

**STATE OF NEW MEXICO  
SECRETARY OF ENVIRONMENT**

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

**NO. AQB FRO-0191-1601 (NOV)**

**FRONTIER FIELD SERVICES LLC,  
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, Frontier Field Services LLC (“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 Numbers P146-R2, NSR126-M8-R1 and NSR 126-M9 (“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. Respondent is a limited liability company doing business in New Mexico at the Empire Abo Gas Plant Facility ("Facility"), located in Eddy County, New Mexico. The Facility is a natural gas processing plant.

## **B. HISTORY AND ALLEGED VIOLATIONS**

3. NSR 126-M8R1 and M9 Permit Condition A107.E, SSM and Malfunction Flaring Emissions (D-2301 and D-2302) provides in relevant part, "Monitoring: A gas flowmeter and flow totalizer, equipped with a chart recorder or electronic data logger, shall be installed in the flare line to measure and record the total standard cubic feet (scf) of all gas (process gas, purge gas, pilot gas, and supplemental fuel gas) sent to the flare during each hour and each month."

4. On June 16, 2016, the Bureau received a semi-annual monitoring report for the period August 1, 2015 to January 31, 2016 from Respondent, documenting monitoring at the Facility. Respondent reported a deviation consisting of failure to install flow meters for multiple lines to the flare as required. The violation had been originally identified in the semi-annual monitoring report for the period August 1, 2014 to January 31, 2015, which stated further that Respondent was working on correcting the problem. Subsequent semi-annual monitoring reports from Respondent also acknowledged the lack of flow meters for some gas lines at the facility. Flow meters for all gas lines routed to the flare are required by the permit condition cited above. No flow meters were in place for multiple gas lines from August 1, 2015 to April 8, 2016, when installation of a flow meter was completed. This violation continued for 250 days.

5. P146-R2, Permit Condition A106.C provides in relevant part, "When plant processes release sulfur at rates between five (5) and twenty (20) short tons per day, a minimum of 90% shall be recovered on a daily basis. (20.2.35.110.A NMAC)".

6. On November 3, 2015, January 29, 2016, and April 29, 2016, the Bureau received quarterly sulfur reports from Respondent. In these reports, Bureau staff found that sulfur recovery was less than 90%, as required by the permit condition, on 13 days during the 3rd and 4th quarters of 2015 and the 1st quarter of 2016. The dates of reported recovery efficiency deficit were as follows: September 25, 2015; September 28, 2015; October 5 through 12, 2015; January 16, 2016; February 7, 2016; and March 8, 2016, for a total of 13 events.

7. P146-R2, Permit Condition A207.E provides in relevant part, "Requirement: To demonstrate compliance with allowable emission limits in Table 106.A, the SRU incinerator shall be operated at all times with a combustion zone temperature of 1000 °F or higher."

8. On November 3, 2015; January 26, 2016; and March 29, 2016, the Bureau received quarterly sulfur reports from Respondent. In these reports, Bureau staff found that temperature of gas exiting the incinerator combustion zone of the sulfur recovery unit ("SRU") was measured at less than 1000° Fahrenheit on five (5) days within the relevant monitoring periods. The dates temperature was measured at less than 1000 degrees Fahrenheit are as follows: July 7, 2015; August 27, 2015; September 9, 2015; November 20, 2015; and December 17, 2015.

9. On October 4, 2016, the Bureau issued to Respondent Notice of Violation FRO-0191-1601 ("NOV"), alleging violations of the AQCA, the AQCR, and the Permits. The alleged violations consisted of: 1) Failure to measure all gas sent to flare through the use of a flow meter or meters, which is a violation of Permit Condition A107.C; 2) Failure to maintain sulfur recovery at 90% or greater, which is a violation of Permit Condition A106.C; and 3) Failure to

maintain incinerator temperature at 1000° Fahrenheit or higher, which is a violation of Permit Condition 207.E.

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

11. On November 8, 2016, the Bureau received the CAV from Respondent. The CAV was determined to be satisfactory by the Bureau on November 9, 2016.

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

## **II. COMPROMISE AND SETTLEMENT**

### **A. GENERAL**

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

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

### **B. CIVIL PENALTY**

15. In compromise and settlement of the alleged violations set forth in the 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 \$69,696.00 to the State of New Mexico within 30 calendar days after the effective date of this Final Order.

16. 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

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

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

#### **B. MUTUAL RELEASE**

19. 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**

20. 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**

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

22. Except as otherwise provided in this Paragraph, the terms of this Final Order shall terminate when Respondent has fulfilled the requirements of this Final Order. The reservations of rights and defenses and the mutual release in Paragraphs 18 and 19 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**

23. 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**

24. 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**

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

**H. SIGNATURE AND COUNTERPARTS**

26. 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: 4/10/17

**FRONTIER FIELD SERVICES LLC**

By: Kourthey K. Hadrick  
Print Name: Kourthey K. Hadrick  
Print Title: President / COO

Date: 4/4/17

**STIPULATED FINAL COMPLIANCE ORDER**

This Settlement Agreement and Stipulated Final Compliance Order, agreed to by the Division and Respondent Frontier Field Services LLC, 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**  
**SECRETARY**  
**ENVIRONMENT DEPARTMENT**

Date: 4/11/17