

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

ASHAN ENTERPRISES, L.L.C.

AI # 69112

PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT

LA. R.S. 30:2001, ET SEQ.

* Settlement Tracking No.
* SA-UE-21-0033
*
* Enforcement Tracking No.
* UE-CN-15-01447
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SETTLEMENT

The following Settlement is hereby agreed to between Ashan Enterprises, L.L.C. (“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 owns and/or operates a motor fuels retailer located in Sulphur, Calcasieu Parish, Louisiana (“the Facility”).

II

On April 29, 2016, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. UE-CN-15-01447 (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 FIFTEEN THOUSAND AND N0/100 DOLLARS (\$15,000.00), of which Eight Hundred Forty-One and 53/100 Dollars (\$841.53) 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 Calcasieu 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.

JOHN BEL EDWARDS
GOVERNOR



CHUCK CARR BROWN, PH.D.
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

April 29, 2016

CERTIFIED MAIL (7005 0390 0006 1027 8343)
RETURN RECEIPT REQUESTED

ASHAN ENTERPRISES, L.L.C.

c/o Gul Nawaz Awan
Agent for Service of Process
2376 Fawn Ridge Road
Lake Charles, LA 70611

**RE: CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. UE-CN-15-01447
AGENCY INTEREST NO. 69112**

Dear Sir:

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 **ASHAN ENTERPRISES, L.L.C. (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.

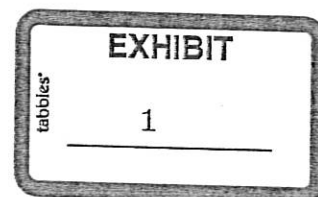
Any questions concerning this action should be directed to Daniel Cristina at (225) 219-3794.

Sincerely,

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

Celena J. Cage
Administrator
Enforcement Division

CJC/DPC/dpc
Alt ID No. 10-012657
Attachment



c: GUL NAWAZ AWAN
900 Gerstner Memorial Boulevard
Lake Charles, LA 706017

STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

IN THE MATTER OF	*	
	*	
ASHAN ENTERPRISES, L.L.C.	*	ENFORCEMENT TRACKING NO.
CALCASIEU PARISH	*	
ALT ID NO. 10-012657	*	UE-CN-15-01447
	*	
	*	AGENCY INTEREST NO.
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT,	*	69112
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 **ASHAN ENTERPRISES, L.L.C. (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 Super Saver Express, a motor fuel retailer. The facility is located at 2706 South Beglis Parkway in Sulphur, Calcasieu Parish, Louisiana. The facility has been assigned alternate identification number 10-012657.

II.

On or about August 21, 2015, the Department issued a Notice of Deficiency (NOD) to the Respondent for violations discovered on July 16, 2015. The Respondent received the Notice of Deficiency on or about September 3, 2015.

III.

On or about July 16, 2015, and July 30, 2015, the Department conducted inspections of the facility which revealed the following violations:

- A. The Respondent failed to ensure the shear valves are properly anchored in accordance with LAC 33:XI.599, in violation of LAC 33:XI.501.A. Specifically, the shear valves on mains 9, 10, and 11 were not anchored. This violation was addressed on August 12, 2015.
- B. The Respondent failed to maintain documentation of the operation of corrosion protection equipment in accordance with LAC 33:XI.503.B, in violation of LAC 33:XI.509.B.2. Specifically, documentation of the facility's rectifier readings were missing from October 2012 to April 2013. However, the facility had documentation of the readings from May 2013 to July 2015. This violation is considered addressed.
- C. The Respondent failed to notify the Department that the UST system was in temporary closure, in violation of LAC 33:XI.903.B.3. Specifically, the July 16, 2015, inspection noted the super tank (#36080) had been in temporary closure since February 24, 2015, and the Department had not been notified. An updated UST REG-01 form indicating the tank was in temporary closure was received by the Department on or about July 27, 2015. This violation was addressed.
- D. The Respondent failed to submit an amended UST REG-01 to the Department within thirty (30) days after acquiring a UST system, in violation of LAC 33:XI.301.C.2. Specifically, the Respondent acquired the facility on January 18, 2014; however, an updated UST REG-01 reflecting the ownership change was not received by the Department until June 17, 2015. This violation was addressed.
- E. The Respondent failed to provide required records to the Department for inspection upon request, in violation of LAC 33:XI.509.C. Specifically, the Respondent failed to provide bulk fuel invoices and documentation for overfill protection when requested. The Respondent submitted the bulk fuel invoice on October 5, 2015, and a contract for service of overfill protection on October 9, 2015.
- F. The Respondent failed to designate a Class A or Class B operator for the facility and/or provide this designation to the Department during an

inspection, in violation of LAC 33:XI.607.A. Specifically, the Respondent did not inform the inspector of who the designated Class A or B operator was for the facility. Following the issuance of the Notice of Deficiency on August 21, 2015, the Respondent submitted a Class A/B training certificate for a designated operator, Muhammad Iqbal. The operator was certified on January 22, 2014. This violation was addressed.

