

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

J-W OPERATING COMPANY
AI # 102232

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

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* **Enforcement Tracking No.**
* **AE-CN-02-0188**
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SETTLEMENT

The following Settlement is hereby agreed to between J-W Operating Company (“Respondent”) and the 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.

The Respondent owns and/or operates multiple oil and gas facilities located throughout the state of Louisiana. These facilities are required to operate in accordance with LAC 33:III Chapter 5.

II.

The basis of the captioned enforcement action(s) is:

On or about November 4, 2002, a file review of J-W Operating Company was performed to determine the degree of compliance with the Act and Air Quality Regulations. During that review, information was generated which led to the Department to make the following findings of fact:

The Respondent failed to obtain approval from the permitting authority prior to the construction, modification, or operation of each facility listed in Table 1 which ultimately resulted in an initiation or increase in emissions of air contaminants. Each failure to obtain prior approval from the permitting authority for the construction, modification, and/or operation of the facility is a violation of LAC 33:III.501.C.2 and Sections 2057(A)(1) and 2051(A)(2) of the Act.

Table 1

<u>Facility</u>	<u>Parish</u>
W.C. Harbors No. 1	De Soto
Richardson 14-1	De Soto
Thigpen 18-1 & 18-1D	De Soto
Crawford 23 No. 1	De Soto
Ellerbe Estate No. 1 & SWD No. 1	De Soto
Howard Heirs 13 No. 1 & 1D	De Soto
Devereaux Smith No. 1 & 1D	De Soto
H. White 14-1 & 1D	De Soto
State Lease 6760	De Soto
C.E. Peace 24 No. 1	De Soto
J.M. Peace 24 No. 1	De Soto
Caddo Parish School Board No. 2 & 2D	Caddo
J.S. Pace No. 1	De Soto
L.C. Hutchinson No. 1	Caddo
Levee Board 22 No. 1	Caddo
Sam Smith, Jr. 21 No. 1	Caddo
Sam W. Smith 28 No. 1	Caddo
Wilkinson No. 1	Caddo
McCord Bros 19 No. 1 & 1D	De Soto
Martin Allain No. 1	De Soto
Olinkraft No. 1	Caddo
Frierson 6 No. 1	Caddo
Foster No. 1	Caddo
Fannie Randle No. 1	Caddo
Ellerbee Heirs 21 No. 2 & 2D	Caddo
R.C. Tilbury 25 No. 1	Caddo
Pennywell No. 1	De Soto
McCord Bros 19 No. 2	Caddo
Frierson Trust No. 1	Caddo
G.A. Frierson No. 1	De Soto

Gatlin 13 No. 1 & 1D	Caddo
Griffin 44-1	De Soto
Gravel Point	De Soto
Mathison	De Soto
Rambin Dehy	De Soto
Red Chute Dehy Station	Bossier
Wallace Lake	Caddo

III.

On November 4, 2002, a Consolidated Compliance Order and Notice of Potential Penalty (CONOPP) was issued to Respondent and, in response thereto, Respondent made a timely request for a meeting.

IV.

Respondent met with the Department to discuss the CONOPP on or about December 20, 2002 and on or about January 10, 2003. In those meetings and in correspondence to the Department, the Respondent presented additional information pertaining to facility operations and activities as well as mitigating circumstances pertaining to the action. Examples of the information submitted to the Department are summarized as follows:

- A. Eighteen of the facilities cited in the CONOPP had been issued a permit and nineteen facilities had exemptions prior to the issuance of the CONOPP. All permit or exemption applications were filed in 1997 and 1998, save one for a facility that was acquired from a third party. That permit application was filed in 2002.
- B. Due to the nature of the Respondent's business activity, it does not know prior to drilling an oil and gas well whether or not a small source permit application is necessary. Once a well is drilled and completed it will be expeditiously placed online to avoid problems that arise from shutting a well in for an extended period.

- C. Between 1998 to November 4, 2002, Respondent filed small source permit or exemption applications for 74 locations. The Respondent erroneously believed the Department no longer processed permit exemptions on oil and gas facilities that emit less than five (5) tons per year. Respondent contends this error was based on a “good faith” misunderstanding of procedures.

