

**STATE OF NEW MEXICO  
SECRETARY OF ENVIRONMENT**

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

**Complainant,**

v.

**NOS: AQB FRO-0191-1101-R1,  
FRO-0191-1201, and  
FRO-0191-1301 (NOVs)**

**FRONTIER 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 Complainant, the Environmental Protection Division (“Division”) of the New Mexico Environment Department (the “Department”) and the Respondent, Frontier Field Services, LLC (“Frontier”) (collectively, the “Parties”) to resolve alleged violations of the New Mexico Air Quality Control Act (“AQCA”), NMSA 1978, Sections 74-2-1 to 74-2-17; the Air Quality Control Regulations (“AQCR”), 20.2. NMAC (“Regulations”), and Air Quality Permit Numbers NSR 0126-M6, NSR 0126-M7, and Title V P146-R2 (“Permits”) by Frontier at its Empire Abo Gas Plant (“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

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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. Frontier is a limited liability company doing business in New Mexico at the Facility. The function of the Facility is to compress, sweeten, and dehydrate field natural gas and extract and produce natural gas liquids for transportation to customers through pipelines and by truck. The Facility is located in Eddy County, New Mexico.

3. The Bureau issued New Source Review (“NSR”) Permit No. 0126-M6 to the facility on September 20, 2010.

4. The Bureau issued NSR Permit No. 0126-M7 to the facility on July 11, 2011.

5. The Bureau issued Title V Operating Permit No. P146-R2 to the facility on July 2, 2012.

## B. HISTORY AND ALLEGED VIOLATIONS

6. The following paragraphs are a summary of the relevant regulatory and permitting provisions and the terms of the notices of violation issued to Frontier that are the subject of this Final Order.

### NOTICE OF VIOLATION FRO-0191-1101-R1 (“NOV 1”)

7. NSR Permit 0126-M6, Condition A107.A states, in relevant part: “The maximum allowable SSM emissions limits for this facility are listed in Table 107.A....”

8. The relevant portion of NSR Permit 0126-M6, Table 107.A: Allowable SSM Emissions, is set forth below.

Excerpt from Table 107.A: Allowable SSM Emissions

Unit No.	NOx pph	CO pph	VOC pph	SO2 pph
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EAF24 and 25	1.9	5	3.9	8.1
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There are neither allowable emissions nor maximum allowable emission limits for H2S listed in NSR Permit 0126-M6.

9. NSR Permit 0126-M6, Condition 107.B states in relevant part: “Compliance with the hourly emission limits shall be based on the calculated 24-hour average emission rate.”

10. On July 28, 2011, February 28, 2012, and April 25, 2012, the Bureau received Excess Emissions Reporting Forms (“EERs”), which together reported a total of thirty-two instances of NOx, CO, VOC, SO2, and H2S emissions from Units EAF24 and EAF25 that exceeded the 24-hour average emission rate limits established by NSR Permit 0126-M6.

11. Title V Permit P146-R2, Condition A107.A states, in relevant part: “The maximum allowable Startup, Shutdown, and Maintenance (SSM) emissions limits for this facility are listed in Table 107.A....”

12. The relevant portion of Title V Permit P146-R2, Table 107.A: Allowable SSM Emissions, is set forth below.

Excerpt from Table 107.A: Allowable SSM Emissions

Unit No.	NOx pph	CO pph	VOC pph	SO2 pph
EAF24 and 25	1.9	5	3.9	8.1

There are neither allowable emissions nor maximum allowable emission limits for H2S listed in Title V Permit P146-R2.

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13. Title V Permit P146-R2, Condition A107.B states in relevant part: “The pound per hour emission rates shall be determined using the total gas flared over a 24-hour period divided by the number of hours that the flaring occurred during the 24-hour period.”

14. During the period of August 2, 2012 through December 31, 2012, Frontier submitted to the Bureau fourteen EERs which together reported fourteen events resulting in excess emissions from Units EAF24 and EAF25 that occurred during startup, shutdown, and/or scheduled maintenance at the Facility. According to the EERs, the NO<sub>x</sub>, CO, VOC, SO<sub>2</sub>, and H<sub>2</sub>S emissions from the events were in excess of the startup, shutdown, and/or scheduled maintenance limits established by Title V Permit P146-R2.

15. NSR Permit 0126-M6, Condition A206.C states in relevant part: “Flaring (Units EAF24 and 25...1) The units shall only have emissions resulting from the pilot flame and SSM activities as specified in Section A107.”

16. During the period from March 17, 2011 through July 1, 2012, Frontier submitted to the Bureau EERs for flaring events by Units EAF24 and EAF25 at the Facility. According to these EERs, 163 events during this period were attributed to malfunctions and/or emergencies and were not wholly attributable to startup, shutdown or maintenance, and resulted in 9,364 instances of emissions of NO<sub>x</sub>, CO, VOC, SO<sub>2</sub> and H<sub>2</sub>S that were not allowed by NSR Permit 0126-M6.

