection survey, the cost for two (2) cathodic protection surveys is \$700. The cost to repair the cathodic protection system has been determined to be \$3,900. The benefit of noncompliance is the delayed benefit because the repair is still required. Using the Louisiana Judicial Interest Calendar with a principal of \$3,900, the Department has determined that the benefit of noncompliance is \$609.63.

Enforcement Tracking #: UE-P-17-00619

AI #: 15726

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**Penalty Event #5:** The Respondent failed to submit an updated UST registration form (UST-REG-01) to the Office of Environmental Compliance informing the Department that the used oil underground storage tank (tank number 36405) was temporarily closed, in violation of LAC 33:XI.903.B.3. The violation is administrative in nature and a representative of the facility can complete the registration form and submit it to the Department. The Department has determined there is no benefit of noncompliance for this violation.

Total Monetary Benefit of Noncompliance = \$609.93

**COMPUTATION OF RESPONSE COST**

LAC33:1.705.H

*Response Costs*—the costs to the state of any response action made necessary by a penalty event that are not voluntarily paid by the violator. These costs shall include, but are not limited to, the costs of surveillance staff activities including cleanup costs and the costs of bringing and prosecuting an enforcement action, such as staff time, equipment use, hearing records, and expert assistance. (See LAC 33:I:703.A)

The following is a breakdown of response costs for this Penalty Assessment.

**UE-XP-13-00416A and UE-P-17-00619**

Personnel (A)	No. of Hours (B)	Hourly Rate of Pay (C)	Direct Cost (D)	Approved Federal Rate (E)	Indirect Cost (F)	Subtotal (G)
<b>Enforcement Division</b>						
Enforcement Writer EGM	11	\$15.37	\$169.07	78.24%	\$132.28	\$301.35
Enforcement Supervisor MBT	1	\$23.55	\$23.55	78.24%	\$18.42	\$41.97
Enforcement Analyst VMT	.25	\$18.69	\$4.67	78.24%	\$3.65	\$8.32
Enforcement Manager NVA	.25	\$37.44	\$9.36	78.24%	\$7.32	\$16.68
Enforcement Administrator CC	.25	\$40.94	\$10.24	78.24%	\$8.01	\$18.25
<b>Total Enforcement Costs:</b>						<b>\$386.57</b>

**Direct Cost (D) = No. Hours (B) X Rate (C)**

**Indirect Cost (F) = Direct Cost (D) X Approved Federal Rate (E)**

**Subtotal (G) = Direct Cost (D) + Indirect Cost (F)**

Approved Federal Rate Effective July 1, 2017-June 30, 2018: 78.24%

Note: Approved Federal Rate for the corresponding period when costs were incurred is used.

**UE-CN-16-00442**

Personnel (A)	No. of Hours (B)	Hourly Rate of Pay (C)	Direct Cost (D)	Approved Federal Rate (E)	Indirect Cost (F)	Subtotal (G)
<b>Enforcement Division</b>						
Enforcement Writer AED	10	\$23.85	\$238.50	70.91%	\$169.12	\$407.62
Enforcement Writer EGM	2	\$14.36	\$28.72	70.91%	\$20.37	\$49.09
Enforcement Supervisor MBT	1	\$23.55	\$23.55	70.91%	\$16.70	\$40.25
Enforcement Analyst VMT	.75	\$18.69	\$14.02	70.91%	\$9.94	\$23.96
Legal OM	1.5	\$33.17	\$49.76	70.91%	\$35.28	\$85.04
Enforcement Manager NVA	1	\$37.44	\$37.44	70.91%	\$26.55	\$63.99
Enforcement Administrator CJC	1	\$38.99	\$38.99	70.91%	\$27.65	\$66.64
Enforcement Assistant Secretary LMI	1	\$49.04	\$49.04	70.91%	\$34.77	\$83.81
<b>Total Enforcement Costs:</b>						<b>\$820.40</b>

**Direct Cost (D) = No. Hours (B) X Rate (C)**

**Indirect Cost (F) = Direct Cost (D) X Approved Federal Rate (E)**

**Subtotal (G) = Direct Cost (D) + Indirect Cost (F)**

Approved Federal Rate Effective July 1, 2016-June 30, 2016: 70.91%

## FINAL PENALTY CALCULATION

The values for each penalty amount are added to determine a **Penalty Subtotal (Ps)**.