All information supplied by the Respondent was fully reviewed and considered by the Department in reaching this settlement.

V.

The Respondent operates 207 facilities that emit more than one ton, but less than five tons per year and are thus exempt from air permitting requirements. These facilities are listed in Table 2 that is attached hereto and incorporated herein by reference. No further authority is required to operate provided these facilities continue to operate as permitted.

VI.

The Respondent also operates 14 oil and gas sites for which the Respondent concluded small source permit applications should be filed to accommodate current or future operations as listed in Table 3 that is attached hereto and incorporated herein by reference.

VII.

Based upon its discussions with the Department in January 2003, the Respondent filed exemption requests for all facilities identified in Table 2 and small source permit applications for the sites listed in Table 3.

VIII.

Respondent took prompt action in response to the CONOPP to file for permit exemptions and

small source permits and took extra steps to ensure compliance with the Louisiana environmental statutes.

IX.

The Respondent conducted an internal audit via a third party environmental professional service and engaged environmental legal services to review company practices regarding environmental compliance. In addition to evaluating compliance with air permitting requirements, Respondent sought information to determine it was in environmental compliance with Water Quality permitting requirements, Spill Prevention Control and Countermeasure (SPCC) requirements, the Safe Drinking Water Act, CERCLA, EPCRA, RCRA, and Naturally Occurring Radioactive Material (NORM) requirements. Respondent spent in excess of One Hundred Twenty Thousand and No/100 Dollars (\$120,000.00) to complete its internal audit and verify all environmental compliance.

X.

Respondent neither admits nor denies the Department's findings of fact of violations included in the CONOPP.

XI.

Respondent denies it committed any violations rendering it liable for any fines, forfeitures and/or penalties. In the interest of avoiding the time, expense and uncertainty of further protracted litigation, the parties to this agreement have agreed to fully and finally compromise and settle all of the Department's findings of fact which are the subject of the CONOPP on the terms and conditions set forth in this Settlement Agreement and to compromise, settle and dismiss with prejudice the CONOPP as to all claims therein.

XII.

The 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 SEVENTY-TWO THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$72,500.00), of which One Thousand Four Hundred Seventeen and 80/100 Dollars (\$1,417.80) represents the Department's enforcement costs, in settlement of the claims set forth in this agreement regarding the Department's findings of fact contained in the CONOPP, but only insofar as they relate to air permitting requirements, including requirements pertaining to annual maintenance fees, for the facilities specified in Tables 1, 2, 3 and 4 and described in this Settlement Agreement. Upon receipt of the payment identified above, the Department will release Respondent, its officers, directors, shareholders and employees from all claims for civil penalties alleged in the CONOPP. The total amount of settlement described above shall be considered a civil penalty for tax purposes, as required by La. RS. 30:2050.7(E)(I).

XIII.

With regard to those facilities listed in Table 3 and 4, attached hereto and incorporated herein by reference, listing facilities with pending permit applications filed by the Respondent, Respondent shall operate said facilities in accordance with all terms and conditions and emissions limitations set forth in the Department's Standard Oil and Gas Permit, until such time as final action is taken on the permit applications by the Department.

XIV.

Respondent further agrees that the Department may consider the inspections report(s), the Consolidated Compliance Order Notice of Potential Penalty, reports and correspondence submitted by Respondent relating to the CONOPP, and this settlement for the purpose of determining compliance history as authorized by La. R.S. 30:2025(E), in connection with any future enforcement or permitting action by the Department against Respondent. In any such

action, the Department shall be able to consider the above referenced documents as authentic evidence with respect to the violations alleged herein for the sole purpose of determining Respondent's compliance history compliance history, and if the Department does so consider the above referenced documents, Respondent shall be able to take a contrary position.

XV.

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.

XVI.

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.

XVII.

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Bossier, Caddo and DeSoto Parishes. 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 this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

XVIII.