17. Title V Permit P146-R2, Condition A106.A states in relevant part: “The following Section lists the emission units and their allowable emissions limits. Allowable emission limits for Units EAF24 and EAF25 are found in Table 107.A.”

18. Title V Permit P146-R2, Condition A107.A states, in relevant part: “The maximum allowable Startup, Shutdown, and Maintenance (SSM) emissions limits for this facility are listed

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in Table 107.A....” Table 107.A does not list any allowable emissions for Units EAF24 and EAF25 other than for startup, shutdown and maintenance.

**19.** During the period of July 25, 2012 through December 31, 2012, Frontier submitted to the Bureau EERs pertaining to 51 events attributable to malfunctions and/or emergencies, which resulted in 4,821 instances of emissions of NO<sub>x</sub>, CO, VOC, SO<sub>2</sub> and H<sub>2</sub>S that were not allowed by Title V Permit P146-R2.

**20.** 20.2.7.100 NMAC states in relevant part: “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...(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....”

**21.** During the period of April 12, 2011 through December 31, 2012, Frontier submitted to the Bureau twenty-six Initial EERs regarding excess emission events at the Facility that were filed later than the end of the next regular business day after the time of discovery of the excess emission events.

**22.** Title V Permit P146-R2, Condition A106.B states in relevant part: “Unit EA123 (SRU Incinerator) SO<sub>2</sub> emissions shall not exceed...(3) 128.9 pph averaged over a calendar year, and (4) 565 tpy.”

**23.** On January 9, 2013, Frontier submitted to the Bureau an EER, which included emission calculations for SO<sub>2</sub> from the Unit EAI23 (SRU Incinerator) for the calendar year 2012. The Bureau contends that according to the EER, emissions from Unit EAI23 exceeded 1) the 2012 annual SO<sub>2</sub> tpy limit by 15.24 tons; and 2) the 2012 calendar year averaged hourly rate by 3.6 pph.

**24.** On July 15, 2013, the Bureau issued to Frontier Notice of Violation and Settlement Offer for NOV FRO-0191-1101 alleging violations of the AQCA, the AQCR, NSR Permit 0126-M6 and Title V Permit P146-R2. The violations alleged were: 1) the failure to limit combined startup, shutdown, and maintenance emissions from Units EAF24 and EAF25 to the pound-per-hour limits, averaged over 24 hours, that were allowed by NSR Permit 0126-M6, Condition A107; 2) the failure to limit combined startup, shutdown, and maintenance emissions from Units EAF24 and EAF25 to the pound-per-hour limits, averaged over the duration of the event, that were allowed by Title V Permit P146-R2, Condition A107.A; 3) the failure to prevent emissions from Units EAF24 and EAF2 other than those resulting from the pilot and from startup, shutdown, or maintenance, which is a violation of NSR Permit 0126-M6, Conditions A206.C, A107, and A206; 4) the failure to prevent emissions from Units EAF24 and EAF25 other than those resulting from startup, shutdown or maintenance, which is a violation of Title V Permit P146-R2, Conditions A106.A and A107.A; 5) the failure to submit Initial Excess Emissions Reporting Forms no later than the end of the next regular business day after the time of discovery of an excess emission, which is a violation of 20.2.7.110.A(1) NMAC; 6) the failure to submit final Excess Emissions Reporting forms no later than ten days after the end of the emissions event, which is a violation of 20.2.7.110.A(2) NMAC; and 7) the failure to limit SO<sub>2</sub> emissions from Unit EAI23 (SRU Incinerator) to 128.9 pounds per hour averaged over a calendar year and 565 tons per year, which is a violation of Title V Permit P146-R2, Condition A106.B.

**25.** On December 3, 2013, Frontier submitted its settlement proposal for NOV 1.

**26.** On February 14, 2014, the Bureau issued to Frontier Revised Notice of Violation FRO-0191-1101-R1, alleging violations of the AQCA, the AQCR, NSR Permit 0126-M6 and Title

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V Permit P146-R2. Revised NOV 1 realleged all of the violations included in NOV 1, except Violation 6, which was withdrawn.

**NOTICE OF VIOLATION FRO-0191-1201 (“NOV 2”)**

27. Title V Permit P146-R2, Condition A106 states in relevant part: “The following Section lists the emission units and their allowable emission limits...” The section following Condition A106 is Table 106.A. A relevant excerpt from Table 106.A is set forth below.

