

**STATE OF NEW MEXICO
SECRETARY OF ENVIRONMENT**

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

NO. AQB REG-0569-1401 (NOV)

**REGENCY FIELD SERVICES, LLC,
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, Regency 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 1092-M7 and P090-R1-M1 (“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. The Respondent is a limited liability company doing business in New Mexico at the Jal #3 Facility ("Facility"), located in Lea County, New Mexico. The Facility is a natural gas processing plant.

B. HISTORY AND ALLEGED VIOLATIONS

3. Permits 1092-M7 and P090-R1-M1, Conditions A206.A provide in relevant part: "Operation...Monitoring: The permittee shall monitor the performance test and flare operation per 40 CFR 60.18(c) through (f) for unit...10F..." and, 40 CFR § 60.18 provides in relevant part: "(c)(1) Flares shall be designed for and operated with no visible emissions as determined by the methods specified in paragraph (f), except for periods not to exceed a total of 5 minutes during any 2 consecutive hours....(f)(1) Method 22 of Appendix A to this part shall be used to determine the compliance of flares with the visible emission provisions of this subpart. The observation period is 2 hours and shall be used according to Method 22...."

4. On April 9, 2014, the Bureau conducted a Full Compliance Evaluation ("FCE") at the Facility. During the FCE, Bureau personnel reviewed an excess emission event, number 000569-07032013-01, which reported visible emissions from Unit 10F. The event occurred on July 2, 2013. During the FCE, Bureau personnel asked to see a copy of the Method 22 observation that was required for the event. A Method 22 observation had not been performed for the event.

5. Permits 1092-M7 and P090-R1-M1, Conditions A207.C provide in relevant part: "40 CFR 60, Subpart LLL (New Treater, Existing Treater, Sulfur Recovery Unit [SRU] and 9S)...Monitoring: The permittee shall comply with the applicable testing and monitoring

requirements of 40 CFR 60, Subpart A and LLL...." and 40 CFR § 60.646 (a), Subpart LLL, provides in relevant part: "The owner or operator subject to the provisions of §60.642 (a) or (b) shall install, calibrate, maintain, and operate monitoring devices or perform measurements to determine the following operations information on a daily basis:...(5) The required sulfur dioxide emission reduction efficiency for the 24-hour period: The sulfur feed rate and the H₂S concentration in the acid gas for the 24-hour period as applicable, shall be used to determine the required reduction efficiency in accordance with the provisions of §60.642(b)...."

6. On January 28, 2014, the Bureau received two Semi-Annual 40 CFR 60, Subpart LLL Reports from the Respondent for its Facility. The Reports covered the reporting periods of January 1 - June 30, 2013, which was a revised report, and July 1 - December 31, 2013. In the Reports, the Respondent listed 162 days in which it failed to calculate the SO₂ emission reduction efficiency for the SRU.

7. Permits 1092-M7 and P090-R1-M1, Conditions A207.C provide in relevant part: "40 CFR 60, Subpart LLL (New Treater, Existing Treater, SRU and 9S)...Monitoring: The permittee shall comply with the applicable testing and monitoring requirements of 40 CFR 60, Subpart A and LLL...." and, 40 CFR § 60.642 (b), Subpart LLL provides in relevant part: "...the owner or operator shall achieve at a minimum, an SO₂ emission reduction efficiency (Zc) to be determined from table 2 based on the sulfur feed rate (X) and the sulfur content of the acid gas (Y) of the affected facility."

8. On January 28, 2014, the Air Quality Bureau received a Semi-Annual 40 CFR 60, Subpart LLL Report from the Respondent for its Facility. The Report covered the reporting period of July 1 - December 31, 2013. The Report stated that the minimum SO₂ reduction efficiency required of the sulfur recovery unit during the reporting period was 90.8%. In the

Report, the Respondent listed three days in which it failed to meet the minimum SO₂ emission reduction efficiency for the SRU: December 8, 2013 - 90.6%, December 9, 2013 - 88.6%, and December 18, 2013 - 90.1%.

9. On October 8, 2014, the Bureau issued to the Respondent Notice of Violation REG-0569-1401 (“NOV”), alleging violations of the AQCA, the AQCR, and the Permits. The alleged violations consisted of: 1) the failure to conduct a Method 22 Observation in accordance with 40 CFR §§ 60.18 (c)(1) and (f)(1), which is a violation of Permits 1092-M7 and P090-R1-M1, Conditions A206.A; 2) the failure to calculate the SO₂ emission reduction efficiency for the SRU, which is a violation of Permits 1092-M7 and P090-R1-M1, Conditions A207.C and 40 CFR § 60.646 (a)(5); and 3) the failure to meet the minimum SO₂ emission reduction efficiency for the SRU, which is a violation of Permits 1092-M7 and P090-R1-M1, Conditions A207.C and 40 CFR § 60.642 (b).

10. 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.

11. On November 10, 2014, the Bureau received the CAV from the Respondent. The CAV was determined to be satisfactory by the Bureau on November 12, 2014.

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

II. COMPROMISE AND SETTLEMENT

A. GENERAL

13. The Respondent does not admit any of the allegations in the 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 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 \$44,952.00 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 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

18. 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

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. 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

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 the 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 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

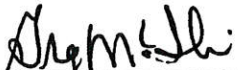
26. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same agreement.

**ENVIRONMENTAL PROTECTION DIVISION
NEW MEXICO ENVIRONMENT DEPARTMENT**

By: 
**MICHAEL VONDERHEIDE
DIRECTOR**

Date: 10/15/15

REGENCY FIELD SERVICES LLC

By: 
Print Name: GREG McILWAINE
Print Title: VP- OPERATIONS

Date: _____

STIPULATED FINAL COMPLIANCE ORDER

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

for *Butch Fongate*
RYAN FLYNN
SECRETARY
ENVIRONMENT DEPARTMENT

Date: *10/19/15*