

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

PEAK OPERATING CO.

AI # 8584

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

\* Settlement Tracking No.  
\* SA-AE-12-0050  
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\* Enforcement Tracking No.  
\* AE-PP-10-00203  
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SETTLEMENT

The following Settlement is hereby agreed to between Peak Operating Co. (“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 company that owns and/or operates a natural gas, condensate and crude oil processing facility located south of Forked Island, Vermillion Parish, Louisiana (“the Facility”).

II

On July 13, 2010, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No AE-PP-10-00203, which was based upon the following findings of fact:

On or about May 21, 2010, a file review of East White Lake Production Facility, owned and/or operated by Peak Operating Co. (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 approximately five miles south of Forked Island in Vermillion Parish, Louisiana.

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

- A. On or about March 30, 2010, the Respondent submitted the facility's 2009 Annual Compliance Certification to the Department in accordance with Title V Air Permit No. 2940-00059-V1. The report indicated that the Respondent operated equipment not authorized in the permit. Specifically, the Respondent operated the following unpermitted equipment:

<b>Emission Source:</b>	<b>Deviation Began:</b>	<b>Deviation Ended:</b>	<b>Hours Operated:</b>
Heater Treater HT-01 (EQT0044)	1/1/2009	1/6/2010	8760
Compressor Engine CE-01 (EQT0037)	5/14/2009	1/6/2010	4848
Injection Pump CI-10 (EQT0038)	1/1/2009	1/6/2010	8760
Injection Pump CI-11 (EQT0039)	1/1/2009	1/6/2010	8760
Injection Pump CI-12 (EQT0040)	1/1/2009	1/6/2010	8760
Paraffin Cutting Unit PCU-01 (EQT0045)	1/1/2009	1/6/2010	156
Paraffin Cutting Unit PCU-02 (EQT0046)	1/1/2009	1/6/2010	156

The Respondent's failure to receive approval from the permitting authority prior to the construction, modification, and/or operation of a facility, which ultimately may have resulted in an initiation or increase in emission of air contaminants is a violation of Title V Air Permit No. 2940-00059-V1 Specific Requirement 62, LAC 33:III.501.C.2, La. R.S. 30:2057(A)(1) and La. R.S. 30:2057(A)(2).

- B. On or about March 30, 2010, the Respondent submitted the facility's 2009 Annual Compliance Certification to the Department in accordance with Title V Air Permit No. 2940-00059-V1. The report indicated that the Respondent replaced and operated a compressor engine (EQT0037) at the facility, but failed to submit an updated Emission Point List, Emissions Inventory Questionnaire (EIQ), emissions calculations, and a certification statement to the Department within seven (7) days of the installation as required by the facility's Title V permit. Specifically, the Respondent replaced a compressor engine on or about May 14, 2009, and began operating it on or about June 13, 2009, but failed to notify the Department until a notification was submitted on or about August 17, 2009. The failure to submit an updated Emission Point List, EIQ, emissions calculations, and a certification statement within seven (7) days after replacement of the equipment is a violation of Title V Air Permit No. 2940-00059-V1 General Condition R.2, LAC 33:III.501.C.4 and La. R.S. 30:2057(A)(2).
- C. On or about March 30, 2010, the Respondent submitted the facility's 2009 Annual Compliance Certification to the Department in accordance with Title V Air Permit No. 2940-00059-V1. The report indicated that the Respondent operated a saltwater disposal pump (EQT0007) 703 hours beyond the permitted 4,368 hours per year from November 1, 2009, to December 31, 2009. The excess

operation of an emission source beyond the permitted limit is a violation of Title V Permit No. 2940-00059-V1 General Condition C, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1) 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. Respondent would like to note for the record that a Minor Source Permit was issued for the facility on January 6, 2010, reflecting that these changes actually resulted in a decrease of facility emissions.

### 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 TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00), of which Three Hundred Eight and 47/100 Dollars (\$308.47) 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 permit record, 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 Vermillion 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.

PEAK OPERATING CO.

BY: Earl P. Champagne  
(Signature)

Earl P. Champagne  
(Printed)

TITLE: Vice-President

THUS DONE AND SIGNED in duplicate original before me this 30<sup>th</sup> day of October, 20 13, at Lafayette, LA.

Robert J. Mallett  
NOTARY PUBLIC (ID # 12481)

Robert J. Mallett  
(stamped or printed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY  
Peggy M. Hatch Secretary

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

THUS DONE AND SIGNED in duplicate original before me this 31<sup>st</sup> day of Jan, 20 13, at Baton Rouge, Louisiana.

[Signature]  
NOTARY PUBLIC (ID # 19181)

Perry Theriot  
(stamped or printed)

Approved: Cheryl  
Cheryl Sonnier Nolan, Assistant Secretary