

**STATE OF NEW MEXICO
SECRETARY OF ENVIRONMENT**

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

Complainant,

v.

NO. CHE-0760-1301-R1 (NOV)

CHEVRON U.S.A. INC.,

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, Chevron U.S.A. Inc. (“Chevron”) (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 2191-M3 and NSR 2191-M4 (“Permits”) by Chevron at its Buckeye CO₂ Plant near Lovington, New Mexico (the “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. Chevron is a Pennsylvania corporation registered to do business in the State of New Mexico, and is a person within the meaning of NMSA 1978, § 74-2-2(O) (2001). The function of the Facility is to process carbon dioxide (CO₂) laden gas from oil and gas fields; dehydrate and compress the gas; purify the gas, during which produced natural gas liquids are recovered and conveyed off site via pipeline; and reinject the purified gas into production wells.

3. The Bureau issued New Source Review (“NSR”) Permit No. 2191-M3 to the facility on July 26, 2007.

4. The Bureau issued NSR Permit No. 2191-M4 to the facility on January 25, 2011.

B. HISTORY AND ALLEGED VIOLATIONS

BACKGROUND

5. On February 8, 2013, representatives of Chevron met with the Bureau and reported certain excess emission events, not previously reported to the Bureau, that had resulted from purging of CO₂ compressors at the facility

6. On April 25, 2013, in response to the Bureau’s request, Chevron submitted a spreadsheet with data on CO₂ purging events from February 8, 2008 through January 24, 2011, which was the last day permit 2191-M3 was effective.

7. On December 11, 2013, the Bureau issued NOV CHE-0760-1303, alleging four violations associated with the excess emissions documented in the April 25, 2013 submittal. Chevron submitted a corrective action verification form on February 13, 2014. The Department has determined that no additional corrective action is necessary.

8. The Bureau issued a settlement offer on March 12, 2014, and Chevron submitted a response and counteroffer on April 7, 2014.

9. On July 25, 2014, in response to a request from the Bureau, Chevron submitted additional data in the form of a spreadsheet in support of Chevron's proposed penalty assessment contained in its April 7 counteroffer. The July 25 submission included a correction to the calculations (explained within the spreadsheet) which resulted in an upward adjustment in the proposed penalty assessment.

10. Based on the information obtained through the above-described exchanges, a revised NOV was issued on September 5, 2014 (No. CHE-0760-1301-R1).

11. The following paragraphs are a summary of the relevant regulatory and permitting provisions and the terms of CHE-0760-1301-R1 (NOV) issued to Chevron that is the subject of this Final Order.

VIOLATION 1

12. NSR Permit 2191-M3, Condition 2.a states in relevant part, "Table 2.1 lists the allowable emissions for this facility."

Excerpt from Table 2.1: Allowable Emissions

Unit No.	NO _x pph	CO pph	SO ₂ pph	H ₂ S pph
FLR-MAINT	1.5	7	--	--

13. As evidenced by the spreadsheet submitted by Chevron on July 25, 2014 (Attachment 1 hereto), there were a total of 402 instances of an hourly emission limit for FLR-MAINT (the applicable standard during those events) being exceeded for an hour or portion of hour.

14. The failure to limit hourly emissions of NO_x, CO, SO₂, and H₂S from Unit No. FLR to the allowable limits was in violation of NSR Permit 2191-M3, Condition 2.a.

VIOLATION 2

15. 20.2.7.110 NMAC (effective August 1, 2008) 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....”

16. Forty of the excess emission events listed in Attachment 1 occurred after August 1, 2008, the effective date of the requirement in 20.2.7.110.A(1) NMAC to submit an Initial Excess Emission Report. For these 40 events, no Initial Excess Emissions Reports were filed by Chevron. Chevron's discovery date for these events is the day the event occurred, because the purging of the CO2 compressors was an intentional act undertaken by Facility personnel to facilitate maintenance and repair of the compressors.

17. The failure to file an Initial Excess Emission Report for each of these 40 events no later than the end of the next regular business day after discovery was in violation of 20.2.7.110.A(1) NMAC.

