

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

KINDER MORGAN LIQUIDS TERMINAL
ST. GABRIEL LLC

AI# 39978

DELTA TERMINAL SERVICES LLC

AI# 2612

PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT

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

* Settlement Tracking No.
* SA-AMM-07-0050

* Enforcement Tracking No.
* AE-CN-07-0081
* MM-CN-07-0096

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SETTLEMENT

The following Settlement is hereby agreed to between Kinder Morgan Liquids Terminals St. Gabriel LLC and Delta Terminal Services LLC (defined collectively herein as "Respondents") 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

Respondents are Limited Liability Companies. Kinder Morgan Liquid Terminals St. Gabriel LLC owns and/or operates a tank terminal facility for the storage and transport of petroleum and other volatile organic liquids located at 4735 Point Clair Road in St. Gabriel, Iberville Parish, Louisiana (the "St. Gabriel Facility"). Delta Terminal Services LLC owns and/or operates a liquid bulk storage and handling facility located at 3540 River Road in Harvey, Jefferson Parish, Louisiana (the "Harvey Facility").

II

On August 3, 2007, the Department issued a Consolidated Compliance Order and Notice of Potential Penalty, AE-CN-07-0081, to Kinder Morgan Liquids Terminal St. Gabriel LLC, which was based upon the following findings of fact:

The Respondent owns and/or operates the St. Gabriel Facility, a tank terminal for the storage and transport of petroleum and other volatile organic liquids. The facility is located at 4735 Point Clair Road in St. Gabriel, Iberville Parish, Louisiana. The facility currently operates under Air Permit No. 1280-00018-05, issued on June 28, 2000. The Respondent submitted an updated synthetic minor permit application on or about January 31, 2007.

On or about July 13, 2007, a file review of the facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations.

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

- A. According to an email from the Respondent dated June 21, 2007, the Respondent reported that the facility's 2005 emissions of benzene were 10.46 tons and the 2006 emissions of benzene were 26.13 tons. The Annual Emissions Rate page of Air Permit No. 1280-00018-05 lists the facility's benzene emissions limit at 3.17 tons per year (tpy). According to Louisiana General Condition III of Air Permit No. 1280-00018-05, each exceedance of the permitted emission limit for benzene for each year is a violation of Air Permit No. 1280-00018-05, LAC 33:III.501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act.
- B. According to an email from the Respondent dated June 21, 2007, the Respondent reported that the facility's emissions of benzene, a toxic air pollutant (TAP), were 10.46 tons and 26.13 tons during the 2005 and 2006 calendar years, respectively. As defined in LAC 33:III.5103.A, a major source is any stationary source that emits, or has the potential to emit, in aggregate 10 tpy or more of any TAP or 25 tpy or more of any combination of TAPs. Based on the benzene emissions reported in the email by the Respondent, the facility exceeded the 10 tpy threshold for a major source of TAPs. The failure to obtain written authorization from the administrative

authority prior to increasing the facility's emissions of benzene above the major source threshold is a violation of LAC 33:III.5111.A, and Sections 2057(A)(1) and 2057(A)(2) of the Act.

- C. According to the Respondent's voluntary audit disclosure dated April 27, 2006, the benzene emissions from the facility during the 2005 calendar year exceeded the threshold requiring Maximum Achievable Control Technology (MACT). In an email from the Respondent dated June 21, 2007, the Respondent reported that the facility's emissions of benzene, a Class I TAP, were 10.46 tons and 26.13 tons during the 2005 and 2006 calendar years, respectively. According to LAC 33:III.5109.A, if the owner or operator of any major source emits or is permitted to emit a Class I or Class II TAP at a rate equal to or greater than the minimum emission rate (MER) listed for that pollutant in LAC 33:III.5112, Table 51.1, it shall control emissions of such TAPs to a degree that constitutes MACT. The MER for benzene is 260 pounds per year, or 0.13 tpy; however, the Respondent has not performed a MACT analysis in violation of LAC 33:III.5109.A, and Sections 2057(A)(1) and 2057(A)(2) of the Act.
- D. According to an email from the Respondent dated June 21, 2007, the Respondent reported that the facility's 2005 emissions of benzene, a toxice air pollutant (TAP) were 10.46 tons and the 2006 emissions of benzene were 26.13 tons. However, the Respondent failed to submit the 2005 and 2006 Toxic Emissions Data Inventory (TEDI). Each failure to submit a TEDI is a violation of LAC 33:III.5107.A, and Section 2057(A)(2) of the Act.
- E. According to an email from the Respondent dated June 21, 2007, the internal floating roof (IFR) in Tank 775-1 (Emission Point No. 22-88) was landed from approximately April 7, 2006, until December 31, 2006. On or about July 10, 2003, an Authorization to Construct Approval to Operate (ATC) was issued to the Respondent for the installation of an IFR in Tank 775-1. With this modification Tank 775-1 became subject to 40 CFR 60 Subpart Kb—Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984. Therefore, the landing of the IFR in Tank 775-1 is a violation of 40 CFR 60.112b(a)(1)(i) which language has been adopted as a Louisiana regulation in LAC 33:III.3003, and Sections 2057(A)(1) and 2057(A)(2) of the Act. As a result of this IFR landing, benzene emissions from Tank 775-1 were 19.47 tons. On or about March 4, 2005, a Change of Tank Service (CTS) was issued to the Respondent authorizing the storage of benzene in Tank 775-1. The CTS

authorized an emission rate of 1.55 tpy for benzene from Tank 775-1. Emissions of the unpermitted benzene from Tank 775-1 are a violation of LAC 33:III.501.C.2, and Sections 2057(A)(1) and 2057(A)(2) of the Act.

F. According to an email from the Respondent dated June 21, 2007, the IFR in Tank 200-1 (Emission Point No. 23-20) was landed from approximately April 25, 2006, until December 31, 2006. The landing of the IFR in Tank 200-1 is a violation of 40 CFR 60.112b(a)(1)(i) which language has been adopted as a Louisiana regulation in LAC 33:III.3003, Specific Condition No. 2 Air Permit No. 1280-00018-05, LAC 33:III.501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act. As a result of the IFR landing, benzene emissions from Tank 200-1 were 2.02 tons. On or about June 21, 2005, an ATC was issued to the Respondent for Tank 200-1 which included a CTS from non-TAP volatile organic compounds (VOC) to benzene. The ATC authorized an emission rate of 0.667 tpy for benzene from Tank 200-1. Emissions of the unpermitted benzene from Tank 200-1 are a violation of LAC 33:III.501.C.2, and Sections 2057(A)(1) and 2057(A)(2) of the Act.