$$\begin{aligned} P_s &= P_1 + P_2 \\ P_s &= \$5,300 + \$2,250 + \$220 + \$2,250 + \$1,000 \\ P_s &= \$11,020 \end{aligned}$$

If **Monetary Benefit of Noncompliance** is added:

$$\begin{aligned} P_s &= (P_1 + B_1) + (P_2 + B_2) + (P_3 + B_3) \\ P_s &= \$5,300 + \$2,250 + \$800 + \$220 + (\$2,250 + \$609.63) + \$2,250 \\ P_s &= \$11,629.63 \end{aligned}$$

**Response Costs (R<sub>c</sub>)** are then added to the penalty subtotal (P<sub>s</sub>) to determine the total penalty amount (P<sub>t</sub>).

$$\begin{aligned} R_c &= \$386.57 + \$820.40 \\ R_c &= \$1,206.97 \end{aligned}$$

**Penalty Total = Penalty Subtotal + Response Costs**

$$\begin{aligned} (P_t) &= P_s + R_c \\ (P_t) &= \$11,629.63 + \$1,206.97 \\ (P_t) &= \$12,836.60 \end{aligned}$$

**Penalty Total = \$12,836.60**

JOHN BEL EDWARDS  
GOVERNOR



CHUCK CARR BROWN, PH.D.  
SECRETARY

**State of Louisiana**  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
OFFICE OF ENVIRONMENTAL COMPLIANCE



December 27, 2018

CERTIFIED MAIL (7017 2400 0000 7556 7698)  
RETURN RECEIPT REQUESTED

**ROCKO'S FOOD AND FUEL, LLC**

c/o Jerri G. Smitko  
Agent for Service of Process  
622 Belanger Street  
Houma, LA 70360

**RE: NOTICE OF POTENTIAL PENALTY  
ENFORCEMENT TRACKING NO. UE-PP-18-00524  
AGENCY INTEREST NO. 15726**

Dear Madam:

On or about January 26, 2018, and May 7, 2018, inspections of **DANOS EXXON SERVICE STATION**, a retailer of motor fuel, owned and/or operated by **ROCKO'S FOOD AND FUEL, LLC (RESPONDENT)**, were performed by the Louisiana Department of Environmental Quality (the Department) to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Underground Storage Tanks Regulations. The facility is located at 2119 Bayou Black Drive in Houma, Terrebonne Parish, Louisiana, and is assigned alternate identification number 55-004142.

On or about July 12, 2017, the Department issued a Notice of Deficiency (NOD) to the Respondent to address an area of concern from the January 26, 2018 inspection. The NOD was received by the Respondent on or about July 24, 2018. The Respondent failed to provide a response to the Department regarding the Notice of Deficiency.

While the investigation by the Department is not yet complete, the following violations were noted during the course of the inspections:

- A. The Respondent failed to complete a site assessment for a UST system that has been in temporary closure for more than twenty-four (24) months, in violation of LAC 33:XI.903.D. Specifically, the used oil tank had been in temporary closure since approximately November 2013, and a site assessment had not been conducted. The used oil tank was closed in place on or about September 25, 2018.
- B. The Respondent failed to conduct release detection on a UST in temporary closure, in violation of LAC 33:XI.903.A. Specifically, the used oil tank which had been in

temporary closure since approximately November 2013 contained 20.5 inches of product at the time of the January 26, 2018 inspection and release detection was not being performed. The tank was emptied on or about February 15, 2018, and was ultimately closed in place on or about September 25, 2018.

Pursuant to La. R.S. 30:2050.3(B), you are hereby notified that the issuance of a penalty assessment is being considered for the violation described herein. Written comments may be filed regarding the violation and the contemplated penalty. If you elect to submit comments, it is requested that they be submitted within ten (10) days of receipt of this notice.

Prior to the issuance of any additional appropriate enforcement action, you may request a meeting with the Department to present any mitigating circumstances concerning the violation(s). If you would like to have such a meeting, please contact Deonne Bodin at (504) 736-7715 within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

The Department is required by La. R.S. 30:2025(E)(3)(a) to consider the gross revenues of the Respondent and the monetary benefits of noncompliance in order to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current annual gross revenue statement along with a statement of the monetary benefits of noncompliance for the cited violation(s) to the above named contact person within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**. Include with your statement of monetary benefits the method(s) you utilized to arrive at the sum. If you assert that no monetary benefits have been gained, you are to fully justify this statement. If the Respondent chooses not to submit the requested most current annual gross revenues statement within ten (10) days, it will be viewed by the Department as an admission that the Respondent has the ability to pay the statutory maximum penalty as outlined in La. R.S. 30:2025.

