

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

RETIF OIL & FUEL, LLC

AI # 22022

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

* Settlement Tracking No.
* SA-WE-10-0023
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* Enforcement Tracking No.
* WE-CN-09-0059
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SETTLEMENT

The following Settlement is hereby agreed to between Retif Oil & Fuel, 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 partnership that owns and/or operates a bulk petroleum storage facility located in Harvey, Jefferson Parish, Louisiana (“the Facility”).

II

On April 24, 2009, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. WE-CN-09-0059, which was based upon the following findings of fact:

The Respondent owns and/or operates a bulk petroleum storage facility that is located at 527 Destrehan Avenue in Harvey, Jefferson Parish, Louisiana. The Respondent was granted coverage under Louisiana Pollutant Discharge Elimination System (LPDES) Permit LA0109428 which became effective on October 1, 2003, and expired on September 30, 2008. The permit was

not administratively extended. Under the terms and conditions of the LPDES permit, the Respondent was authorized to discharge storm water runoff (Outfall 001) and tank draw water (Outfall 101) from the existing bulk petroleum storage facility via municipal storm sewer pumping station then Harvey Canal, thence to the Intercoastal Waterway, all waters of the state. The Respondent does not have a Louisiana Pollutant Discharge Elimination System (LPDES) permit or any other authority to discharge storm water and tank draw water and/or other substances to water of the state.

A file review conducted by the Department on or about March 2, 2009, revealed that the Respondent is operating without an LPDES permit and having unauthorized discharges into waters of the state. Specifically, LPDES permit LA0109428 expired on September 30, 2008. Each unauthorized discharge of wastewater from September 30, 2008, to present date is a violation of La. R.S. 30:2075, La. R.S. 30:2076(A)(1)(a), La. R.S. 30:2076(A)(3), LAC 33:501.A.

A file review conducted by the Department on or about March 2, 2009, revealed that the Respondent did not submit a renewal application 180 days prior to the expiration date of LPDES permit LA0109428. LPDES permit LA0109428 expired on September 30, 2008. To date, the Respondent has not submitted a renewal application to the Department. The Respondent's failure to submit a permit renewal application 180 days prior to the expiration date of the LPDES permit is a violation of LPDES permit LA0109428, (Part III, Sections A.2 and A.5), La. R.S. 30:2076(A)(3), LAC 33:IX.501.A, LAC 33:IX.2701.A, and LAC 33:IX.2701.B.

A file review conducted by the Department on or about March 2, 2009, revealed that the Respondent failed to submit the Discharge Monitoring Reports (DMRs) as required by permit LA0109428. Specifically, no DMRs have been submitted for all monitoring periods encompassed in calendar years 2003, 2004, 2005, 2006, 2007, and for the 1st, 2nd, and 3rd quarter monitoring periods

in 2008. Each failure to submit a DMR is a violation of LPDES permit LA0109428 (Part II, Section M, and Part III, Sections A.2 and D.4), La. R.S. 30:2076 (A)(3), LAC 33:IX.501.A, LAC 33:IX.2701.A, AND LAC 33:IX.2701.L.4.a.

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 NINETEEN THOUSAND AND NO/100 DOLLARS (\$19,000.00), of which Six Hundred Sixty-One and 08/100 Dollars (\$661.08) 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 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 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 Jefferson 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.

RETIF OIL & FUEL, LLC

BY: Kenneth J. Retif
(Signature)

Kenneth J. Retif
(Print)

TITLE: President

THUS DONE AND SIGNED in duplicate original before me this 8th day of June, 20 10, at Gretna, LA.

PFGaudin
NOTARY PUBLIC (ID # 5976)

Pierre F. Gaudin
(Print)

Pierre F. Gaudin
Notary Public-Bar No. 5976
1088 Fourth Street
Gretna, Louisiana 70053
Telephone: (504) 368-6500

LOUISIANA DEPARTMENT OF
ENVIRONMENTAL QUALITY
Peggy M. Hatch, Secretary

BY: [Signature]

Beau James Brock, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 12th day of October, 20 10, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 10149)

Christopher A. Ratcliff
(Print)

Approved: [Signature]
Paul D. Miller, P.E., Assistant Secretary