G. According to emails from the Respondent dated June 21, 2007, and July 12, 2007, the IFRs in Tank 265-3 (Emission Point No. 31-25) and Tank 260-1 (Emission Point No. 32-25) were landed on the following dates:

TANK	DATE LANDED	DATE FLOATED	POLLUTANT	AMOUNT RELEASED (TPY)
265-3	2/8/2005	2/11/2005	Benzene	0.22
	2/17/2005	2/19/2005		
	11/10/2005	11/11/2005	Benzene	0.16
	11/15/2005	11/18/2005		
260-1	10/15/2006	11/2/2006	Benzene	0.23
	2/6/2005	2/8/2005	Benzene	0.25
	2/11/2005	2/20/2005		

The Respondent also reported that the IFR in Tank 260-1 (Emission Point No. 32-25) was landed for approximately four days during April 2006. Each landing of an IFR in Tank 265-3 and Tank 260-1 is a violation of 40 CFR 60.112b(a)(1)(i) which language has been adopted as a Louisiana regulation in LAC 33:III.3003, Specific Condition No. 3 Air Permit No. 1280-00018-05, LAC 33:III.501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act. As result of the IFR landings, the facility exceeded during the 2005 calendar year the

permitted annual emission rate of 0.35 tpy and 0.35 tpy of benzene for Tank 265-3 and Tank 260-1, respectively. According to an email from the Respondent dated July 12, 2007, Tank 265-3 emitted 0.38 tons of benzene and Tank 260-1 emitted 0.75 tons of benzene during the 2005 calendar year. According to Louisiana General Condition III of Air Permit No. 1280-00018-05, each exceedance of an permitted annual emission rate for benzene is a violation of Air Permit No. 1280-00018-05, LAC 33:III.501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act.

- H. According to an email from the Respondent dated July 12, 2007, the IFR in Tank 460-1 (Emission Point No. 40-1) was landed on the following dates:

DATE LANDED	DATE FLOATED	POLLUTANT	AMOUNT RELEASED (TPY)
2/3/2005	2/9/2005	Benzene	0.66
2/11/2005	2/12/2005		
2/15/2005	2/18/2005		
5/31/2005	6/3/2005	Benzene	0.30
11/14/2005	11/17/2005	Benzene	0.17

Each landing of an IFR in Tank 460-1 is a violation of 40 CFR 60.112b(a)(1)(i) which language has been adopted as a Louisiana regulation in LAC 33:III.3003, Specific Condition No. 3 Air Permit No. 1280-00018-05, LAC 33:III.501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act. As result of the IFR landings, the facility exceeded the permitted annual emission rate of 0.791 tpy of benzene for Tank 460-1. According to an email from the Respondent dated July 12, 2007, Tank 460-1 emitted 1.66 tons of benzene during the 2005 calendar year. According to Louisiana General Condition III of Air Permit No. 1280-00018-05, the exceedance of the permitted annual emission rate for benzene is a violation of Air Permit No. 1280-00018-05, LAC 33:III.501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act.

- I. According to an email from the Respondent dated July 12, 2007, the IFR in Tank 110-1 (Emission Point No. 24-10) was landed from approximately January 27, 2005, until January 30, 2005. The IFR landing in Tank 110-1 is a violation of 40 CFR 60.112b(a)(1)(i) which language has been adopted as a Louisiana regulation in LAC 33:III.3003, Specific Condition No. 3 Air Permit No. 1280-00018-05, LAC 33:III.501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act.

- J. According to an email from the Respondent dated July 12, 2007, the IFR in Tank 265-1 (Emission Point No. 29-25) was landed on the following dates:

DATE LANDED	DATE FLOATED	POLLUTANT	AMOUNT RELEASED (TPY)
2/5/2005	2/6/2005	Benzene	0.29
2/11/2005	2/18/2005		
8/1/2005	8/8/2005	Benzene	0.14
11/10/2005	12/15/2005	Benzene	0.26

Each landing of an IFR in Tank 265-1 is a violation of 40 CFR 60.112b(a)(1)(i) which language has been adopted as a Louisiana regulation in LAC 33:III.3003, Specific Condition No. 3 Air Permit No. 1280-00018-05, LAC 33:III.501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act. As result of the IFR landings, the facility exceeded the permitted annual emission rate of 0.35 tpy of benzene for Tank 265-1. According to an email from the Respondent dated July 12, 2007, Tank 265-1 emitted 0.93 tons of benzene during the 2005 calendar year. According to Louisiana General Condition III of Air Permit No. 1280-00018-05, the exceedance of the permitted annual emission rate for benzene is a violation of Air Permit No. 1280-00018-05, LAC 33:III.501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act.

- K. According to an email from the Respondent dated July 12, 2007, the IFR in Tank 265-2 (Emission Point No. 30-25) was landed on the following dates:

DATE LANDED	DATE FLOATED	POLLUTANT	AMOUNT RELEASED (TPY)
2/6/2005	2/14/2006	Benzene	0.31
2/16/2005	2/17/2006		
7/24/2005	7/27/2005	Benzene	0.27
12/9/2005	12/16/2005	Benzene	0.05

Each landing of an IFR in Tank 265-2 is a violation of 40 CFR 60.112b(a)(1)(i) which language has been adopted as a Louisiana regulation in LAC 33:III.3003, Specific Condition No. 3 Air Permit No. 1280-00018-05, LAC 33:III.501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act. As result of the IFR landings, the facility exceeded the permitted annual emission rate of 0.35 tpy of benzene

for Tank 265-2. According to an email from the Respondent dated July 12, 2007, Tank 265-2 emitted 0.62 tons of benzene during the 2005 calendar year. According to Louisiana General Condition III of Air Permit No. 1280-00018-05, the exceedance of the permitted annual emission rate for benzene is a violation of Air Permit No. 1280-00018-05, LAC 33:III.501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act.

The following violations at the St. Gabriel Facility (Agency Interest No. 39978), although not included in the foregoing enforcement action, are included within the scope of the settlement herein.

