

**STATE OF NEW MEXICO
SECRETARY OF ENVIRONMENT**

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

v.

NO. AQB DCP-0793-1201 (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 Complainant, the Environmental Protection Division (“Division”) of the New Mexico Environment Department (the “Department”) and the Respondent, DCP Midstream, LP (“DCPM”) (collectively, the “Parties”) to resolve alleged statutory, regulatory, and permit violations by DCPM at the Paige Booster Station (“Facility”).

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. DCPM is a limited partnership doing business in New Mexico at the Facility, which is located in Lea County, New Mexico. DCPM operates the Facility under Air Quality Permit Number GCP4-2424-M3R1 ("Permit").

B. HISTORY AND ALLEGED VIOLATIONS

3. Permit Condition V.2.a states in relevant part, "Allowable Emissions: 2.a. The hourly and annual emission limits listed in the Siting Registration Application are enforceable as permit conditions." The Siting Registration Application for the Facility, certified by DCPM on January 17, 2008, listed the hourly emission limit of NO_x from Unit 1a (Caterpillar 3512 TALE, S/N 7NJ00986) as 4.2 pounds per hour (pph).

4. On August 8, 2012, the Bureau received a stack test report ("Stack Test Report") submitted by DCPM. The stack test was performed on July 18, 2012, on Unit 1a at the Facility. According to the Stack Test Report, measured NO_x emissions were 4.82 pph, which exceeded the allowable limit of 4.2 pph. The excess emission event began on July 18, 2012 and continued through August 9, 2012.

5. Permit Condition VI.9 states: "Emissions During Upsets, Startup, and Maintenance. Owner or operator of the registered Facility shall comply with regulation 20.2.7 NMAC - Excess Emissions during Malfunction, Startup, Shutdown, or Scheduled Maintenance." 20.2.7.110.A(1) NMAC states in relevant part, "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. . . ."

6. DCPM's discovery date for the excess emissions event was no later than August 8, 2012, the date that DCPM certified and submitted the Stack Test Report to the Bureau. Therefore, an initial excess emission report was required to be submitted no later than August 9,

2012. DCPM submitted an excess emission report on August 15, 2012, which is six days later than the required submittal date of August 9, 2012.

7. On January 29, 2013, the Bureau issued to DCPM Notice of Violation DCP-0793-1201 (“NOV”), alleging violations of the AQCA, the AQCR, and the Permit. The alleged violations were: 1) the failure to limit NOx emissions from Unit 1a to the allowable emissions limit, which is a violation of Permit Condition V.2.a; and 2) the failure to submit an initial excess emissions report no later than the end of the next regular business day after its discovery, which is a violation of Permit Condition VI.9 and 20.2.7.110.A(1) NMAC.

8. The NOV included a Corrective Action Verification (“CAV”) requiring DCPM to submit to the Bureau measures taken to ensure future compliance with the permit conditions.

9. On March 11, 2013, the Bureau received the CAV from DCPM. The corrective actions were determined to be satisfactory by the Bureau on March 13, 2013.

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

II. COMPROMISE AND SETTLEMENT

A. GENERAL

11. DCPM does not admit any of the allegations in the NOV. To avoid further legal proceedings, the Division and DCPM 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 DCPM shall pay a civil penalty of \$16,704.00 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 DCPM fails to make timely and complete payment of the civil penalty, DCPM shall pay a stipulated penalty of \$250.00 per day for each day a payment is not timely or complete. DCPM shall not contest or dispute in any way this stipulated penalty of \$250.00 per day in the event that the Division brings an action against DCPM 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 DCPM 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 DCPM not resolved herein. This Final Order shall not be construed to prohibit or limit in any way DCPM 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. DCPM shall assume all costs and liabilities incurred in performing all obligations under this Final Order. The Division, on its own behalf and on behalf of the Department and the State of New Mexico, does not assume any liability for DCPM'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 DCPM 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 DCPM and the Division, respectively, represent that he or she has the authority to execute this Final Order on behalf of DCPM 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: 10/15/14

DCP MIDSTREAM, LP

By: 
Print Name: Steven Harless
Print Title: GM

Date: 10-14-14

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.



**RYAN FLYNN
SECRETARY
ENVIRONMENT DEPARTMENT**

Date: 10-24-2014