VIOLATION 3

18. 20.2.7.110 NMAC (effective August 1, 2008) 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.”

19. 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. . . .”

20. Forty of the excess emission events listed in Attachment 1 occurred after August 1, 2008, the effective date of the requirement in 20.2.7.110.A(2) NMAC to submit a Final Excess Emission Report. For these 40 events, no Final Excess Emissions Reports were filed by Chevron.

21. The failure to file a Final Excess Emission Report no later than ten days after the end of each of the 40 excess emissions events was in violation of 20.2.7.110.A(2) NMAC.

VIOLATION 4

22. 20.2.72.203 NMAC states is relevant part: “A. Any person seeking a permit under Subsection A of 20.2.72.200 NMAC shall do so by filing a written application with the Department. ...All applications shall, as required by the Department ... (3) Provide all information, including all calculations and computations, to describe the specific chemical and physical nature and to estimate the maximum quantities of any regulated air contaminants the source will emit through routine operations after construction, modification or installation is completed, and estimate maximum potential emissions during malfunction, startup, shutdown.”

23. On April 25, 2013, the Bureau received from Chevron the final version of a spreadsheet listing the CO₂ compressor purging events for prior years, including the events listed in Attachment 2 for the period from January 25, 2011 (effective date of Permit 2191-M4) to February 8, 2013.

24. NSR Permit 2191-M4, which was effective during the time period of these events, provides at Table 2.1 allowable emission rates for Unit FLR pilot emissions, compressor blowdown emissions, and dehydrator emissions. Allowable emission rates are not provided for any other types of emission events.

25. On November 26, 2013, the Bureau received confirmation by email from Chevron that CO₂ compressor purge events are a different activity from compressor blowdowns.

26. As shown in Attachment 2, actual and therefore potential emission rates from compressor purge events exceed 10 pounds per hour for CO, SO₂, and sometimes NO_x, pollutants for which there are National Ambient Air Quality Standards. However, Chevron had not included these emissions from this activity in its calculations to estimate maximum potential emissions in its application for Permit 2191-M4, which was received by the Bureau on October 8, 2010. Chevron submitted an application in March 2014 which proposed to include emissions from CO₂ compressor purging events.

27. The failure of Chevron to provide in its permit application all calculations and computations to estimate maximum potential emissions is a violation of 20.2.72.203.A(3) NMAC.

II. COMPROMISE AND SETTLEMENT

A. GENERAL

28. 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.

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

30. 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

31. In compromise and settlement of the alleged violations set forth in the NOV and upon consideration of the seriousness of the alleged violations and Chevron's good faith efforts to comply, the Parties agree that Chevron shall pay a civil penalty of \$78,659.00 to the State of New Mexico within 30 calendar days after the effective date of this Final Order.

32. 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

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

C. CORRECTIVE ACTIONS

34. Chevron has taken corrective actions for each alleged violation, and such corrective actions have been approved by the Division.

III. OTHER TERMS AND CONDITIONS

A. RESERVATION OF RIGHTS AND DEFENSES

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

B. MUTUAL RELEASE

36. 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

37. Chevron 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 Chevron's performance of any obligation under this Final Order.

D. EFFECTIVE DATE AND TERMINATION DATES

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

39. Except as otherwise provided in this Paragraph, the terms of this Final Order shall terminate when Chevron has fulfilled the requirements of this Final Order. The reservations of rights and defenses and the mutual release in Paragraphs 35 and 36 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

40. 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

41. 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

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


H. SIGNATURE AND COUNTERPARTS

43. 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: 11/17/14

CHEVRON U.S.A. INC.
By: 
**ROBERT JORVIK
GM OPERATIONS.**

Date: 11/4/14

STIPULATED FINAL COMPLIANCE ORDER

This Settlement Agreement and Stipulated Final Compliance Order, agreed to by the Division and the Respondent Chevron U.S.A. Inc. 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: 11/17/2014

APPROVED AS TO FORM:



WILLIAM G. GRANTHAM
Attorney for the Division



LOUIS W. ROSE
Attorney for Chevron