- A. According to a letter from the Respondent dated August 30, 2007, and additional information submitted via an email dated November 14, 2007, the IFR in Tank 460-1 was landed during the 2007 calendar year, in violation of 40 CFR 60.112b(a)(1)(ii) which language has been adopted as a Louisiana regulation in LAC 33:III.3003 and La. R.S. 30:2057(A)(1) and 30:2057(A)(2). In addition, benzene emissions from Tank 460-1 exceeded the 0.791 tpy emission rate for benzene for Tank 460-1. The Respondent reported that Tank 460-1 emitted 1.39 tons of benzene during the period encompassing January through July 2007, in violation of Air Permit No. 1280-00018-05, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- B. According to a letter from the Respondent dated August 30, 2007, and additional information submitted via an email dated November 14, 2007, the IFR in Tank 260-1 was landed during the 2007 calendar year, in violation of 40 CFR 60.112b(a)(1)(ii) which language has been adopted as a Louisiana regulation in LAC 33:III.3003 and La. R.S. 30:2057(A)(1) and 30:2057(A)(2). In addition, benzene emissions from Tank 260-1 exceeded the 0.35 tpy emission rate for benzene for Tank 260-1. The Respondent reported that Tank 260-1 emitted 0.81 tons of benzene during the period encompassing January through July 2007, in violation of Air Permit No. 1280-00018-05, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- C. According to a letter from the Respondent dated August 30, 2007, and additional information submitted via an email dated November 14, 2007, the IFR in Tank 265-3 was landed during the 2007 calendar year, in violation of 40 CFR 60.112b(a)(1)(ii) which language has been adopted as a Louisiana regulation in LAC 33:III.3003 and La. R.S. 30:2057(A)(1) and 30:2057(A)(2). In addition, benzene emissions from Tank 265-3 exceeded the 0.35 tpy emission rate for benzene for Tank 265-3. The Respondent reported that Tank 265-3

emitted 0.65 tons of benzene during the period encompassing January through July 2007, in violation of Air Permit No. 1280-00018-05, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

- D. According to a letter from the Respondent dated August 30, 2007, and additional information submitted via an email dated November 14, 2007, the IFR in Tank 265-2 was landed during the 2007 calendar year, in violation of 40 CFR 60.112b(a)(1)(ii) which language has been adopted as a Louisiana regulation in LAC 33:III.3003 and La. R.S. 30:2057(A)(1) and 30:2057(A)(2). In addition, benzene emissions from Tank 265-2 exceeded the 0.35 tpy emission rate for benzene for Tank 265-2. The Respondent reported that Tank 265-2 emitted 0.65 tons of benzene during the period encompassing January through July 2007, in violation of Air Permit No. 1280-00018-05, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

- E. According to a letter from the Respondent dated August 30, 2007, and additional information submitted via an email dated November 14, 2007, the IFR in Tank 265-1 was landed during the 2007 calendar year, in violation of 40 CFR 60.112b(a)(1)(ii) which language has been adopted as a Louisiana regulation in LAC 33:III.3003 and La. R.S. 30:2057(A)(1) and 30:2057(A)(2). In addition, benzene emissions from Tank 265-1 exceeded the 0.35 tpy emission rate for benzene for Tank 265-1. The Respondent reported that Tank 265-1 emitted 0.64 tons of benzene during the period encompassing January through July 2007, in violation of Air Permit No. 1280-00018-05, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

- F. According to a letter from the Respondent dated August 30, 2007, and additional information submitted via an email dated November 15, 2007, trichloroethylene emissions from Tank 350-1 (Emission Point No. 2-04) exceeded the 0.45 tpy emission rate for trichloroethylene for Tank 350-1. The Respondent reported that Tank 350-1 emitted 0.62 tons of trichloroethylene during the period encompassing January through July 2007, in violation of Air Permit No. 1280-00018-05, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

- G. According to a letter from the Respondent dated August 30, 2007, and additional information submitted via emails dated November 14, 2007, and November 15, 2007, the facility's 2007 emissions of benzene for the period encompassing January 1, 2007, through October 31, 2007, were 9.01 tons. The Annual Emissions Rate page

of Air Permit No 1280-00018-05 lists the facility's benzene emissions limit at 3.17 tpy. This is a violation of Air Permit No. 1280-00018-05, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

On August 22, 2007, the Department issued a Consolidated Compliance Order and Notice of Potential Penalty, MM-CN-07-0096, to Delta Terminal Services LLC, which was based upon the following findings of fact:

The Respondent owns and/or operates the Harvey Terminal, a liquid bulk storage and handling facility located at 3540 River Road in Harvey, Jefferson Parish, Louisiana. The facility was previously divided into four individually permitted yards: the West Yard, the East Yard, the Hydril Yard, and the Fina Yard. The West Yard operated under an Administrative Amendment to Air Permit No. 1340-00141-05 issued on October 14, 2002, the East Yard operated under Air Permit No. 1340-00146-00 issued on May 27, 1992, the Hydril Yard operated under Title V Permit No. 1340-00192-V4 issued on April 16, 2004, and the Fina Yard operated under Title V Permit No. 1340-00236-V8 issued on April 16, 2004. The four yards currently operate under Consolidated Synthetic Minor Air Permit No. 1340-00141-07, issued on May 1, 2007.

On or about June 22, 2007, a file review of the Harvey Terminal was performed to determine the degree of compliance with the Act, the Air Quality Regulation, the Hazardous Waste Regulations, and the Water Quality Regulations.

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

- A. According to the Respondent's voluntary audit disclosure letter dated April 27, 2006, and revised voluntary audit disclosure letters dated October 31, 2006, and May 24, 2007, the facility's air permits were not accurate and current for the following instances:
 - Tank 2000-1 (Emission Point EQT141) was not sufficiently permitted.
 - Landing losses were not calculated or permitted using the conservative and recommended emissions estimation

methodology, the Ferry Method.

- Particulate matter (PM) emissions from the haul roads were not controlled or permitted.
- Maximum hourly emissions permit limit for the facility's tanks do not address pump rates, pressuring of products into tanks, or nitrogen blow through.

