

**STATE OF NEW MEXICO
SECRETARY OF ENVIRONMENT**

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

NO. AQB FRO-0565-1701-R1 (NOV)

**FRONTIER 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, 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 Number 0319-M11-R1 (“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 company doing business in New Mexico at the Maljamar Gas Plant (“Facility”), located in Lea County, New Mexico. The function of the Facility is to process field gas and recover natural gas liquids and residue gas for sale.

B. HISTORY AND ALLEGED VIOLATIONS

3. Permit 0319-M11-R1, Facility Specific Requirement A107.A, Table 107.A

"Allowable SSM and Malfunction Units, Activities, and Emission Limits", presents in part:

Unit No.	Description	NOx (pph)	NOx (tpy)	CO (pph)	CO (tpy)	VOC (pph)	VOC (tpy)	SO2 (pph)	SO2 (tpy)	H2S (pph)	H2S (tpy)
SSM 17	Acid Gas Flare	2.4	0.3	20.2	2.2	2.2	0.2	1869.7	205.4	19.9	2.2
SSM 18	Low Pressure Inlet Flare	116.9	6.2	291.5	15.6	177.9	9.4	292.5	15.5	3.1	0.2
SSM 19	High Pressure Inlet Flare	451.6	13.2	1126.9	33.0	502.0	11.8	1154.5	8.8	12.3	0.1
M11	Malfunction ¹	*	10.0	*	10.0	*	10.0	*	10.0	*	5.0

4. Between September 1, 2016 and December 28, 2016, the Bureau received 10 final excess emissions reports from the Respondent, pertaining to the Facility exceeding pounds per hour limits. The excess emission events, including activity number, start date, duration, unit number, emissions for each pollutant in pounds, number of pollutants exceeding limit, hours affected, and number of exceedances are presented in Attachment 1. Emissions were from Units 17 and 18. Excess emissions included nitrogen oxide, volatile organic compounds, sulfur dioxide, and hydrogen sulfide. There was a total of 73 exceedances with a sum total of excess emissions at 4793.60 pounds.

5. Between September 1, 2016 and December 28, 2016, the Bureau received five (5) final excess emissions reports from the Respondent, pertaining to the Facility exceeding tons per year limits for 12-month rolling totals. The excess emission events, including activity number,

start date, duration, unit number, emissions for each pollutant in pounds, number of pollutants exceeding limit, hours affected, and number of exceedances are presented in Attachment 1. Emissions were from Units 17 and 19. Excess emissions included sulfur dioxide and hydrogen sulfide. There was a total of 9 exceedances with a sum total of excess emissions at 221,093.02 pounds.

6. On March 15, 2017, the Bureau issued to the Respondent a Notice of Violation FRO-00565-1701 (“NOV”), alleging violations of the AQCA, the AQCR, and the Permit. The alleged violations consisted of: Failure to stay within permitted allowable malfunction and startup, shutdown, and maintenance emissions.

7. 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.

8. On April 14, 2017, the Bureau received the final CAV from the Respondent for the Facility with further data supporting that some excess emissions reported were tons per year exceedances, while others exceeded the pounds per hour limits. The CAV was determined to be satisfactory by the Bureau.

9. On August 25, 2017, the Bureau issued to the Respondent a Revised Notice of Violation FRO-0565-1701-R1, revising the NOV to reflect both pounds per hour and tons per year exceedances.

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

II. COMPROMISE AND SETTLEMENT

A. GENERAL

11. 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 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 violation set forth in the revised NOV and upon consideration of the seriousness of the alleged violation and Respondent's good faith efforts to comply, the Parties agree that the Respondent shall pay a civil penalty of \$88,885.51 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 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

16. 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

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. Such release applies only to civil liability.

C. WAIVER OF STATE LIABILITY

18. 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

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 the Respondent 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 if 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 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

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: 
RICHARD GOODYEAR
DIRECTOR

Date: 5 Oct 17

FRONTIER FIELD SERVICES, LLC

By: *Kourtney Hadrick*
Print Name: *Kourtney Hadrick*
Print Title: *President / COO*

Date: *10/2/2017*

STIPULATED FINAL COMPLIANCE ORDER

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



BUTCH TONGATE
SECRETARY
ENVIRONMENT DEPARTMENT

Date: 10/6/17