

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

CHESAPEAKE OPERATING, INC.

AI # 164544

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

* **Settlement Tracking No.**
* **SA-SE-10-0025**
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* **Enforcement Tracking No.**
* **SE-PP-09-0601**
* **SE-PP-09-0601A**
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SETTLEMENT

The following Settlement is hereby agreed to between Chesapeake Operating, 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 the Chesapeake Energy - Branch 2H-1 facility located in Spring Ridge, Caddo Parish, Louisiana ("the Facility").

II

On January 15, 2010, the Department issued to Respondent a Notice of Potential Penalty ("NOPP"), Enforcement No. SE-PP-09-0601. On March 17, 2010, the Department issued an amended version of that NOPP, Enforcement No. SE-PP-09-0601A, which was based upon the following findings of fact:

"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 November 17, 2009:

- A. The Respondent caused and/or allowed the deposition of regulated solid waste without a permit and/or the authority of the Department, in violation of La. R.S. 30:2155 and LAC 33:VII.315.C.

The initial inspection of the facility noted that an unknown material had spilled and impacted the surface soil. The inspection indicated that the Respondent, as a precautionary measure, constructed an earthen berm around the impacted area, removed the freestanding liquid with a vacuum truck, excavated and staged the impacted soil onto plastic for disposal, and conducted sampling to ensure proper cleanup and disposal.

On or about May 20, 2009, the Respondent met with the Department to discuss the events surrounding the aforementioned incident. Subsequent to this meeting, on June 16, 2009, the Respondent provided the Department with a written timeline of events as well as sampling results showing the site had been properly remediated.

However, after reviewing the necropsy report and discussing the findings with veterinarians from the Louisiana State University School of Veterinary Medicine and DEQ, the veterinarians stated that the cows did not die within the time frame provided by the Respondent. Based on this information, the spilled material had been on the ground long enough to constitute disposal of a solid waste. The Respondent reported that the regulated solid waste disposed at the site includes, but is not limited to, a proprietary blend of non-hazardous material for well fracturing.

- B. The Respondent failed to provide prompt notification to the Department of Public Safety 24-Hour Louisiana Emergency Hazardous Material Hotline of an unauthorized discharge that caused an emergency condition, in violation of LAC 33:I.3915.A.1.

According to the Respondent, a potential off-site release associated with storm water run-off was reported to the Respondent. On April 28, 2009, at approximately 6:05 p.m., an incident involving the death of several head of cattle was reported to the Department by the Caddo Parish Sheriff's Department. The Caddo Parish Sheriff's Department

subsequently notified the Public Safety 24-Hour Louisiana Emergency Hazardous Material Hotline at approximately 9:47 p.m. The Department received the information and assigned the incident number T114541.

The incident was reported to the Public Safety 24-Hour Louisiana Emergency Hazardous Material Hotline by the responsible party at approximately 10:13 p.m. Although the incident was reported to the Department, the State Hotline was not notified within one (1) hour of becoming aware of the unauthorized discharge that caused an emergency condition.

- C. The Respondent failed to submit a written report to the Department within seven (7) calendar days for an unauthorized discharge that required reporting under LAC 33:I.3915.A.1, in violation of LAC 33:I.3925.A. On or about May 4, 2009, the Respondent and Schlumberger Technology Corporation personnel met with the Department's Regional Office staff and provided general information about their respective operations, the status of their investigations, and spill information.

The unauthorized discharge caused an emergency condition. The incident was reported to the Department; however, the Respondent failed to submit the report to the Department within seven (7) calendar days. The Respondent submitted a written report to the Department on or about June 16, 2009; however, it did not meet the requirements set forth in LAC 33:I.3925.B.”

III

Respondent asserts that, subsequent to the violations noted in the said Amended Notice of Potential Penalty, Respondent has implemented a proactive approach to surface chemical handling and spill mitigation and control that generally includes:

- Improved management of chemical transfer operations to identify incipient leaks;
- Portable secondary containment for concentrated chemical onsite storage, handling, and transfer operations; and

- Enhanced site construction practices to further protect against offsite migration and impact of spilled materials.

Respondent asserts that these mitigation measures have resulted in significant increased costs per Haynesville Shale well to Respondent. The Respondent further denies that material discharged from the facility caused the death of any cattle.

IV

The 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 TWENTY-TWO THOUSAND AND NO/100 DOLLARS (\$22,000.00), of which One Thousand Three Hundred and No/100 Dollars (\$1,300.00) 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), the Notices 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 LSA- R. S. 30:2025(E) of the Act.

IX

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

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.

CHESAPEAKE OPERATING, INC.

BY: [Signature]
(Signature)

Steve Turk
(Print)

TITLE: VP, Operations - Southern Division

THUS DONE AND SIGNED in duplicate original before me this 8th day of April, 20 2010, at Oklahoma City, OK.



[Signature]
NOTARY PUBLIC (ID # 05005851)

Stephanie Allsbury
(Print)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Peggy M. Hatch, Secretary

BY: [Signature]
Paul D. Miller, P.E., Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 28th day of July, 20 10, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 10149)
[Signature]
(Print)

Approved: [Signature]
Paul D. Miller, P.E., Assistant Secretary