

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

PENNINGTON OPERATING  
COMPANY, LLC

AI # 169913

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

\* Settlement Tracking No.  
\* SA-AE-11-0017  
\*  
\* Enforcement Tracking No.  
\* AE-CN-10-00519  
\*  
\*  
\*  
\*  
\*  
\*

SETTLEMENT

The following Settlement is hereby agreed to between Pennington Operating 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 that owns and/or operates a Tank Battery facility located in Abbeville, Vermilion Parish, Louisiana (“the Facility”).

II

On April 16, 2010, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. AE-CN-10-00519, which was based upon the following findings of fact:

The Respondent owns and/or operates Oak Bend, LLC No. 1 Tank Battery (the facility) located at Ridrigue Turn in Abbeville, Vermilion Parish, Louisiana. On or about March 26, 2010,

the Respondent submitted an air permit application for this facility. On or about March 26, 2010, the Respondent submitted a letter to the Department requesting interim authorization to operate the facility.

On or about April 6, 2010, a file review of the Respondent's facility was conducted to determine the degree of compliance with the Act and the Air Quality Regulations.

The following violation was noted during the course of the file review:

According to a letter from the Respondent dated March 26, 2010, the Respondent took over operations of the facility on March 1, 2010. The Respondent operated the facility without an air permit. This is a violation of LAC 33:III.501.C.2 and La. R.S. 30:2057(A)(1) and 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 ONE THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$1,500.00), of which Three Hundred Fifty-Two and 17/100 Dollars (\$352.17) 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), the Consolidated Compliance Order & 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

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Vermilion 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.

PENNINGTON OPERATING  
COMPANY, LLC

BY: William Hodgkins  
(Signature)

William Hodgkins  
(Printed)

TITLE: Vice President/CEO

THUS DONE AND SIGNED in duplicate original before me this 7th day of  
July, 20 11, at Zachary, Louisiana.

Adrienne E. Hodgkins  
NOTARY PUBLIC (ID # 29910)  
Bar Roll #

Adrienne E. Hodgkins  
(stamped or printed)

LOUISIANA DEPARTMENT OF  
ENVIRONMENTAL QUALITY  
Peggy M. Hatch Secretary

BY: Cheryl  
Cheryl Sonnier Nolan, Assistant Secretary  
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 18 day of  
October, 20 11, at Baton Rouge, Louisiana.

Debra King  
NOTARY PUBLIC (ID # 20590)  
Bar Roll #

Life Commission

Debra King  
(stamped or printed)

Approved: Cheryl  
Cheryl Sonnier Nolan, Assistant Secretary