

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF: )  
 )  
Fletcher Petroleum Co., LLC )  
Conecuh County, Alabama )  
 )  
ADEM Air Facility ID No. 103-0042 )

CONSENT ORDER NO. XX-XXX-CAP

PREAMBLE

This Special Order by Consent is made without the adjudication of law or fact and entered into by the Alabama Department of Environmental Management (“Department” and/or “ADEM”) and Fletcher Petroleum Co., LLC (“Permittee”) pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 to 22-22A-17, as amended, the Alabama Air Pollution Control Act, Ala. Code §§ 22-28-1 to 22-28-23, as amended, and the regulations promulgated pursuant thereto.

STIPULATIONS

1. The Permittee operates the Brooklyn Field Area No. 1, a group of wellsites for gas and oil production in Conecuh County, Alabama (ADEM Air Facility ID No. 103-0042), referred to as the “Facility”.
2. The Department is a duly constituted department of the State of Alabama pursuant to Ala. Code §§ 22-22A-1 to 22-22A-17, as amended.
3. Pursuant to Ala. Code § 22-22A-4(n), as amended, the Department is the state air pollution control agency for the purposes of the federal Clean Air Act, 42 U.S.C. 7401 to 7671q, *as amended*. In addition, the Department is authorized to administer and enforce the provisions of the Alabama Air Pollution Control Act, Ala. Code §§ 22-28-1 to 22-28-23, as amended.
4. The Permittee operates the Facility pursuant to the authority of Major Source Operating Permit No. 103-0042 (“Permit”). The Permit contains requirements for a 145 BHP generator engine (“GEN-01”) located at the CCL&T 2-15 oil and gas production well.

5. General Permit Proviso No. 21(a) states in part: "Reports to the Air Division of any required monitoring shall be submitted at least every 6 months."

6. Permit Proviso No. 4 under the Emissions Monitoring section for GEN-01 states in part: "At all times the engine must, to the extent practicable be operated and maintained, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions."

7. Permit Proviso No. 5 under the Emissions Monitoring section for GEN-01 states: "The engine may operate using propane for a maximum of 100 hours per year as alternative fuel solely during emergency operations. If propane is used for more than 100 hours per year, a performance test shall be conducted in accordance with the requirements of 40 CFR §60.8 to demonstrate compliance with the emissions standards of §60.4233."

#### DEPARTMENT'S CONTENTIONS

8. The Permittee's Periodic Monitoring Report (PMR) for the reporting period of January 1 through June 30, 2023, which was due July 31, 2023, was received late by the Department on January 8, 2024. The Permittee's PMR for the reporting period of January 1 through June 30, 2024, which was due by July 31, 2024, was received late by the Department on October 17, 2024.

9. On April 5, 2024, the Department inspected the facility and discovered during the onsite records review that GEN-01 had exceeded the 100 operating hours limit for using propane as a fuel in January 2023, and that the engine should have therefore been tested by January 2024, per the requirements of the Permit. The Permittee was informed onsite and later in a call with the Permittee's consultant that a stack test for GEN-01 using propane as fuel should be scheduled as soon as practicable to demonstrate compliance with the requirements of the Permit and 40 CFR Part 60, Subpart JJJJ.

10. The Permittee attempted to conduct a stack test on GEN-01 on July 16, 2024, but the initial calibrations for the engine failed. The Permittee informed the Department that the stack test had been aborted and that the engine had been removed from service that same day.

11. On October 16, 2024, the Department requested the data from the July 16, 2024, stack test, and the Permittee provided the calibration data by email on October 23, 2024. In the same email, the Permittee informed the Department that, while investigating the cause of the calibration failures, the catalyst on GEN-01 was found to have imploded.

12. Pursuant to Ala. Code § 22-22A-5(18)c., as amended, in determining the amount of any penalty, the Department must give consideration to the seriousness of the violation, including any irreparable harm to the environment and any threat to the health or safety of the public; the standard of care manifested by such person; the economic benefit which delayed compliance may confer upon such person; the nature, extent and degree of success of such person's efforts to minimize or mitigate the effects of such violation upon the environment; such person's history of previous violations; and the ability of such person to pay such penalty. Any civil penalty assessed pursuant to this authority shall not exceed \$25,000.00 for each violation, provided however, that the total penalty assessed in an order issued by the Department shall not exceed \$250,000.00. Each day such violation continues shall constitute a separate violation. In arriving at this civil penalty, the Department has considered the following.

A. **SERIOUSNESS OF THE VIOLATION:** The Department considers the Permittee's failure to submit timely reports, failure to conduct stack tests within the required timeframe, and failure to properly maintain the catalyst to be serious violations. However, the Department is not aware of any irreparable harm to the environment resulting from these violations.

