

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

VIRGIN OIL PLAN TRUST

AI # 159640

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

* Settlement Tracking No.
* SA-MM-16-0031
*
* Enforcement Tracking No.
* MM-CN-13-01189
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* Docket No. 2015-13369-EQ
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SETTLEMENT

The following Settlement is hereby agreed to between Virgin Oil Plan Trust (“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 owns and/or operates an oil and gas exploration, development, & production facility located in Plaquemines Parish, Louisiana (“the Facility”).

II

On July 21, 2014, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. MM-CN-13-01189, which was based upon the following findings of fact:

“The Respondent owns and/or operates an oil and gas exploration, development, & production facility designated as Empire Field, located on the southwest side of Parish Road 11 approximately 1.1 miles south from Galmiche Lane in Empire, Plaquemines Parish, Louisiana. This facility was previously owned and operated by Virgin Offshore USA, Inc. Coverage under Louisiana

Pollutant Discharge Elimination System (LPDES) General Permit LAG330000 was issued to Virgin Offshore USA, Inc., specifically assigned as LPDES permit LAG33A850, on or about May 8, 2009, and which expired on November 30, 2010. Coverage was administratively extended, and was reissued on May 15, 2011, and modified on September 15, 2011, with an effective date of October 1, 2011, and which expires on September 30, 2016. On October 14, 2012, ownership of the facility was transferred to Virgin Oil Plan Trust. Under the terms and conditions of LPDES permit LAG33A850, the Respondent is authorized to discharge certain quantities and quality of treated wastewater associated with the exploration and production of oil and natural gas from oil field operations from State Lease 18165 Well No. 001 – Empire Field via effluent pipe, thence into LA. Highway 11 roadside ditch, thence into a drainage ditch to a levee pump station, thence into Bay Pomme D’or, waters of the state.

On or about May 21, 2014, a file review conducted by the Department revealed that the Respondent failed to submit a written Louisiana Notification of Change of Ownership/Operator or Name Change (NOC-1) form to the Department within forty-five (45) calendar days after transfer of ownership. Specifically, the Department received a NOC-1 form on September 6, 2013, indicating that owner/operator change occurred on October 14, 2012. Thus the facility was operating without permit coverage and discharging without authorization from October 2012 through September 2013. Unauthorized discharge of pollutants to waters of the state is a violation of La. R.S. 30:2075. Failure to submit a NOC-1 in a timely manner is a violation of LPDES permit LAG33A850 (Part I, Section A, Transfer of Ownership, page 7 of 8, and Part III, Section D.3, page 8 of 18), La. R.S. 30:2076(A)(3), LAC 33:IX .2501.A, and LAC 33:I.1907.B.

On or about August 2, 2013, an inspection conducted by the Department revealed that the Respondent failed to provide a gathering ditch surrounding the well that is capable of preventing the

escape of oily wastes from the location. Specifically, the gathering ditch connects to the roadside ditch along LA Highway 11, a few yards south of the site. There is no sump or system in place to prevent the escape of oily water or waste from gathering ditch into the roadside ditch. Failure to provide a gathering ditch with a sump or system in place capable of preventing the escape of oily wastes is a violation of La. R.S. 30:2076(A)(3), and LAC 33:IX.1701.C.

On or about August 2, 2013, an inspection conducted by the Department revealed that the Respondent failed to surround the oil and produced water tanks with a dike or retaining wall, of at least the capacity of such tank or battery of tanks since the facility is located within the existing corporate limits of Empire and these tanks are closer than 500 feet to Louisiana State Highway 11. Failure to provide a dike or retaining wall around tanks located within the corporate limits of any city, town, or village and/or within 500 feet to any highway is a violation of La. R.S. 30:2076(A)(3) and LAC 33:IX.1701.D.

On or about August 2, 2013, an inspection conducted by the Department revealed that the Respondent failed to properly prepare and/or implement a Spill Prevention & Control (SPC) plan. Specifically, the Respondent was unable to produce a copy of the SPC plan as requested prior to the inspection, and has not provided a copy of the SPC plan to the Department since the inspection. Failure to make the SPC plan available to the Department for review during normal working hours is a violation of LPDES permit LAG33A850 (Part II, Section S.5.b, La. R.S. 30:2076(A)(3), LAC 33:IX.708.C.1.b., and LAC 33:IX.905.C.

On or about August 2, 2013, an inspection was conducted by the Department. The inspector noted two 3-phase separators, 200 barrel heater treater, and compressor blowcase vessel routed through a flare scrubber which vents to the atmosphere. The inspection report also noted a glycol unit vented directly to the atmosphere. The Respondent became the owner/operator of the facility on

October 14, 2012, but failed to obtain an appropriate air permit. A minor source air permit application was submitted on March 18, 2014. The unauthorized operation of a facility from the date of acquisition until the issuance of a permit is a violation of LAC 33:III.501.C.2.”

III

In response to the Consolidated Compliance Order & Notice of Potential Penalty, Respondent made a timely request for a hearing.

IV

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

V

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 ONE HUNDRED AND NO/100 DOLLARS (\$6,100.00), of which Nine Hundred Twenty-Two and 41/100 Dollars (\$922.41) 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).

VI

Respondent further agrees that the Department may consider the inspection report(s), permit record(s), the Consolidated 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.

VII

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.

VIII

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.

IX

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.

X

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Plaquemines 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.

XI

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).

XII

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

XIII

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.

VIRGIN OIL PLAN TRUST

Whisper Energy

BY: *[Signature]*

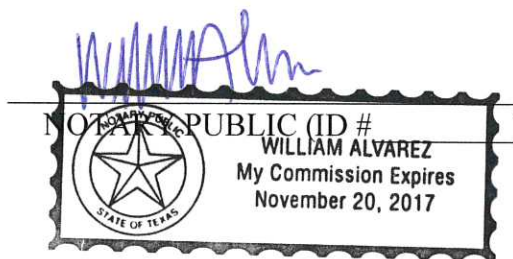
(Signature) Trustee

Scott Kranke

(Printed)

TITLE: Trustee

THUS DONE AND SIGNED in duplicate original before me this 15th day of December, 20 16, at CHASE BANK.



(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 5th day of April, 20 17, at Baton Rouge, Louisiana.

[Signature]

NOTARY PUBLIC (ID # 19181)

Perry Theriot

(stamped or printed)

Approved: *[Signature]*

Lourdes Iturralde, Assistant Secretary