

**STATE OF NEW MEXICO
SECRETARY OF ENVIRONMENT**

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

NO. AQB DCP-0598-1701 (NOV)

**DCP Operating Company LP,
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 Respondent, DCP Operating Company LP (“Respondent”) (collectively, the “Parties”) to resolve alleged statutory, regulatory, and permit violations by 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 0423M7-R6 (“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. Respondent is a limited partnership doing business in New Mexico at the Lovington Booster Station Facility ("Facility"), located in Lea County County, New Mexico. The Facility is a natural gas compressor station.

B. HISTORY AND ALLEGED VIOLATIONS

3. Permit 0423M7-R6, Specific Condition 2, Emission Limits, Table 2.1: Allowable Emissions, contains emission limits for the facility.

4. Between January 12, 2017 and July 27, 2017, the Bureau received thirty-five (35) Final Excess Emissions ("EERs") from DCP for the Facility. Emissions included nitrogen oxides, carbon monoxide, volatile organic compounds, sulfur dioxide, and hydrogen sulfide. The total emissions from these events were approximately 64,098.11 pounds. As a result of reviewing the EERs, the Bureau identified potential violations of the Act, Regulations, and/or Permit.

5. On December 4, 2017, the Bureau issued to Respondent Notice of Violation DCP-0598-1701 ("NOV"), alleging violations of the AQCA, the AQCR, and the Permit. The alleged violations consisted of: failure to restrict emissions to below permitted levels, which is a violation of Permit Condition Specific Condition 2, Table 2.1.

6. 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.

7. On January 31, 2018, the Bureau received the CAV from Respondent. The CAV was determined to be satisfactory by the Bureau on February 15, 2018.

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

II. COMPROMISE AND SETTLEMENT

A. GENERAL

9. 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.

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

B. CIVIL PENALTY

11. In compromise and settlement of the alleged violations set forth in the NOV and upon consideration of the corrective actions that have occurred, the seriousness of the alleged violations and Respondent's good faith efforts to comply, the Parties agree that Respondent shall pay a civil penalty of \$58,135.06 to the State of New Mexico within 30 calendar days after the effective date of this Final Order.

12. 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

13. 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 Respondent for the failure to make timely or complete payment.

III. OTHER TERMS AND CONDITIONS

A. RESERVATION OF RIGHTS AND DEFENSES

14. 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

15. 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

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

D. EFFECTIVE DATE AND TERMINATION DATES

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

18. 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 14 and 15 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

19. 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

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

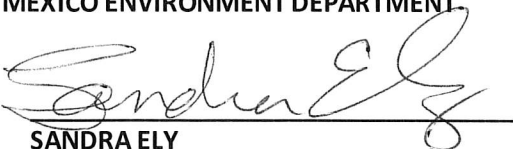
G. AUTHORITY OF SIGNATORIES

21. 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


22. 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: 
SANDRA ELY
DIRECTOR

Date: 8/20/19

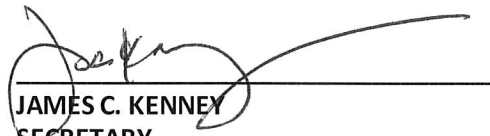
DCP OPERATING COMPANY, LP

By: 
Print Name: John Cook
Print Title: Environmental Manager

Date: 6/26/19

STIPULATED FINAL COMPLIANCE ORDER

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



JAMES C. KENNEY
SECRETARY
ENVIRONMENT DEPARTMENT

Date: August 26, 2019

NOTICE OF VIOLATION DCP-0199-1701
ATTACHMENT 2: Penalty Calculation Based on Pounds of Excess Emissions and Extent of Deviation Relative to Tons per Year Allowable Rates

ALLOWABLE EMISSION RATE (tons per year)

Unit	NO _x	CO	VOC	SO ₂	H ₂ S
M	10.0	10.0	10.0	10.0	9.0
SSM(23)	2.4	13.2	1.0	328.2	3.5

EXTENT OF DEVIATION FROM ALLOWABLE LIMIT OR RATE

\$ per pound or portion thereof	> 2 times or No Allowable Rate	> 1.25 and ≤ 2 times	≤ 1.25 times
	\$3.00	\$2.00	\$1.00