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. Penalties are to be made payable to the Department of Environmental Quality and mailed to the attention of Darryl Serio, Office of Management and Finance, Department of Environmental Quality, Post Office Box 82231, Baton Rouge, Louisiana, 70884-2231.

XIX.

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

XX.

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his/her respective party, and to legally bind such party to its terms and conditions.

J-W OPERATING COMPANY

BY: C.D. Daniels
(Signature)
C.D. Daniels
(Printed or Typed)

TITLE: Executive Vice President

THUS DONE AND SIGNED in duplicate original before me this 7th day of
February, 20 05, at Dallas, Texas.



Kathryn Boyd
NOTARY PUBLIC (ID # _____)
Kathryn Boyd
(Printed or Typed)

STATE OF LOUISIANA
Mike D. McDaniel, Ph.D., Secretary
Department of Environmental Quality

BY: Harold Leggett
Harold Leggett, Ph.D., Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 25th day of
April, 20 05, at Baton Rouge, Louisiana.

Christopher A. Ratcliff
NOTARY PUBLIC (ID # 18675)

Christopher A. Ratcliff
(Printed or Typed)

Approved: Harold Leggett
Harold Leggett, Ph.D., Assistant Secretary



CHARLES C. FOTI, JR.
ATTORNEY GENERAL

State of Louisiana
DEPARTMENT OF JUSTICE
P.O. BOX 94005
BATON ROUGE
70804-9005

April 12, 2005

Mr. Herman Robinson, Executive
La. Department of Environmental Quality
Legal Affairs Division
P.O. Box 4302
Baton Rouge, LA 70821-4302

Re: AG Review of DEQ Settlement;
J-W Operating Company
AE-CN-02-0188

Dear Mr. Robinson:

Pursuant to the authority granted to me by Art. IV, Sec. 8 of the state constitution and R.S. 30:2050.7(E)(2)(a), I approve the above referenced settlement.

Sincerely,

By: 
CHARLES C. FOTI, JR.
Attorney General

CCF/mlc

TABLE 2
Facilities Meeting Exemption Criteria

Well Name

AARON WASHINGTON 23 No. 1-ALT
ALBERT DAVIS 13 No. 1-ALT
ALLAIN No. 1-ALT
C K BLOXOM 15 No. 1-ALT
CADDO PR SCHL BD No. 1-16
CADDO PR SCHL BD No. 2-16
CECILA E SMITH HRS No. 1
D S JONES ETAL 10 No. 1
DENNEY-WEBB 17 No. 1
DENNEY-WEBB 17 No. 3
DENNEY-WEBB 17 No. 2-ALT
DENNEY-WEBB 17 No. 4-ALT
E J CRAWFORD No. 1
ELLERBE HEIRS 21 No. 2-ALT
FANNIE RANDLE No. 1
FOSTER No. 1
FRIERSON (COHORT) No. 1
FRIERSON 6 No. 1-ALT
FRIERSON TR A No. 1
G A FRIERSON No. 1
J M PEACE 24 No. 1-ALT
J R CALDWELL No. 1
JACK M WHITED 23 No. 2-ALT
LC HUTCHSN JR ETAL No. 1-D
LEVEE BOARD 22 No. 1
MCCORD BROS 19 No. 2-ALT
OLINKRAFT No. 1
PACE No. 1
R C TILBURY 25 No. 1-ALT
RAYMOND GATLIN 13 No. 1-ALT
SAM W SMITH 28 No. 1
SAM W SMITH JR 21 No. 1-ALT
SNYDER ET AL 30 No. 1
WARREN THOMAS HRS20 No. 1
WILKINSON 24 No. 1-ALT
CADDO BOSSIER PORT 13 No. 2-ALT
CAPLIS LAND & TRUST 3 No. 1-ALT
CAPLIS LD & TRUST 4 No. 1
COLEMAN ETAL 30 No. 2
DAUGHERTY 31 No. 1-ALT
GARDNER 7 No. 1-ALT

