

STATE OF NEW MEXICO  
SECRETARY OF ENVIRONMENT

ENVIRONMENTAL PROTECTION DIVISION  
OF THE NEW MEXICO ENVIRONMENT DEPARTMENT,  
Complainant,

v.

NO. AQB DCP-0443-1301-R1 (NOV)

DCP MIDSTREAM, L.P.,  
Respondent.

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**SETTLEMENT AGREEMENT AND STIPULATED FINAL COMPLIANCE ORDER**

This Settlement Agreement and Stipulated Final Compliance Order (“Final Order”) is entered into between the Environmental Protection Division (“Division”) of the New Mexico Environment Department (the “Department”) and the Respondent, DCP Midstream, LP (“DCP”) (collectively, the “Parties”) to resolve alleged statutory, regulatory, and permit violations by DCP. The Department alleges violations of the New Mexico Air Quality Control Act (“AQCA”), NMSA 1978, Sections 74-2-1 to -17; the Air Quality Control Regulations (“AQCR”), 20.2. NMAC (“Regulations”), and Air Quality Permit Numbers P254 and 2667-M4 (“Permits”).

**I. BACKGROUND**

**A. PARTIES**

1. The Department is an agency of the executive branch of the State of New Mexico, created pursuant to NMSA 1978, § 9-7A-4. The Division is an organizational unit of the Department. The Secretary of the Department has delegated to the Director of the Division the authority to seek administrative enforcement of the AQCA and the AQCR, including assessing civil penalties for violations thereof. NMSA 1978, § 74-2-12. The Air Quality Bureau (“Bureau”) is an organizational unit of the Division.

2. DCP is a limited partnership doing business in New Mexico at the Nash Draw Booster Station (“Facility”), located in Eddy County, New Mexico. The Facility is a natural gas compressor station.

**B. HISTORY AND ALLEGED VIOLATIONS**

3. Permit P254, Condition A203.A and Permit 2667-M4, Condition A203.A, provide in relevant part, “A. Tank Throughput and Separator Pressure – Units TK1 and TK2...Requirement: To demonstrate compliance with the allowable emission limits...the monthly rolling 12-month average separator pressure shall not exceed 50.32 psia...”

4. On May 23, 2013, Bureau personnel conducted a Full Compliance Evaluation (“FCE”) at the Facility. During the FCE, Bureau personnel reviewed records related to the 12-month average separator pressure for units TK-1 and TK-2, covering eighteen (18) 12-month periods ending between December 2011 and May 2013. In addition, on April 30, 2014, the Bureau received additional separator pressure records from DCP for nine (9) 12-month periods ending between June 2013 and March 2014. Collectively, the records indicated that DCP failed to maintain separator pressure at or below 50.32 psia for a total of twenty-seven (27) 12-month periods.

5. Permit P254, Condition A110 provides in relevant part, “Requirement: All combustion emission units shall combust only natural gas containing no more than 5 grains of total sulfur per 100 dry standard cubic feet...Recordkeeping: The permittee shall demonstrate compliance with the natural gas or fuel oil limit on total H<sub>2</sub>S and sulfur content by maintaining records of current, valid purchase contract, tariff sheet or transportation contract for the gaseous or liquid fuel, or fuel gas analysis, specifying the allowable limit or less. If fuel gas analysis is used, the analysis shall not be older than six months...”

6. Permit 2267-M4, Condition A110 provides in relevant part, “Requirement: Units 1-5 shall combust only natural gas containing 0.25 grains H<sub>2</sub>S and 0.5 grains of total sulfur per 100 dry standard cubic feet...Recordkeeping: The permittee shall demonstrate compliance with the natural gas or fuel oil limit on total H<sub>2</sub>S and sulfur content by maintaining records of a current, valid purchase contract, tariff sheet or transportation contract for the gaseous or liquid fuel, or fuel gas analysis, specifying the allowable limit or less. If fuel gas analysis is used, the analysis shall not be older than six months...”

7. On May 23, 2013, the Bureau conducted an FCE at the Facility. During the FCE, Bureau personnel reviewed records related to fuel gas analysis. On April 28, 2014, the Bureau received additional fuel gas analyses from DCP. The records indicated that DCP failed to maintain a fuel gas analysis not older than six (6) months for two time periods: February 10, 2012 through July 9, 2012; and January 10, 2013 through July 30, 2013.

8. Permit 254, Condition B110.E and Permit 2267-M4, Condition B110.D, provide in relevant part, “Results of emission tests and monitoring for each pollutant (except opacity) shall be reported in...tons per year...”

9. On October 15, 2013, and March 24, 2014, the Bureau received two Semi-Annual Reports for the Facility. Periodic testing results included in the reports did not list the results in tons per year.

10. On May 7, 2014, the Bureau issued to DCP Notice of Violation DCP-0443-1301 (“NOV”), alleging violations of the AQCA, the AQCR, and the Permits. The alleged violations consisted of: 1) failure to maintain the 12-month average separator pressure below 50.32 psia, which is a violation of Permits P254, Condition A203.A, and Permit 2667-M4, Condition A203.A; 2) the failure to maintain a fuel gas analysis no older than six (6) months, which is a violation of

Permit P254, Condition A110 and Permit 2667-M4, Condition A110; and 3) the failure to list periodic test results in tons per year, which is a violation of Permit P254 Condition B110.E and Permit 2267-M4, Condition B110.D.

