

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

DELTA TERMINAL SERVICES, L.L.C.  
AI # 2612

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

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\* ENFORCEMENT TRACKING NO.  
\* AE-CN-02-0048  
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SETTLEMENT

The following Settlement is hereby agreed to between Delta Terminal Services, 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 operating a liquid bulk storage and handling facility located at or near 3540 River Road in Harvey, Jefferson Parish, Louisiana (“the Facility”). The West and Hydril Yards are two of four contiguous facilities that are individually permitted and operate under Air Quality Permits Nos. 1340-00141-05 (West Yard) and 13 40-00192-V3 (Hydril Yard).

II.

On April 22, 2003, the Department issued a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Number AE-CN-02-0048, to Respondent, which was based upon the following findings of fact:

On or about January 16-18, 2002, an inspection was conducted at the Respondent's Hydril Yard to determine the degree of compliance with the Act and Air Quality Regulations.

The following violations were noted during the course of the inspection:

- A. On or about 11:00 am on January 16, 2002, a carbon canister vent used to control VOC emissions on Tank 150-20 was monitored to determine efficiency using a Bacharach TLV Sniffer. The Bacharach analyzer recorded VOC vapors of 18,000 ppm on Tank 150-20. This is a violation of LAC 33:III.905 which states, "When facilities have been installed on a property, they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities, even though the ambient air quality standards in affected areas are not exceeded." Control equipment as defined by LAC 33:III.111 is "any device or contrivance, operating procedure or abatement scheme used to prevent or reduce air pollution." This is also a violation of Sections 2057(A)(1) and (A)(2) of the Act.
- B. Tank 150-31 is a 630,000 gallon storage tank. VOC emissions are controlled by a 95% efficient vapor recovery system. On or about January 16, 2002, the vapor recovery system was not being used during the transfer of trichloroethylene from Tank 150-31 to a truck. This is a violation of LAC 33:III.905 which states, "When facilities have been installed on a property, they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities, even though the ambient air quality standards in affected areas are not exceeded." Control equipment as defined by LAC 33:III.111 is "any device or contrivance, operating procedure or abatement scheme used to prevent or reduce air pollution." This is also a violation of Sections 2057(A)(1) and (A)(2) of the Act.

On or about June 6, 2002, a complaint investigation was conducted at the Respondent's West Yard to determine the degree of compliance with the Act and Air Quality Regulations.

The following violation was noted during the course of the inspection:

The Department received an odor complaint from the Marrero/Harvey Volunteer Fire Department and the State Police on or about June 6, 2002. The investigation revealed that sodium sulfide odors were originating from above ground storage tank (AST) No. 370-12. Three weeks prior to June 6, 2002, the Respondent contracted US Environmental to remove the liquid

sodium sulfide from the tank, clean the interior, and seal cracks on the tank. On or about June 6, 2002, the facility constructed a temporary emergency vent and introduced a deodorizing solution to remove vapors from within the AST No. 370-12. The tank was then vented to the atmosphere. Due to the increasing ambient air temperatures and pressures of the vapors emanating within the tank, the temporary control device ultimately failed, releasing the solution and vapors to the atmosphere and causing odors in the surrounding community. This is a violation of LAC 33:III.905 which states, "When facilities have been installed on a property, they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities, even though the ambient air quality standards in affected areas are not exceeded." Control equipment as defined by LAC 33:III.111 is "any device or contrivance, operating procedure or abatement scheme used to prevent or reduce air pollution." This is also a violation of Sections 2057(A)(1) and (A)(2) of the Act.

On or about September 10, 2002, a file review was conducted of the Respondent's Hydril Yard to determine the degree of compliance with the Act and Air Quality Regulations.

The following violation was noted during the course of the inspection:

The Department received an unauthorized discharge notification report from the Respondent dated January 21, 2002, and a follow up letter dated September 10, 2002, regarding a release that began on January 18, 2002, at approximately 7:15 p.m. The Respondent reported approximately 92 lbs of carbon tetrachloride were released to the atmosphere. The release occurred during the loading of a rail car with carbon tetrachloride from storage tank 100-29. The vapor recovery line was connected to the wrong outlet and as product was pumped into the rail car it escaped through the vapor recovery line. This is a violation of LAC 33:III.905 which states, "When facilities have been installed on a property, they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities, even though the ambient air quality standards in affected areas are not exceeded." Control equipment as defined by LAC 33:III.111 is "any device or contrivance, operating procedure or abatement scheme used to prevent or reduce air pollution." This is also a violation of Sections 2057(A)(1) and (A)(2) of the Act.