GARISON 30 No. 2-ALT
KNIGHTON ETAL 11 No. 1-ALT
LMA LAND CO 8 No. 1
MERCER 8 No. 1-ALT
MOON LAKE DAIRY 21 No. 4-ALT
MOON LAKE DAIRY 21 No. 3-ALT
NANCY FRIERSON 13 No. 1
NORTON 36 No. 2-ALT
OLINKRAFT No. 2
PONDER 27 No. 2-ALT
SAM W SMITH 28 SWD No. 1
SL 16035 8 No. 1
SL 6111 12 No. 1-ALT
TOOKE ESTATE 2 No. 1
TOOKE TRUST 25 No. 1
WINTAMUTE 31 No. 1
WOMACK 11 No. 2
ADAMS 36 No. 1
AKERS 31 No. 1-Alt
ATLAS
CUPPLES 13 No. 1-ALT
CUPPLES 18 No. 4-ALT
D A RICHLIN LD 18 No. 5-ALT
E H WHITE ET AL 26 No. 1
ELLERBE ESTATE 19 No. 2-ALT
FLOYD 10 No. 1-ALT
FRIERSON 25 No. 1-ALT
FRIERSON 6 No. 4-ALT
FRIERSON ETAL 11 No. 1
GARDNER 7 No. 2
HINES ESTATE 13 No. 3
HOOPER 31 No. 1
I P REALTY 15 No. 1-ALT
INTERNATIONAL PAPER
ISL PLNTG CO INC 11 No. 1-ALT
J TOOKE 35 No. 1-ALT
JOHNSON 31 No. 1-ALT
JONES 26 No. 2
KNIGHTON 10 No. 1-ALT
LIBKE 36 No. 1-ALT
LUCKY TRUST 3 No. 3
MCDADE ETAL 5 No. 1
MERCER 17 No. 2
MERCER 9 No. 3
MICIOTTO PROP LP 9 No. 2-ALT
MONTGOMERY 25 No. 1

MOON LAKE 17 No. 1-ALT
MOON LAKE 20 No. 1
MOON LAKE 20 No. 3-ALT
MOON LAKE DAIRY 16 No. 4-ALT
MOON LAKE DAIRY 21 No. 1
MORGAN ETAL No. 1-ALT
NORTON 36 No. 4-ALT
REEVES 28 No. 1
ROACH 36 No. 1-ALT
ROACH 36No. 2-ALT
SANDERS ETAL 17 No. 3-ALT
SANDERS ETAL 17 No. 2-ALT
SMITH TRUST10 No. 1-ALT
SNYDER OIL CORP 35 No. 2-ALT
SNYDER OIL CORP 35 No. 3-Alt
TOOKE 1 No. 1
TOOKE 35 No. 2-ALT
TOOKE 35 No. 1-ALT
W T GAY No. 1
WEBB ETAL 13 No. 1-ALT
WEBB ETAL 13 No. 2-ALT
WILSON 13 No. 1-ALT
ANDREWS ETAL 11 No. 2-ALT
ANDREWS ETAL 11 No. 1-ALT
BASS-FRIERSON #3
BASS-FRIERSON #6
BASS-RICHLEN #2
BASS-RICHLEN #3
BIEDENHARN 14 No. 1-ALT
BOB & ERLES 26 No. 1-ALT
BROWN (WEST OF I-49)
CADDO BOSSIER P 13 No. 1-ALT
COLLINS 36 No. 1-ALT
COLLINS 36 No. 2-ALT
CROWE ETAL 26 No. 1-ALT
CUPPLES 13 No. 2-ALT
CUPPLES 18 No. 1-ALT
CUPPLES 18 No. 2-ALT
CUPPLES 18 No. 3-ALT
D A RICHLLEN LAND 18 No. 2-ALT
D A RICHLLEN LAND 18 No. 3-ALT
DENNEY-WEBB 17 No. 6-ALT
DES LAND CO 18 No. 1-ALT
DEVEREAUX SMITH 18 No. 2-ALT
FAIR OIL MM
FIELDER #1