11. The NOV included a Corrective Action Verification (“CAV”) requiring the Respondent to submit to the Bureau measures taken to ensure future compliance with the permit conditions.

12. On June 14, 2014, the Bureau received the CAV from the Respondent. The CAV was determined to be satisfactory by the Bureau on June 26, 2014.

13. On November 4, 2015, the Bureau issued to DCP Revised Notice of Violation DCP-0443-1301-R1, which withdrew Violation 2 from Notice of Violation DCP-0443-1301 concerning the failure to maintain a fuel gas analysis no older than six (6) months.

## **II. COMPROMISE AND SETTLEMENT**

### **A. GENERAL**

14. The Parties have engaged in settlement discussions to resolve the NOV without further proceedings.

15. DCP does not admit any of the allegations in the NOV. To avoid further legal proceedings, the Division and DCP agree to the terms and conditions in this Final Order to resolve the alleged violations in the NOV.

16. The Parties admit jurisdiction and consent to the relief specified herein.

**B. CIVIL PENALTY**

17. In compromise and settlement of the alleged violations set forth in the NOV and upon consideration of the seriousness of the alleged violations and DCP's good faith efforts to comply, the Parties agree that DCP shall pay a civil penalty of \$11,040.00 to the State of New Mexico within 30 calendar days after the effective date of this Final Order.

18. Payment shall be made to the *State of New Mexico General Fund* by certified or corporate check and sent to the following address:

New Mexico Environment Department  
Air Quality Bureau  
c/o Compliance and Enforcement Manager  
525 Camino de los Marquez, Suite 1  
Santa Fe, New Mexico 87505

19. If DCP fails to make timely and complete payment of the civil penalty, DCP shall pay a stipulated penalty of \$250.00 per day for each day a payment is not timely or complete. DCP shall not contest or dispute in any way the stipulated penalty of \$250.00 per day in the event that the Department brings an action against DCP for the failure to make timely or complete payment.

**III. OTHER TERMS AND CONDITIONS**

**A. RESERVATION OF RIGHTS AND DEFENSES**

20. This Final Order shall not be construed to prohibit or limit in any way the Department from requiring DCP to comply with any applicable state or federal requirement not resolved herein. This Final Order shall not be construed to prohibit or limit in any way the Department from seeking any relief authorized by the AQCA for violation of any state or federal requirement applicable to DCP not resolved herein. This Final Order shall not be construed to prohibit or limit in any way DCP from raising any defense to a Department action seeking such relief.

**B. MUTUAL RELEASE**

21. The Parties mutually release each other from all claims that each party raised or could have raised against the other regarding the facts and violations alleged in the NOV. Such release applies only to civil liability.

**C. WAIVER OF STATE LIABILITY**

22. DCP shall assume all costs and liabilities incurred in performing all obligations under this Final Order. The Department, on its own behalf and on behalf of the State of New Mexico, does not assume any liability for the DCP's performance of any obligation under this Final Order.

**D. EFFECTIVE DATE AND TERMINATION DATES**

23. This Final Order shall become effective on the date it has been signed by the Department Secretary.

24. Except as otherwise provided in this Paragraph, the terms of this Final Order shall terminate when DCP has fulfilled the requirements of this Final Order. The reservations of rights and defenses and the mutual release in Paragraphs 20 and 21 shall survive the execution and performance of this Final Order, and shall remain in full force and effect as an agreement between the Parties.

**E. INTEGRATION**

25. This Final Order merges all prior written and oral communications between the Parties concerning the subject matter of this Final Order, contains the entire agreement between the Parties, and shall not be modified without the express written agreement of the Parties.

**F. BINDING EFFECT**

26. This Final Order shall be binding on the Parties and their officers, directors, employees, agents, subsidiaries, successors, assigns, trustees, or receivers.

**G. AUTHORITY OF SIGNATORIES**

27. The persons executing this Final Order on behalf of DCP and the Division, respectively, represent that he or she has the authority to execute this Final Order on behalf of the DCP and the Division.

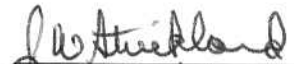
**H. SIGNATURE AND COUNTERPARTS**

28. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same agreement.

**ENVIRONMENTAL PROTECTION DIVISION  
NEW MEXICO ENVIRONMENT DEPARTMENT**

By:  Date: 4/4/16  
MICHAEL VONDERHEIDE  
DIRECTOR

**DCP MIDSTREAM, L.P.**

By:  Date: 3-29-2016  
Print Name: Jackie Strickland  
Print Title: General Manager

**STIPULATED FINAL COMPLIANCE ORDER**

This Settlement Agreement and Stipulated Final Compliance Order, agreed to by the Division and DCP Midstream, LP, is hereby incorporated herein and **APPROVED AS A FINAL COMPLIANCE ORDER** issued pursuant to NMSA 1978, §74-2-12.

*for* *Ritch Songate*  
**RYAN FLYNN**  
**SECRETARY**  
**ENVIRONMENT DEPARTMENT**

Date: 4/7/16

**APPROVED AS TO FORM:**

*[Signature]*  
**Jeffrey M. Kendall** *Jennifer L. H. Lee*  
**General Counsel** *Acting*  
**New Mexico Environment Department**

*[Signature]*  
**Louis W. Rose**  
**Attorney for DCP**