

**STATE OF NEW MEXICO
SECRETARY OF ENVIRONMENT**

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

NO. AQB TRA-0849-1301-R1 (NOV)

**TRANSWESTERN PIPELINE COMPANY,
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, Transwestern Pipeline Company (“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 Title V Permit Number P151-R2-M1 (“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 limited liability company doing business in New Mexico at the Corona Compressor Station #8 Facility ("Facility"), located in Lincoln County, New Mexico. The Facility is a natural gas compressor station.

B. HISTORY AND ALLEGED VIOLATIONS

3. Permit Equipment Specific Requirement A202.A requires in relevant part: "Mist Eliminator & Condensate Tank... To demonstrate compliance with the VOC allowable limit...[t]he 12 month average separator pressure shall not exceed 700 psia"

4. From December 17, 2013 through December 22, 2014 the Bureau received three (3) Semi-Annual Reports ("Reports") from the Facility. The Bureau reviewed the Reports and discovered that for eleven (11) months of the monitoring periods, the average separator pressure was above 700 pounds per square inch absolute (psia), as shown in Attachment 1.

5. Permit General Condition B110.B requires in relevant part: "... all instances of deviations from permit requirements, including those that occur during emergencies, shall be clearly identified in the reports required by section A109. (20.2.70.302.E.1 NMAC)." Permit Facility Specific Requirement A109.A requires in relevant part: "Semi-Annual Report of monitoring activities is due within 45 days following the end of every 6-month reporting period... ."

6. General reporting requirements require all instances of deviations from the Permit requirements to be reported. Transwestern failed to report the exceedances of the Separator Pressure as a deviation in all three (3) Reports.

7. On February 3, 2015, the Bureau issued to the Respondent Notice of Violation TRA-0849-1301-R1 (“NOV”), alleging violations of the Permit. The alleged violations consisted of: 1) the failure to maintain the Separator Pressure to the allowable limit is a violation of Title V Permit P151-R2-M1, Equipment Specific Requirement A202.A; and 2) the failure to report a deviation from a permit requirement in a Semi-Annual Report is a violation of Title V Permit P151-R2-M1, General Condition B110.B.

8. 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.

9. On March 10, 2015, the Bureau received the CAV from the Respondent. The CAV was determined to be satisfactory by the Bureau on April 21, 2015.

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 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 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 \$18,720.00 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. The Bureau received the signed Agreement in Principle and payment of the civil penalty in the amount of \$18,720.00 on August 17, 2015 by Check NO. 541023709. No further payment is necessary.

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 17 and 18 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 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

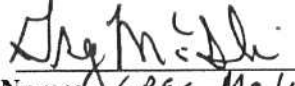
24. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same agreement.

**ENVIRONMENTAL PROTECTION DIVISION
NEW MEXICO ENVIRONMENT DEPARTMENT**

By: 
MICHAEL VONDERHEIDE
DIRECTOR

Date: 11/4/15

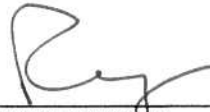
TRANSWESTERN PIPELINE COMPANY

By: 
Print Name: GREG MCLWAN
Print Title: V.P. OPERATIONS

Date: 10/29/15

STIPULATED FINAL COMPLIANCE ORDER

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



RYAN FLYNN
SECRETARY
ENVIRONMENT DEPARTMENT

Date: 11/9/15

