

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

TRIMAC TRANSPORTATION INC.

AI # 26272

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

* Settlement Tracking No.
* SA-HE-19-0052
*
* Enforcement Tracking No.
* HE-CN-15-01420
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SETTLEMENT

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

I

Respondent is a corporation that owns and/or operates a facility located in Geismar, Ascension Parish, Louisiana (“the Facility”).

II

On February 4, 2016, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. HE-CN-15-01420 (Exhibit 1).

III

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

IV

Nonetheless, Respondent, without making any admission of liability under state or federal

statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of ONE THOUSAND NINE HUNDRED AND NO/100 DOLLARS (\$1,900.00), of which Six Hundred Forty and 39/100 Dollars (\$640.39) 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).

V

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

VI

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.

VII

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.

VIII

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.

IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Ascension 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.

X

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Accountant Administrator, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

XI

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

XII

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

TRIMAC TRANSPORTATION INC.

BY: [Signature]
(Signature)

Lawna L. Hurl
(Printed)

TITLE: VP Legal + Corporate Secretary

THUS DONE AND SIGNED in duplicate original before me this 11th day of March, 20 20, at the City of Calgary in the Province of Alberta.

[Signature]
NOTARY PUBLIC (ID # N/A)

PUI C. HONG
BARRISTER AND SOLICITOR

(stamped or printed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Chuck Carr Brown, Ph.D., Secretary

BY: [Signature]
Lourdes Iturralde, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 24th day of June, 20 20, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 19181)

Perry Theriot
(stamped or printed)

Approved: [Signature]
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

February 4, 2016

CERTIFIED MAIL (7005 1820 0002 2365 4452)
RETURN RECEIPT REQUESTED

TRIMAC TRANSPORTATION INC.
c/o CT Corporation System
Agent for Service of Process
3867 Plaza Tower Drive
Baton Rouge, LA 70816

**RE: CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. HE-CN-15-01420
AGENCY INTEREST NO. 26272**

Dear Sir/Madam:

Pursuant to the Louisiana Environmental Quality Act (La. R.S. 30:2001, et seq.), the attached **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is hereby served on **TRIMAC TRANSPORTATION INC. (RESPONDENT)** for the violations described therein.

Compliance is expected within the maximum time period established by each part of the **COMPLIANCE ORDER**. The violations cited in the **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** could result in the issuance of a civil penalty or other appropriate legal actions.

Any questions concerning this action should be directed to Adrienne Bayhi at (225) 219-3805.

Sincerely,

Celena J. Cage
Administrator
Enforcement Division

CJC/ARB/arb
Alt ID No. LAR000010983
Attachment



c: Trimac Transportation, Inc.
35072 Highway 30
Geismar, LA 70734

STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

IN THE MATTER OF	*	
	*	
TRIMAC TRANSPORTATION INC.	*	ENFORCEMENT TRACKING NO.
ASCENSION PARISH	*	
ALT ID NO. LAR000010983	*	HE-CN-15-01420
	*	
	*	AGENCY INTEREST NO.
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT,	*	26272
La. R.S. 30:2001, ET SEQ.	*	

CONSOLIDATED
COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **TRIMAC TRANSPORTATION INC. (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(C), 30:2050.2 and 30:2050.3(B).

FINDINGS OF FACT

I.

The Respondent owns and/or operates Trimac Geismar Terminal located at 35072 Highway 30 in Geismar, Ascension Parish, Louisiana. The facility cleans and services trailers used in transportation of various chemicals. The facility also has a wastewater treatment plant and waste water storage tank onsite. The facility has notified the Department as a large quantity generator of hazardous waste, which operates under EPA facility identification number LAR000010983.

II.

On or about June 19, 2015, the Department conducted an inspection of the facility to determine the degree of compliance with the Hazardous Waste regulations which revealed the following violations:

- A. The Respondent failed to keep hazardous waste containers closed during storage, except when necessary to add or remove hazardous waste, as specified in LAC

33:V.2107.A, in violation of LAC 33:V.1109.E.4. Specifically, the facility's hazardous waste heel-collection bucket and over pack drum, which the satellite accumulation container is placed in, were not closed. Additionally, the satellite storage container had a bung funnel attached with a missing gasket. All three (3) containers had hazardous waste labels with waste codes D022 (Chloroform), D026 (Cresol), D027 (1,4-Dichlorobenzene) and D035 (Methyl Ethyl Ketone). This violation was addressed as verified by a July 29, 2015 e-mail from a representative of the Respondent.

- B. The Respondent failed to clean up and dispose of a hazardous waste spill in a timely manner, in violation of LAC 33:V.1121.A. Specifically, the Respondent failed to clean up spills of characteristic hazardous waste [Chloroform (D022), Cresol (D026), 1,4-Dichlorobenzene (D027) and Methyl Ethyl Ketone (D035)] located on the top of the satellite storage container and on the outside of the over pack drum. This violation was addressed as verified by a July 29, 2015 e-mail from a representative of the Respondent.
- C. The Respondent failed to maintain training records of current facility personnel, until the closure of the facility, as specified in LAC 33:V.1515.E, in violation of LAC 33:V.1109.E.1.e. Specifically, the Respondent could only provide training records that dated back to 2013 for C. Davis, a fifteen (15) year employee.
- D. The Respondent failed to ensure that all required facility personal take part in an annual review of the initial training, as specified in LAC 33:V.1515.C, in violation of LAC 33:V.1109.E.1.e. Specifically, the Respondent failed to provide RCRA training for calendar year 2013 for employee A. Nelson.
- E. The Respondent failed to provide initial training for facility personnel within six (6) months after the date of their employment or assignment to the facility, as specified in LAC 33:V.1515.B, in violation of LAC 33:V.1109.E.1.e. Specifically, R. Kelly was hired in 2013; however, the Respondent did not provide initial RCRA training until October 2014.
- F. The Respondent failed to describe, in the facility's contingency plan, arrangements agreed to by local police departments, fire departments, hospitals, contractors, and state and local emergency response teams to coordinate emergency services, as

specified in LAC 33:V.1513.B.3, in violation of LAC 33:V.1109.E.1.e. Specifically, the Respondent failed to list agreements or arrangements with local emergency services in the facility's contingency plan.

