

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

SMITH PRODUCTION
COMPANY OF MISSISSIPPI

AI # 162653

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

* Settlement Tracking No.
* SA-AE-11-0048
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* Enforcement Tracking No.
* AE-PP-09-0573
* AE-PP-09-0573A
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SETTLEMENT

The following Settlement is hereby agreed to between Smith Production Company of Mississippi (“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 an oil and gas production facility located in Maringouin, Iberville Parish, Louisiana (“the Facility”).

II

On August 12, 2010, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. AE-PP-09-0573, which was based upon the following findings of fact:

On or about January 15, 2009, an inspection of Cashio #2 Tank Battery, an oil and gas production facility owned and/or operated by Smith Production Company of Mississippi (Respondent) at the time of the inspection, was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Air Quality Regulations. On or

about March 4, 2010, a file review of the Respondent's facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations. The facility is located off of Musson Lane, two (2) miles southwest of Maringouin in Iberville Parish, Louisiana. The facility currently operates under Standard Oil and Gas Air (SOGA) Permit No. 1280-00142-00, issued on November 20, 2009. According to an email from the Respondent's representative dated, March 2, 2010, Smith Production Company of Mississippi sold the Cashio #2 Tank Battery to Indian Exploration, Inc. in October 2009. SOGA Permit No. 1280-00142-00 was transferred to Indian Exploration, Inc. on May 12, 2010.

The following violations were noted during the course of the inspection and subsequent file review:

- A. At the time of the inspection, the inspector noted that the facility was operating without an air permit. On September 30, 2009, the Department received the Respondent's SOGA Permit Application. According to an email from the Respondent's representative dated March 2, 2010, facility construction commenced in 2003. The Respondent's failure to submit a timely and complete permit application to the Department prior to construction, reconstruction, or modification is a violation of LAC 33:III.501.C.1, and La. R.S. 30:2057(A)(2).
- B. At the time of the inspection, the inspector noted that the facility was operating without an air permit. On or about September 30, 2009, the Department received the Respondent's SOGA Permit Application. On November 20, 2009, the Department issued SOGA Permit No. 1280-00142-00. According to an email from the Respondent's representative dated March 2, 2010, operation of the facility commenced in December 2003. The Respondent's failure to obtain approval from the permitting authority prior to operation of the facility from December 2003 to October 2009, is a violation of LAC 33:III.501.C.2, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

On September 29, 2010, the Department issued to Respondent an Amended Notice of Potential Penalty, Enforcement No. AE-PP-09-0573A, which was based upon the following findings of fact:

The Louisiana Department of Environmental Quality amended the Notice of Potential Penalty, Enforcement Tracking No. AE-PP-09-0573 issued to Smith Production Company of Mississippi (Respondent) on August 12, 2010, as follows:

The Department hereby amends Paragraph A of the Notice of Potential Penalty, Enforcement Tracking No. AE-PP-09-0573 to read as follows:

“A.

At the time of the inspection, the inspector noted that the facility was operating without an air permit. On September 30, 2009, the Department received the Respondent’s SOGA Permit Application. According to an email from the Respondent’s representative dated March 2, 2010, facility construction commenced in 2003. The Respondent’s failure to submit a timely and complete permit application to the Department prior to construction, reconstruction, or modification is a violation of LAC 33:III.501.C.1, and La. R.S. 30:2057(A)(2).”

The Department incorporated all of the remainder of the original Notice of Potential Penalty, Enforcement Tracking No. AE-PP-09-0573 and Agency Interest No. 162653, as if reiterated therein.

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 SIX THOUSAND TWO HUNDRED SEVENTY AND 23/100 DOLLARS (\$6,270.23) of which Two Hundred Seventy and 23/100 Dollars (\$270.23) 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 Iberville 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.

**SMITH PRODUCTION COMPANY
OF MISSISSIPPI**

BY: _____
(Signature)

(Printed)

TITLE: _____

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

NOTARY PUBLIC (ID # _____)

(stamped or printed)

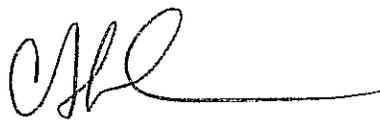
**LOUISIANA DEPARTMENT OF
ENVIRONMENTAL QUALITY**
Peggy M. Hatch Secretary

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