

STATE OF NEW MEXICO
SECRETARY OF ENVIRONMENT

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

RECEIVED
MAR 13 2017
BEE-LINE GAS SYSTEMS

NO. AQB BEE-24063-1601 (NOV)

BEELINE GAS SYSTEMS,
Respondent.

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, BEELINE GAS SYSTEMS (“Beeline” or “Respondent”) (collectively, the “Parties”) to resolve alleged statutory, regulatory, and permit violations by the Respondent. 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 Number 3217R7 (“Permit”).

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. The Respondent is a public company doing business in New Mexico at the Huerfano Mountain Gas Plant Facility (“Facility”), located in San Juan County, New Mexico. The Facility is a gas processing plant.

B. HISTORY AND ALLEGED VIOLATIONS

3. Permit Condition NSR Permit 3217R7, Condition A108.C provides in relevant part, “To minimize 40 CFR 60 Subpart KKK applicability, the facility inlet gas stream shall not exceed 9.0 MMscf/day. The permittee shall maintain a flow meter that continuously measures the flow rate into or out of the facility.”

4. On August 13, 2015, Bureau personnel conducted a full compliance evaluation (“FCE”) at the Facility. During the FCE, the Beeline Operations Manager stated that the Facility had exceeded the 9.0 MMscf/day throughput limit. A review of the gas volume statements (records) submitted by Beeline demonstrates that the Facility exceeded the 9.0 MMscf/day inlet gas stream limit 183 days between May 2, 2014 and November 25, 2015.

5. Permit Condition NSR Permit 3217R7, Condition A201.F provides in relevant part, “To ensure compliance with the allowable emission limits in Table 106.A, the combined operating hours of Gen-1 and Gen-2 shall not exceed 9,000 hours per year.”

6. On August 13, 2015, Bureau personnel conducted an FCE of the Facility. During the FCE, the Beeline Operations Manager stated that the Facility had exceeded the combined operating limit of 9,000 hours per year for Gen-1 and Gen-2 in November 2013. Gen-1 and Gen-2 hours of operation reports indicate that in November 2013 the combined run times were 9,032 hours.

7. Permit Condition NSR Permit 3217R7, Condition B111.D (1) provides in relevant part, "The permittee shall notify the Department's Program Manager, Compliance and Enforcement Section, at least 30 days before the test date and allow a representative of the Department to be present at the test."

8. On August 13, 2015, Bureau personnel conducted an FCE of the Facility. During the review of the records provided by Beeline, AQB determined that the department was not notified of testing at least 30 days before scheduled tests on 10 of 16 tests conducted from June 6, 2013 to June 29, 2015.

9. On July 13, 2016, the Bureau issued to the Respondent a Notice of Violation BEE-24063-1601 ("NOV"), alleging violations of the AQCA, the AQCR, and the Permit. The alleged violations consisted of: 1) Failure to limit facility gas throughput limit, which is a violation of Permit Condition A108.C; 2) Failure to limit the combined operating hours of Gen-1 and Gen-2 to 9,000 hours per year, which is a violation of Permit Condition A201.F; and 3) Failure to notify the Department's Program Manager before compliance test dates, which is a violation of Permit Condition B111.D(1).

10. On October 27, 2016, the Bureau issued to the Respondent a revised Notice of Violation BEE-24063-1601-R ("revised NOV") due to administrative errors in the previous NOV, alleging violations of the AQCA, the AQCR, and the Permit. The alleged violations consisted of: 1) Failure to limit facility gas throughput limit, which is a violation of Permit Condition A108.C; 2) Failure to limit the combined operating hours of Gen-1 and Gen-2 to 9,000 hours per year, which is a violation of Permit Condition A201.F; and 3) Failure to notify the Department's Program Manager before compliance test dates, which is a violation of Permit Condition B111.D(1).

11. The revised 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 November 7, 2016, the Bureau received the CAV from the Respondent. The CAV was determined to be satisfactory by the Bureau on November 12, 2016.

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

II. COMPROMISE AND SETTLEMENT

A. GENERAL

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

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

B. CIVIL PENALTY

16. In compromise and settlement of the alleged violations set forth in the revised NOV and upon consideration of the seriousness of the alleged violations and Respondent’s good faith efforts to comply, the Parties agree that the Respondent shall pay a civil penalty of \$24,640.00 to the State of New Mexico within 30 calendar days after the effective date of this Final Order.

17. 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

18. If the Respondent fails to make timely and complete payment of the civil penalty, the Respondent shall pay a stipulated penalty of \$250.00 per day for each day a payment is not timely or complete. The Respondent 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 the Respondent for the failure to make timely or complete payment.

III. OTHER TERMS AND CONDITIONS

A. RESERVATION OF RIGHTS AND DEFENSES

19. This Final Order shall not be construed to prohibit or limit in any way the Department from requiring the Respondent 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 the Respondent not resolved herein. This Final Order shall not be construed to prohibit or limit in any way the Respondent from raising any defense to a Department action seeking such relief.

B. MUTUAL RELEASE

20. 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

21. The Respondent 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 Respondent's performance of any obligation under this Final Order.

D. EFFECTIVE DATE AND TERMINATION DATES

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

23. Except as otherwise provided in this Paragraph, the terms of this Final Order shall terminate when the Respondent has fulfilled the requirements of this Final Order. The reservations of rights and defenses and the mutual release in Paragraphs 19 and 20 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

24. 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

25. 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

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

H. SIGNATURE AND COUNTERPARTS

27. 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: JCB
J.C. BORREGO
DEPUTY CABINET SECRETARY

Date: 3/20/2017

BEELINE GAS SYSTEMS

By: Allen Lain
Print Name: Allen Lain
Print Title: Operations Manager

Date: March 15, 2017

STIPULATED FINAL COMPLIANCE ORDER

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

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BUTCH TONGATE
ENVIRONMENT DEPARTMENT SECRETARY

Date: 3/20/17