Excerpt from Table 106.A: Allowable Emissions

Unit No.	CO pph
EAC30	0.4
EAC31	0.4

28. On September 7, 2012, the Bureau received from Frontier stack test reports conducted on Units EAC30 and EAC31, which are compressor engines at the Facility. The test reports indicated that the average hourly emission rates for carbon monoxide emitted from both Units EAC30 and EAC31 during the tests exceeded the emission rates allowed by Title V Permit P146-R2, Condition A106.

29. 20.2.7.100 NMAC states in relevant part: “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...(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....”

30. On October 4, 2012, Frontier submitted to the Bureau Initial EERs for excess emissions from Units EAC30 and EAC31. The Bureau contends that the excess emissions were discovered by Frontier no later than September 7, 2012, when Frontier submitted to the Bureau stack test reports which contained information regarding the excess emissions and that therefore,



Initial EERs were required to be filed no later than September 10, 2012, which was the next regular business day after the September 7, 2012 discovery by Frontier of the excess emissions.

**31.** On July 22, 2013, the Bureau issued to Frontier Notice of Violation FRO-0191-1201, alleging violations of the AQCA, the AQCR, and Title V Permit P146-R2. The alleged violations were: 1) the failure to limit the hourly carbon monoxide emission rates of Units EAC30 and EAC31 to 0.4 pounds per hour, which is a violation of Title V Permit P146-R2, Condition A106; and 2) the failure to file an Initial Excess Emission Report no later than the end of the next regular business day after discovery of an excess emission, which is a violation of 20.2.7.110.A(1) NMAC.

**32.** On December 3, 2013, Frontier submitted its settlement proposal for NOV 2.

**NOTICE OF VIOLATION FRO-0191-1301 (“NOV 3”)**

**33.** NSR Permit 0126-M7, Condition A202.A states in relevant part: “Molecular Sieve Dehydration System...Requirement: The off gases produced during the molecular sieve regeneration process shall be reintroduced back into the process.”

**34.** On February 7, 2013, Frontier reported to the Bureau that the off gasses produced during the molecular sieve regeneration process at the Facility had not been reintroduced back into the process, but had been flared during the period of March 6, 2012 through October 18, 2012.

**35.** NSR Permit 0126-M7, Condition A206.C states in relevant part: “Flaring (Units EAF24 and 25)...Monitoring: The permittee shall monitor the flow of gas to the flares, to include a log describing the type of flaring event, time and quantity.” This provision is also contained in Title V Permit P146-R2, Condition A206.B, Flaring (Units EAF24 and 25).

**36.** On February 7, 2013, Frontier reported to the Bureau that the off gasses produced during the molecular sieve regeneration process at the Facility had flared during the period of



March 6, 2012 through October 18, 2012, but the flow of this gas to the flares had not been monitored.

37. 20.2.7.110 NMAC states in relevant part: “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...(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....”

38. On February 13, 2013, Frontier submitted to the Bureau an Initial/Final EER pertaining to excess emissions resulting from flaring of molecular sieve regeneration gas during the period of March 6, 2012 through October 18, 2012. Because the rerouting of the molecular sieve regeneration gas was a planned change at the Facility, the Bureau contends that Frontier knew or should have known of the excess emissions no later than March 6, 2012, the first day of flaring. The Bureau further contends that the Initial EER for this excess emission activity was therefore required to be filed with the Bureau no later than the end of the next regular business day, which was March 7, 2012, but it was submitted 324 days late on February 13, 2013.

39. 20.2.7.110.A NMAC states in relevant part: “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...(2) Final report: the owner or operator shall file a final report...no later than ten (10) days after the end of the excess emission.”

40. Section 12-2A-7 NMSA states in relevant part, “In computing a period of time prescribed or allowed by a statute or rule, the following rules apply...E. if the period is less than eleven days, a Saturday, Sunday or legal holiday is excluded from the computation.”

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41. On February 13, 2013, Frontier submitted to the Bureau an Initial/Final EER pertaining to excess emissions resulting from flaring of molecular sieve regeneration gas during the period of March 6, 2012 through October 18, 2012. The Bureau contends that the Final EER was required to be filed with the Bureau no later than November 1, 2012, but was submitted 104 days late on February 13, 2013.

42. On November 15, 2013, the Bureau issued to Frontier Notice of Violation FRO-0191-1301, alleging violations of the AQCA, the AQCR, and NSR Permit 0126-M7. The alleged violations were: 1) the failure to reintroduce the molecular sieve regeneration gas back into the process, which is a violation of NSR Permit 0126-M7, Condition A202.A; 2) the failure to monitor the flow of the molecular sieve regeneration gas to the flares, which is a violation of NSR Permit 0126-M7, Condition A206.C; 3) the failure to file an Initial Excess Emission Report no later than the end of the next regular business day after discovery, which is a violation of 20.2.7.110.A(1) NMAC; and 4) the failure to file a Final Excess Emission Report no later than 10 days after the end of the excess emission, which is a violation of 20.2.7.110.A(2).

