

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

KINETICA DEEPWATER EXPRESS, LLC

AI # 16816, 184770

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

* Settlement Tracking No.
* SA-AE-22-0013
*
* Enforcement Tracking No.
* AE-PP-18-00338
*
*
*
*
*

SETTLEMENT

The following Settlement is hereby agreed to between Kinetica Deepwater Express, 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 facilities located in St. Mary Parish and Cameron Parish, Louisiana (“the Facilities”).

II

On May 3, 2019, the Department issued to Respondent a Notice of Potential Penalty, Enforcement Tracking No. AE-PP-18-00338 (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 FIVE HUNDRED AND NO/100 DOLLARS (\$5,500.00), of which One Thousand Eight Hundred Forty and 55/100 Dollars (\$1,840.55) 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), permit record(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 St. Mary Parish and Cameron 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.

KINETICA DEEPWATER EXPRESS, 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: _____
Celena J. Cage, 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: 

Celena J. Cage, Assistant Secretary

JOHN BEL EDWARDS
GOVERNOR



CHUCK CARR BROWN, PH.D.
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

May 3, 2019

CERTIFIED MAIL (7014 0510 0002 3595 3991)
RETURN RECEIPT REQUESTED



KINETICA DEEPWATER EXPRESS, LLC

c/o National Registered Agents, Inc.
Agent for Service of Process
3867 Plaza Tower Drive
Baton Rouge, LA. 70816

**RE: NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. AE-PP-18-00338
AGENCY INTEREST NOS. 16816, 184770**

Dear Sir:

On or about September 7, 2017, an inspection of the **PATTERSON TERMINAL**, (the facility), **AI# 16816**, a liquids handling facility, owned and/or operated by **KINETICA DEEPWATER EXPRESS, LLC (RESPONDENT)**, was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Air Quality Regulations. The facility is located at 309 Torch Lane in Patterson La, St Mary Parish, Louisiana. The facility was purchased on or about April 1, 2016 from TC Offshore LLC. The facility operates, or has operated, under the Title V Permits shown in Table A:

TABLE A

Permit No.	Permit Issue Date	Permit Expiration Date
2660-00059-V7	February 22, 2017	September 27, 2021
2660-00059-V6	September 27, 2016	September 27, 2021
2660-00059-V5AA	March 24, 2014	August 5, 2016
2660-00059-V5	September 6, 2013	August 5, 2016

While the investigation by the Louisiana Department of Environmental Quality (the Department) is not yet complete, the following violations were noted during the course of the inspection, and subsequent file review conducted on April 25, 2019:

- A. On September 7, 2017, the Respondent had no documentation or history of tank inspections conducted by the prior owner, before the April 1, 2016 purchase of the facility by the Respondent. The Respondent subsequently

Kinetica Deepwater Express, LLC

AE-PP-18-00338

Page 2

failed to conduct inspections as required by the Specific Requirements (SR) of Title V Permit No. 2660-00059-V7, and/or regulatory requirement, as shown in Table B:

TABLE B

Emission Source/EQT No.	Requirement	SR/Regulatory Requirement
Natural Gas Condensate/Crude Oil Storage Tank (EQT 0002).	Failed to conduct secondary seal or closure mechanisms visual inspections semiannually	SR 9 & LAC 33:III.2103.D
	Failed to conduct seal gap area and width measurements for secondary seals annually	SR 10 & LAC 33:III.2103.D
Natural Gas Condensate/Crude Oil Storage Tank (EQT 0004).	Failed to conduct seal gap area and width measurements for secondary seals annually	SR 19, SR 49 & 40 CFR 60 113b(1)(i) & LAC 33:III.2103.D
	Failed to conduct secondary seal or closure mechanisms visual inspections semiannually	SR 48 & LAC 33:III.2103.D

Each failure to conduct measurements and/or inspections is a violation of any applicable requirement(s) listed above, LAC 33:III.501.C.4 and La. R. S. 30:2057(A)(2). In correspondence dated October 30, 2017, the Respondent reported that tank seal inspections were performed October 13, 2017; no deficiencies were noted.

