

**STATE OF NEW MEXICO
SECRETARY OF ENVIRONMENT**

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

NO. AQB DCP-0263-1401-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 Limited Partnership (“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 0832-M2 (“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 partnership doing business in New Mexico at the Fitz Compressor Station Facility ("Facility"), located in Eddy County, New Mexico. The Facility is a natural gas compressor station.

B. HISTORY AND ALLEGED VIOLATIONS

3. Permit Condition 107.A limits Volatile Organic Compound ("VOC") emissions from start-up, shutdown, maintenance, and malfunction events to ten (10) tons per year.

4. Between December 19, 2013, and May 19, 2014, the Air Quality Bureau received fifteen (15) final Excess Emission Reports ("EER"s) from the Respondent for the Facility. The EERs included excess emissions exceeding the VOC monthly rolling 12-month limit for startup, shutdown, maintenance, and malfunction events. A total of 76,137 pounds of VOC excess emissions were reported from the time period of December 9, 2013 to April 30, 2014.

5. Permit General Condition B110.C provides in relevant part: "The permittee shall notify the Department's Permitting Program Manager, in writing of, or provide the Department with...:
(1) any...equipment substitutions within fifteen (15) days of such change..."

6. On January 8, 2014, Bureau personnel conducted a Full Compliance Evaluation ("FCE") at the Facility. Permit 0832-M2 listed the permit serial number for Unit 4, an engine, as 279069. During the FCE, Bureau personnel discovered that the serial number for the engine was 279299. On January 9, 2014, the Bureau received a notification from the Respondent stating that the like-kind replacement took place in January of 2013. The notification was not submitted with the required fifteen (15) days.

7. On December 19, 2014, the Bureau issued to the Respondent Notice of Violation DCP-0263-1401 (“NOV”), alleging violations of the AQCA, the AQCR, and the Permit. The alleged violations consisted of: 1) failure to limit startup, shutdown, maintenance, and malfunction emissions to below ten (10) tons per year, which is a violation of Permit Condition 107.A; and 2) failure to submit a notification of equipment substitution within the required time period, which is a violation of Permit Condition B110.C(1).

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 December 9, 2015, the Bureau received the CAV from the Respondent. The CAV was determined to be satisfactory by the Bureau on December 10, 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 \$44,118.00 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 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 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

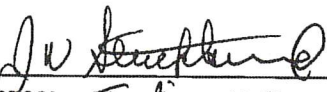
24. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same agreement.

**ENVIRONMENTAL PROTECTION DIVISION
NEW MEXICO ENVIRONMENT DEPARTMENT**

By: 
J.C. BORREGO
DEPUTY CABINET SECRETARY

Date: 1/30/2017

DCP MIDSTREAM, LP

By: 
Print Name: Jackie W Strickland
Print Title: GENERAL MANAGER

Date: 12/20/16

STIPULATED FINAL COMPLIANCE ORDER

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



BUTCH TONGATE
SECRETARY-DESIGNATE
ENVIRONMENT DEPARTMENT

Date: 1/30/17