

**STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE**

IN THE MATTER OF

CONOCO INC.
JEFFERSON PARISH
ALT ID No. 1340-00142

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

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ENFORCEMENT TRACKING NO.

AE-P-00-0070

AGENCY INTEREST NO.

848

SETTLEMENT AGREEMENT

The following Settlement is hereby agreed to between Conoco Inc. and the Louisiana Department of Environmental Quality, (the Department), under authority granted by the Louisiana Environmental Quality Act, LSA-R.S. 30:2001, *et seq.*, (the "Act").

I.

Respondent is Conoco Inc. (Conoco). Conoco previously operated a facility at Louisiana Highway 1 and 574-11, Grand Isle, Jefferson Parish, Louisiana, which is sometimes referred to as the Grand Isle Tank Battery.

II.

On May 16, 2001, the Department issued a Penalty Assessment to Conoco making certain findings of fact and assessing a penalty in the amount of \$90,614.00. In the Penalty Assessment, the Department asserted:

Respondent's facility operation involves crude oil that is taken from offshore and brought onshore. This site was once permitted for more than 2,404 TPY of VOC emissions. The facility received banked emission reduction credits of 2,400 TPY of VOC by installing a Vapor Recovery Unit (VRU) to capture the flash gas emissions. Respondent later requested the bankable emissions be reduced from 2,404 to 1,600 TPY of VOC emissions due to the VRU stream factor. Respondent requested the 1,600 TPY of banked emissions be removed from the bank and the permit granting the bank be rescinded due to infrequent or periodic use of the VRU. VOC emissions from Respondent's facility have decreased over the past ten years. Much of the reduction was due to a significant decrease in on-shore flow of crude due to increased treatment offshore, making the VRU inefficient to run. This project, which took place in the early 1990's, reduced onshore flow from an average of nearly 100,000 bbl/day to current levels of approximately 20,000 bbl/day.

Respondent believes that the emissions following the shutdown of the VRU were flared to permitted emission point #13 for some period of time. At some point in the mid 1990's the flaring of gas was discontinued. Respondent did emission calculations that show minor emissions from the storage tanks, but the flash gas emissions from the pressure drop between offshore and onshore was inadvertently omitted from the calculations.

A stack test was done on the primary crude tank that appeared to confirm the emissions calculations. These calculations were submitted to the Department and a modified permit was issued in 1996. Respondent's recent calculations indicate uncontrolled VOC emissions of 628.16 TPY on an annual basis. Respondent failed to maintain VOC emissions below the permitted limit for Permit No. 1340-00142-04. This is a violation of the VOC emissions limitation of Permit No. 1340-00142-04. This also constitutes a violation of the Louisiana Air Quality Regulations, in particular LAC 33:III.501.C.4 and Sections 2057(A)(1) and 2057(A)(2) of the Louisiana Environmental Quality Act. Respondent also failed to reduce flash gas emissions by a minimum of 95 percent as required by no later than May 1, 1999, in violation of LAC 33:III.2104.C.1. This also constitutes a violation of Sections 2057(A)(1) and 2057(A)(2) of the Louisiana Environmental Act.

At the time of the July 9, 1999 meeting, Respondent submitted a variance request to place the flare back in operation. In addition, Respondent had developed an emissions reduction project that will reduce the VOC emissions to less than 100 TPY, based on a control efficiency of 95 percent of VOC emissions and a flare annual downtime of less than 10 percent.

According to a letter dated August 6, 1999, a second flash gas analysis was performed to quantify the HAP/TAP emissions for the site. None of the compounds exceed the LDEQ's toxic air pollutant's minimum emissions rates (MER) except for benzene. Emissions, which exceed the MER, require appropriate MACT controls. Appropriate MACT controls will be met with the completion of the emission reduction project. The facility will still be considered a minor source and will not require a Part 70 permit; however, an air permit modification was submitted by September 1, 1999, and an annual emissions inventory for each year that the site has previously under reported emissions was submitted on October 8, 1999.

Respondent's letter dated August 6, 1999, pertaining to the facility's VOC emissions, included an engineering and construction schedule for the emission reduction project.

III.

After having an opportunity to review the Penalty Assessment, Conoco requested an adjudicatory hearing on the Penalty Assessment, asserting the absence of factual support in the record for all of the findings, and the lack of a statutory and regulatory basis for all of the violations alleged. Conoco contested the accuracy of certain of the findings of fact, the interpretation and application of the relevant law to these facts (including particularly Paragraph III) and the methodology by which the penalty was calculated.

IV.

Conoco specifically requested that the adjudicatory hearing address any and all penalty issues, including specifically, but not limited to, the considerations supporting the penalty calculation. Following the filing of the hearing request, the Department and Conoco entered into settlement discussions, during which Conoco submitted its position in a letter dated July 26, 2001.

V.

The Penalty Assessment arises out of the Notice of Potential Penalty (NOPP) No. AE-PP-99-0266 issued to Conoco on or about November 29, 1999. The NOPP addressed the following issues concerning the Grand Isle Tank Battery:

- Uncontrolled VOC emissions on an annual basis, exceeding the 10.21 TPY of VOC limit listed in Permit 1340-00142-04, constituting a violation of LAC 33:III.501.C.4 and Sections 2057(A)(1) and 2057 (A)(2) of the Louisiana Environmental Quality Act.
- Failure to reduce facility flash gas emissions by a minimum of 95% as required by no later than May 1, 1999, constituting a violation of LAC 33:III.2104.C.1 and Sections 2057(A)(1) and 2057 (A)(2) of the Louisiana Environmental Quality Act.

