

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

ARCHIE TERMINAL COMPANY LLC

AI # 44427

PROCEEDINGS UNDER THE LOUISIANA ENVIRONMENTAL QUALITY ACT.

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

* **Settlement Tracking No.**

* **SA-AE-09-0030**

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* **Enforcement Tracking No.**

* **AE-PP-08-0030**

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SETTLEMENT

The following Settlement is hereby agreed to between Archie Terminal Company 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 a gasoline and diesel fuel loading facility located in Jonesville, Catahoula Parish, Louisiana (“the Facility”).

II

On February 27, 2008, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. AE-PP-08-0030, which was based upon the following findings of fact:

On or about January 18, 2008, a file review of Archie Terminal, owned and/or operated by Archie Terminal Company 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 5010 Louisiana Highway 84 in Jonesville, Catahoula Parish, Louisiana. The facility

currently operates under Air Permit No. 0580-00004-00 issued on June 23, 1995. An Administrative Amendment to Air Permit No. 0580-00004-00 was issued September 13, 1995.

The following violations were noted during the course of the file review:

- A. According to Specific Condition No. 4 of Air Permit No 0580-00004-00, gasoline loading at the facility shall be limited to no more than 44.5 million gallons per year. According to the facility's 2007 Annual Gasoline Loading Report dated January 14, 2008, the Respondent reported the total gasoline loading for the 2007 calendar year to be 45,884,088 gallons. This exceedance is a violation of Specific Condition No. 4 of Air Permit No. 0580-00004-00, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

- B. According to a letter from the Respondent dated January 7, 2008, a carbon adsorption/absorption vapor recovery unit which controls emissions from the loading rack (Point Source I.D. No. 6-83) had to be shut down due to the overheating of a vacuum pump and was down for approximately twenty-four hours. According to an email dated January 28, 2008, a fouled heat exchanger caused the vacuum pump to overheat. General Condition I of Air Permit No. 0580-00004-00 states "Failure to install, properly operate and/or maintain all proposed control measures and/or equipment as specified in the application and supplemental information shall be considered a violation of the permit and LAC 33:III.501." Failure to maintain the carbon adsorption/absorption vapor recovery unit is a violation of General Condition I of Air Permit No. 0580-00004-00, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

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 TWO THOUSAND TWO HUNDRED FIFTY-FOUR AND NO/100 DOLLARS (\$2,254.00), of which Three Hundred Fourteen and 77/100 Dollars (\$314.77) represents 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 LSA- R. S. 30:2025(E) of the Act.

VIII

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Catahoula Parish, Louisiana. The advertisement, in form, wording, and size 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.

IX

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).

X

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

XI

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.

ARCHIE TERMINAL COMPANY LLC

BY: Maurice M. Cowland Jr.
(Signature)

MAURICE M. COWLAND JR
(Print)

TITLE: PRESIDENT

THUS DONE AND SIGNED in duplicate original before me this 24th day of September, 20 09, at Placid Refining Company LLC

Rita O. Pinion
NOTARY PUBLIC (ID # 82400)

Rita O. Pinion
(Print)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Peggy M. Hatch, Secretary

BY: Paul D. Miller
Paul D. Miller, P.E., Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 8th day of February, 20 10, at Baton Rouge, Louisiana.

Christopher A. Rateliff
NOTARY PUBLIC (ID # 101496)

Christopher A. Rateliff
(Print)

Approved: Peggy M. Hatch
Peggy M. Hatch, Assistant Secretary