

DEC 10 2009

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	Settlement Tracking No.
	*	SA-UE-09-0012
BOWMAN OIL COMPANY, INC.	*	
	*	Enforcement Tracking No.
AI # 15014	*	UE-P-04-0121
	*	
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT	*	Docket No. 2006-0848-EQ
LA. R.S. 30:2001, <u>ET SEQ.</u>	*	

SETTLEMENT

The following Settlement is hereby agreed to between Bowman Oil Company, Inc. ("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 corporation that owns and/or operates a Conoco Service Station facility located at Polk and Lake Streets in Mansfield, DeSoto Parish, Louisiana ("the Facility").

II

On October 31, 2005, the Department issued to Respondent a Penalty Assessment, Enforcement No. UE-P-04-0121, in the amount of \$21,489.87, which was based upon the following findings of fact:

The Respondent owns and/or operates the Polk Street Conoco Service Station (the facility) located at Polk and Lake Streets in Mansfield, DeSoto Parish, Louisiana. The Respondent registered its underground storage tank (UST) systems at the facility with the Department, and the facility was

assigned facility identification number 16-002561. On or about January 5, 1999, the Respondent submitted an amended registration form to the Department reflecting temporary closure of its UST systems as of December 18, 1998.

On or about August 24, 2001, an inspection was conducted by a representative of the Department that revealed the following violation:

The Respondent's UST systems at the facility did not meet the upgrading requirements of LAC 33:XI.303.B.2-5 and were not permanently closed after more than twelve months of temporary closure, in violation of LAC 33:XI.903.C.

On January 28, 2002, a Compliance Order (CO), Enforcement Tracking No. UE-C-01-0112 was issued to the Respondent.

On March 14, 2003, a Notice of Potential Penalty (NOPP), Enforcement Tracking No. UE-PP-02-0298 was issued to the Respondent for violation of Compliance Order UE-C-01-0112.

On or about September 2, 2003, the tanks were removed. On or about February 23, 2004, a review of the analytical results from the sampling performed during the UST closure revealed levels above RECAP standards. The results indicated the presence of diesel, used oil, and gasoline in the soil.

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 TWELVE THOUSAND AND NO/100 DOLLARS (\$12,000.00), of which Nine Hundred Eighty-Nine and 34/100 Dollars (\$989.34) represents 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).

VI

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.

VII

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.

VIII

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.

IX

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

X

Payment is to be made pursuant to a 1-year payment schedule of \$1,000.00 per month for 12 consecutive months with the first payment to be made within ten (10) days from notice of the Secretary's signature. Each subsequent payment shall be made within thirty (30) days of the preceding payment. 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).

XI

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

XII

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.

BOWMAN OIL COMPANY, INC.

BY: Scott W. Andrews
(Signature)

Scott W. Andrews
(Print)

TITLE: VICE PRESIDENT

THUS DONE AND SIGNED in duplicate original before me this 7th day of December, 20 09, at SHREVEPORT, LA.

BURT A. BOWERS, NOTARY PUBLIC
CADDO PARISH, LOUISIANA
MY COMMISSION IS FOR LIFE
BAR ROLL NO. 3338

Burt A Bowers
NOTARY PUBLIC (ID # 3338) BAR Roll #

BURT A BOWERS
(Print)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Peggy M. Hatch, Secretary

BY: Beau James Brock
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.

Christopher A. Ratcliff
NOTARY PUBLIC (ID # 10149)

Christopher A Ratcliff
(Print)

Approved: Peggy M. Hatch
Peggy M. Hatch, Assistant Secretary