



State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

Department of
Environmental Quality

Amanda Smith
Executive Director

DIVISION OF AIR QUALITY
Bryce C. Bird
Director

DAQ-062-14

MEMORANDUM

TO: Air Quality Board

THROUGH: Bryce C. Bird, Executive Secretary

FROM: Jay Morris, Minor Source Compliance Section Manager

DATE: July 23, 2014

SUBJECT: Danish Flats Environmental Services Early Settlement Agreement

Danish Flats Environmental Services operates produced water evaporation ponds used in the oil and gas industry near Cisco, Utah. On October 3, 2013, the Division of Air Quality (DAQ) sent Danish Flats Environmental Services a compliance advisory for failing to submit a notice of intent and receive an approval order prior to construction [UAC R307-401-5(1)] and for not submitting a Title V application within 12 months of becoming subject to the Title V program [UAC R307-415-5a(a)]. The DAQ and Danish Flats Environmental Services have negotiated an early settlement of \$50,000, of which \$12,500 is due within 20 days of the Utah Air Quality Board's (UAQB) approval of this settlement. The remaining penalty is to be paid in \$12,500 increments on a quarterly basis after the first payment is made. The company has agreed to the terms and conditions of the agreement and submitted a signed copy of the early settlement to the DAQ.

In accordance with Utah Code Ann. 19-2-104(3)(b)(i), this memorandum is provided to the UAQB for review since the penalty exceeds \$25,000. The signed early settlement agreement has been provided in the packet. The DAQ has entered into this agreement with Danish Flats Environmental Services in an effort to guide the company back into compliance with permitting requirements and to avoid the potential expense of a formal compliance process. The DAQ will withhold any further action on this case until the UAQB approves or disapproves the settlement.

Staff Recommendation: Staff recommends the UAQB approve the penalty amount and early settlement offer.



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UTAH DEPARTMENT OF
ENVIRONMENTAL QUALITY

JUN 17 2014

DIVISION OF AIR QUALITY

DAQC-559-14

May 15, 2014

Sent Via Certified Mail No. 70042510000375529947

Jim Bradish
Danish Flats Environmental Services
616 West Monument Street
Colorado Springs, CO 80905

Dear Mr. Bradish:

Re: Revised Early Settlement Agreement – Danish Flats Environmental Services

On October 3, 2013, the Utah Division of Air Quality (DAQ) issued a Compliance Advisory to Danish Flats Environmental Services (Danish Flats). Danish Flats responded to the Compliance Advisory on October 23, 2013. Based on the response to the Compliance Advisory, the DAQ determined that Danish Flats was in violation of Utah Administrative Code (UAC) R307-401-5(1) for failing to submit a Notice of Intent and receiving an Approval Order prior to construction, and UAC R307-415-5a(a) for not submitting a Title V application within 12 months of becoming subject to the program.

An Early Settlement Agreement (ESA) with a proposed penalty of \$84,000 was sent to Danish Flats on March 5, 2014. A written response including corporate financial data entered into the Environmental Protection Agency (EPA) ABEL model was submitted on April 7, 2014, and has been reviewed by the DAQ. The ABEL model was used to evaluate Danish Flats ability to afford the proposed civil penalty. The results of the ABEL model indicate the company does not currently have the ability to pay the \$84,000 penalty.

To resolve the alleged violations, Danish Flats and the DAQ have agreed to the following:

1. Danish Flats agrees to pay a stipulated civil penalty in the sum of \$50,000.00. Payment of a civil penalty precludes further civil prosecution for the above described violation against the named source. Danish Flats agrees to pay \$12,500.00 of the stipulated penalty within 20 business days from the date of the Utah Air Quality Board (UAQB) approval. The remaining \$37,500.00 penalty will be paid in \$12,500.00 increments on August 1, 2014, November 1, 2014, and February 1, 2015.
2. The DAQ retains its authority to take any enforcement actions based on any and all violations not specifically described above.

3. In the event any further violations of the Utah Air Quality Rules occur, the DAQ may consider the violation described above in assessing a penalty for the subsequent violations, in accordance with the provisions of Utah Administrative Code R307-130.
4. Entering into this settlement shall not constitute an admission of violation of the Utah Air Quality Rules, nor shall it be inferred to be such an admission in any administrative or judicial proceeding. The described violation will constitute part of the company compliance history for any purpose for which such history is relevant to the DAQ.

This letter constitutes an offer of settlement and is not a demand for payment.


If the above terms are acceptable to you, please sign and return this Early Settlement Agreement to the DAQ at the letterhead address within twenty (20) business days of receipt of this letter. Utah Code 19-2-104(3)(b)(i), requires the UAQB to review and approve/disapprove any settlement negotiated by the Director that results in a civil penalty of \$25,000 or more in accordance with Subsection 19-2-107(2)(b)(viii). The DAQ will present this to the UAQB at the next board meeting for review and will recommend approval of the negotiated settlement.

You may write or call to request a settlement conference with DAQ representative listed below. A conference must be scheduled within twenty (20) business days of your receipt of this Early Settlement Offer. If we do not receive a signed copy of this letter or other correspondence from you within twenty (20) business days of your receipt of this letter, we will assume that you are not interested in resolving this matter as outlined above.

This Early Settlement Agreement is intended to quickly resolve the non-compliance issues listed above and requires the immediate attention of your company. Failure to resolve this matter as outlined in this letter may result in this offer being revoked and/or having this matter referred to a formal enforcement process.

If you have any additional questions regarding this matter, please contact Jay Morris at (801) 536-4079 or by email at jpmorris@utah.gov.

Sincerely,



Bryce C. Bird
Director

BCB:JPM:bp

cc: Dave Cunningham, Southeastern Utah District Health Department
Grand County, Moab, Utah

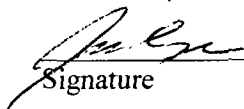
Acceptance of Early Settlement Agreement

I have read the above Early Settlement Agreement and I agree to the terms and conditions thereof.

Danish Flats Environmental Services

Name: Justin Sparty

Title: Operations Director


Signature

6/13/14

Date

970.775.8100

Telephone Number