B. **THE STANDARD OF CARE:** The Permittee failed to exhibit a sufficient standard of care by failing to maintain the catalyst, failing to conduct timely stack testing, and failing to submit timely reports.

C. **ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED:** The Permittee likely derived some economic benefit by not conducting a timely stack test and failing to properly maintain the catalyst. However, the Department is unable to accurately estimate the amount by which the Permittee may have benefited.

D. **EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATION UPON THE ENVIRONMENT:** The Department is not aware of any efforts by the Permittee to minimize or mitigate the effects of these violations on the environment.

E. HISTORY OF PREVIOUS VIOLATIONS: The Department issued a Warning Letter to the Permittee on December 2, 2022, for failure to submit timely reports.

F. THE ABILITY TO PAY: The Permittee has not alleged an inability to pay the civil penalty.

G. OTHER FACTORS: It should be noted that this Special Order by Consent is a negotiated settlement and, therefore, the Department has compromised the amount of the penalty in this matter in the spirit of cooperation and the desire to resolve this matter amicably, without incurring the unwarranted expense of litigation.

13. The Department has carefully considered the six statutory penalty factors enumerated in Ala. Code § 22-22A-5(18)c., *as amended*, as well as the need for timely and effective enforcement and, based upon the foregoing and attached contentions, has concluded that the civil penalty herein is appropriate (*See* "Attachment A", which is hereby made a part of the Department's Contentions).

14. The Department neither admits nor denies Permittee's Contentions, which are set forth below. The Department has agreed to the terms of this Consent Order in an effort to resolve the alleged violations cited herein without the unwarranted expenditure of State resources in further prosecuting the above violations. The Department has determined that the terms contemplated in this Consent Order are in the best interests of the citizens of Alabama.

#### PERMITTEE'S CONTENTIONS

15. The Permittee neither admits nor denies the Department's Contentions. The Permittee consents to abide by the terms of this Consent Order and to pay the civil penalty assessed herein in resolution of a disputed matter.

#### ORDER

THEREFORE, the Permittee, along with the Department, desires to resolve and settle the compliance issues cited above. The Department has carefully considered the facts available to it and has considered the six penalty factors enumerated in Ala. Code § 22-22A-5(18)c., *as amended*, as well as the need for timely and effective enforcement, and the Department has determined that the following conditions are appropriate to address the violations alleged herein. Therefore, the Department and the Permittee agree to enter into this Consent Order with the following terms and conditions:

A. The Permittee agrees to pay to the Department a civil penalty in the amount of \$20,000.00 in settlement of the violations alleged herein within forty-five days from the effective date of this Consent Order. Failure

to pay the civil penalty within forty-five days from the effective date may result in the Department's filing a civil action in the Circuit Court of Montgomery County to recover the civil penalty.

B. The Permittee agrees that all penalties due pursuant to this Consent Order shall be made payable to the Alabama Department of Environmental Management by certified or cashier's check and shall be remitted to:

Office of General Counsel  
Alabama Department of Environmental Management  
P.O. Box 301463  
Montgomery, Alabama 36130-1463

C. The Permittee agrees to comply with all requirements of ADEM Administrative Code div. 335-3 and the Permit immediately upon the effective date of this Order and continuing every day thereafter.

D. The parties agree that this Consent Order shall apply to and be binding upon both parties, their directors, officers, and all persons or entities acting under or for them. Each signatory to this Consent Order certifies that he or she is fully authorized by the party he or she represents to enter into the terms and conditions of this Consent Order, to execute the Consent Order on behalf of the party represented, and to legally bind said party.

E. The parties agree that, subject to the terms of these presents and subject to provisions otherwise provided by statute, this Consent Order is intended to operate as a full resolution of the violations which are cited in this Consent Order.

F. The Permittee agrees that it is not relieved from any liability if it fails to comply with any provision of this Consent Order.

G. For purposes of this Consent Order only, the Permittee agrees that the Department may properly bring an action to compel compliance with the terms and conditions contained herein in the Circuit Court of Montgomery County. The Permittee also agrees that in any action brought by the Department to compel compliance with the terms of this Agreement, the Permittee shall be limited to the defenses of *Force Majeure*, and physical or legal impossibility, maybe even economic impracticability. A *Force Majeure* is defined as any event arising from causes that are not foreseeable and are beyond the reasonable control of the Permittee, including its contractors and consultants, which could not be overcome by due diligence (*i.e.*, causes which could have been overcome or avoided by the exercise of due diligence will not be considered to have been beyond the reasonable control of the Permittee) and which delays or prevents performance by a date required by the Consent Order. Events such as unanticipated or increased costs of performance, changed economic circumstances, normal precipitation events, or failure to obtain

federal, state, or local permits shall not constitute *Force Majeure*. Any request for a modification of a deadline must be accompanied by the reasons (including documentation) for each extension and the proposed extension time. This information shall be submitted to the Department a minimum of ten working days prior to the original anticipated completion date. If the Department, after review of the extension request, finds the work was delayed because of conditions beyond the control and without the fault of the Permittee, the Department may extend the time as justified by the circumstances. The Department may also grant any other additional time extension as justified by the circumstances, but it is not obligated to do so.

