

SETTLEMENT AGREEMENT

The Wyoming Department of Environmental Quality, Air quality Division ("DEQ/AQD"), Herschler building, 122 West 25th Street, Cheyenne, WY 82002, and Abraxas Petroleum Corp. ("Abraxas"), 18803 Meisner Drive, San Antonio, TX 78258, enter into this Settlement Agreement ("Agreement") to fully and finally resolve without litigation the violations cited in DEQ Notice of Violation Docket Nos. 4443-09 and 4444-09 ("NOVs"). The NOVs alleges that Abraxas 1) failed to maintain and provide records upon Division request during active well site operation when emission control systems were not functional for the following permits: CT-4495, CT4496, CT 4497, and CT-4498, 2) installed a 40 hp E42 Ajax engine at the Hungarian Partridge production site without obtaining a construction/modification permit, 3) failed to install a thermocouple and continuous recording device within sixty days of permit issuance at the Sage Grouse 3H-15-38-67 production facility, 4) failed to monitor the flare pilot using a thermocouple and continuous recording or equivalent means to detect presence of a flame at the Sage Grouse 3H-15-38-67 production facility, and 5) failed to maintain and provide records to the Division upon request of when pilot flame is not present during active well site operation at the Sage Grouse 3H-15-38-67 production facility. The above listed are violations of permits CT-4495, CT4496, CT 4497, and CT-4498, CT-2715, the Air Quality Act ("Act") and applicable Wyoming Air Quality Standards and Regulations ("WAQSR").

WYO. STAT. ANN. § 35-11-901(a)(ii) (West 2008) authorizes stipulated settlement, including payment of a penalty, in lieu of litigation. To that end, Abraxas and the DEQ/AQD hereby stipulate and agree as follows:

1. The DEQ/AQD is responsible for enforcing the Act and WAQSR.
2. WYO. STAT. ANN. § 35-11-801(a) states: "In granting permits, the Director may impose such conditions as may be necessary to accomplish the purpose of this act which are not inconsistent with the existing rules, regulations and standards."
3. Chapter 6, Section 2 of the WAQSR prescribes the applicability and procedures for issuing permits to sources under DEQ/AQD's construction and modification permitting program.
4. Chapter 6, Section 2(a)(i) of the WAQSR states: "Any person who plans to construct any new facility or source, modify any existing facility or source, or to engage in the use of which may cause the issuance of or an increase in the issuance of air contaminants into the air of this state shall obtain a construction permit from the State of Wyoming, Department of Environmental Quality, before any actual work is begun on the facility."
5. On August 21, 2008, an Air Quality Division Engineer/Inspector requested records showing dates and times when the emission control systems were not functional at the Prairie Falcon 2, Red Tail Hawk 1, Bald Eagle 1 and Wild Turkey 1 oil/gas well site production facilities located in Niobrara County, Wyoming. These records were never received.
6. Permit CT-4495, CT4496, CT 4497, and CT-4498 were issued to Abraxas on January 16, 2007.
7. Condition 6 of Permit CT-4495, CT4496, CT 4497, and CT-4498 state:

“The VOC emission control device under condition five (5), including all vent lines, connections, fittings, valves, relief valves, hatches or any other appurtenance employed to contain and collect vapors and transport them to emission control system or device, shall be maintained and operated during any time the well is producing such that the emissions are controlled at all times. Records shall be maintained noting dates and durations of times during such operation when the emissions control system or device or the associated containment and collection equipment is not functioning to control emissions as required by this permit.”

8. Condition 8 of Permit CT-4495, CT4496, CT 4497, and CT-4498 state:

“All records required under this permit shall be kept for a period of at least five (5) years and shall be made available to the Division upon request.”

9. On August 21, 2008, at the Hungarian Partridge production site in Niobrara County, Wyoming, an Air Quality Division Engineer/Inspector observed a 40 hp E42 Ajax engine. This modification of the Hungarian Partridge facility was completed without obtaining a permit as required by Chapter 6, Section 2(a)(i) of the WAQSR.

10. Permit waiver AP-BZ2 was issued to Abraxas on May 13, 2002. This waiver lists facility equipment, which specifically lists a 30 hp Arrow C106 gas driven pumping unit engine.

11. On August 21, 2008, at the Sage Grouse 3H-15-38-67 wet gas/condensate facility located in Niobrara County, Wyoming, an Air Quality Division Engineer/Inspector observed that the flare was not equipped with a pilot flame system and a thermocouple and a continuous monitoring device had never been installed. A review of Division records indicates that notification of installation for the thermocouple and recording device were never received. The Air Quality Division Engineer/Inspector requested records of when pilot flame was not functional; these records were never supplied.

12. Permit CT-2715 was issued to Abraxas on February 11, 2002. Conditions 8, 9 and 11 require installation of monitoring equipment, continuous monitoring of pilot flare and recordkeeping of such information.

13. Condition 8 of Permit CT-2715 states:

“The presence of the flare pilot shall be monitored using a thermocouple and continuous recording device or any equivalent device to detect the presence of a flame.”

