

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

NEARBURG PRODUCING COMPANY

AI #s 133690, 132031

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

* Settlement Tracking No.
* SA-AE-11-0061
*
* Enforcement Tracking Nos.
* AE-CN-08-0232
* AE-CN-08-0232A
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SETTLEMENT

The following Settlement is hereby agreed to between Nearburg Producing 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 two (2) natural gas, crude oil, and water collection and separation facilities located near Church Point, in Acadia Parish, Louisiana (“the Facility”).

II

On August 4, 2009, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. AE-CN-08-0232, which was based upon the following findings of fact:

The Respondent owns and/or operates Jacquelyn Watson Facility (the facility), AI# 133690, a natural gas, crude oil, and water collection and separation facility located near Fabian, west of Church Point, in Acadia Parish, Louisiana. The facility currently operates under Standard Oil and Gas (SOGA) Permit No. 0040-000151-00 issued on or about January 27, 2006.

On or about August 8, 2008, an Environment Results Program Inspection was performed to determine the degree of compliance with the Act and the Air Quality Regulations. On or about March 13, 2009, a file review of the 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 and file review:

- A. The facility began operation in January 2006. The facility operates a glycol dehydrator which became subject to 40 CFR 63 Subpart HH on or about January 3, 2007. Facilities subject to any federal requirements contained in 40 CFR Part 63 are excluded from coverage under SOGA permits. According to LAC 33:III.513.A.4, any source which is issued the general permit shall, notwithstanding a permit shield, be subject to enforcement action for operation without a permit if the source is later determined not to qualify for the general permit. Therefore upon the effective date of 40 CFR 63 Subpart HH, the Respondent's coverage was terminated under SOGA permit No. 0040-000151-00 and an application for a site specific permit was required. The failure to submit a timely and complete permit application to the Department prior to any construction, reconstruction, or modification of a facility which ultimately may result in an initiation or increase in emission of air contaminants is a violation of LAC 33:III.501.C.1, and La. R.S. 30:2057(A)(2).
- B. The facility has operated without a permit since the applicability date of Subpart HH, January 3, 2007. The failure to obtain prior approval for any construction, modification, or operation of a facility which ultimately may result in an initiation or increase in emission of air contaminants is a violation of LAC 33:III.501.C.2, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

Respondent is a corporation that owns and/or operates Joseph Quebodeaux Facility, AI# 132031, a natural gas, crude oil, and water collection and separation facility located off of De Porres Road in Church Point, Acadia Parish, Louisiana ("the Facility").

On December 17, 2009, the Department issued to Respondent an Amended Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. AE-CN-08-0232A, that amended the original Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. AE-CN-08-0232, as follows:

The Department amended the Findings of Fact Section by adding paragraph III and paragraph IV:

III

The Respondent owns and/or operates Joseph Quebodeaux Facility (the facility), AI# 132031, a natural gas, crude oil, and water collection and separation facility located off of De Porres Road in Church Point, Acadia Parish, Louisiana. The facility currently operates under Standard Oil and Gas (SOGA) Permit No. 0040-00146-00 issued on or about October 16, 2005.

IV

On or about August 25, 2009, a file review of the 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 file review:

- A. The facility began operation on or about November 15, 2005. The facility operates a glycol dehydrator which became subject to 40 CFR 63 Subpart HH on or about January 3, 2007. Facilities subject to any federal requirements contained in 40 CFR Part 63 are excluded from coverage under SOGA permits. According to LAC 33:III.513.A.4, any source which is issued the general permit shall, notwithstanding a permit shield, be subject to enforcement action for operation without a permit if the source is later determined not to qualify for the general permit. Therefore upon the effective date of 40 CFR 63 Subpart HH, the Respondent's coverage was terminated under SOGA permit No. 0040-00146-00 and an application for a site specific permit was required. The failure to submit a timely and complete permit application to the Department prior to any construction, reconstruction, or modification of a facility which ultimately may result in an initiation or increase in emission of air contaminants is a violation of LAC 33:III.501.C.1, and La. R.S. 30:2057(A)(2).
- B. The facility has operated without a permit since the applicability date of Subpart HH, January 3, 2007. The failure to obtain prior approval for any construction, modification, or operation of a facility which ultimately may result in an initiation or increase in emission of air contaminants is a violation of LAC 33:III.501.C.2, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

The Department incorporated all of the remainder of the original Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. AE-CN-08-0232 and Agency Interest No. 133690 as if reiterated therein.

The Amended Consolidated Compliance Order & Notice of Potential Penalty was effective upon receipt.

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 FIVE THOUSAND AND NO/100 DOLLARS (\$5,000.00), of which Seven Hundred Eighty-Five and 90/100 Dollars (\$785.90) represents the Department's enforcement costs, in settlement of the claims set forth in this agreement.

V

Respondent further agrees that the Department may consider the inspection report(s), the Compliance Order & Notice of Potential Penalty, the Amended 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 Acadia 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.

NEARBURG PRODUCING COMPANY

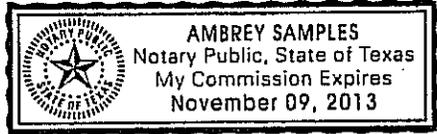
BY: [Signature]
(Signature)

DUANE A DAVIS
(Printed)

TITLE: COO / CFO

THUS DONE AND SIGNED in duplicate original before me this 22nd day of February, 20 12, at Dallas, TX.

[Signature]
NOTARY PUBLIC (ID # _____)



(stamped or printed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Peggy M. Hatch Secretary

BY: [Signature]
Cheryl Sonnier Nolan, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 16th day of August, 20 12, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 19181)

Perry Theriot
(stamped or printed)

Approved: [Signature]
Cheryl Sonnier Nolan, Assistant Secretary