- G. The Respondent failed to have a certified Class C operator for the facility, in violation of LAC 33:XI.607.C. Specifically, there are no Class C operators trained for the facility.

IV.

On or about July 16, 2015, an inspection of the facility was conducted which revealed the super tank (#36080) had been placed in temporary closure due to water intrusion. Prior to the inspection, the contractor was contacted by the inspector, who stated that he did not test the super tank, only put pressure on the tank to try and locate the problem, but was unsuccessful. At the time of the inspection the inspector noted multiple work orders indicating the super tank had been taking on water since approximately November 4, 2014. The inspector was informed that the tank had been emptied of all product and placed in temporary closure in February 2015. Further, water was pumped out of the super tank on July 8, 2015. At the time of the July 16, 2015, inspection, the super tank contained approximately six and one-quarter (6.25) inches of water. Using the conversion chart at the facility, this converts to approximately three hundred and two (302) gallons.

On or about October 5, 2015, the inspector received the results of a tank tightness test conducted on the super tank indicating a fail. On or about October 6, 2015, the Department issued a letter to the Respondent in reference to the failed tank tightness test. The letter requested a report detailing the results of an investigation be submitted within twenty-five (25) days of receipt of the letter.

- A. The Respondent failed to report an unusual operating condition or occurrence within twenty-four (24) hours after becoming aware, in violation of LAC 33:XI.707.A. Specifically, the super tank (#36080) had been taking on water since approximately November 2014, and a suspected release was not reported until July 16, 2015. This violation has been addressed.

- B. The Respondent failed to immediately investigate and confirm all suspected releases of regulated substances requiring reporting under LAC 33:XI.707 within seven (7) days, in violation of LAC 33:XI.711. Specifically, the super tank (#36080) began taking on water in approximately November 2014, and documentation of a site investigation or corrective action has not been submitted to the Department.

V.

On or about July 16, 2015, an inspection of the facility was conducted which revealed a release of product under dispenser 7/8. The inspector gauged the puddle which consisted of two (2) inches of product and three (3) inches of water. On or about July 30, 2015, the inspector returned to the facility and discovered an additional release under the number 9 main. The puddle was gauged and contained approximately four and one-quarter (4.25) inches of product. The inspector also noted the puddle under dispenser 7/8 had been removed. On or about October 5, 2015, the Department received line tightness test results with passing results for all lines. As of February 11, 2016, the Department has not received documentation that a complete investigation has been performed at the facility in reference to these two (2) releases.

The Respondent failed to contain and immediately clean up a spill or overflow of petroleum that is less than twenty-five (25) gallons, in violation of LAC 33:XI.713.C. Specifically, the facility did not remove the saturated soils and provide a confirmation sample indicating proper cleanup of the product found under dispensers 7/8 and 9.

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 Underground Storage Tank Regulations.

II.

To immediately institute procedures, upon receipt of this **COMPLIANCE ORDER**, which will ensure that all required records are kept at the UST site and made available for the Department's

inspection, or kept at a readily available alternative site and provided to the Department for inspection upon request.

III.

To submit, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, documentation of the type and construction of the spill and overfill protection equipment currently in use at the facility, in accordance with LAC 33:XI.509.B.6.

IV.

To complete, within sixty (60) days upon receipt of this **COMPLIANCE ORDER**, an acceptable Class C UST operator training course as specified in LAC 33:XI.605.A.2, in accordance with LAC 33:XI.607.C.

V.

To immediately institute procedures, upon receipt of this **COMPLIANCE ORDER**, which will ensure that the Office of Environmental Compliance is notified in the manner provided in LAC 33: I. Chapter 39 after becoming aware of any of the conditions listed in LAC 33:XI.707.A.1-4.

VI.

To investigate and confirm, within ten (10) days after receipt of this **COMPLIANCE ORDER**, the suspected release of a regulated substance described in Finding of Facts, Paragraph IV, in accordance with LAC 33:XI.711. Results of the investigation shall be submitted to the Enforcement Division within fifteen (15) days of completion.

VII.

To immediately, upon receipt of this **COMPLIANCE ORDER**, remove all free product and contaminated/saturated soils referenced in Finding of Facts, Paragraph V, in accordance with LAC 33:XI.713.C. The Respondent shall also perform confirmatory sampling of the areas cleaned and shall submit results to the Enforcement Division.

VIII.

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: Daniel Cristina
Re: Enforcement Tracking No. UE-CN-15-01447
Agency Interest No. 69112

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. UE-CN-15-01447
Agency Interest No. 69112

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 Daniel Cristina at (225) 219-3794 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 25th day of April, 2016.



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: Daniel Cristina