

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

ST. JAMES STEVEDORING
COMPANY, L.L.C.

AI # 33598; 33599; 33600; 33601
99985; 124319; 139047; 151301

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

* Settlement Tracking No.
* SA-AE-12-0080
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* Enforcement Tracking No.
* AE-CN-09-0021
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SETTLEMENT

The following Settlement is hereby agreed to between St. James Stevedoring Company, 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 that owns and/or operates a bulk materials transfer facility located in Convent, St. James Parish, Louisiana (“the Facility”) and throughout southern Louisiana along the Mississippi River.

II

On November 13, 2009, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty (CONOPP), Enforcement No. AE-CN-09-0021, which was based upon the following findings of fact:

On or about November 20, 2008, an inspection of Midstream Loader Miss Irene was performed to determine the degree of compliance with the Act and Air Quality Regulations.

On or about February 10, 2009, and November 5, 2009, file reviews of the facility were performed to determine the degree of compliance with the Act and Air Quality Regulations.

While the Department's investigation is not yet complete, the following violations were noted during the course of the inspection and subsequent file reviews:

- A. According to Specific Requirement No. 47 of Air Permit No. 7777-00613-00, issued on December 5, 2007, the Respondent is required to notify the appropriate Regional Office (RO) prior to relocation among sites designated within the facility's air permit. On or about July 6, 2009, the Department received a fax from the Respondent's representative stating that the facility relocated on the following dates:

Relocation Date	Mile Marker
12/26/2007	163.0
12/28/2007	158.0
02/12/2008	163.0
02/14/2008	158.0
03/04/2008	122.0
03/07/2008	158.0
04/02/2008	163.0
04/04/2008	158.0
04/30/2008	167.0
05/04/2008	158.0
05/19/2008	122.0
06/12/2008	110.0
06/14/2008	122.0
06/29/2008	158.0
07/18/2008	122.0
08/09/2008	158.0
08/10/2008	122.0
08/11/2008	167.0
08/14/2008	158.0
08/27/2008	122.0
08/29/2008	158.0
09/29/2008	122.0
10/18/2008	139.0
10/20/2008	122.0
11/02/2008	110.0
11/03/2008	158.0
11/08/2008	150.0
11/09/2008	122.0
11/16/2008	118.0

Relocation Date	Mile Marker
11/18/2008	122.0

The Respondent failed to notify the Department prior to facility relocation on thirty (30) occasions. Each incident of the Respondent's failure to notify the Department prior to facility relocation is a violation of Specific Requirement No. 47 of the Air Permit No. 7777-00613-00, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

- B. According to Specific Requirement No. 36 of Air Permit No. 7777-00613-00, issued on December 5, 2007, the Respondent is required to annually submit the total operating time of the Crane with Cummins Model #OST30-G5 Engine (EQT0002) at all locations in the non-attainment areas each month, as well as the engine's total operating time at all locations in the non-attainment areas for the last twelve (12) months for the preceding calendar year by March 31st of each year. The Respondent failed to submit an annual report by the due date for the following reporting periods:

12 Month Reporting Period	Due Date	Date Submitted
12/5/2007 – 12/31/2007	3/31/2008	Not Received
1/01/2008 – 12/31/2008	3/31/2009	5/29/2009

Each incident of the Respondent's failure to submit an annual report by the due date for the engine's (EQT0002) total monthly and twelve (12) month operating time in the non-attainment areas is a violation of Specific Requirement No. 36 of Air Permit No. 7777-00613-00, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

The Respondent owns and/or operates Midstream Loader Bulk II (AI No. 33598), a bulk materials transfer facility that operates along the lower region of the Mississippi River. The portable emissions source currently operates under Air Permit No. 7777-00161-02, issued on September 14, 2005. On or about February 10, 2009, and November 5, 2009 file reviews of Midstream Loader Bulk II were performed to determine the degree of compliance with the Act and Air Quality Regulations. While the Department's investigation is not yet complete, the following violations were noted during the course of the file reviews:

- A. According to Specific Requirement No. 28 of Air Permit No. 7777-00161-02, issued on September 14, 2005, the Respondent is required to notify the appropriate RO prior to relocation among sites designated by the facility's air permit. According to a letter from the Respondent's representative dated May 29, 2009, the facility relocated on or about November 19, 2008. The Respondent notified the