Activity No.	Start Date	Unit	Duration (hr)	ADDf Rejected Per NMALC*	EXCESS EMISSIONS (pounds per event)						EXTENT OF DEVIATION FROM ALLOWABLE LIMIT OR RATE						PENALTY (dollars)					
					NO _x	CO	VOC	SO ₂	H ₂ S	NO _x	CO	VOC	SO ₂	H ₂ S	NO _x	CO	VOC*	SO ₂	H ₂ S	Event Total		
000199-07072017	7/1/2017	M	0.75	20,277.11 A.9	0.06	0.32	1.23	4782.97	133.92	1.00	1.00	1.00	1.01	1.03	\$0.06	\$0.32	\$1.23	\$4,782.97	\$133.92	\$16,989.67		
000199-09132017 ^b	9/12/2017	SSM(23)	5.68	20,277.112 A.5	0.06	0.32	1.23	4782.97	133.92	1.00	1.00	1.00	1.01	1.03	\$0.06	\$0.32	\$1.23	\$4,782.97	\$133.92	\$0.00 ^c		
TOTAL POUNDS PER POLLUTANT					0	0	34,251.58	0.00	1,989.67												TOTAL PENALTY \$16,989.67	

ADDf = Affirmative Defense Demonstration Form
^a Other grounds for rejection of the affirmative defense may apply
^b Penalty limited to statutory maximum of \$15,000.00 per violation per day
^c For Event 000199-09132017, Unit SSM (23), Table 107-A has no ton/year emission limits for VOC and SO₂. Per Condition B110E, allowable emission rate is 1.0 ton/year.
^d \$0.00 penalty because the Affirmative Defense is accepted.

NOTICE OF VIOLATION DCP-0598-1701
ATTACHMENT 2: Penalty Calculation Based on Pounds of Excess Emissions and Extent of Deviation Relative to Tons per Year Allowable Rates

ALLOWABLE EMISSION RATE (tons per year)					EXTENT OF DEVIATION FROM ALLOWABLE RATE				
Unit	CO	NOx	SO ₂	VOCs	H ₂ S	\$ per pound or portion thereof	> 1.25 times or No Allowable Rate	> 1.25 and ≤ 2.5 times	< 1.25 times
Flare	6.4	1.2	96.8	13.4	1.1				

Malfunctions Affecting December 2016										
Activity No.	Final EER Date	Unit	Duration (min)	ADDF Rejected Per NMAC	CO	NOx	SO ₂	VOC	H ₂ S	Event Total
000598-1232016-01	1/12/2017	Flare	59	20.2,7,11(A,2)	46.14	8.48	634.77	65.94	6.89	\$46.14
TOTAL POUNDS PER POLLUTANT					46.14	8.48	634.77	65.94	6.89	\$792.22

Malfunctions Affecting January 2017										
Activity No.	Final EER Date	Unit	Duration (min)	ADDF Rejected Per NMAC	CO	NOx	SO ₂	VOC	H ₂ S	Event Total
000598-0102017-01	1/17/2017	Flare	144	20.2,7,11(A,2)	44.80	8.23	618.28	64.02	6.69	\$44.80
000598-0102017-02	1/17/2017	Flare	169	20.2,7,11(A,2)	57.34	10.54	788.84	81.95	8.56	\$57.34
000598-0102017-03	1/18/2017	Flare	371	20.2,7,11(A,2)	79.56	14.70	1,100.02	114.28	11.94	\$79.56
000598-0102017-04	1/18/2017	Flare	406	20.2,7,11(A,2)	111.54	20.50	1,524.54	158.41	16.66	\$111.54
000598-0102017-05	1/18/2017	Flare	187	20.2,7,11(A,2)	31.54	6.00	516.45	53.65	5.61	\$31.54
000598-0102017-06	1/18/2017	Flare	1472	20.2,7,11(A,2)	305.92	65.50	4,902.98	505.24	53.23	\$305.92
000598-0102017-07	1/28/2017	Flare	926	20.2,7,11(A,2)	24.17	4.44	333.46	34.54	3.61	\$24.17
000598-0102017-08	1/28/2017	Flare	81	20.2,7,11(A,2)	62.51	11.49	1,323.73	100.83	14.37	\$62.51
000598-0102017-09	1/29/2017	Flare	172	20.2,7,11(A,2)	220.55	40.61	4,673.18	356.43	50.80	\$220.55
000598-0102017-10	1/31/2017	Flare	608	20.2,7,11(A,2)	1201.52	220.83	1,862.13	178.31	202.29	\$1,201.52
TOTAL POUNDS PER POLLUTANT					1201.52	220.83	1,862.13	178.31	202.29	\$1,201.52