43. On December 3, 2013, Frontier submitted its settlement proposal for NOV 3.

44. On February 14, 2014, the Bureau issued a revised settlement offer for NOV 3.

#### **CORRECTIVE ACTIONS**

45. NOV 1, NOV 2 and NOV 3 included Corrective Action Verifications requiring Frontier to submit to the Bureau measures taken to ensure future compliance with permit conditions.

46. On November 27, 2013, the Bureau received from Frontier the Corrective Action Verification for NOV 3. The Corrective Action Verification for NOV 3 was determined to be satisfactory by the Bureau on December 3, 2013.

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47. On April 3, 2014, the Bureau received from Frontier the Corrective Action Verifications pertaining to NOV 1 and NOV 2. The Corrective Action Verifications pertaining to NOV 1 and NOV 2 were determined to be satisfactory by the Bureau on April 5, 2014.

48. As a part of its corrective action, Frontier proposed to revise the NSR permit for the Facility to include revised emission limits for startup, shutdown, maintenance and malfunction emissions.

49. On February 13, 2014, Frontier submitted an application to revise the NSR permit for the Facility. The application proposed revised emission limits for startup, shutdown, maintenance and malfunction emissions. On March 25, 2014, Frontier submitted revisions to that application. On June 11, 2014, the Bureau determined the application to be administratively complete.

50. On September 9, 2014, the Bureau granted the NSR permit revision for the Facility, including revised emission limits for startup, shutdown, maintenance and malfunction events.

## **II. COMPROMISE AND SETTLEMENT**

### **A. GENERAL**

51. The Parties have engaged in settlement discussions to resolve the NOV's without further proceedings. At all relevant times, the statute of limitations provided in NMSA 1978, § 74-2-12 has been tolled by agreement of the parties.

52. To avoid further legal proceedings, the Division and Frontier agree to the terms and conditions in this Final Order to resolve the alleged violations in the NOV's. By entering into this Final Order, Frontier does not admit any of the allegations of law or fact in the NOV's or the propriety of the civil penalty.

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53. For purposes of this proceeding, the Parties admit the jurisdictional allegations and consent to the relief specified herein, including the assessment of the stated civil penalty.

**B. CIVIL PENALTY**

54. In compromise and settlement of the alleged violations set forth in the NOV's and upon consideration of the seriousness of the alleged violations and Frontier's good faith efforts to comply, the Parties agree that Frontier shall pay a civil penalty of \$938,291.68. to the State of New Mexico within 30 calendar days after the effective date of this Final Order.

55. 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

56. If Frontier fails to make timely and complete payment of the civil penalty, Frontier shall pay a stipulated penalty of \$250.00 per day for each day a payment is not timely or complete. Frontier shall not contest or dispute in any way the stipulated penalty of \$250.00 per day in the event that the Division brings an action against Frontier for the failure to make timely or complete payment.

**C. CORRECTIVE ACTIONS**

57. Frontier has taken corrective actions for each alleged violation, including revising the NSR permit for the facility, and such corrective actions have been approved by the Division.

**III. OTHER TERMS AND CONDITIONS**

**A. RESERVATION OF RIGHTS AND DEFENSES**

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

**B. MUTUAL RELEASE**

59. 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 1, NOV 2 and NOV 3. Such release applies only to civil liability.

**C. WAIVER OF STATE LIABILITY**

60. Frontier 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 Frontier's performance of any obligation under this Final Order.

**D. EFFECTIVE DATE AND TERMINATION DATES**

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

62. Except as otherwise provided in this Paragraph, the terms of this Final Order shall terminate when Frontier has fulfilled the requirements of this Final Order. The reservations of rights and defenses and the mutual release in Paragraphs 58 and 59 shall survive the execution and

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performance if this Final Order, and shall remain in full force and effect as an agreement between the Parties.

**E. INTEGRATION**

63. 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**

64. 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**

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

**H. SIGNATURE AND COUNTERPARTS**

66. 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: 9/17/14

**FRONTIER FIELD SERVICES, LLC**

By:   
**BRIAN J. BRISCOE**

Date: 9/11/14

**PRESIDENT/CHIEF OPERATING OFFICER**

 9/11/14

**STIPULATED FINAL COMPLIANCE ORDER**

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



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**RYAN FLYNN**  
**SECRETARY**  
**ENVIRONMENT DEPARTMENT**

Date: 9/23/2014

**APPROVED AS TO FORM:**



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**WILLIAM G. GRANTHAM**  
**Attorney for the Division**



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**LOUIS W. ROSE**  
**Attorney for Frontier**

