**STATE OF LOUISIANA**

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

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| **IN THE MATTER OF:** | * | **Settlement Tracking No.** |
| | * | **SA-AE-13-0079** |
| **PINNACLE OPERATING COMPANY, INC.** | * | |
| | * | **Enforcement Tracking No.** |
| **AI # 165226, 117054, 170637, 171778** | * | **AE-PP-09-0484** |
| **AND 172629** | * | |
| **PROCEEDINGS UNDER THE LOUISIANA** | * | |
| **ENVIRONMENTAL QUALITY ACT** | * | |
| **LA. R.S. 30:2001, ET SEQ.** | * | |

**SETTLEMENT**

The following Settlement is hereby agreed to between Pinnacle Operating 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 natural gas compressor facility located in Desoto Parish, Louisiana ("the Facility").

II

On June 1, 2010, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. **AE-PP-09-0484**, which was based upon the following findings of fact:

"On or about June 22, 2009, an inspection of Blackwell #1 Well Site, owned and/or operated by Pinnacle Operating Company, Inc. (Respondent), was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Air Quality Regulations. The facility is located off of Louisiana Highway 481 in Mansfield, DeSoto Parish, Louisiana. The facility does not currently operate under an air permit.

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 inspection and subsequent file review conducted on February 25, 2010:

A. During the course of the inspection, the inspector noted that the facility was operating without an air permit. The inspector noted five 210 barrel tanks and a compressor engine on site. According to the Respondent's letter dated January 6, 2010, calculated emissions from the compressor engine included 60.04 tons per year (tpy) of Nitrogen Oxides and 65.55 tpy of Carbon Monoxide. According to an email the Respondent's representative submitted to the Department on February 24, 2010, the Respondent operated the compressor engine between November 2008 and August 2009. The compressor engine was removed in August 2009. The Respondent's failure to submit a permit application prior to construction, reconstruction, or modification of the facility is a violation of LAC 33:III.501.C.1 and La. R.S. 30:2057(A)(2).

B. During the course of the inspection, the inspector noted that the facility was operating without an air permit. The inspector noted five 210 barrel tanks and a compressor engine on site. According to the Respondent's letter dated January 6, 2010, calculated emissions from the compressor engine included 60.04 tons per year (tpy) of Nitrogen Oxides and 65.55 tpy of Carbon Monoxide. According to an email the Respondent's representative submitted to the Department on February 24, 2010, the Respondent operated the compressor engine between November 2008 and August 2009. The compressor engine was removed in August 2009. The unauthorized operation of the compressor engine is violation of LAC 33:III.501.C.2, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2)."

The following violations, although not cited in the foregoing enforcement action, are included within the scope of this settlement.

<u>WPA Compressor Station (AI No. 172629):</u>

A. The facility commenced operations on September 1, 2009, and a permit application was submitted on August 26, 2010. Permit No. 0760-01340-00 was issued on February 2, 2011. The Respondent failed to submit a permit application prior to construction, reconstruction, or modification of the facility. This is a violation of LAC 33:III.501.C.1 and La. R.S. 30:2057(A)(2).

B. The facility commenced operations on September 1, 2009, and a permit application was submitted on August 26, 2010. Permit No. 0760-01340-00 was issued on February 2, 2011. The unauthorized operation of the facility from September 1, 2009, until issuance of the permit is a violation of LAC 33:III.501.C.2 and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

Bond No. 1 (AI No. 171778)

A. The facility commenced operations in May 2007 and a permit application was submitted on May 25, 2011. Permit No. 0760-01515-00 was issued on August 30, 2011. The Respondent failed to submit a permit application prior to construction, reconstruction, or modification of the facility. This is a violation of LAC 33:III.501.C.1 and La. R.S. 30:2057(A)(2).

B. The facility commenced operations in May 2007 and a permit application was submitted on May 25, 2011. Permit No. 0760-01515-00 was issued on August 30, 2011. The unauthorized operation of the facility from May 2007, until issuance of the permit is a violation of LAC 33:III.501.C.2 and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

Rascoe No. 1 (AI No. 170637)

A. The facility commenced operations in March 2010 and a permit application was submitted on May 5, 2010. Permit No. 0760-01267-00 was issued on July 10, 2010. The Respondent failed to submit a permit application prior to construction, reconstruction, or modification of the facility. This is a violation of LAC 33:III.501.C.1 and La. R.S. 30:2057(A)(2).

B. The facility commenced operations in March 2010 and a permit application was submitted on May 5, 2010. Permit No. 0760-01267-00 was issued on July 10, 2010. The unauthorized operation of the facility from May 2007, until issuance of the permit is a violation of LAC 33:III.501.C.2 and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

Burns No. 2 (AI No. 117054)

On July 30, 2007, the Department received a NOC-1 form stating the ownership of the facility was transferred to the Respondent. The NOC-1 form has the transfer date as January 9, 2004. The Respondent failed to submit a complete NOC-1 form within the required timeframe. This is a violation of LAC 33:I.1907.B, LAC 33:III.517.G, 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.

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 NINETEEN THOUSAND AND NO/100 DOLLARS ($19,000.00), of which Six Hundred Seventy-Three and 21/100 Dollars ($673.21) 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 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.

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.

**PINNACLE OPERATING COMPANY, INC.**

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