

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

SOUTHERN MANAGEMENT
SERVICES, INC
AI # 185101

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

* Settlement Tracking No.
* SA-WE-15-0040
*
* Enforcement Tracking No.
* WE-CN-12-01435
* WE-PP-14-00103
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SETTLEMENT

The following Settlement is hereby agreed to between Southern Management Services, 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 buck range unit and salt water disposal pumping facility located in Bossier Parish, Louisiana (“the Facility”).

II

On July 3, 2013, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. **WE-CN-12-01435**, which was based upon the following findings of fact:

“The Respondent owns and/or operates the Cottage Grove Unit Central Tank Battery, which consists of the following aboveground storage tanks (ASTs): six (6) – 210 barrel (bbl) crude oil tanks, one (1) – 750 bbl gun barrel, and two (2) – 300 bbl produced water tanks. The facility is located at Highway 160, 1 mile east of Old Plain Dealing Road near Benton, Bossier Parish,

Louisiana. The Respondent does not have a Louisiana Pollutant Discharge Elimination System (LPDES) permit or any other authorization to discharge waste or any other substances to waters of the state.

On or about November 8, 2012, an inspection conducted by the Department, in response to a citizen's complaint, revealed that the Respondent caused and/or allowed the unauthorized discharge of crude oil and produced water to the ground. Specifically, the Respondent's facility has three (3) open earthen pits which are used to receive spilled crude oil and produced water from the AST earthen containment system. The containment berms have open drainage connections which lead to the open earthen pits. At the time of inspection, all three earthen pits were observed to contain crude oil as documented by photographs. According to the Respondent's consultant, the pits have been there for more than sixty (60) years, and the Respondent became the owner/operator of the facility in 1995. The inspection revealed as documented by photographs that soil within the containment area and around the open drainage pipe leading to the pits were visibly stained with and/or contained spilled crude oil. In accordance with the Louisiana Department of Natural Resources regulations under LAC 43:XIX.Chapter 3, the pits are not an acceptable and/or authorized pollution control method; therefore, any discharge of exploration and production waste to these pits is an unauthorized discharge to the ground. The failure to equip all drains from diked areas with valves that are kept closed except during periods of supervised discharges is a violation of La. R.S. 30:2076(A)(3) and LAC 33:IX.708.C.1.b.iii. The unauthorized discharge of crude oil and produced water to the ground is a violation of La. R.S. 30:2076(A)(3), LAC 33:IX.1701.B, and LAC 33:IX.708.C.2.a.ii.

As for the incident specified in Paragraph II above, according to reports submitted to the Department by the Respondent dated December 24, 2012, January 4, 2013, January 30, 2013, and April 16, 2013, remediation efforts are ongoing and progressing. Visual evidence as well as water

samples collected from a nearby creek does not indicate that crude oil or produced water has discharged to waters of the state.

On or about November 8, 2012, an inspection conducted by the Department revealed that the Respondent failed to prepare a Spill Prevention and Control (SPC) plan. Specifically, the facility is a crude oil tank battery consisting of nine (9) ASTs with an aggregate capacity of 2610 bbls (117,450 gallons), which requires an SPC plan to be prepared in accordance with LAC 33:IX.708.C.1.b. The failure to prepare a SPC plan is a violation of La. R.S. 30:2076(A)(3) and LAC 33:IX.708.C.1.b.

On or about January 31, 2013, an inspection conducted by the Department revealed that the Respondent caused and/or allowed the unauthorized discharge of crude oil and produced water to the ground. Specifically, on January 25, 2013, the Respondent reported a spill of approximately 8 to 9 bbls of produced water and 1 bbl of oil, which occurred as a result of a broken line. The inspection revealed that the spill occurred from the broken Vail-29 flow line and that the spill had affected the soil surrounding the broken line. The inspection also revealed that remediation efforts were ongoing. The unauthorized discharge of crude oil and produced water to the ground is a violation of La. R.S. 30:2076(A)(3), LAC 33:IX.1701.B, and LAC 33:IX.708.C.2.a.ii.”

On May 27, 2014, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. **WE-PP-14-00103**, which was based upon the following findings of fact:

“Inspections on August 26 and 29, 2013, a follow-up phone interview on September 23, 2013, and a subsequent file review on February 17, 2014, of the Cottage Grove Unit, a central tank battery, owned and/or operated by Southern Management Services, Inc. (Respondent), were performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Water Quality Regulations. The facility is located at Highway 160, 1 mile east of Old Plain Dealing Road near Benton, Bossier Parish, Louisiana.

The Respondent does not have a Louisiana Pollutant Discharge Elimination System (LPDES) permit or any other authorization to discharge waste or any other substances to waters of the state.