Each failure to accurately permit the facility is a violation of LAC 33:III.517.D, La. R.S. 30:2057(A)(1), and La. R.S. 30:2057(A)(2). On or about August 31, 2006, the Department received a permit application dated August 31, 2006 that reconciles the above inaccuracies as well as consolidates all the facility's air permits. According to a letter from the Respondent dated September 29, 2006, the Respondent is also utilizing a sprinkler system to minimize PM emissions from the haul roads.

- B. According to the Respondent's voluntary audit disclosure letter dated April 27, 2006, a letter from the Respondent dated September 29, 2006, and revised voluntary audit disclosure letters dated October 31, 2006, November 29, 2006, and May 24, 2007, the internal floating roof (IFR) in Tank 2000-1 at the East Yard was resting on its legs for the following extended periods of time during the 2005 calendar year:

TANK EPN	DATE LANDED	DATE FLOATED	POLLUTANT	AMOUNT RELEASED (TPY)
2000-1	2/19/2005	3/6/2005	Denatured Alcohol/Ethanol	0.38
	3/7/2005	3/11/2005		
2000-1	6/9/2005	6/15/2005	Natural Gasoline	99.42
	6/16/2005	7/20/2005	1,3-Butadiene	0.035
	7/21/2005	7/21/2005	Hexane	3.318
	7/22/2005	11/19/2005	Benzene	0.174
			Toluene	0.099
			2,2,4-Trimethylpentane	0.43
Ethylbenzene			0.006	
		Xylene	0.019	

Each IFR landing referenced above is a violation of 40 CFR 60.112b(a)(1)(i) which language has been adopted as a Louisiana regulation in LAC 33:III.3003, La. R.S. 30:2057(A)(1), and La. R.S. 30:2057(A)(2). In addition, the Respondent emitted unpermitted emissions of the following pollutants as a result of landing the IFR of Tank 2000-1 with natural gasoline 1,3-butadiene, hexane, benzene, toluene, 2,2,4-trimethylpentane, ethylbenzene, and xylene. Emissions of these pollutants were not covered in the Authorization to Construct Approval to Operate (ATC) issued on March 17, 2004, and the

Temporary Variance issued on March 11, 2005, for Tank 2000-1. Emissions of each of the unpermitted pollutants from Tank 2000-1 are violations of LAC 33:III.501.C.2, La. R.S. 30:2057(A)(1), and La. R.S. 30:2057(A)(2).

- C. According to the Respondent's voluntary audit disclosure letter dated April 27, 2006, a letter from the Respondent dated September 29, 2006, revised voluntary audit disclosure letters dated October 31, 2006, November 29, 2006, and May 24, 2007, and an email dated June 21, 2007, the IFRs in Tank 350-4 and Tank 350-5 at the West Yard were resting on the legs for the following extended periods of time during the 2005 and 2006 calendar years:

TANK EPN	DATE LANDED	DATE FLOATED	POLLUTANT	AMOUNT RELEASED (TONS)
350-4	1/1/05	2/11/05	Jap Grade Alcohol/Ethanol	0.25
	2/12/05	2/22/05		
	2/23/05	4/20/05		
	4/21/05	4/22/05		
350-4	2/13/06	12/31/06	Ethanol	1.31
350-5	10/19/05	n/a	Denatured Alcohol/Ethanol	0.12

*n/a = IFR was still landed at the end of the 2005 calendar year.

Each IFR landing referenced above is a violation of 40 CFR 60.112b(a)(1)(i) which language has been adopted as a Louisiana regulation in LAC 33:III.3003, Specific Condition No. 6 of Air Permit No. 1340-00141-05, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1), and La. R.S. 30:2057(A)(2). According to the Emissions Inventory Questionnaire (EIQ) for Tank 350-4, the Respondent exceeded the annual permitted emission rate of 0.15 tpy of ethanol as a result of IFR landings during the 2005 and 2006 calendar years. According to Louisiana General Condition III of Air Permit No. 1340-00141-05, each exceedance of an annual emissions rate is a violation of Air Permit No. 1340-00141-05, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1), and La. R.S. 30:2057(A)(2).

- D. According to the Respondent's voluntary audit disclosure letter dated April 27, 2006, a letter from the Respondent dated September 29, 2006, revised voluntary audit disclosure letters dated October 31, 2006, November 29, 2006, and May 2007, and an email dated June 21, 2007, the IFRs in the following tanks at the Hydril Yard were resting on the legs for the following extended periods of time during the 2005 and 2006 calendar years:

TANK EPN	DATE LANDED	DATE FLOATED	POLLUTANT	AMOUNT RELEASED (TPY)	TOTAL RELEASED (TONS)	PERMITTED EMISSIONS (TPY)
100-29H	1/1/05	8/16/05	Ethylene dichloride	0.765	0.995	0.43
100-29H	9/30/05	12/31/05	Ethylene dichloride	0.23		
100-30H	1/1/05	n/a	Ethylene dichloride	1.11	1.11	1.43
150-20H	1/1/05	8/16/05	Ethylene dichloride	1.27	1.5615	0.52
150-20H	9/28/05	12/31/05	Ethylene dichloride	0.2915		
150-20H	1/1/06	12/31/06	Ethylene dichloride	1.48		
150-21H	1/1/05	n/a	Ethylene dichloride	1.94	1.94	0.52
150-31H	1/1/05	12/31/05	Ethylene dichloride	1.8	1.8	0.52
350-10H	1/1/05	1/26/05	Chloroform	0.033	0.742	0.129
350-10H	3/21/05	3/24/05	Chloroform	0.709		
	3/25/05	4/16/05				
	4/17/05	8/12/05				
	8/13/05	12/31/05				

*n/a = IFR was still landed at the end of the 2005 calendar year.

Each IFR landing referenced above is a violation of 40 CFR 60.112b(a)(1)(i) which language has been adopted as a Louisiana regulation in LAC 33:III.3003, Federally Enforceable Specific Condition No. 3 for Storage Vessels of Title V Permit No. 1340-00192-V4, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1), and La. R.S. 30:2057(A)(2). In addition, the Respondent exceeded the annual permitted emission rates for each emission point, as listed in the EIQ sheets (noted in the above table), as a result of landing the IFRs during the 2005 and 2006 calendar years. According to Louisiana General Condition III of Title V Permit No. 1340-00192-V4, each exceedance of an annual emissions rate is a violation of Title V Permit No. 1340-00192-V4, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1), and La. R.S. 30:2057(A)(2).