Malfunctions Affecting February 2017										
Activity No.	Final EER Date	Unit	Duration (min)	ADDF Rejected Per NMAC	CO	NOx	SO ₂	VOC	H ₂ S	Event Total
000598-0202017-01	2/14/2017	Flare	76	20.2,7,11(A,2)	53.23	9.78	1,121.28	85.87	12.24	\$53.23
000598-0202017-02	2/14/2017	Flare	52	ADP Ascribed	32.68	5.89	589.93	52.56	7.49	\$32.68
000598-0202017-03	3/7/2017	Flare	143	20.2,7,11(A,2)	65.06	12.14	1,391.95	105.56	15.19	\$65.06
000598-0202017-04	3/7/2017	Flare	49	20.2,7,11(A,2)	12.83	2.32	281.57	20.38	2.91	\$12.83
TOTAL POUNDS PER POLLUTANT					164.80	30.23	3,381.73	265.37	37.83	\$164.80

Malfunctions Affecting March 2017										
Activity No.	Final EER Date	Unit	Duration (min)	ADDF Rejected Per NMAC	CO	NOx	SO ₂	VOC	H ₂ S	Event Total
000598-0302017-01	3/16/2017	Flare	47	20.2,7,11(A,2)	12.43	2.28	251.21	20.05	2.86	\$12.43
000598-0312017-01	3/22/2017	Flare	46	20.2,7,11(A,2)	12.1	2.2	256.5	19.5	2.6	\$12.1
000598-03152017-01	3/28/2017	Flare	131	20.2,7,11(A,2)	80.2	14.7	1,598.8	128.4	18.4	\$80.2
000598-032017-01	3/31/2017	Flare	140	20.2,7,11(A,2)	75.6	14.6	1,061.1	128.4	18.3	\$75.6
000598-03212017-01	4/2/2017	Flare	4	20.2,7,11(A,2)	2.2	0.4	46.1	3.3	0.5	\$2.2
000598-03262017-01	4/11/2017	Flare	212	20.2,7,11(A,2)	140.9	25.9	2,689.2	227.3	32.4	\$140.9
000598-03312017-01	4/12/2017	Flare	292	20.2,7,11(A,2)	121.3	22.3	2,689.2	195.7	27.9	\$121.3
TOTAL POUNDS PER POLLUTANT					448.75	82.47	9,953.42	723.31	103.18	\$448.75

EXCESS EMISSIONS (pounds per event)										EXTENT OF DEVIATION FROM ALLOWABLE LIMIT OR RATE					PENALTY (dollars)				
CO	NOx	SO ₂	VOC	H ₂ S	CO	NOx	SO ₂	VOC	H ₂ S	CO	NOx	SO ₂	VOC	H ₂ S	Event Total				
12.43	2.28	251.21	20.05	2.86	1.001	1.001	1.001	1.001	1.001	512.43	82.28	3,283.21	520.05	52.86	\$300.83				
12.1	2.2	256.5	19.5	2.6	1.001	1.001	1.001	1.001	1.001	512.11	82.23	3,256.54	519.54	52.75	\$291.21				
80.2	14.7	1,598.8	128.4	18.4	1.006	1.006	1.004	1.006	1.006	580.22	114.74	5,169.81	128.44	18.44	\$1,941.62				
75.6	14.6	1,061.1	128.4	18.3	1.005	1.006	1.004	1.008	1.008	579.62	114.63	5,166.62	128.44	18.31	\$1,927.12				
2.2	0.4	46.1	3.3	0.5	1.000	1.000	1.000	1.000	1.000	52.18	50.40	546.13	53.51	50.50	\$52.18				
140.9	25.9	2,689.2	227.3	32.4	1.011	1.011	1.015	1.007	1.015	5140.88	925.88	42,933.45	3,227.28	321.38	\$3,408.87				
121.3	22.3	2,689.2	195.7	27.9	1.009	1.009	1.013	1.008	1.013	5121.31	822.47	42,599.16	3,193.70	321.38	\$2,995.36				
TOTAL PENALTIES					TOTAL PENALTIES					TOTAL PENALTIES									
448.75	82.47	9,953.42	723.31	103.18	448.75	82.47	9,953.42	723.31	103.18	448.75	82.47	9,953.42	723.31	103.18	\$10,581.73				