Department of facility relocation on or about November 21, 2008. The Respondent's failure to notify the Department prior to facility relocation is a violation of Specific Requirement No. 28 of Air Permit No. 7777-00161-02, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

- B. According to Specific Requirement No. 30 of Air Permit No. 7777-00161-02, issued on September 14, 2005, the Respondent is required to submit an annual throughput report by March 31st of each year for the period January 1 through December 31 of the previous year. The Respondent failed to submit annual throughput reports by the due date for the following reporting periods:

12 Month Reporting Period	Due Date	Date Submitted
9/14/2005 – 12/31/2005	3/31/2006	2/26/2009
1/01/2006 – 12/31/2006	3/31/2007	2/26/2009
1/01/2007 – 12/31/2007	3/31/2008	2/26/2009

Each incident of the Respondent's failure to submit an annual throughput report by March 31st following each calendar year is a violation of Specific Requirement No. 30 of Air Permit No. 7777-00161-02, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

The Respondent owns and/or operates Midstream Loader Bulk I (AI No. 33599), a bulk materials transfer facility that operates along the Mississippi River. The portable emissions source currently operates under Air Permit No. 7777-00162-02, issued on September 14, 2005. On or about February 10, 2009, and November 5, 2009, file reviews of Midstream Loader Bulk I were performed to determine the degree of compliance with the Act and Air Quality Regulations. While the Department's investigation is not yet complete, the following violation was noted during the course of the file reviews:

According to Specific Requirement No. 29 of Air Permit No. 7777-00162-02, issued on September 14, 2005, the Respondent is required to submit an annual throughput report by March 31st of each year for the period January 1 through December 31 of the previous year. The Respondent failed to submit annual throughput reports by the due date for the following reporting periods:

12 Month Reporting Period	Due Date	Date Submitted
9/14/2005 – 12/31/2005	3/31/2006	Not Received
1/01/2006 – 12/31/2006	3/31/2007	Not Received
1/01/2007 – 12/31/2007	3/31/2008	Not Received
1/01/2008 – 12/31/2008	3/31/2009	Not Received

Each incident of the Respondent's failure to submit an annual throughput

report by March 31st following each calendar year is a violation of Specific Requirement No. 29 of Air Permit No. 7777-00162-02, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

The Respondent owns and/or operates Midstream Loader Bulk III (AI No. 33600), a bulk materials transfer facility that operates along the Mississippi River. The portable emissions source currently operates under Air Permit No. 7777-00163-03, issued on September 14, 2005. On or about February 10, 2009, and November 5, 2009, file reviews of Midstream Loader Bulk III were performed to determine the degree of compliance with the Act and Air Quality Regulations. While the Department's investigation is not yet complete, the following violations were noted during the course of the file reviews:

- A. According to Specific Requirement No. 13 of Air Permit No. 7777-00163-03, issued on September 14, 2005, the Respondent is required to notify the appropriate RO prior to relocation among sites designated by the facility's air permit. According to a letter from the Respondent's representative dated May 29, 2009, the facility relocated on or about November 19, 2008. The Respondent notified the Department of facility relocation on or about November 21, 2008. The Respondent's failure to notify the Department prior to facility relocation is a violation of Specific Requirement No. 13 of Air Permit No. 7777-00163-03, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).
- B. According to Specific Requirement No. 17 of Air Permit No. 7777-00163-03, issued on September 14, 2005, the Respondent is required to submit an annual throughput report by March 31st of each year for the period January 1 through December 31 of the previous year. The Respondent failed to submit annual throughput reports by the due date for the following reporting periods:

12 Month Reporting Period	Due Date	Date Submitted
9/14/2005 – 12/31/2005	3/31/2006	5/29/2009
1/01/2006 – 12/31/2006	3/31/2007	5/29/2009
1/01/2007 – 12/31/2007	3/31/2008	5/29/2009
1/01/2008 – 12/31/2008	3/31/2009	5/29/2009

Each incident of the Respondent's failure to submit an annual throughput report by March 31st following each calendar year is a violation of Specific Requirement No. 17 of Air Permit No. 7777-00163-03, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