H. The Department and the Permittee agree that the sole purpose of this Consent Order is to resolve and dispose of all allegations and contentions stated herein concerning the factual circumstances referenced herein. Should additional facts and circumstances be discovered in the future concerning the facility which would constitute possible violations not addressed in this Consent Order, then such future violations may be addressed in Orders as may be issued by the Director, litigation initiated by the Department, or such other enforcement action as may be appropriate, and the Permittee shall not object to such future orders, litigation or enforcement action based on the issuance of this Consent Order if future orders, litigation or other enforcement action address new matters not raised in this Consent Order.

I. The Department and the Permittee agree that this Consent Order shall be considered final and effective immediately upon signature of all parties. This Consent Order shall not be appealable, and the Permittee does hereby waive any hearing on the terms and conditions of same.

J. The Department and the Permittee agree that this Order shall not affect the Permittee's obligation to comply with any Federal, State, or local laws or regulations.

K. The Department and the Permittee agree that final approval and entry into this Order are subject to the requirements that the Department give notice of proposed Orders to the public, and that the public have at least thirty days within which to comment on the Order.

L. The Department and the Permittee agree that, should any provision of this Order be declared by a court of competent jurisdiction or the Environmental Management Commission to be inconsistent with Federal or State law and therefore unenforceable, the remaining provisions hereof shall remain in full force and effect.

M. The Department and the Permittee agree that any modifications of this Order must be agreed to in writing signed by both parties.

N. The Department and the Permittee agree that, except as otherwise set forth herein, this Order is not and shall not be interpreted to be a permit or modification of an existing permit under Federal, State, or local law, and shall not be construed to waive or relieve the Permittee of its obligations to comply in the future with any permit.

Executed in duplicate, with each part being an original.

FLETCHER PETROLEUM CO., LLC

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

  
\_\_\_\_\_  
(Signature of Authorized Representative)

\_\_\_\_\_  
Lance R. LeFleur  
Director

Alex Owen  
\_\_\_\_\_  
(Printed Name)

Executive Vice President  
\_\_\_\_\_  
(Printed Title)

Date Signed: 3-10-25

Date Executed: \_\_\_\_\_

**Attachment A**

**Fletcher Petroleum Co., LLC  
Brooklyn, Conecuh County, AL**

**ADEM Air Facility ID No. 103-0042**

| <b>Violation*</b>                    | <b>Number of Violations*</b> | <b>Seriousness of Violation*</b> | <b>Standard of Care*</b> | <b>History of Previous Violations*</b> | <b>Total of Three Factors</b> |
|--------------------------------------|------------------------------|----------------------------------|--------------------------|--|-------------------------------|
| Failure to submit timely reports     | 2                            | \$2,000.00                       | \$2,000.00               | \$1,000.00                             | \$5,000.00                    |
| Failure to maintain control device   | 1                            | \$5,000.00                       | \$5,000.00               | -                                      | \$10,000.00                   |
| Failure to conduct timely stack test | 1                            | \$3,000.00                       | \$2,000.00               | -                                      | \$5,000.00                    |
| <b>TOTAL PER FACTOR</b>              |                              | <b>\$10,000.00</b>               | <b>\$9,000.00</b>        | <b>\$1,000.00</b>                      | <b>\$20,000.00</b>            |

| <b>Adjustments to Amount of Initial Penalty</b> |  |
|---|--|
| <b>Mitigating Factors (-)</b>                   |  |
| <b>Ability to Pay (-)</b>                       |  |
| <b>Other Factors (+/-)</b>                      |  |
| <b>Total Adjustments (+/-)</b>                  |  |

|                                  |             |
|----------------------------------|-------------|
| <b>Economic Benefit (+)</b>      |             |
| <b>Amount of Initial Penalty</b> | \$20,000.00 |
| <b>Total Adjustments (+/-)</b>   |             |
| <b>FINAL PENALTY</b>             | \$20,000.00 |

Footnotes

\* See the "Department's Contentions" portion of the Order for a detailed description of each violation and the penalty factors.