

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

IMPALA TERMINALS BURNSIDE LLC

AI # 39945

PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT

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

* Settlement Tracking No.

* SA-AE-21-0020

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* Enforcement Tracking No.

* AE-PP-19-00983

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SETTLEMENT

The following Settlement is hereby agreed to between Impala Terminals Burnside 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 owns and/or operates an existing conveyor and product transfer facility located in Darrow, Ascension Parish, Louisiana (“the Facility”).

II

On March 9, 2020, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. AE-PP-19-00983 (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 FIVE THOUSAND THIRTY-SIX AND NO/100 DOLLARS (\$5,036.00), of which Nine Hundred Fifty-Two and 43/100 Dollars (\$952.43) 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 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.

IMPALA TERMINALS BURNSIDE LLC

BY: RONNIE ALLEN WALKER II
(Signature)

RONNIE ALLEN WALKER II
(Printed)

TITLE: TERMINAL MANAGER

THUS DONE AND SIGNED in duplicate original before me this 8th day of November, 20 21, at 11:10 AM.

[Signature]
NOTARY PUBLIC (ID # 87104)

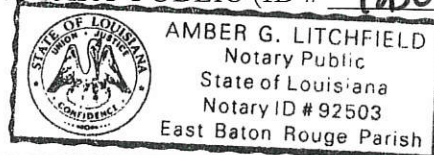
Karen J. Blakemore
Bar Roll No. 31046
Notary ID No. 87104
(stamped or printed)
Notary Public, State of Louisiana
My Commission is for Life

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

BY: [Signature]
Celena J. Cage, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 24th day of March, 20 22, at Baton Rouge, Louisiana.


NOTARY PUBLIC (ID # 92503)

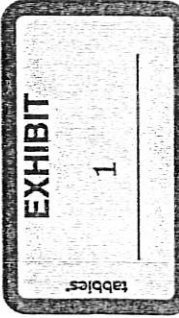


(stamped or printed)

Approved: [Signature]

Lourdes Iturralde, Assistant Secretary

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY OFFICE OF ENVIRONMENTAL COMPLIANCE ENFORCEMENT DIVISION POST OFFICE BOX 4312 BATON ROUGE, LOUISIANA 70821-4312				NOTICE OF POTENTIAL PENALTY			
Enforcement Tracking No.	AE-PP-19-00983	Certified Mail No.	7016 2140 0000 5132 7164				
Agency Interest (AI) No.	39945	Contact Name	Madison Kirkland				
Alternate ID No.	0180-00030	Contact Phone No.	225-219-3165				
Respondent:	Impala Terminals Burnside LLC	Facility Name:	Burnside Terminal				
	c/o C T Corporation System	Physical Location:	4258 Louisiana Highway 44				
	Agent for Service of Process						
	3867 Plaza Tower Drive	City, State, Zip:	Darrow, LA 70725				
	Baton Rouge, LA 70816	Parish:	Ascension				
This NOTICE OF POTENTIAL PENALTY is issued 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 30:2050.3(B).							
FINDINGS OF FACT							
An authorized representative of the Department inspected the abovementioned facility or conducted a file review of the facility to determine the degree of compliance with regulations promulgated in the Louisiana Administrative Code, Title 33. The State regulatory citations for the violation(s) identified during the inspection and/or file review are indicated below.							
I.	The Respondent owns and/or operates an existing conveyor and product transfer facility that load products and materials to and from ships and barges by a crane and conveyor system located at 4258 Louisiana Highway 44 in Darrow, Ascension Parish, Louisiana. The facility currently operates under Minor Source Air Permit No. 0180-00030-02 issued on July 5, 2016. On May 8, 2018, January 31, 2019, and February 13, 2019, the Department conducted inspections of the facility. While the investigation by the Department is not yet complete, the violations below were noted during the course of the inspections and subsequent file review performed on December 12, 2019.						
	Date of Violation	Description of Violation					
II.	Inspection(s) May 8, 2018	The Respondent failed to take all reasonable precautions to prevent particulate matter from becoming airborne. Specifically, during the inspection, the Department's inspector noted the following: <ol style="list-style-type: none"> 1) The Respondent had two (2) employees on the barge check for the level of the alumina in the barge for even loading. The alumina dust could be seen emitting from the openings and the tarps had not been moved to cover the opening to reduce or eliminate the dust. 2) Alumina had accumulated at the top of the loading arms and when the loading arms were moved up to remove the spout from the barge, the accumulated alumina fell off the arm and became airborne. 3) There was some airborne alumina dust when the loading arms were raised up to remove the spout from the barge. This occurred because the alumina dust that emitted from the barge from the various locations accumulated on the tarp around the spout. As the loading arm was raised, the accumulated alumina fell off the tarp and became airborne. 4) Additional alumina dust occurred when the barge cover openings were closed with the hatch and the hatches had accumulated alumina on them from the alumina emitted from the various locations during loading. When they turned over to close the opening, the accumulated alumina on the hatch became airborne. Each failure to prevent particulate matter from becoming airborne is a violation of Specific Requirement 46 of Minor Source Air Permit No. 0180-00030-02, LAC 33:III.501.C.4, LAC 33:III.1305.A, La. R.S. 30:2057(A)(1) and 30:2057(A)(2). In correspondence dated November 13, 2019, the Respondent stated that the facility has hired a company to design and produce custom 12 foot by 8 foot black vinyl tarps with a triple reinforced hole designed for the spout to fit securely within the opening. The tarps are weighted along the edges and can maintain a secure closure against wind and barge movement. Additionally, the Respondent stated that the accumulated particulate matter had potentially seeped through the piping system connected to the baghouse. On or about March 20, 2019, the Respondent submitted a case by permit application to install a new baghouse and new system piping, which was approved by the Department on May 8, 2019.					
III.	Inspection(s) May 8, 2018	The Respondent failed to keep records of daily inspections by electronic or hard copy for the BT-1 Barge Loadout Baghouse No. 1 (EQTC006) and BT-2 Barge Loadout Baghouse No. 2 (EQTC007). Specifically, the Respondent could not produce records of visible emissions monitored by visual inspection daily for EQTC006 and EQTC007. The Respondent provided Alumina Dock Activity Reports for multiple dates; however, the baghouse daily inspections were not being recorded on these reports. This is a violation of Specific Requirement Nos. 9 and 14 of Minor Source Air Permit No. 0180-00030-02, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2). In correspondence dated November 13, 2019, the Respondent reported that a process has been set up with the facility supervisors to ensure all inspection records are collected, reviewed, and saved accordingly.					
IV.	Inspection(s) February 13, 2019	The Respondent failed to control the overall levels of air contaminants into the atmosphere. Specifically, the inspector observed alumina dust coming from the vents on loading arm number 5. There were other loading arms that could have been used to load, but the facility continued to use loading arm number 5 for loading in spite of signs indicating it was not properly working and causing visible alumina emissions. The barges have to be loaded evenly to avoid unsafe conditions, but the barge and/or the arms can be moved to load in different parts of the barge for even loading rather than using a malfunctioning arm. This is a violation of LAC 33:III.905, La. R.S. 30:2057(A)(1), and 30:2057(A)(2).					
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 Madison Kirkland at (225) 219-3165 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 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 violations 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.
IV.	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.
V.	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.

