

**STATE OF NEW MEXICO
SECRETARY OF ENVIRONMENT**

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

v.

NO. AQB DCP-0595-1601 (NOV)

**DCP OPERATING COMPANY, 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 Respondent, DCP Operating Company, LLC, (“Respondent”) (collectively, the “Parties”) to resolve alleged statutory, regulatory, and permit violations by 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 P086-R2M1 and 0044-M10-R2 (collectively, the “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. Respondent is a limited partnership doing business in New Mexico at the Eunice Gas Plant Facility ("Facility"), located in Lea County, New Mexico. The Facility is a natural gas processing plant.

B. HISTORY AND ALLEGED VIOLATIONS

3. Permits Condition, Facility: Allowable Emissions A106.A states in relevant part, "The following table(s) list the emission units, and their allowable emission limits. (40 CFR 50, 40 CFR 60, Subparts A and GG, Kb, KKK, 40 CFR 63, Subparts A and HH, Paragraphs 1, 7, and 8 of 20.2.70.302.A NMAC and NSR Permit 0044M10)."

4. Between September 25, 2015 and February 17, 2016, the Bureau received thirty-four (34) Final Excess Emission Reports ("EERs") from the Respondent for the Facility. The EERs included excess emissions calculated above the permit limits contained in Table 106.A. A total of 83,042 pounds of excess emissions were reported in the 34 EERs.

5. On September 12, 2016, the Bureau issued to Respondent Notice of Violation DCP-0595-1601 ("NOV"), alleging violations of the AQCA, the AQCR, and the Permit. The alleged violations consisted of failure to restrict emissions to permitted limits, which is a violation of the Permits Condition, Facility: Allowable Emissions A106.A, Table 106.A.

6. The NOV included a Corrective Action Verification ("CAV") requiring Respondent to submit to the Bureau measures taken to ensure future compliance with the permit conditions.

7. On October 24, 2016, the Bureau received the CAV from Respondent. The CAV was determined to be satisfactory by the Bureau on October 25, 2016.

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

II. COMPROMISE AND SETTLEMENT

A. GENERAL

9. Respondent does not admit any of the allegations in the NOV. To avoid further legal proceedings, the Division and Respondent agree to the terms and conditions in this Final Order to resolve the alleged violations in the NOV.

10. The Parties admit jurisdiction and consent to the relief specified herein.

B. CIVIL PENALTY

11. In compromise and settlement of the alleged violations set forth in the NOV and upon consideration of the corrective actions that have occurred, the seriousness of the alleged violations and Respondent's good faith efforts to comply, the Parties agree that Respondent shall pay a civil penalty of \$27,979.48.00 to the State of New Mexico within 30 calendar days after the effective date of this Final Order.

12. 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

13. If Respondent fails to make timely and complete payment of the civil penalty, Respondent shall pay a stipulated penalty of \$250.00 per day for each day a payment is not timely or complete. 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 Respondent for the failure to make timely or complete payment.

III. OTHER TERMS AND CONDITIONS

A. RESERVATION OF RIGHTS AND DEFENSES

14. This Final Order shall not be construed to prohibit or limit in any way the Department from requiring 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 Respondent not resolved herein. This Final Order shall not be construed to prohibit or limit in any way Respondent from raising any defense to a Department action seeking such relief.

B. MUTUAL RELEASE

15. 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

16. 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 Respondent's performance of any obligation under this Final Order.

D. EFFECTIVE DATE AND TERMINATION DATES

17. This Final Order shall become effective on the date it has been signed by the Department Secretary.

18. Except as otherwise provided in this Paragraph, the terms of this Final Order shall terminate when Respondent has fulfilled the requirements of this Final Order. The reservations of rights and defenses and the mutual release in Paragraphs 14 and 15 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

19. 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

20. 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

21. The persons executing this Final Order on behalf of Respondent and the Division, respectively, represent that he or she has the authority to execute this Final Order on behalf of Respondent and the Division.

H. SIGNATURE AND COUNTERPARTS

22. 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: EBKuehn
ELIZABETH BISBEY-KUEHN
BUREAU CHIEF
AIR QUALITY BUREAU

Date: 12/17/18


DCP OPERATING COMPANY, LLC

By: J. M. Callum
Print Name: Jon McCallum
Print Title: GM

Date: 12/17/18

STIPULATED FINAL COMPLIANCE ORDER

This Settlement Agreement and Stipulated Final Compliance Order, agreed to by the Division and the Respondent, DCP Operating Company, LLC, 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: 12/21/18