14. Condition 9 of Permit CT-2715 states:

“Abraxas Petroleum Corporation shall maintain records noting date and duration of time during active well site operation when the pilot flame is not present. Records shall be kept for a period of at least five (5) years and shall be made available to the Division upon request.”

15. Condition 11 of Permit CT-2715 states:

“The thermocouple and continuous recording device shall be installed and operated within sixty (60) days of permit issuance. Abraxas Petroleum Corporation shall notify the Division with the date of installation of the thermocouple and continuous recording device within fifteen (15) days of such date.”

16. Abraxas agrees to pay the DEQ/AQD five thousand dollars and no cents (\$5,000.00) for Notice of Violation Docket No. 4443-09 and five thousand dollars and no cents (\$5,000.00) for Notice of Violation Docket No. 4444-09 for a total of ten thousand dollars (\$10,000.00) as a stipulated settlement amount. Abraxas shall make full payment of the settlement amount by check made payable to the Wyoming Department of Environmental Quality, Air Quality Division, within thirty (30) days after Abraxas has been notified by DEQ/AQD that the final signature has been affixed to the Agreement. Abraxas shall mail the payment to John S. Burbridge, Senior Assistant Attorney General, 123 Capitol Building, Cheyenne, WY 82002.

17. Abraxas, by entering into this Agreement, does not concede or admit to any liability, and this Agreement constitutes no admission of fault or noncompliance.

18. Full compliance with the signed Agreement shall constitute full satisfaction for all claims by the DEQ/AQD against Abraxas based on the alleged violations in the NOV's and, solely in reliance on the Agreement, the DEQ/AQD will refrain from taking further enforcement action against Abraxas for those particular violations.

19. Abraxas waives any statute of limitations which may apply to an enforcement action by the DEQ/AQD involving the specific matters described in the NOV's in the event that Abraxas fails to fulfill its obligations under this Agreement.

20. This Agreement shall be admissible by either Abraxas or DEQ/AQD (hereinafter Abraxas and DEQ/AQD may be referred to individually as “Party” and collectively as “Parties”) without objection by the other Party in any action between these Parties relating to the violations alleged herein.

21. Neither Party hereto shall have any claim against the other for attorney's fees or other costs incurred with the allegations resolved hereby, including costs incurred in the preparation of the Agreement. Each Party shall bear its own attorney fees and costs, if any, incurred through the date this Agreement is signed by both Parties. Each Party assumes the risk of any liability arising from its own conduct. Neither Party agrees to insure, defend or indemnify the other.

22. Any changes, modifications, revisions or amendments to this Agreement which are mutually agreed upon by the Parties shall be incorporated by written instrument, executed and signed by all Parties to this Agreement.

23. The construction, interpretation and enforcement of this Agreement shall be governed by the laws of the State of Wyoming. The Courts of the State of Wyoming shall have jurisdiction over this Agreement and the Parties, and the venue shall be the First Judicial District, Laramie County, Wyoming.

24. This Agreement, consisting of four (4) pages represents the entire and integrated agreement between the Parties and supersedes all prior negotiations, representations, and agreements, whether written or oral.

25. The State of Wyoming and the DEQ/AQD do not waive sovereign immunity by entering into this Agreement and specifically retain immunity and all defenses available to them as sovereigns pursuant to WYO. STAT. ANN. § 1-39-104(a) and all other state law.

26. The Parties do not intend to create in any other individual or entity the status of third party beneficiary, and this Agreement shall not be construed so as to create such status. The rights, duties and obligations contained in the Agreement shall operate only between the Parties to this Agreement, and shall inure solely to the benefit of the Parties to this Agreement. The Parties to this Agreement intend and expressly agree that only Parties signatory to this Agreement shall have legal or equitable right to seek to enforce this Agreement, to seek any remedy arising out of a Party's performance or failure to perform any term or condition of this Agreement, or to bring an action for the breach of this Agreement.

27. Each Party represents that they are authorized to enter into this Agreement and agree to be bound hereby. This Agreement shall become binding upon the Parties once executed by all Parties.

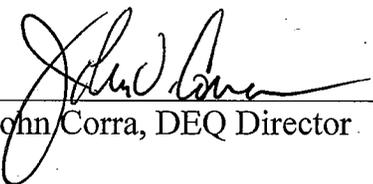
IN WITNESS THEREOF, the Parties, by their duly authorized representatives, have executed this Agreement on the days and dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this Agreement:

ABRAXAS PETROLEUM, CORP.

By:  9/25/09
WILL WALLACE Date

STATE OF WYOMING, DEPARTMENT OF ENVIRONMENTAL QUALITY:

By:  10/9/09
David Finley, AQD Administrator Date

By:  10/8/09
John Corra, DEQ Director Date

APPRVAL AS TO FORM:

By:  10-8-09
John S. Burbridge Date
Senior Assistant Attorney General
Attorney for DEQ/AQD