

**STATE OF NEW MEXICO
SECRETARY OF ENVIRONMENT**

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

v.

NO. AQB DCP-0593-1301-R1 (NOV)

**DCP MIDSTREAM, 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 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 74-2-17; the Air Quality Control Regulations (“AQCR”), 20.2. NMAC (“Regulations”), and Air Quality Permit Number P059M1R1 (“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. DCP is a limited partnership doing business in New Mexico at the Monument Booster Station (“Facility”), located in Lea County, New Mexico. The Facility is a natural gas compressor station.

B. HISTORY AND ALLEGED VIOLATIONS

3. Title V Permit P059R1M1 Condition A106 provides in relevant part, “A. The following table(s) list the emission units and their allowable emission limits...”. Relevant parts of Table A 106.A: Allowable Emissions in pounds per hour (pph) for Nitrogen Oxides (NOx), Carbon Monoxide (CO) and Volatile Organic Compounds (VOCs) are set forth below.

Unit Number	NOx (pph)	CO (pph)	VOC (pph)
Flare	0.15	0.82	0.04

4. On August 25, 2014, Air Quality Bureau (“Bureau”) staff completed a review of Title V Semi-Annual Reports for the monitoring periods ending November 30, 2013, May 31, 2014, and November 30, 2014. During this review, Bureau staff reviewed 27 Excess Emission Reports identifying 351 violations of the allowable emission limits for the Flare.

5. On April 28, 2015, the Bureau issued to DCP Notice of Violation 0593-1301, (“NOV”) alleging violations of the AQCA, the AQCR, and the Permit. The alleged violations consisted of: (1) failure to comply with allowable startup, shutdown, maintenance, and malfunction limits in NSR Permit 123M6 Facility Specific Requirement A107; (2) failure to comply with facility allowable emission limits for Units 3, 4 and Flare in Title V Permit 059R1M1 Facility Specific Requirement A106; and (3) failure to comply with operational limits

(compliance assurance monitoring) for Unit 4 in Title V Permit 059R1M1 Equipment Specific Requirement A201.

6. On June 3, 2015, DCP submitted its response to the NOV.

7. On July 10, 2015, the Bureau issued to DCP Notice of Violation DCP-0593-1301-R1 (“Revised NOV”), alleging failure to comply with allowable emission limits for NO_x, CO, and VOCs for Unit Flare, which is a violation of Title V Permit P059R1M1, Facility Specific Requirement A106.

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

9. On August 24, 2015, the Bureau received the CAV from the DCP. The CAV was determined to be satisfactory by the Bureau on September 17, 2015.

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

II. COMPROMISE AND SETTLEMENT

A. GENERAL

11. DCP does not admit to any of the allegations in the NOV or the Revised NOV, or to the propriety of the penalty matrix used in determining the penalty amount for those allegations. To avoid further legal proceedings, the Division and the DCP agree to the terms and conditions in this Final Order to resolve the alleged violations in the Revised NOV and any claims the Division made or could have made under the facts stated in the NOV or the Revised NOV.

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

B. CIVIL PENALTY

13. 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 DCP's good faith efforts to comply, the Parties agree that DCP shall pay a civil penalty of \$12,532.00 to the State of New Mexico within 30 calendar days after the effective date of this Final Order.

14. 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

15. If DCP fails to make timely and complete payment of the civil penalty, the 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

16. 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

17. 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 or the Revised NOV. Such release applies only to civil liability.

C. WAIVER OF STATE LIABILITY

18. 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 DCP's performance of any obligation under this Final Order.

D. EFFECTIVE DATE AND TERMINATION DATES

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

20. 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 16 and 17 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

21. 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

22. 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

23. 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 DCP and the Division.

H. SIGNATURE AND COUNTERPARTS


24. 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: 
MICHAEL VONDERHEIDE
DIRECTOR

Date: 3/25/16

DCP MIDSTREAM, LP

By: 
Print Name: Jackie W Strickland
Print Title: General Manager

Date: 3-18-2016

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 *Butch Jonete*
RYAN FLYNN
SECRETARY
ENVIRONMENT DEPARTMENT

Date: *4/5/16*

APPROVED AS TO FORM:

deputy *[Signature]*
Jeffrey M. Kendall *Jennifer L. Hume*
General Counsel
Environment Department

[Signature]
LOUIS W. ROSE
Attorney for DCP