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

The Department assesses civil penalties based on LAC 33:I.Subpart1.Chapter7. To expedite closure of this **NOTICE OF POTENTIAL PENALTY**, the Respondent may offer a settlement amount to resolve any claim for civil penalties for the violation(s) described herein. The Respondent may offer a settlement amount, but the Department is under no obligation to enter into settlement negotiations. The decision to proceed with a settlement is at the discretion of the Department. The settlement offer amount may be entered on the attached "**NOTICE OF POTENTIAL PENALTY REQUEST TO SETTLE**" form. The Respondent must include a justification of the offer. **DO NOT** submit payment of the offer amount with the form. The Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.

Rocko's Food and Fuel, LLC

UE-PP-18-00524

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To reduce document handling, please refer to the Enforcement Tracking Number and Agency Interest Number on the front of this document on all correspondence in response to this action.

Sincerely,



Lourdes Iturralde

Assistant Secretary

Office of Environmental Compliance

LI/db

Alt ID No. 55-004142

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY  
OFFICE OF ENVIRONMENTAL COMPLIANCE

ENFORCEMENT DIVISION  
POST OFFICE BOX 4312  
BATON ROUGE, LOUISIANA 70821-4312

**NOTICE OF POTENTIAL PENALTY  
REQUEST TO SETTLE (OPTIONAL)**



Enforcement Tracking No.	UE-PP-18-00524	Contact Name	Deonne Bodin
Agency Interest (AI) No.	15726	Contact Phone No.	(504) 736-7715
Alternate ID No.	55-004142		
Respondent:	Rocko's Food and Fuel, LLC	Facility Name:	Danos Exxon Service Station
	c/o Jerri G. Smitko	Physical Location:	2119 Bayou Black Drive
	Agent for Service of Process		
	622 Belanger Street	City, State, Zip:	Houma, LA 70360
Houma, LA 70360	Parish:	Terrebonne	

**SETTLEMENT OFFER (OPTIONAL)**

*(check the applicable option)*

<input type="checkbox"/>	The Respondent is not interested in entering into settlement negotiations with the Department with the understanding that the Department has the right to assess civil penalties based on LAC 33:1.Subpart1.Chapter7.
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in <b>NOTICE OF POTENTIAL PENALTY</b> (UE-PP-18-00524), the Respondent is interested in entering into settlement negotiations with the Department and would like to set up a meeting to discuss settlement procedures.
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in <b>NOTICE OF POTENTIAL PENALTY</b> (UE-PP-18-00524), the Respondent is interested in entering into settlement negotiations with the Department and offers to pay \$ _____ which shall include LDEQ enforcement costs and any monetary benefit of non-compliance. <ul style="list-style-type: none"> <li>• Monetary component = \$ _____</li> <li>• Beneficial Environmental Project (BEP) component (optional)= \$ _____</li> <li>• <b>DO NOT SUBMIT PAYMENT OF THE OFFER WITH THIS FORM-</b> the Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.</li> </ul>
<input type="checkbox"/>	The Respondent has reviewed the violations noted in <b>NOTICE OF POTENTIAL PENALTY</b> (UE-PP-18-00524) and has attached a justification of its offer and a description of any BEPs if included in settlement offer.

**CERTIFICATION STATEMENT**

*I certify, under provisions in Louisiana and United States law that provide criminal penalties for false statements, that based on information and belief formed after reasonable inquiry, the statements and information attached and the compliance statement above, are true, accurate, and complete. I also certify that I do not owe outstanding fees or penalties to the Department for this facility or any other facility I own or operate. I further certify that I am either the Respondent or an authorized representative of the Respondent.*

Respondent's Signature	Respondent's Printed Name	Respondent's Title
Respondent's Physical Address	Respondent's Phone #	Date

**MAIL COMPLETED DOCUMENT TO THE ADDRESS BELOW:**

The Department of Environmental Quality  
Office of Environmental Compliance  
Enforcement Division  
Post Office Box 4312  
Baton Rouge, LA 70821-4312  
Attention: **Deonne Bodin**