

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

**LARRY CUPPER
AI # 68801**

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

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* **Enforcement Tracking No.**
* **UE-P-03-0075**
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* **Docket No. 2004-7151-EQ**
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SETTLEMENT

The following Settlement is hereby agreed to between Larry Cupper (“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 an individual who operates three (3) underground storage tanks (USTs) at The Country Station, 102 East Main Street in Broussard, Lafayette Parish, Louisiana (“the Facility”).

II

On May 26, 2004, the Department issued a Penalty Assessment, Enforcement No. UE-P-03-0075 in the amount of \$7,215.06 to Respondent, which was based upon the following findings of fact:

The Respondent owns and/or operates three (3) underground storage tanks (USTs) at The Country Station. The facility is located at 102 East Main Street in Broussard, Lafayette Parish, Louisiana. The Respondent submitted a completed registration form for the USTs and was assigned facility identification number 28-013007.

On or about August 13, 2002, an inspection of the facility revealed the following violation:

The Respondent failed to monitor the tanks for releases at least every thirty days using one of the methods listed in LAC 33:XI.701.A.4-7, in violation of LAC 33:XI.703.B.1. Specifically, the automatic tank gauging system last indicated that the tanks passed release detection on or about August 30, 2000.

On February 4, 2003, a Consolidated Compliance Order and Notice of Potential Penalty (CO/NOPP), Enforcement Tracking No. UE-CN-02-0230, was issued to Respondent.

III

In response to the Penalty Assessment, 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 ONE THOUSAND AND NO/100 DOLLARS (\$1,000.00), of which Two Hundred Twenty-eight and 30/100 Dollars (\$228.30) 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

The Respondent shall attend a Departmental Training Class on Underground Storage Tank Regulations within six (6) months after receiving the Notice of the Secretary's signature. The dates

and locations of these classes are provided in Exhibit A, UST Training Schedule 2005. Failure to attend the training class without permission from the Administrator of the DEQ Enforcement Division will result in an additional \$1,000.00 to be added to the amount payable for this settlement.

VII

Respondent further agrees that the Department may consider the inspection report(s), the Penalty Assessment 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.

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 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.

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 Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Lafayette Parish as well as in a newspaper of general circulation in that 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.

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 Darryl Serio, Office of Management and Finance, 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 B).

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

LARRY CUPPER

BY: _____
(Signature)

(Printed or Typed)

TITLE: _____

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20_____, at _____.

NOTARY PUBLIC (ID # _____)

(Printed or Typed)

STATE OF LOUISIANA
Mike D. McDaniel, Ph.D., Secretary
Department of Environmental Quality

BY: _____
Harold Leggett, Ph.D., 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 # _____)

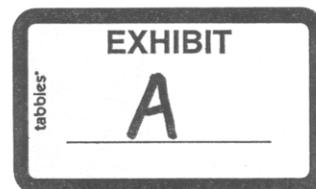
(Printed or Typed)

Approved: 

Harold Leggett, Ph.D., Assistant Secretary

UST Training Schedule 2005

DATE	REGION	LOCATION	TIME
March 10, 2005	CRO	Baton Rouge	1 pm – 5 pm
March 24, 2005	CRO	Baton Rouge	1 pm – 5 pm
April 7, 2005	ARO	Lafayette	8 am – 12 pm
April 26, 2005	SERO	Metairie	1 pm – 5 pm
May 5, 2005	NERO/NWRO	Shreveport	8 am – 12 pm
May 26, 2005	NERO	Alexandria	8 am- 12 pm
June 7, 2005	CRO	Baton Rouge	1 pm- 5 pm
July 13, 2005	SWRO	Lake Charles	8 am – 12 pm
August 18, 2005	SERO	Metairie	8 am – 12 pm
September 14, 2005	NERO/NWRO	West Monroe	8 am – 12 pm
October 4, 2005	CRO	Baton Rouge	1 pm – 5 pm
November 3, 2005	ARO	Lafayette	8 am – 12 pm
December 6, 2005	NERO/NWRO	Alexandria	1 pm- 5 pm



LOCATION ADDRESSES:

LA Dept. of Environmental Quality
Galvez Building Conference Center
602. N. Fifth Street
Baton Rouge, LA 70821
(225) 219-3719

LA Technical College
Lafayette Campus
1101 Bertrand Drive
Lafayette, LA 70506
(337) 262-5962

LA Technical College
Jefferson Campus
5200 Blair Drive
Metairie, LA 70001
(504) 736-7072

LA Technical College
Shreveport/Bossier Campus
2010 North Market Street
Shreveport, LA 71137
(318) 676-7811

LA Technical College
Alexandria Campus
4311 South MacArthur Drive
Alexandria, LA 71302
(318) 487-5439

LA Technical College
Sowela Campus
3820 J. Bennett Johnston Ave.
Lake Charles, LA 70601
(337) 491-2698

LA Technical College
Delta/Ouachita Campus
609 Vocational Parkway
West Monroe, LA 71292
(318) 397-6130

There is no fee charged for attending this training.