In accordance with the NOPP, Conoco contacted the Department to schedule a conference to discuss these issues. That meeting was held on December 10, 1999, during which the Department requested that Conoco prepare a written report detailing the circumstances, immediate action, and the short and long-term corrective actions that have been or will be implemented in response to the issues noted in the NOPP. Conoco responded with a report dated on or about January 12, 2000. After another meeting with the Department, Conoco filed a subsequent report dated July 26, 2001. These reports, among other things, provided the following information:

It was during an internal evaluation that Conoco initially detected the issues as to the variation in calculated emission levels which were possible using different methodologies. The issues came to light because of Conoco's continuing diligence in evaluating its compliance status. Conoco would note that it was Conoco that first identified the facts underlying these issues and

that when Conoco first became aware of these facts, the Department was immediately contacted. Conoco was diligent in its efforts to meet LDEQ's requirements. Conoco then worked closely with LDEQ to resolve the issues.

In the emissions calculations used in applying for the permit in question, Conoco used what at the time were appropriate engineering calculations. Although it was not required, Conoco went further and confirmed these calculations with an emissions stack test. The permit levels were set using this methodology. The general rule is that compliance is determined using the methodology that was used to arrive at the limits. Upon using the previously accepted methodology, Conoco would be determined to be in compliance.

In reevaluating these methodologies, Conoco retained Environmental Resources Management (ERM) to perform a thorough evaluation of the status of the air emissions and air permits for this facility. Following ERM's initial review of the previous calculations, Conoco reported their findings to the LDEQ and fully disclosed what had occurred. These issues regarding the calculations and the stack test were not discovered during the previous internal review, nor during the technical review of the previous permit application, as Conoco believed that the most appropriate methodology was being used. Conoco worked closely with the Department's staff during the preparation of the previous permit and believed, at that time, the emissions reported accurately represented the actual emissions.

Conoco's main focus from the moment of discovery of these issues has been to address them as quickly as possible. Conoco studied numerous potential responses and decided on the installation of a flare to reduce the facility emissions. The flare design was initiated immediately and put on an expedited schedule of construction. Once the design was completed, the new equipment was ordered for immediate delivery.

A request for authorization to construct the necessary piping and restart the flare was submitted to the LDEQ on July 9, 1999. A compliance schedule for this project was submitted to the LDEQ by Conoco on August 6, 1999. An air permit modification application was submitted on August 31, 1999, in order to capture the emissions reduction project components and to rectify the discrepancy in emissions.

VI.

Conoco requested an adjudicatory hearing in order to avoid having the Penalty Assessment and these findings become final while Conoco had an opportunity to attempt to resolve these issues with the Department.

VII.

Respondent denies that it committed the violations as alleged, or is liable for any fine, forfeiture or penalty.

VIII.

Nonetheless, the Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, the sum of \$90,614.00 (the "settlement payment") in full and complete settlement of any and all claims of non-compliance relating to the facts and circumstances at issue in this matter, under state or federal law, as set forth in this agreement. After an examination of the "nine factors" pursuant to Louisiana Revised Statutes 30:2025(E)(3), the Department has determined that the settlement payment should be accepted as a full and complete settlement of the claims set forth herein.

IX.

Respondent will make payment of the settlement amount by check made due and payable to the Department within thirty (30) days from receipt of a copy of this Settlement Agreement bearing the Secretary's signature, or the signature of someone authorized to sign on the Secretary's behalf.

X.

Respondent agrees that the Department may consider the Notice of Potential Penalty #AE-PP-99-0266 and this Penalty Assessment for the purposes of determining compliance

history in connection with any future enforcement or permitting action by the Department and in any such action that Respondent shall be estopped from objecting to the documents referred to hereinabove from being considered by the Department for the sole purpose of determining Respondent's compliance history. Respondent may also submit the documents referenced above in connection with any such future action.

XI.

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 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.

XII.

The Respondent has caused a public notice advertisement to be placed in the official journal of the Parish Governing Authority in Jefferson Parish, as well as a newspaper of general circulation in Jefferson Parish. 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 a proof of publication affidavit to the Department and, as of the date of this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since the publication of the notice.

XIII.

Any person's signature below shall constitute an agreement by that person, or as agent for a principal, to be bound by the terms and conditions of this Agreement. Each signatory to this Agreement represents that he is authorized to bind the party he represents. This Agreement shall apply to and be binding upon the Respondent and the Department, their principals, agents,

successors and assigns and upon all persons, contractors, and consultants acting under or for either Respondent or the Department.

XIV.

This Agreement is effective upon the last date signed by either party to the Agreement. The last signatory shall promptly mail a signed copy to the other party after executing the Agreement.

WITNESSES:

Erin Lyons-Williams
Barbara Nelson

RESPONDENT

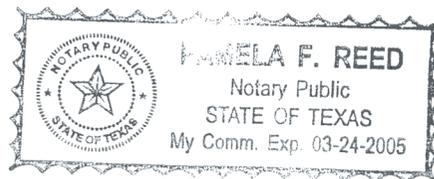
BY: [Signature]

NAME: GLENN Y.S BISHOP

TITLE: GENERAL MANAGER Com BU

THUS DONE AND SIGNED before me this 19 day of December, 2002, at Houston, TX.

Camela F. Reed
Notary Public



WITNESSES:

John & Mary
Holly Smith

STATE OF LOUISIANA
L. Hall Bohlinger, Secretary
Department of Environmental Quality

By: *R. Bruce Hammatt*
R. Bruce Hammatt
Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED before me this *5th* day of *March*, 2003, at
Bayou Rouge, LA

[Signature]
Notary Public

Approved: *R. Bruce Hammatt*
Bruce Hammatt, Assistant Secretary
Office of Environmental Compliance