NOTICE OF VIOLATION DCP-0593-1801
ATTACHMENT 2: Penalty Calculation Based on Pounds of Excess Emissions and Extent of Deviation Relative to Allowable Rates

ALLOWABLE EMISSION RATE (pounds per hour)					EXTENT OF DEVIATION FROM ALLOWABLE LIMIT OR RATE			
Limit	NO _x	CO	VOC	SO ₂	H ₂ S	> 2 times or No Allowable Rate	> 1.25 and ≤ 2 times	≤ 1.25 times
Flare	0.15	0.82	0.14	0	0	\$3.00	\$2.00	\$1.25 times

Activity No.	Unit	Duration (minutes)	ADDF Related Per NMHC**	EXCESS EMISSIONS (pounds per event)						EXTENT OF DEVIATION FROM ALLOWABLE LIMIT OR RATE						PENALTY (dollars)						Event Total
				NO _x	CO	VOC	SO ₂	H ₂ S	NO _x	CO	VOC	**SO ₂	**H ₂ S	NO _x	CO	VOC	SO ₂	H ₂ S				
000593-09102017-01	Flare	1:00	20.2,7,11.1,A,2	2.850	13.180	0.010	31.190	0.560	20.00	19.88	1.07	3.00	3.00	\$8.55	\$16.44	\$0.01	\$153.57	\$1.68	\$210.25			
000593-09142017-01	Flare	1:00	20.2,7,11.1,A,2,8	0.860	4.680	0.002	15.480	0.170	6.75	6.71	1.01	3.00	3.00	\$2.58	\$1.40	\$0.00	\$46.44	\$0.51	\$63.57			
000593-10062017-01	Flare	3:00	20.2,7,11.3,A	1.040	5.708	0.002	18.873	0.205	3.35	3.32	1.00	3.00	3.00	\$3.15	\$17.12	\$0.00	\$56.62	\$0.62	\$77.51			
000593-10252017-01	Flare	12:00	20.2,7,11.3,A	54.200	394.900	0.100	975.030	10.500	31.11	30.97	1.06	3.00	3.00	\$162.60	\$884.70	\$0.10	\$2,925.09	\$31.77	\$4,004.26			
000593-10262017-01	Flare	1:00	20.2,7,11.3,A	0.390	2.110	0.001	6.660	0.080	3.60	3.57	1.01	3.00	3.00	\$1.17	\$6.33	\$0.00	\$20.88	\$0.24	\$28.62			
000593-11062017-01	Flare	17:00	20.2,7,11.3,A	510.250	2,776.37	0.950	9,179.43	99.660	83.97	83.58	1.17	3.00	3.00	\$1,530.75	\$8,329.11	\$0.95	\$27,538.29	\$298.98	\$37,698.08			
000593-11202017-01	Flare	0:05	20.2,7,11.1,A,2	0.990	5.360	0.002	17.710	0.190	80.20	79.44	1.17	3.00	3.00	\$2.97	\$16.08	\$0.00	\$32.13	\$0.57	\$72.75			
000593-12112017-01	Flare	5:00	20.2,7,11.1,A,2	4.070	22.130	0.010	73.150	0.790	6.43	6.40	1.01	3.00	3.00	\$12.21	\$66.39	\$0.01	\$319.45	\$0.57	\$400.00			
				Total Excess Emissions												TOTAL PENALTY						
				14,153.54												54,155.04						

ADDF = Additive Defense Demonstration Form
 *Values provided for reporting of the additive defense defense must apply
 **The limits for SO₂ and H₂S are zero so 3 was used for a value greater than 2 for calculation purposes