FRIERSON 6 No. 3
FRIERSON 7 No. 1
FRIERSON BROS 12 No. 1-ALT
FRIERSON ETAL 13 No. 1-ALT
GARISON 30 No. 1-ALT
GENERAL ELECTRIC
GENERAL MOTORS
GOODEN 14 No. 1-ALT
GRIGSBY-FRIERSON #1
GRIGSBY-FRIERSON MM
GRIGSBY-GRIGSBY #1ALT
GRIGSBY-GRIGSBY #1D
GULF SOUTH
HALL 25 No. 1-ALT
HARVILLE 11 No. 1-ALT
HEINSOHN 13 No. 1-ALT
HEINSOHN 13 No. 2-ALT
HENDERSON ETAL 36 No. 1-ALT
HOLCOMB 30 No. 1-ALT
HOLLAND
HUBBARD 25 No. 1-ALT
HUTCHINSON HEIRS 17 No. 1-ALT
JAMES H MERCER 10 No. 1-ALT
JOHN PLACE 24-1
JONES 26 No. 1-ALT
K T HENDERSON 36 SWD No. 2
LEONARD ROAD
LIBBY GLASS
LIBBY GLASS (BLOCK@JEWELLA)
LINAM
LUCKY TRUST 3 No. 1
LUCKY TRUST 3 No. 2-ALT
LUCKY TRUST 3 No. 4-ALT
MCDADE 8 No. 1-ALT
MCDADE ETAL 9 No. 1
MERCER 9 No. 4-ALT
MERCER 9 No. 1-ALT
MICIOTTO PROP LP9 No. 1-ALT
MILLER 36 No. 1-ALT
MITCHELL 3 No. 1-ALT
MOON LAKE DAIRY 21 No. 2-ALT
MOORE ETAL 11 No. 2-ALT
MOORE ETAL 11 No. 3-ALT
NORRIS #1
NORRIS (RADIO TOWER)
NORTON 36 No. 5-ALT

PACKARD 25 No. 1-ALT
PAGE HEIRS 25 No. 1-ALT
PENNZOIL BULK PLANT
PINNACLE
PONDER 27 No. 1-ALT
ROBERTS 10 No. 1-ALT
ROGERS 36 No. 1-ALT
ROGERS ETAL 35 No. 1
SABBATH ETAL 13 No. 1-ALT
SANDERS ETAL 17 No. 1-ALT
SL 6629 18 No. 1-ALT
SL 10965 13 No. 1-ALT
SNYDER ETAL 26 No. 1-ALT
SNYDER OIL CORP 27 No. 1-ALT
SNYDER OIL CORP 35 No. 1-ALT
SONAT
SUNDANCE-EGAN WEBB No. 2
SUTTON 28 No. 1-ALT
TAYLORTOWN 16 No. 1
TETCO
TOOKE 36 No. 1-ALT
VALLHONRAT 35 No. 1-ALT
WEBB TRUST ETAL 18 No. 1-ALT
WHITED EST 24 No. 1-ALT
WILLIAM H MERCER 10 No. 2-ALT
WILLIAMS 24 No. 1-ALT
WINTAMUTE 30 No. 1-ALT
GROVES/RUSSEL

TABLE 3

COLEMAN ET AL 30 NO. 1
FRANK HALL 35 NO. 1
HINES ESTATE 13 NO. 1
MCCORMACK ET AL 25 NO. 1
MERCER 17 NO. 1
MERCER 9 NO. 2-ALT
MOON LAKE DAIRY 16 NO. 1
OLINKRAFT NO. 1
PHILBERT 8 NO. 1-ALT
RIGHT HAND CREEK
ROOS PROP 2 NO. 1
SMELLY 18 NO. 1
WILLIAM H. MERCER 10 NO. 1-ALT
WOMACK 11 NO. 1

TABLE 4

Small Source Permit Pending With LDEQ

FACILITY

HOPKINS DEHY
TURNER LOCATION No. 1-ALT
LMA LAND CO 9 Central No. 1-ALT
K T HENDERSON 36 No. 1
RED CHUTE DEHY STATION
C E PEACE 24 No. 1-ALT
H WHITE ETAL 14 No.1-ALT
NORTON 36 No. 1
OSBY, SUSIE B. ETAL No. 1
MATHISON FACILITY
RAMBIN No. 1