- E. According to the Respondent's voluntary audit disclosure letter dated April 27, 2006, a letter from the Respondent dated September 29, 2006, revised voluntary audit disclosure letter dated October 31, 2006, November 29, 2006, and May 24, 2007, and an email dated June 21, 2007, the IFRs in the following tanks at the Fina Yard were resting on the legs for the following extended periods of time during the 2005 and 2006 calendar years:

TANK EPN	DATE LANDED	DATE FLOATED	POLLUTANT	AMOUNT RELEASED (TPY)
250-10F	8/11/05	n/a	Denatured Alcohol/Ethanol	0.1
250-15F	8/12/05	n/a	Denatured Alcholo/Ethanol	0.07
250-17F	8/10/05	n/a	Denatured Alcohol/Ethanol	0.16
350-14F	1/29/05	4/20/05	Beverage Grade Alcohol/Ethanol	0.219
350-14F	10/24/05	12/12/05	Beverage Grade Alcohol/Ethanol	0.139
350-14F	2/25/06	12/31/06	Ethanol	1.40

*n/a = IFR was still landed at the end of the 2005 calendar year.

Each IFR landing referenced above is a violation of 40 CFR 60.112b(a)(1)(i) which language has been adopted as a Louisiana regulation in LAC 33:III.3003, Federally Enforceable Specific Condition No. 3 for Storage Vessels of Title V Permit No. 1340-00192-V4, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1), and La. R.S. 30:2057(A)(2). In addition, the Respondent exceeded the annual permitted emission rate of 0.45 tpy, as listed in the EIQ sheet, for Tank 350-14F as a result of landing the IFR in Tank 350-14F during the 2006 calendar year. According to Louisiana General Condition III of Title V Permit No. 1340-00236-V8, the exceedance of an annual emissions rate is a violation of Title V Permit No. 1340-00236-V8, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1), and La. R.S. 30:2057(A)(2).

- F. According to the Respondent’s voluntary audit disclosure letter dated April 27, 2006, and revised voluntary audit disclosure letters dated October 31, 2006, and May 24, 2007, although emissions from roof landings losses were calculated for the 2004 calendar year, they were not incorporated into the Annual Emissions Statement (AES) and reported. Emissions from the diesel engines (Emission Point Numbers DE-1 and DE-2) were calculated, but not reported as well. Each failure to incorporate these emissions in the 2004 AES is a violation of LAC 33:III.919.B.1 and La. R.S. 30:2057(A)(2).

- G. According to the Title V Semiannual Monitoring Report for the period encompassing July through December 2005, the 2005 Title V Annual Compliance Certification, the Title V Semiannual Monitoring Report for the period encompassing July through December 2006, and the 2006 Title V Annual Compliance Certification for the Hydril Yard, the Respondent failed to perform the annual IFR tank inspection for each of the following tanks during the 2005 and/or 2006 calendar years:

2005	2006
100-29H	100-29H
100-30H	100-30H
150-20H	150-20H
150-21H	150-21H
150-31H	150-31H
	150-39H
	350-10H

Each failure to perform an annual IFR tank inspection for each tank is a violation of 40 CFR 60.113b(a)(2) which language has been adopted as a Louisiana regulation in LAC 33:III.3003, Federally Enforceable Specific Condition 3 for Storage Vessels of Title V Permit No. 1340-00192-V4, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

- H. According to the Title V Semiannual Monitoring Report for the period encompassing July through December 2005, the 2005 Title V Annual Compliance Certification, the Title V Semiannual Monitoring Report for the period encompassing July through December 2006, and the 2006 Title V Annual Compliance Certification for the Fina Yard, the Respondent failed to perform the annual IFR tank inspection for each of the following tanks during the 2005 and/or 2006 calendar years

2005	2006
250-15F	250-10F
250-17F	250-12F
350-14F	250-15F
	250-17F

Each failure to perform an annual IFR tank inspection for each tank is a violation of 40 CFR 60.113b(a)(2) which language has been adopted as a Louisiana regulation in LAC 33:III.3003, Federally Enforceable Specific Condition 3 for Storage Vessels of Title V Permit No. 1340-00236-V8, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

- I. According to the Title V Semiannual Monitoring Report for the period encompassing July through December 2006 and the 2006 Title V Annual Compliance Certification for the Hydril Yard, the Respondent failed to conduct and identify in the weekly log the

monitoring of carbon canisters for IFR Tank 150-22F and IFR Tank 350-10H for the period encompassing September 25, 2006, through September 29, 2006. Each failure to record the monitoring of the carbon canisters is a violation of Federally Enforceable Specific Condition No. 4 for Storage Vessels of Title V Permit No. 1340-00192-V4, LAC 33:III.501.C.4, LAC 33:III.2103.I.2.c, and La. R.S. 30:2057(A)(2).

- J. According to the Title V Semiannual Monitoring Report for the period encompassing July through December 2006 and the 2006 Title V Annual Compliance Certification for the Hydril Yard, the Respondent failed to conduct and identify in the weekly log the monitoring of carbon canisters for the following emission points for the following periods:

EMISSION POINT	START DATE	END DATE
SL-1H	9/25/2006	9/29/2006
	10/23/2006	10/27/2006
BL-1H	9/25/2006	9/29/2006
	10/23/2006	10/27/2006
TL-1H	8/14/2006	8/18/2006
	9/25/2006	9/29/2006
RL-1H	7/31/2006	8/4/2006
	8/14/2006	8/18/2006
	8/21/2006	8/25/2006
	9/25/2006	9/29/2006
	10/23/2006	10/27/2006
	11/6/2006	11/10/2006

Each failure to record the monitoring of the carbon canisters is a violation of LAC 33:III.2107.D.3.c, LAC 33:III.2108.F.2.d, Federally Enforceable Specific Condition No. 2 for Loading Facility of Title V Permit No. 1340-00192-V4, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

- K. According to the Title V Semiannual Monitoring Report for the period encompassing July through December 2006 and the 2006 Title V Annual Compliance Certification for the Fina Yard, the Respondent failed to conduct and identify in the weekly log the monitoring of carbon canisters for Tank 6-1F for the periods encompassing September 25, 2006, through September 29, 2006, and November 6, 2006, through November 10, 2006. Each failure to

record the monitoring of the carbon canisters is a violation of Federally Enforceable Specific Condition No. 4 for Storage Vessels of Title V Permit No. 1340-00236-V8, LAC 33:III.501.C.4, LAC 33:III.2103.I.2.c, and La. R.S. 30:2057(A)(2).

