

**STATE OF NEW MEXICO
ENVIRONMENT DEPARTMENT**

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

NO. AQB DCP-0199-1101 (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, LP (“Respondent”) (collectively, the “Parties”) to resolve alleged statutory, regulatory, and permit violations by the Respondent. The Department alleges a violation of the New Mexico Air Quality Control Act (“AQCA”), NMSA 1978, § 74-2-1 to 74-2-17; the Air Quality Control Regulations (“AQCR”), 20.2. NMAC (“Regulations”); and Air Quality Permit Number P095-R1M1 (“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 Artesia Gas Plant ("Facility"). The function of the Facility is to process natural gas, including condensate removal, H2S removal with an amine unit, separation of natural gas liquids through the cryogenic plant, and inlet and residue compression. The Facility is located in Eddy County, New Mexico.

B. HISTORY AND ALLEGED VIOLATIONS

3. Permit Condition A210.A CAM Plan states in relevant part: "Monitoring... The permittee shall follow the CAM plan in Appendix B of this permit...."

4. Permit Appendix B states in relevant part for monitoring/verification of QA/QC practices concerning the Unit AGI: "...Inlet gas flow meters calibrated monthly...."

5. During a Full Compliance Evaluation conducted at the Facility on July 18, 2011, Bureau personnel discovered that the inlet gas flow meter of Unit AGI was not calibrated during the months of December 2010 and January, March, April and May, 2011, for a total of five months.

6. On May 7, 2012, the Bureau issued to Respondent Notice of Violation DCP-0199-1101 ("NOV"), alleging a violation of the Permit. The alleged violation is the failure to calibrate the inlet gas flow meter on a monthly basis.

7. 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.

8. On June 4, 2012, the Bureau received the CAV from Respondent. The CAV was determined to be satisfactory by the Bureau on June 5, 2012.

9. On July 20, 2012, the Bureau issued to Respondent a proposal of a civil penalty for the alleged violation at the Facility.

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

II. COMPROMISE AND SETTLEMENT OF NOTICE OF VIOLATIONS

A. GENERAL

11. Respondent does not admit any of the allegations in the NOV. To avoid further legal proceedings, the Division and Respondent agree to terms and conditions in this Final Order to resolve the alleged violation 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 violations and good faith efforts to comply, the Parties agree that Respondent shall pay a civil penalty of \$5,136.00 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
1301 Siler Rd., Building B
Santa Fe, New Mexico 87507-3113

15. If Respondent fails to make timely and complete payment of the civil penalty, Respondent shall pay interest on the outstanding balance at the rate established for judgments and decrees under NMSA 1978, § 56-8-4.

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 Respondent to comply with any applicable state or federal requirement. 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

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 violation alleged in the NOV. Such release applies only to civil liability.

C. WAIVER OF STATE LIABILITY

18. 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

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 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 not terminate, and shall remain in 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 Respondent and Complainant, respectively, represent that he or she has the authority to execute this Final Order on behalf of Respondent and Complainant.

**ENVIRONMENTAL PROTECTION DIVISION
NEW MEXICO ENVIRONMENT DEPARTMENT**

By: Mary Rose
MARY ROSE
ACTING DIRECTOR

Date: Aug 14, 2012

DCP MIDSTREAM, LP

By: John Cook
Print Name: John Cook
Print Title: ENVIRONMENTAL MANAGER

Date: Aug 9, 2012

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.


F. DAVID MARTIN
SECRETARY OF ENVIRONMENT

Date: 8-20-12