On or about April 11, 2003, a complaint investigation was conducted at the Respondent's West Yard to determine the degree of compliance with the Act and Air Quality Regulations.

The following violation was noted during the course of the inspection:

The Department received odor complaints from an anonymous citizen and the Jefferson Parish Fire Department on or about April 11, 2003. The investigation revealed that sodium sulfide odors were originating from above ground storage tank (AST) No. 370-10. At the time of the investigation, residual odors were detected at AST 370-10; however, it was unknown how much sodium sulfide was lost to the atmosphere. The system was shut down at approximately 11:00 a.m. and returned on-line at approximately 1:00 p.m. As a result of the release, the Marrero Middle School was evacuated for approximately 25 minutes. The school reported that approximately 28 students complained of headaches and stomach aches. According to the facility, sodium sulfide was being off-loaded from the ship "Ellen Kunsten" to AST No. 370-10. The facility stated they verbally requested the ship not to exceed 300 metric tons per hour of pressure while off-loading. After off-loading for approximately four hours, the pressure rose beyond 400 metric tons per hour, which exceeded the intake threshold (270-300 metric tons/hr). The wet scrubber in use could not handle the load and the vapors escaped via the emergency vent that was connected to a secondary emergency scrubber. The emergency scrubber could not handle the load and as a result the vapors escaped to the atmosphere and caused odors in the surrounding community. This is a violation of LAC 33:III.905 which states, "When facilities have been installed on a property, they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities, even though the ambient air quality standards in affected areas are not exceeded." Control equipment as defined by LAC 33:III.111 is "any device or contrivance, operating procedure or abatement scheme used to prevent or reduce air pollution." This is also a violation of Sections 2057(A)(1) and (A)(2) of the Act.

### III.

In response to the Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Number AE-CN-02-0048, Respondent made a timely request for a hearing.

### IV.

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

V.

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 Four Thousand Five Hundred and No/100 Dollars (\$4,500.00) of which Seven Hundred Seventy Three and 51/100 Dollars (\$773.51) represents DEQ'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 DEQ as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

VI.

Respondent further agrees that the Department may consider the inspection report(s), the Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Number AE-CN-02-0048 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.

VII.

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.

VIII.

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.

IX.

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Jefferson Parish. 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 a proof-of-publication affidavit 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. Penalties are to be made payable to the Department of Environmental Quality and mailed to the attention of Darryl Serio, Office of Management and Finance, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303.

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/her respective party, and to legally bind such party to its terms and conditions.

WITNESSES:

DELTA TERMINAL SERVICES, INC.

Genevieve Savage

BY: William M. Oatland  
(Signature)

William M Oatland  
(Printed)

Dan Bon

TITLE: General Manager, Southeast Region

THUS DONE AND SIGNED in duplicate original before me this 6<sup>th</sup> day of January, 20 04, at Gretna, Louisiana

Lantz Savage  
NOTARY PUBLIC  
LANTZ SAVAGE #28418

WITNESSES:

STATE OF LOUISIANA  
Hall Bohlinger, Secretary  
Department of Environmental Quality

Raymond M. Watch  
Holly Smith

BY: R. Bruce Hammatt  
R. Bruce Hammatt, Assistant Secretary  
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 29 day of April, 20 04, at Baton Rouge, Louisiana.

Christopher A. Kotloff  
NOTARY PUBLIC

Approved: R. Bruce Hammatt  
R. Bruce Hammatt, Assistant Secretary



CHARLES C. FOTI, JR.  
ATTORNEY GENERAL

State of Louisiana  
DEPARTMENT OF JUSTICE  
P.O. BOX 94005  
BATON ROUGE  
70804-9005

RECEIVED  
APR 21 2004  
LA. DEPT. OF ENV. QUALITY  
LEGAL AFFAIRS DIVISION

April 19, 2004

Mike D. McDaniel, Secretary  
La. Department of Environmental Quality  
Office of the Secretary  
P.O. Box 4301  
Baton Rouge, LA 70821-4301

Re: Review of DEQ Settlement;  
Delta Terminal Services, LLC  
AE-CN-02-0048

Dear Secretary McDaniel:

Pursuant to the authority granted to me by R.S. 30:2050.7(E)(2)(a), I approve the above referenced settlement.

Sincerely,

  
NICHOLAS GACHASSIN  
First Assistant Attorney General

NG/cbw