- L. According to the Title V Semiannual Monitoring Report for the period encompassing July through December 2005, the 2005 Title V Annual Compliance Certification, the Title V Semiannual Monitoring Report for the period encompassing July through December 2006, and the 2006 Title V Annual Compliance Certification for the Fina Yard, the Respondent failed to conduct and identify in the weekly log the monitoring of carbon canisters for the following emission points for the following periods

EMISSION POINT	START DATE	END DATE
DL-1F	9/25/2006	9/29/2006
DL-2F	4/11/2005	4/17/2005
	9/25/2006	9/29/2006
DL-2F	12/11/2006	12/15/2006
DL-3F	7/10/2006	7/14/2006
	9/25/2006	9/29/2006
DL-4F	7/31/2006	8/1/2006
	9/25/2006	9/29/2006
DL-5F	7/31/2006	8/1/2006
	9/11/2006	9/15/2006
	9/25/2006	9/29/2006
	10/23/2006	10/27/2006
DL-6F	9/25/2006	9/29/2006
LO-1F	9/25/2006	9/29/2006
	10/23/2006	10/27/2006
LO-2F	9/25/2006	9/29/2006

Each failure to record the monitoring of the carbon canisters is a violation of LAC 33:III.2107.D.3.c, LAC 33:III.2108.F.2.d, Federally Enforceable Specific Condition No. 2 for Loading Facility of Title V Permit No. 1340-00236-V8, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

- M. According to the Title Semiannual Monitoring Report for the period encompassing July through December 2006 and the 2006 Title V Annual Compliance Certification for the Fina Yard, the Respondent exceeded the permitted Methylene Chloride throughput of 17,025 barrels per year for the 2006 calendar year. According to an email from the Respondent dated June 21, 2007, the Methylene Chloride throughput for 2006 was 900,680 gallons (21,444.761 barrels).

According to Louisiana General Condition II of Title V Permit No. 1340-00236-V8, the exceedance of the Methylene Chloride throughput during 2006 calendar year is a violation of Title V Permit No. 1340-00236-V8, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2). In addition, the Respondent exceeded the annual permitted emission rate of 0.1235 tpy of Methylene Chloride, as listed in the EIQ sheet, for Drumming Station #2 (Emission Point Number DL-2F) as a result of exceeding the Methylene Chloride throughput for the 2006 calendar year. According to an email from the Respondent dated June 21, 2007, the 2006 Methylene Chloride emissions from Drumming Station #2 were 0.175 tons. According to Louisiana General Condition III of Title V Permit No. 1340-00236-V8, the exceedance of the annual emissions rate is a violation of Title V Permit No. 1340-00236-V8, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1), and La. R.S. 30:2057(A)(2).

- N. According to the Title Semiannual Monitoring Report for the period encompassing July through December 2006 and the 2006 Title V Annual Compliance Certification for the Fina Yard, the Respondent exceeded the permitted Neodene throughput of 7,700 barrels per year for the 2006 calendar year. According to an email from the Respondent dated June 21, 2007, the Neodene throughput for 2006 was approximately 2,850,000 gallons (67,857 barrels). According to Louisiana General Condition II of Title V Permit No. 1340-00236-V8, the exceedance of the Neodene throughput during the 2006 calendar year is a violation of Title V Permit No. 1340-00236-V8, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).
- O. According to the Respondent's voluntary audit disclosure letter dated April 27, 2006, and revised voluntary audit disclosure letter dated May 24, 2007, the Respondent failed to prepare written operating procedures that provide clear instructions or steps for safely conducting activities associated with each covered process that are consistent with the safety information for that process. This failure is a violation of 40 CFR 68.52(a) which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2).
- P. According to the Respondent's voluntary audit disclosure letter dated April 27, 2006, and revised voluntary audit disclosure letter dated May 24, 2007, the Respondent failed to prepare and implement procedures to maintain the on-going mechanical integrity of the process equipment. This failure is a violation of 40 CFR 68.56(a) which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2).

- Q. According to the Respondent's voluntary audit disclosure letter dated April 27, 2006, and revised voluntary audit disclosure letter dated May 24, 2007, the Respondent failed to prepare a complete and/or timely summary of incident investigation summaries. This failure is a violation of 40 CFR 68.60(c) which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2).

- R. According to the Respondent's voluntary audit disclosure letter dated April 27, 2006, and revised voluntary audit disclosure letter dated May 24, 2007, the Respondent failed to maintain incident investigation summaries for five years. This failure is a violation of 40 CFR 68.60(f) which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2).

During March 2006, the Respondent conducted a voluntary self-audit of the Harvey Terminal. On April 11, 2006, representatives of the Respondent met with the Department to discuss the preliminary findings of the audit and proposed corrective actions. On April 27, 2006, the Respondent submitted an audit report which detailed the findings of the voluntary self-audit. The Respondent had subsequent meetings with the Department to discuss corrective actions, and submitted updates to the audit.

Based on the audit report, meetings with the Department, and subsequent updates to the audit report, the following violations were noted:

- A. The Respondent stored approximately eighty (80) drums of hazardous waste, located in the Dow Drumming Building, without having interim status or a standard permit, in violation of LAC 33:V.303.B. This violation has been addressed. The Respondent provided copies of hazardous waste manifests that documented the drums of waste were sent off-site for disposal on May 31, 2006.

- B. The Respondent failed to determine if generated solid waste is a hazard, in violation of LAC 33:V.1103. Specifically, the Respondent failed to determine if waste stored in the slop tanks for docks 1, 2, 3, and 4 (dock runoff tanks), and wastes stored in approximately eighty (80) drums were hazardous wastes. This violation has been addressed. The Respondent eventually determined that these wastes

were hazardous and sent them off-site for disposal on January 16 & 17, 2006, (slop tank/dock runoff waste), and on May 31, 2006, (eighty (80) drums).