On July 3, 2013, Consolidated Compliance Order & Notice of Potential Penalty WE-CN-12-01435 was issued to the Respondent for the following violations: unauthorized discharges of crude oil and produced water, and failure to prepare a Spill Prevention and Control (SPC) plan. The relevant orders were to immediately take any and all steps necessary to meet and maintain compliance with the Water Quality Regulations, to develop and implement an SPC plan, and to submit a complete written report within 30 days describing the circumstances of the cited violations and actions taken to achieve compliance. Consolidated Compliance Order & Notice of Potential Penalty WE-CN-12-01435 is a final action of the Department. The Respondent's written report was received by the Department dated August 7, 2013.

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 inspections and subsequent file review:

- A. An inspection on August 26, 2013, and a subsequent file review on February 17, 2014, conducted by the Department revealed that the Respondent caused or allowed the unauthorized discharge of crude oil and produced water to the ground. Specifically, the Respondent reported on August 16, 2013, that on August 15, 2013, approximately twenty (20) barrels (bbls) of produced water and four (4) bbls of crude oil were discharged from a gathering line due to degradation of the line. The material initially discharged into an abandoned flow line that ran alongside the active line, and then flowed down hill to a natural drainage area where it pooled. The Respondent reported that a vacuum truck was used to remove the free liquids and that contaminated pine straw and other vegetation was removed. The Respondent also reported that the spill did not impact any water bodies. The Department's inspection confirmed the spill report and that there was no water body impact. During the inspection, the Respondent advised that the area would be excavated to remove any contaminant and that the contaminated soil would be properly disposed. The unauthorized discharge of crude oil and produced water to the ground is a violation

of Consolidated Compliance Order And Notice Of Potential Penalty WE-CN-12-01435, La. R.S. 30:2076(A)(3), LAC 33:IX.1701.B, and LAC 33:IX.708.C.2.a.ii.

- B. An inspection on August 29, 2013, and a subsequent file review on February 17, 2014, conducted by the Department revealed that the Respondent caused or allowed the unauthorized discharge of crude oil and produced water to ground. Specifically, the Respondent reported on August 27, 2013, that on the same day approximately thirteen (13) bbls of produced water and two (2) bbls of crude oil were discharged from a gathering line due to line failure. The spill occurred on a private residence. Upon discovering the discharge, the Respondent constructed a berm to prevent the material from entering a nearby creek. The Respondent reported that a vacuum truck was used to remove the free liquids and that soil was being scraped and would be excavated pending approval from Louisiana One Call. The Department's inspection confirmed the spill report and noted that the material traveled down gradient to a roadside ditch, where it ran both east and west within the ditch, and then pooled on the west side of the ditch where the small berm was constructed. The inspection also noted that although the roadside ditch ran to an unknown creek, thence to Black Bayou, the area was experiencing a drought at the time, and there was no water body impact. During the inspection, the Respondent had placed a temporary clamp on the line, and it had been returned to service, and piping to replace the line of approximately 3,000 feet in length was ordered. The unauthorized discharge of crude oil and produced water to the ground is a violation of Consolidated Compliance Order And Notice Of Potential Penalty WE-CN-12-01435, La. R.S. 30:2076(A)(3), LAC 33:IX.1701.B, and LAC 33:IX.708.C.2.a.ii.
- C. Due to a significant rainfall event during September 19 through 21, 2013, the Department contacted the Respondent via telephone to obtain updates on the remediation progress. The follow-up phone interview conducted on September 23, 2013, revealed that the Respondent failed to adequately implement the SPC Plan. Specifically, the Respondent stated that some soil had been excavated but failed to immediately remove the contaminated soil, which was being stored onsite directly on the ground and without containment. The Respondent advised that the necessary precautions would be taken to prevent storm water runoff in the future. The failure to adequately implement the SPC plan is a violation of La. R.S. 30:2076(A)(3) and LAC 33:IX.708.C.1.b.iv.”

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 SEVEN THOUSAND FOUR HUNDRED THIRTY-THREE AND 68/100 DOLLARS (\$7,433.68), of which Nine Hundred Thirty-Three and 68/100 Dollars (\$933.68) 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)/permit record(s), Consolidated Compliance Order & Notice of Potential Penalty and 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

As required by law, the Department has submitted this Settlement Agreement to the Louisiana Attorney General for approval or rejection. The Attorney General's concurrence is appended to this Settlement Agreement.

IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Bossier Parish, Louisiana. The advertisement, in form and wording 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.

X

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).

XI

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XII

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.

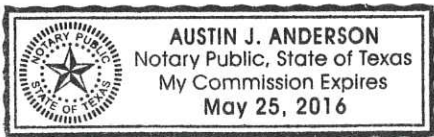
SOUTHERN MANAGEMENT SERVICES, INC.

BY: [Signature]
(Signature)

DAVID DESIERE
(Printed)

TITLE: Secretary

THUS DONE AND SIGNED in duplicate original before me this 27th day of January, 20 16, at Irving, TX.



[Signature]
NOTARY PUBLIC (ID # _____)

(stamped or printed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Chuck Carr Brown, Ph.D., Secretary

BY: [Signature]

Lourdes Iturralde, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 3rd day of May, 20 16, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 19181)

Perry Theriot
(stamped or printed)

Approved: [Signature]
D. Chance McNeely, Assistant Secretary