CONTACTS AND SUBMITTAL OF INFORMATION


<i>Enforcement Division:</i>	<i>Physical Address (if hand delivered):</i>
Louisiana Department of Environmental Quality Office of Environmental Compliance Air Enforcement Division P.O. Box 4312 Baton Rouge, LA 70821 Attn: Madison Kirkland	Department of Environmental Quality 602 N Fifth Street Baton Rouge, LA 70802

HOW TO REQUEST CLOSURE OF THIS NOTICE OF POTENTIAL PENALTY

To expedite closure of the **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 Department assesses civil penalties based on LAC 33:1.Subpart1.Chapter7.
- The Respondent may offer a settlement amount but the Department is under no obligation to enter into settlement negotiations. It is decided upon on a discretionary basis.
- 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.

If you have questions or need more information, you may contact Madison Kirkland at (225) 219-3165 or Madison.Kirkland@la.gov




 Lourdes Iturralde
 Assistant Secretary
 Office of Environmental Compliance

Date: 3-9-2020

cc: Impala Terminals Burnside LLC
 Adrienne Kelly, HSEC Manager
 5050 Louisiana Highway 44
 Darrow, LA 70725

Attachment(s)
 - Request to Settle

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.	AE-PP-19-00983	Contact Email	Madison.Kirkland@la.gov	
Agency Interest (AI) No.	39945	Contact Name	Madison Kirkland	
Alternate ID No.	0180-00030	Contact Phone No.	225-219-3165	
Respondent:	Impala Terminals Burnside LLC	Facility Name:	Burnside Terminal	
	c/o C T Corporation System	Physical Location:	4258 Louisiana Highway 44	
	Agent for Service of Process	City, State, Zip:	Darrow, LA 70725	
	3867 Plaza Tower Drive Baton Rouge, LA 70816	Parish:	Ascension	
SETTLEMENT OFFER (OPTIONAL)				
<i>(check the applicable option)</i>				
<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 NOTICE OF POTENTIAL PENALTY (AE-PP-19-00983), 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 NOTICE OF POTENTIAL PENALTY (AE-PP-19-00983), 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"> • Monetary component = \$ _____ • Beneficial Environmental Project (BEP) component (optional) = \$ _____ • DO NOT SUBMIT PAYMENT OF THE OFFER WITH THIS FORM- the Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.			
<input type="checkbox"/>	The Respondent has reviewed the violations noted in NOTICE OF POTENTIAL PENALTY (AE-PP-19-00983) 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:				
Louisiana Department of Environmental Quality Office of Environmental Compliance Enforcement Division P.O. Box 4312 Baton Rouge, LA 70821 Attn: Madison Kirkland				

If you have questions or need more information, you may contact Madison Kirkland at (225) 219-3165 or Madison.Kirkland@la.gov.