The Respondent owns and/or operates Midstream Loader Ashley (AI No. 33601), a bulk materials transfer facility. The portable emissions source currently operates under Air Permit

No. 7777-00164-02, issued on September 14, 2005. On or about February 10, 2009, and November 5, 2009, file reviews of Midstream Loader Ashley were performed to determine the degree of compliance with the Act and Air Quality Regulations. While the Department's investigation is not yet complete, the following violation was noted during the course of the file reviews:

According to Specific Requirement No. 30 of Air Permit No. 7777-00164-02, issued on September 14, 2005, the Respondent is required to submit an annual throughput report by March 31st of each year for the period encompassing January 1 through December 31 of the previous year. The Respondent failed to submit annual throughput reports by the due date for the following reporting periods:

12 Month Reporting Period	Due Date	Date Submitted
9/14/2005 – 12/31/2005	3/31/2006	2/26/2009
1/01/2006 – 12/31/2006	3/31/2007	2/26/2009
1/01/2007 – 12/31/2007	3/31/2008	2/26/2009

Each incident of the Respondent's failure to submit an annual throughput report by March 31st following each calendar year is a violation of Specific Requirement No. 30 of Air Permit No. 7777-00164-02, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

The Respondent owns and/or operates Midstream Loader Mattie (AI No. 99985), a bulk materials transfer facility that operates along the lower region of the Mississippi River. The portable emissions source currently operates under Air Permit No. 7777-00451-00, issued on September 14, 2005. On or about February 10, 2009, and November 5, 2009, file reviews of Midstream Loader Mattie was performed to determine the degree of compliance with the Act and Air Quality Regulations. While the Department's investigation is not yet complete, the following violations were noted during the course of the file reviews:

- A. According to Specific Requirement No. 26 of Air Permit No. 7777-00451-00, issued on September 14, 2005, the Respondent is required to notify the appropriate RO prior to relocation among sites designated by Appendix A of the facility's air permit. According to a letter from the Respondent's representative dated June 6, 2009, the facility relocated on or about April 24, 2008. The Respondent notified the Department of facility relocation on or about November 21, 2008. The Respondent's failure to notify the Department prior to facility relocation is a violation of Specific Requirement No. 26 of Air Permit No. 7777-00451-00, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

- B. According to Specific Requirement No. 28 of Air Permit No. 7777-00451-00, issued on September 14, 2005, the Respondent is required to submit an annual throughput report by March 31st of each year for the period encompassing January 1 through December 31 of the previous year. The Respondent failed to submit annual throughput reports by the due date for the following reporting periods:

12 Month Reporting Period	Due Date	Date Submitted
9/14/2005 – 12/31/2005	3/31/2006	2/26/2009
1/01/2006 – 12/31/2006	3/31/2007	2/26/2009
1/01/2007 – 12/31/2007	3/31/2008	2/26/2009

Each incident of the Respondent's failure to submit an annual throughput report by March 31st following each calendar year is a violation of Specific Requirement No. 28 of Air Permit No. 7777-00451-00, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

The Respondent owns and/or operates Midstream Loader Alex G (AI No. 124319), a bulk materials transfer facility that operates throughout southern Louisiana along the Mississippi River. The portable emissions source currently operates under Air Permit No. 7777-00537-00, issued on November 4, 2004. On or about February 10, 2009, and November 5, 2009, file reviews of Midstream Loader Alex G were performed to determine the degree of compliance with the Act and Air Quality Regulations. While the Department's investigation is not yet complete, the following violation was noted during the course of the file review:

According to Specific Requirement No. 18 of Air Permit No. 7777-00537-00, issued on November 4, 2004, the Respondent is required to notify the appropriate RO prior to relocation among sites designated within the facility's air permit. On or about July 6, 2009, the Department received a fax from the Respondent's representative stating that the facility relocated on the following dates:

Relocation Date	Mile Marker
09/12/2007	163.0
09/13/2007	158.0
09/30/2007	163.0
10/01/2007	158.0
10/09/2007	163.0
10/10/2007	158.0
10/13/2007	118.0
10/14/2007	158.0
01/10/2008	122.0
01/14/2008	158.0

