

STATE OF NEW MEXICO
NEW MEXICO ENVIRONMENT DEPARTMENT

NEW MEXICO ENVIRONMENT DEPARTMENT,

Complainant,

v.

No. AQB BPA-27025-1001 (NOV)

BP America Production Company,

Respondent.

STIPULATED FINAL COMPLIANCE ORDER

This Stipulated Final Compliance Order (“Final Order”) is agreed to by the New Mexico Environment (“Department”) and the Respondent BP America Production Company (“Respondent”) to resolve alleged 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; and Air Quality Permit No. 3694-R1 (“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 Environmental Protection Division is an organizational unit of the Department. The Air Quality Bureau (“Bureau”) is an organizational unit of the Division.

2. Respondent is a corporation doing business in New Mexico at the Barrett LS 002B Wellsite (“Facility”). The function of the Facility is to transport natural gas through underground natural gas pipelines using reciprocating, natural gas fired compressor engines. The Facility is located in San Juan County, New Mexico.

B. HISTORY AND ALLEGED VIOLATION

3. Specific Condition 1.1 of the Permit states: "Table 1 identifies the regulated equipment at this facility. Unit 1, Engine: Waukesha, Type of Control Equipment: AFR."

4. General Condition 1.3 of the Permit states: "Any engine equipped with a catalytic converter shall also have an air fuel ratio (AFR) controlling device, or similar device that performs the same function of maintaining an appropriate air-fuel ratio...."

5. In a letter dated August 10, 2010 Respondent reported to the Bureau a potential violation at the Facility. On August 2, 2010 the Respondent discovered that it had not installed an Air Fuel Ratio ("AFR") controller on a Waukesha engine ("Unit 1") at the Facility.

6. On January 21, 2011, the Bureau issued to Respondent Notice of Violation BPA-27025-1001 ("NOV") alleging a violation of the AQCA, the AQCR, and the Permit. The alleged violation was the failure to install control equipment - AFR Controller.

7. The NOV included a Corrective Action Verification ("CAV") requiring Respondent to submit to the Bureau actions taken to prevent recurrence of the alleged violation.

8. On February 23, 2011, the Bureau received the CAV from Respondent. The CAV was determined to be satisfactory by the Bureau on February 24, 2011.

9. On May 3, 2011, the Bureau issued to Respondent a proposal of a civil penalty for the alleged violation.

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

II. COMPROMISE AND SETTLEMENT OF NOTICE OF VIOLATION

A. GENERAL

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

12. Respondent admits the Department has jurisdiction of this matter and consents to the relief specified herein.

B. CIVIL PENALTY

13. In compromise and settlement of the alleged violation set forth in the NOV and upon consideration of the seriousness of the violation and good faith efforts to comply, the Parties agree that Respondent shall pay a civil penalty \$35,803.00 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 by certified or corporate check and sent to the following address:

New Mexico Environment Department
Air Quality Bureau
c/o Debra McElroy, Compliance and Enforcement Manager
1301 Siler Road, Building B
Santa Fe, New Mexico 87507

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 all 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 RESPONDENT SIGNATORY

23. The person executing this Final Order on behalf of Respondent represents that he or she has the authority to execute this Final Order on behalf of Respondent.

AGREED TO BY:

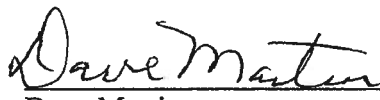
BP AMERICA PRODUCTION COMPANY


Bryant L. Chapman
Vice President - Operations

Date 7/20/11

STIPULATED FINAL COMPLIANCE ORDER

This Stipulated Final Compliance Order, agreed to by Respondent BP America Production Company, is hereby incorporated herein and is **APPROVED AS A FINAL COMPLIANCE ORDER** issued pursuant to NMSA 1978, § 74-2-12.


Dave Martin
Secretary
New Mexico Environment Department

Date 8-8-11

