

**STATE OF NEW MEXICO  
SECRETARY OF ENVIRONMENT**

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

**NO. AQB REG-0570-1301 (NOV)**

**REGENCY FIELD SERVICES, LLC,  
Respondent.**

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**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 Number GCP-4-5059 (“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 Jal #4 Facility ("Facility"), located in Lea County, New Mexico. The Facility is a compressor station.

## **B. HISTORY AND ALLEGED VIOLATIONS**

3. Permit GCP-4-5059, Condition VII.2 states in relevant part: "Engine(s) and Turbine(s) Equipped with Catalytic Converter(s). b. Equipment Specifications. Emissions shall be controlled with a catalytic converter...." Permit GCP-4-5059, Condition VI.4 states in relevant part: "Equipment Installation and Maintenance. All equipment shall be installed and maintained in good working order and in accordance with the manufacturer's specifications, and operated in a manner that the equipment meets the specifications set out in GCP-4...."

4. On July 26, 2013, the Bureau received a self-disclosure letter from the Respondent regarding the Facility. In the letter, the Respondent stated that on July 24, 2013 it discovered that three (3) engines at the Facility, Units 1, 2, and 3, had been operating without functioning catalytic converters. The catalyst elements were not installed in the converter housing when the units started operation on May 24, 2013. The units were shut down on July 24, 2013.

5. Permit GCP-4-5059, Condition V. 2.a. states in relevant part: "The hourly...emission limits listed in the Siting Registration Application are enforceable as permit conditions...." Permit GCP-4-5059, Siting Registration Application, Attachment B, Emission Rate Summary Table provides emission limits.

6. On July 26 and November 6, 2013, the Respondent submitted to the Bureau two Final Excess Emission Reports ("EERs") for the Facility. The EERs included excess emission calculations for three engines, Units 1, 2, and 3. On March 25, 2014, the Respondent submitted

updated information detailing that the emission rates established in the Siting Registration form had been exceeded for all or part of an hour. There were 4,712 instances of a pollutant exceeding the allowable emission rates.

7. 20.2.7.110 NMAC states in relevant part: "NOTIFICATION. A. The owner or operator of a source having an excess emission shall report the following information to the department on forms provided by the department. The department may authorize the submittal of such reports in electronic format...(1) Initial report: the owner or operator shall file an initial report, no later than the end of the next regular business day after the time of discovery of an excess emission...."

8. On November 6, 2013, the Bureau received an Initial/Final EER from the Respondent for the Facility. An initial report was required to be submitted for each event no later than the end of the next regular business day after the time of discovery. The event was discovered on October 26, 2013, and the next business day was October 28, 2013. Therefore, the Initial EER was nine (9) days late.

9. On April 1, 2014, the Bureau issued to the Respondent Notice of Violation REG-0570-1301 ("NOV"), alleging violations of the AQCA, the AQCR, and the Permit. The alleged violations consisted of: 1) the failure to equip engines with operational catalytic converters, which is a violation of Permit Conditions VII.2 and VI.4; 2) the failure to limit emissions to the allowable rates established in the Siting Registration Application, Attachment B, Emission Rate Summary Table, which is a violation of Permit Condition V.2.a; and 3) the failure to submit an initial excess emissions report no later than the end of the next regular business day after the time of discovery, which is a violation of 20.2.7.110.A(1) NMAC.

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 May 1, 2014, the Bureau received the CAV from the Respondent. The CAV was determined to be satisfactory by the Bureau on May 5, 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 \$50,530.00 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 MCELWAIN  
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 Longate*  
**RYAN FLYNN**  
**SECRETARY**  
**ENVIRONMENT DEPARTMENT**

**Date:** *10/19/15*