- B. On September 7, 2017, the Respondent had no documentation or history of generator engine inspections and/or maintenance conducted by the prior owner, before the April 1, 2016 purchase of the facility by the Respondent. The Respondent subsequently failed to conduct inspections and/or maintenance as required by the SR of Title V Permit No. 2660-00059-V7 for the Waukesha Emergency Generator (EQT 0007) as shown in Table C:

TABLE C

Calendar Year	Requirement	SR
2016	Failed to conduct annual oil and filter change, or oil analysis	67
	Failed to conduct annual spark plug inspection	68
	Failed to conduct annual inspection of all belts and hoses	69

Each failure to conduct annual maintenance/analysis/inspection is a violation of 40 CFR 63.6603(a), which language has been adopted as a Louisiana regulation in LAC 33:III.5122.A, the SR listed, LAC 33:III.501.C.4, and La. R. S. 2057(A)(2). The facility's First Semiannual 2017 Monitoring Report, dated September 28, 2017, disclosed that all required inspections were conducted on September 15, 2017, and the oil was changed on September 18, 2017.

On or about August 30, 2016, an inspection of the **GRAND CHENIER LIQUID HANDLING AND GAS DEHYDRATION FACILITY**, (the facility), AI# 184770, a natural

Kinetica Deepwater Express, LLC

AE-PP-18-00338

Page 3

gas/condensate/saltwater collection and separation facility, previously owned and/or operated by **KINETICA DEEPWATER EXPRESS, LLC (RESPONDENT)**, was performed to determine the degree of compliance with the Act and the Air Quality Regulations. The facility is located at 192 Mermentau River Road in Grand Chenier, Cameron Parish, Louisiana. The facility operates under Title V Permit No. 0560-00974-V0, issued July 15, 2013. On September 1, 2017, ownership of the facility transferred from the Respondent to a new owner/operator. Liability for violations prior to the transfer remained with the Respondent.

While the investigation by the Department is not yet complete, the following violations were noted during the course of the inspection, and subsequent file review conducted on April 25, 2019:

- C. The Respondent failed to observe and record the presence of a flame by visual inspection daily, on the 6-77 LH Flare (EQT 0007), on the following dates: June 11, June 12, June 21 through July 7, July 9, July 10, July 17, July 24, July 30, and July 31, 2016. Each failure to observe and record the presence of a flame is a violation of Specific Requirement Nos. 11 and 12 of Title V Permit No. 0560-00974-V0, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2). In correspondence dated November 4, 2016, the Respondent disclosed that the facility has instituted a required process for monitoring and recordkeeping by employee on-site visual inspections, and implemented inspection and monitoring a CCTV camera aimed at the flare which is viewed and documented daily.

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 violations described herein. Written comments may be filed regarding the violations 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 violations. If you would like to have such a meeting, please contact Mark E. Brown at (225) 219-3782 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 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.

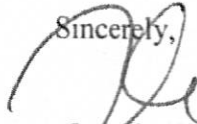
Kinetica Deepwater Express, LLC
AE-PP-18-00338
Page 4

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.Chapter 7. 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 violations 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.

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/MEB/meb
Alt ID Nos. 2660-00059, 0560-00974

c: Kinetica Deepwater Express, LLC
Deirdre Fontenot
224 Aviation Road
Houma, La. 70363

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-18-00338	Contact Name	Mark E. Brown
Agency Interest (AI) Nos.	16810, 184770	Contact Phone No.	(225) 219-3782
Alternate ID Nos.	2660-00059, 0560-00974		
Respondent:	Kinetica Deepwater Express, LLC c/o National Registered Agents, Inc. Agent for Service of Process 3867 Plaza Tower Drive Baton Rouge, LA. 70816	Facility Names; Physical Locations	Paterson Terminal 309 Torch Lane in Patterson, LA., St. James Parish Grand Chenier Liquid Handling and Gas Dehydrator Facility, 192 Mermantau River Road in Cameron, LA., Cameron Parish

SETTLEMENT OFFER (OPTIONAL)

(check the applicable option)

_____ 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:I.Subpart1.Chapter7.

_____ In order to resolve any claim for civil penalties for the violations in **NOTICE OF POTENTIAL PENALTY AE-PP-18-00338**, the Respondent is interested in entering into settlement negotiations with the Department and would like to set up a meeting to discuss settlement procedures.

_____ In order to resolve any claim for civil penalties for the violations in **NOTICE OF POTENTIAL PENALTY AE-PP-18-00338**, 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.

- 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.

_____ The Respondent has reviewed the violations noted in **NOTICE OF POTENTIAL PENALTY AE-PP-18-00338** 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: Mark E. Brown