Relocation Date	Mile Marker
03/04/2008	122.0
03/07/2008	158.0
04/09/2008	122.0
04/15/2008	110.7
04/17/2008	122.0
04/21/2008	158.0
05/01/2008	167.0
05/05/2008	158.0
05/20/2008	122.0
05/26/2008	158.0
06/06/2008	122.0
06/12/2008	158.0
07/08/2008	122.0
07/14/2008	158.0
07/18/2008	122.0
07/28/2008	110.0
07/29/2008	122.0
08/09/2008	158.0
08/11/2008	167.0
08/14/2008	158.0
08/27/2008	180.0
08/28/2008	158.0
10/04/2008	122.0
10/10/2008	158.0
10/17/2008	122.0
10/22/2008	158.0
10/27/2008	122.0

The Respondent failed to notify the Department prior to facility relocation on thirty-seven (37) occasions. Each incident of the Respondent's failure to notify the Department prior to facility relocation is a violation of Specific Requirement No. 18 of Air Permit No. 7777-00537-00, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

The Respondent owns and/or operates Midstream Loader Don D (AI No. 139047), a bulk materials transfer facility that operates along the Mississippi River. The portable emissions source currently operates under Air Permit No. 7777-00584-00, issued on August 2, 2006. On or about February 10, 2009, and November 5, 2009, file reviews of Midstream Loader Don D were performed to determine the degree of compliance with the Act and Air Quality Regulations.

While the Department's investigation is not yet complete, the following violation was noted during the course of the file reviews:

According to Specific Requirement No. 12 of Air Permit No. 7777-00584-00, issued on August 2, 2006, the Respondent is required to notify the appropriate RO prior to relocation among sites designated within the facility's air permit. On or about June 30, 2009, the Department received an email from the Respondent's representative stating that the facility relocated on the following dates:

Relocation Date	Mile Marker
04/09/2008	122.0
04/21/2008	158.0
06/19/2008	122.0
06/22/2008	158.0
07/18/2008	122.0
08/09/2008	158.0
09/29/2008	122.0

The Respondent failed to notify the Department prior to facility relocation on seven (7) occasions. Each incident of the Respondent's failure to notify the Department prior to facility relocation is a violation of Specific Requirement No. 12 of Air Permit No. 7777-00584-00, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

The following violation, although not sited in the foregoing enforcement action, is included within the scope of the Settlement herein:

The Respondent owns and/or operates Midstream Loader Bulk III (AI No. 33600), a bulk materials transfer facility that operates along the Mississippi River. The portable emissions source currently operates under Air Permit No. 7777-00163-03, issued on September 14, 2005.

On or about September 27, 2011, a subsequent file review of Midstream Loader Bulk III was performed to determine the degree of compliance with the Act and Air Quality Regulations. While the Department's investigation is not yet complete, the following additional violation was noted during the course of the file review:

According to Specific Requirement No. 17 of Air Permit No. 7777-00163-03, issued on September 14, 2005, the Respondent is required to submit an annual throughput report by March 31st of each year for the period January 1 through December 31 of the previous year. The Respondent failed to submit an annual throughput report for the 2009 calendar year by the March 31, 2010, due date. This is a violation of Specific Requirement No. 17 of Air Permit No. 7777-00163-03, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

III

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties. The Respondent believes it regularly complied with the reporting requirements. In regard to the relocation notices, the employee assigned the task of notification was on maternity leave and the notifications did not occur. Upon her return, she noted the gap in reporting and resumed reporting relocation without any prompting from DEQ.

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 THIRTEEN THOUSAND AND NO/100 DOLLARS (\$13,000.00), of which Nine Hundred Fifty and 96/100 Dollars (\$950.96) 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 St. Charles and St. James Parishes, 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.

**ST. JAMES STEVEDORING
COMPANY, L.L.C.**

BY: _____
(Signature)

(Printed)

TITLE: _____

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

NOTARY PUBLIC (ID # _____)

(stamped or printed)

**LOUISIANA DEPARTMENT OF
ENVIRONMENTAL QUALITY**
Peggy M. Hatch Secretary

BY: _____
Cheryl Sonnier Nolan, 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 # _____)

(stamped or printed)

Approved: 
Cheryl Sonnier Nolan, Assistant Secretary