- G. The Respondent failed to list, in the facility's contingency plan, the current names, addresses, and phone numbers of all persons qualified to act as emergency coordinator, as specified in LAC 33:V.1513.B.4, in violation of LAC 33:V.1109.E.1.e. Specifically, the Respondent did not have a list of current emergency coordinators and their required contact information in the facility's contingency plan.
- H. The Respondent failed to list, in the facility's contingency plan, a list of all required emergency equipment at the facility, such as fire extinguishing systems, spill control equipment, communications and alarm systems, and decontamination equipment, as specified in LAC 33:V.1513.B.5, in violation of LAC 33:V.1109.E.1.e. Specifically, the Respondent did not list all emergency equipment and their locations in the facility's contingency plan.
- I. The Respondent failed to include, in the facility's contingency plan, an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary, as specified in LAC 33:V.1513.B.6, in violation of LAC 33:V.1109.E.1.e. Specifically, the Respondent did not include an evacuation plan or route in the facility's contingency plan.

COMPLIANCE ORDER

Based on the foregoing, the Respondent is hereby ordered:

I.

To take, immediately upon receipt of this COMPLIANCE ORDER, any and all steps necessary to meet and maintain compliance with the Hazardous Waste Regulations.

II.

To ensure, upon receipt of this COMPLIANCE ORDER, that all facility personnel have successfully completed the appropriate training that prepares them to perform their duties in a manner that ensures the facility's compliance with the hazardous waste regulations. All personnel training records shall be maintained in accordance with LAC 33:V.1515.E.

III.

To immediately institute, upon receipt of this **COMPLIANCE ORDER**, procedures to ensure that all employees responsible for managing hazardous waste have received or will receive initial and annual hazardous waste training meeting the requirements specified in LAC 33:V.1515.

IV.

To list and/or describe, immediately upon receipt of this **COMPLIANCE ORDER**, in the facility's contingency plan, arrangements agreed to by the local emergency services, the current name, addresses and phone numbers of all qualified persons to act as emergency coordinator, all required emergency equipment and their locations at the facility, and a written evacuation plan as specified in LAC 33:V.1513.B, in accordance with LAC 33:V.1109.E.1.e.

V.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, a written report that includes a detailed description of the circumstances surrounding the cited violations and actions taken or to be taken to achieve compliance with the Order Portion of this **COMPLIANCE ORDER**. This report and all other reports or information required to be submitted to the Enforcement Division by this **COMPLIANCE ORDER** shall be submitted to:

Office of Environmental Compliance
Post Office Box 4312
Baton Rouge, Louisiana 70821-4312
Attn: Adrienne Bayhi
Re: Enforcement Tracking No. HE-CN-15-01420
Agency Interest No. 26272

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 **COMPLIANCE ORDER**. This right may be exercised by filing a written request with the Secretary no later than thirty (30) days after receipt of this **COMPLIANCE ORDER**.

II.

The request for an adjudicatory hearing shall specify the provisions of the **COMPLIANCE ORDER** 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. HE-CN-15-01420**
Agency Interest No. 26272

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 **COMPLIANCE ORDER** 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 **COMPLIANCE ORDER** prior to the hearing, after providing sufficient notice and an opportunity for the preparation of a defense for the hearing.

IV.

This **COMPLIANCE ORDER** shall become a final enforcement action unless the request for 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 violation(s) described herein.

V.

The Respondent's failure to request a hearing or to file an appeal or the Respondent's withdrawal of a request for hearing on this **COMPLIANCE ORDER** shall not preclude the Respondent from contesting the findings of facts in any subsequent penalty action addressing the same violation(s), although the Respondent is estopped from objecting to this **COMPLIANCE ORDER** becoming a permanent part of its compliance history.

VI.

Civil penalties of not more than twenty-seven thousand five hundred dollars (\$27,500) for each day of violation for the violation(s) described herein may be assessed. For violations which occurred on August 15, 2004, or after, civil penalties of not more than thirty-two thousand five hundred dollars (\$32,500) may be assessed for each day of violation. The Respondent's failure or refusal to comply with this **COMPLIANCE ORDER** and the provisions herein will subject the Respondent to possible

enforcement procedures under La. R.S. 30:2025, which could result in the assessment of a civil penalty in an amount of not more than fifty thousand dollars (\$50,000) for each day of continued violation or noncompliance.

VII.

For each violation described herein, the Department reserves the right to seek civil penalties in any manner allowed by law, and nothing herein shall be construed to preclude the right to seek such penalties.

NOTICE OF POTENTIAL PENALTY

I.

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(s) described herein. Written comments may be filed regarding the violation(s) 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.

II.

Prior to the issuance of additional appropriate enforcement action(s), 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 Adrienne Bayhi at (225) 219-3805 within ten (10) days of receipt of this NOTICE OF POTENTIAL PENALTY.

III.

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 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 that statement.

IV.

This CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY is effective upon receipt.

Baton Rouge, Louisiana, this 4th day of Feb., 2016.



Chuck Carr Brown, Ph.D.
Secretary
Louisiana Department of Environmental Quality

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: Adrienne Bayhi