- C. The Respondent's contingency plan failed to describe arrangements agreed to by local hospitals and contractors to coordinate emergency services, as specified in LAC 33:V.1513.B.3, in violation of LAC 33:V.1109.E.1.e. This violation has been addressed. The Respondent provided the Department with a copy of a letter dated June 28, 2006, from United States Environmental Services, L.L.C. which described the emergency response agreement. The Respondent sent a letter to the local medical center on or about June 14, 2006.
- D. The Respondent failed to maintain records documenting job titles for each position at the facility related to hazardous waste management, job descriptions for each position, and records documenting training as specified in LAC 33:V.1515.D, in violation of LAC 33:V.1109.E.1.e.

The Respondent owns and/or operates a chemical bulk storage facility located at 3540 River Road in Harvey, Jefferson Parish, Louisiana. The Respondent was issued Louisiana Pollutant Discharge Elimination System (LPDES) permit LA0056600 on or about March 1, 2002, with an expiration date of February 28, 2007. Under the terms and conditions of LPDES permit LA0056600, the Respondent was authorized to discharge storm water runoff, hydrostatic testing water, condensate, boiler blowdown, and washdown water to an open ditch, thence to the Intracoastal Canal, thence to the Mississippi River, waters of the state. Upon discovery that the six (6) small septic tanks onsite had not been permitted, the Respondent submitted a separate sanitary discharge permit application to the Department on or about March 31, 2006, and was granted coverage under Louisiana Pollutant Discharge Elimination System (LPDES) General Permit LAG530000 on April 13, 2006, and specifically was assigned Permit Number LAG532010. LPDES permit LAG532010 expires on November 30, 2007. LPDES permit LAG532010 authorizes the Respondent to discharge treated sanitary wastewater from its facility to an open ditch, thence to the Intracoastal Canal, thence

to the Mississippi River, waters of the state. The Respondent submitted a permit renewal application in a timely manner, and LPDES permit LA0056600 was reissued with an effective date of April 1, 2007, and an expiration date of March 31, 2012. Under the terms and conditions of LPDES permit LA0056600, the Respondent is authorized to discharge storm water runoff, hydrostatic testing water, boiler condensate, boiler blowdown, utility washwater, washdown water, and treated sanitary wastewater (thus terminating LPDES permit LAG532010) via local drainage, thence to the Intracoastal Canal, thence to the Mississippi River, waters of the state.

A voluntary self-audit conducted by the Respondent in March 2006, revealed the following:

- A. The Respondent failed to update and maintain its Spill Prevention and Control (SPC) Plan. Specifically, the plan had not been reviewed and/or updated since June 2, 1999. The plan also did not include the identification and location of storage tanks containing oils onsite. The Respondent's failure to update and/or maintain its SPC Plan is in violation of La. R.S. 30:2076(A)(3), LAC 33:IX.501.A, LAC 33:IX.905.A, and LAC 33:IX.905.F.
- B. The Respondent failed to maintain adequate secondary containment. According to the Respondent, the berm on the southeast side of the facility along 4th Street and La. Highway 541 was deficient. The Respondent's failure to maintain adequate secondary containment is in violation of La. R.S. 30:2076 (A)(3), LAC 33:IX.501.A, LAC 33:IX.905.B, and LAC 33:IX.907.
- C. The Respondent was not properly implementing and maintaining erosion and sediment control measures or other Best Management Practices (BMPs) on the site. Specifically, inspections conducted by the Respondent revealed blocked storm drains at Aniline Tunnel and Outfall 004; however, they were not corrected in a timely manner. The Respondent's failure to implement BMPs to control pollutants in storm water discharges is in violation of LPDES Permit LA0056600 (Part II, Section K.3, and Part III, Section A.2), La. R.S. 30:2076 (A)(3), LAC 33:IX.501.A, and LAC 33:IX.2701.A.
- D. The Respondent failed to conduct adequate annual comprehensive site compliance evaluations from 2002 through 2006. Specifically, the Respondent failed to evaluate whether the BMPs identified in the Storm Water Pollution Prevention Plan were adequate and had been

properly implemented. The Respondent's failure to properly conduct these inspections is in violation of LPDES Permit LA0056600 (Part II, Section K.3 and K.4.a, and Part III, Section A.2), La. R.S. 30:2076 (A)(3), LAC 33:IX.501.A, and LAC 33:IX.2701.A.

- E. The Respondent failed to conduct the daily storm water inspections as required by their permit consistently. Specifically, records reviewed by the Respondent revealed that approximately 22% of the daily inspections were not conducted. The Respondent's failure to conduct inspections is in violation of LPDES Permit LA0056600 (Part II, Section K.3, and Part III, Section A.2), La. R.S. 30:2076 (A)(3), LAC 33:IX.501.A, and LAC 33:IX.2701.A.
- F. The Respondent was discharging sanitary wastewater without a permit. Specifically, the Respondent had six (6) septic tanks around the facility that were unpermitted from the time the Respondent bought the facility in December 2000 through April 13, 2006, when they received permit coverage under LPDES permit LAG532010. The Respondent's unauthorized discharge of wastewater to waters of the state from December 2000 to April 13, 2006, is in violation of La. R.S. 30:2075, La. R.S. 30:2076 (A) (1) (a), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.501.C, LAC 33:IX.501.D, and LAC 33:IX.2501.A.

A file review conducted by the Department on or about June 21, 2007, revealed the following permit excursions, as reported by the Respondent on Discharge Monitoring Reports (DMRs):

Date	Outfall	Parameter	Permit Limit	Sample Value
4/2002	001	Oil & Grease Daily Maximum	15 mg/L	20 mg/L
4/2002	204	pH Maximum	9.0 SU	9.3 SU
2/2003	002	pH Minimum	6.0 SU	5.83 SU
3/2003	002	TOC Daily Maximum	50 mg/L	380 mg/L
11/2004	002	TOC Daily Maximum	50 mg/L	84 mg/L
12/2004	001	Trichloroethylene Daily Maximum	100 ug/L	468 ug/L
1/2005	001	Trichloroethylene Daily Maximum	100 ug/L	270 ug/L
1/2005	002	TOC Daily Maximum	50 mg/L	255 mg/L
2/2005	002	TOC Daily Maximum	50 mg/L	240 mg/L
3/2005	002	TOC Daily Maximum	50 mg/L	177 mg/L
3/2005	004	1,2-Dichloroethane Daily Maximum	100 ug/L	298 ug/L
8/2005	002	TOC Daily Maximum	50 mg/L	74 mg/L
9/2005	002	TOC Daily Maximum	50 mg/L	160 mg/L

