

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

NADEL AND GUSSMAN-JETTA
OPERATING COMPANY
AI # 168618, 168622 and 168646

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

* Settlement Tracking No.
* SA-AE-13-0059
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* Enforcement Tracking No.
* AE-PP-10-01023
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SETTLEMENT

The following Settlement is hereby agreed to between Nadel and Gussman-Jetta Operating Company (“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 several natural gas production facilities located in Claiborne, Ouachita and Lincoln Parishes, Louisiana (“the Facilities”).

II

On December 21, 2011, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. AE-PP-10-01023, which was based upon the following findings of fact:

On or about December 12, 2011, file reviews of the Williamette #1 (AI#168618), Avant #1 (AI# 168622) and West Simsboro Drip Point (AI# 168646) facilities, owned and/or operated by Nadel And Gussman-Jetta Operating Company (Respondent), were performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Air

Quality Regulations. The Williamette #1 facility is a natural gas production facility located on Louisiana Highway 146 approximately thirteen (13) miles southeast of Homer in Claiborne Parish, Louisiana. The facility currently operates under Standard Oil & Gas Air (SOGA) Permit No. 0620-00380-00 issued on or about April 23, 2010. The Avant #1 facility is a natural gas production facility located on Osa Avant Road approximately 6.7 miles northeast of West Monroe in Ouachita Parish, Louisiana. The facility currently operates under SOGA Permit No. 1720-00317-00 issued on or about April 23, 2010. The West Simsboro Drip Point facility is an oil and natural gas production facility located on Louisiana Highway 563 approximately 0.75 miles east of Simsboro in Lincoln Parish, Louisiana. The facility currently operates under Minor Source Air Permit No. 1720-00330-00 issued on or about April 23, 2010.

While the investigation by the Louisiana Department of Environmental Quality (the Department) is not yet complete, the following violations were noted during the course of the file review:

- A. The Respondent submitted a SOGA permit application to the Department for the Williamette #1 facility on or about January 6, 2010. However, the application failed to state whether the facility was new or existing. Through correspondence between the Department and a representative of the Respondent on or about April 22, 2010, it was determined that the facility was existing and constructed likely sometime prior to 2006. The Respondent's failure to submit a permit application and receive approval from the permitting authority prior to the construction, modification, and/or operation of a facility, which ultimately may have resulted in an initiation or increase in emission of air contaminants, is a violation of LAC 33:III.501.C.1, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- B. The Respondent operated the Williamette #1 facility without a permit until the issuance of SOGA permit 0620-00380-00 on or about April 23, 2010. The operation of the facility without an air permit is a violation of LAC 33:III.501.C.2, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- C. The Respondent submitted a SOGA permit application to the Department for the Avante #1 facility on or about January 6, 2010. However, the application failed to state whether the facility was new or existing. Through correspondence between the Respondent and the Department on or about April 22, 2010, it was determined that the facility was

existing and constructed likely sometime prior to 2006. The Respondent's failure to submit a permit application and receive approval from the permitting authority prior to the construction, modification, and/or operation of a facility, which ultimately may have resulted in an initiation or increase in emission of air contaminants, is a violation of LAC 33:III.501.C.1, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

- D. The Respondent operated the Avant #1 facility without a permit until the issuance of SOGA permit 1720-00317-00 on or about April 23, 2010. The operation of the facility without an air permit is a violation of LAC 33:III.501.C.2, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- E. The Respondent submitted a Minor Source Air permit application to the Department for the West Simsboro Drip Point facility on or about January 6, 2010. However, the application failed to state whether the facility was new or existing. Emissions testing information included in the permit application indicated that the facility was constructed prior to July 2009. The Respondent's failure to submit a permit application and receive approval from the permitting authority prior to the construction, modification, and/or operation of a facility, which ultimately may have resulted in an initiation or increase in emission of air contaminants, is a violation of LAC 33:III.501.C.1, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- F. The Respondent operated the West Simsboro Drip Point facility without a permit until the issuance of Minor Source Air permit 1720-00330-00 on or about April 23, 2010. The operation of the facility without an air permit is a violation of LAC 33:III.501.C.2, 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 FOURTEEN THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$14,500.00) of which Three Hundred Twenty-Six and 80/100 Dollars (\$326.80) 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 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 Claiborne, Ouachita and Lincoln 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 the original proof-of-publication affidavits and original public notices 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.

**NADEL AND GUSSMAN-JETTA
OPERATING COMPANY**

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