

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

JAMES A. WHITSON, JR.

AI # 131893

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

\* Settlement Tracking No.  
\* SA-AE-10-0065  
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\* Enforcement Tracking No.  
\* AE-CN-08-0247  
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SETTLEMENT

The following Settlement is hereby agreed to between James A. Whitson, Jr. ("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 owns and/or operates an oil and gas production facility located approximately 8.3 miles southwest of Vinton in Calcasieu Parish, Louisiana ("the Facility").

II

On March 16, 2009, the Department issued to Respondent a Consolidated Compliance Order & Notice of Penalty, Enforcement No. AE-CN-08-0247, which was based upon the following findings of fact:

The Respondent owns and/or operates Donner Properties Production Facility, an oil and gas production facility located approximately 8.3 miles southwest of Vinton in Calcasieu Parish, Louisiana. The facility currently operates under Standard Oil and Gas Air (SOGA) Permit No. 0520-00361-00, issued on December 20, 2005, and modified on October 23, 2006.

On or about July 31, 2008, an inspection of the Respondent's facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations.

The following violations were noted during the course of the inspection:

- A. Specific Requirement No. 24 of SOGA Permit No. 0520-00361-00 states the Respondent shall "maintain best practical housekeeping and maintenance practices at the highest possible standards to reduce the quantity of organic compounds emissions. Good housekeeping shall include, but not be limited to, the practices listed in LAC 33:III.2113.A.1-5." During the course of the inspection, the inspector noted spillage of crude oil on the sides of three (3) oil storage tanks (EQT003, EQT004, and EQT005) and one (1) produced water tank (EQT006). Each failure to maintain best practical housekeeping and maintenance practices is a violation of Specific Requirement No. 24 of SOGA Permit No. 0520-00361-00, LAC 33:III.501.C.4, LAC 33:III.2113.A, and La. R.S. 30:2057(A)(1) and 30:2075(A)(2).
- B. During the course of the inspection, the inspector noted that the facility did not have annual gas analysis records to ensure the heat content of the flare gas is above 300 BTU/scf. Each failure to conduct an annual gas analysis is a violation of Specific Requirement No. 49 of SOGA Permit No. 0520-00361-00, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).
- C. During the course of the inspection, the inspector noted that the facility did not have a volatile organic compound (VOC) housekeeping plan at the site. This is a violation of Specific Requirement No. 24 of SOGA Permit No. 0520-00361-00, LAC 33:III.501.C.4, LAC 33:III.2113.A, and La. R.S. 30:2057(A)(2). According to the inspector, as of August 20, 2008, the facility's representative obtained the VOC housekeeping plan.
- D. During the course of the inspection, the inspector noted that the facility did not have a corrective action plan for relighting the flare (EQT002). This is a violation of Specific Requirement No. 49 of SOGA Permit No. 0520-00361-00, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2). According to the inspector, as of August 22, 2008, the Respondent's representative had a drafted corrective action plan for relighting the flare.

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 THREE THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$3,500.00), of which Two Hundred Ten and 26/100 Dollars (\$210.26) 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 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 Calcasieu 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.

JAMES A. WHITSON, JR.

BY: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed)

TITLE: \_\_\_\_\_

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

\_\_\_\_\_  
NOTARY PUBLIC (ID # \_\_\_\_\_)

\_\_\_\_\_  
(stamped or printed)

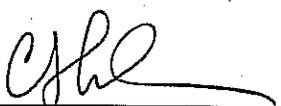
**LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY**  
Peggy M. Hatch Secretary

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