Date	Outfall	Parameter	Permit Limit	Sample Value
9/2005	004	TOC Daily Maximum	50 mg/L	54 mg/L
1/2006	001	Tetrachloroethylene Daily Maximum	100 ug/L	150 ug/L
1/2006	001	Trichloroethylene Daily Maximum	100 ug/L	130 ug/L
6/2006	005	Fecal Coliform Weekly Average	400 col/100 ml	2100 col/100 ml
6/2006	006	TSS Weekly Average	45 mg/L	50 mg/L
6/2006	007	TSS Weekly Average	45 mg/L	100 mg/L
6/2006	008	TSS Weekly Average	45 mg/L	100 mg/L
6/2006	008	Fecal Coliform Weekly Average	400 col/100 ml	3900 col/100 ml
6/2006	009	TSS Weekly Average	45 mg/L	64 mg/L
6/2006	010	BOD Weekly Average	45 mg/L	121 mg/L
6/2006	010	TSS Weekly Average	45 mg/L	58 mg/L
6/2006	010	Fecal Coliform Weekly Average	400 col/100 ml	32,000 col/100 ml
11/2006	002	TOC Daily Maximum	50 mg/L	69 mg/L

Each excursion of the permit from April 2002 through January 2006, and November 2006 constitutes a violation of LPDES permit LA0056600 (Part I and Part III, Section A.2), La. R.S. 30:2076 (A) (1), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.501.D, and LAC 33:IX.2701.A. Each excursion of the permit for June 2006 is in violation of LPDES permit LAG532010 (Part I and Part III, Section A.2), La. R.S. 30:2076 (A) (1), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.501.D, and LAC 33:IX.2701.A.

Further file review by the Department on or about June 21, 2007, revealed that the Respondent failed to collect and analyze samples for the semi-annual monitoring period of July through December 2006 for Outfalls 005, 006, 007, 008, 009, and 010. The Respondent's failure to monitor its effluent is in violation of LPDES permit LAG532010 (Part I and Part III, Section A.2), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, and LAC33:IX.2701.A.

The following violations at the Delta Terminal Services LLC (Agency Interest No. 2612), although not included in the foregoing enforcement action, are included within the scope of the settlement herein.

A file review conducted by the Department on November 15, 2007, revealed the following permit excursions, as reported by the Respondent on Discharge Monitoring Reports (DMRs):

Monitoring Period	Outfall	Parameter	Permit Limit	Sample Value
January – June 2007	005	TSS Weekly Average	45 mg/L	153 mg/L
January – June 2007	006	TSS Weekly Average	45 mg/L	149 mg/L
January – June 2007	007	Fecal Coliform Weekly Average	400 col/100 ml	2500 col/100 ml
January – June 2007	008	Fecal Coliform Weekly Average	400 col/100 ml	1364 col/100 ml

Each excursion of the permit is in violation of LPDES permit LAG532010 (Part I and Part III, Section A.2), La. R.S. 30:2076 (A) (1), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.501.D, and LAC 33:IX.2701.A.

III

In response to the Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. AE-CN-07-0081, and the Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. MM-CN-07-0096, Respondents made timely requests for a hearing.

IV

The Respondents (collectively and independently) deny they committed any violations or that they are liable for any fines, forfeitures and/or penalties.

V

Nonetheless, the Respondents, without making any admission of liability under state or federal statute or regulation, agree to pay, and the Department agrees to accept, a payment in the amount of TWO HUNDRED EIGHTY THOUSAND and NO/100 DOLLARS, (\$280,000.00) of which Six Thousand Two Hundred Thirty-One and 75/100 Dollars (\$6,231.75) represents DEQ's enforcement costs, in settlement of the claims set forth in this agreement and Eight Thousand Three

Hundred Forty-Three and 06/100 Dollars (\$8,343.06) represents unpaid emission fees for 2004 and 2005. The total amount of money expended by Respondents 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

In addition, to address alleged violations at the Harvey Facility, Respondents have agreed to complete construction of upgraded secondary containment at the Harvey Facility by December 31, 2007, and prepare a revised and certified SPC plan, which reflects the upgraded SPC containment by March 31, 2008. An assessment of drainage issues and development of a drainage plan for the facility will be conducted in coordination with the SPC work and will be completed by March 31, 2008.

VII

Respondents further agree that the Department may consider the inspection report(s), the enforcement actions and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondents, and in any such action Respondents shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondents' compliance history.

VIII

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 Respondents hereby waive 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.

IX

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.

X

The Respondents have caused a public notice advertisement to be placed in the official journal of the parish governing authority in each parish corresponding with the situs of each facility made subject of this settlement. The advertisements, 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 from the newspaper of each affected parish 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 notices.

XI

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, attached hereto as Exhibit A.

XII

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

XIII

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.

**KINDER MORGAN LIQUIDS TERMINAL ST.
GABRIEL LLC AND
DELTA TERMINAL SERVICES LLC**

ALL REPRESENTED HEREIN BY:

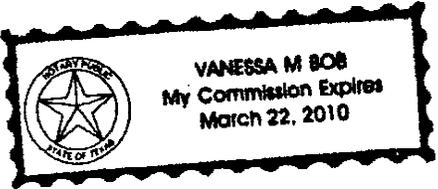
[Signature]
(Signature)

Jeff L. Amstutz
(Print)

TITLE:

President

THUS DONE AND SIGNED in duplicate original before me this 31st day of January, 20 08, at Houston, Texas.



[Signature]

NOTARY PUBLIC (ID # 12416183-3)

Vanessa M. Bob
(Print)

**LOUISIANA DEPARTMENT OF
ENVIRONMENTAL QUALITY
HAROLD LEGGETT, PH.D., SECRETARY**

BY:

[Signature]

Peggy M. Hatch, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 10th day of July, 20 08, at Baton Rouge, Louisiana.

NOTARY PUBLIC (ID # 410539)

[Signature]
Del R. Bryler, II
(Print)

Approved:

[Signature]
Harold Leggett, Ph.D., Assistant Secretary