

**STATE OF NEW MEXICO
SECRETARY OF ENVIRONMENT**

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

NO. AQB WIL-1002-1101-R1 (NOV)

**WILLIAMS FOUR CORNERS LLC,
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, Williams Four Corners LLC (“Respondent”) (collectively, the “Parties”) to resolve alleged statutory, regulatory, and permit violations by Respondent. The Department alleges 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 Number P046-R1-M1 (“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, Section 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. Respondent is a limited liability company doing business in New Mexico at the El Cedro Gas Treating Plant (“El Cedro”), located in Rio Arriba County, New Mexico. The function of El Cedro is to compress natural gas for pipeline transmission using compressors driven by natural gas-fired turbines and reciprocating internal combustion engines.

3. Respondent is also doing business in New Mexico at the Kutz Canyon Gas Plant (“Kutz”) and the Milagro Cogeneration and Gas Plant (“Milagro”), both of which are located in San Juan County.

B. HISTORY AND ALLEGED VIOLATIONS AT EL CEDRO

4. Permit Condition A201C provides in relevant part, “... the monitoring period for Units 17, 18, 25, 32, and 33 shall be quarterly. ...”

5. Permit Condition A109B provides in relevant part, “...The 12-month reporting period starts on February 1st of each year.”

6. On March 2, 2012, the Bureau received a Title V Annual Compliance Certification (“ACC”) pertaining to operations at El Cedro for the period ending January 31, 2012. Review of compliance tests conducted during the period covered by the ACC revealed that quarterly tests on Units 17 and 18 were initiated but not completed during the first reporting quarter of 2011, and that quarterly tests on Units 17 and 18 were not conducted during the third reporting quarter of 2011.

7. 20.2.72.200.E NMAC provides, “For all sources subject to this Part, applications for permits shall be filed prior to the commencement of the construction, modification or

installation. Regardless of the anticipated commencement date, no construction, modification or installation shall begin prior to issuance of the permit.”

8. 20.2.72.202.B NMAC provides in relevant part, “The presence of the following new or modified sources and activities at the facility shall be reported as provided for in the permit application forms supplied by the department. Emissions from such sources and activities shall not be included in the calculation of facility-wide potential emission rate under Paragraphs 1 or 2 of Subsection A of 20.2.72.200 NMAC. ... (3) Standby generators which are: (a) Operated only during the unavoidable loss of commercial utility power... .”

9. On November 27, 2012, though a conversation with Respondent, Bureau staff determined that El Cedro did not have commercial power. Bureau staff determined that Unit 19, which had been permitted as an exempt emergency generator, did not meet the exemption requirement of 20.2.72.202.B(3) NMAC and therefore was a source subject to 20.2.72.200.E NMAC.

10. On February 7, 2013, the Bureau issued to Respondent Notice of Violation WIL-1002-1101-R1 (“NOV”), alleging violations of the AQCA, the AQCR, and the Permit at El Cedro. The alleged violations consisted of: 1) the failure to meet the exemption requirement for on-site commercial utility power, which is a violation of 20.2.72.202.B(3)(a) NMAC; 2) the failure to conduct emission compliance tests during the first and third quarters of the 2011 reporting period, which is a violation of Permit Conditions A109 and A201C(b); and 3) the failure to permit Unit 19, a generator, prior to construction, modification, or installation, which is a violation of 20.2.72.200.E NMAC.

11. The NOV included a Corrective Action Verification requiring Respondent to submit to the Bureau measures taken to ensure future compliance with the permit conditions.

12. The Bureau has received a corrective action plan from Respondent. The corrective action plan was determined to be satisfactory by the Bureau on March 20, 2015.

C. HISTORY AND ALLEGED VIOLATIONS AT KUTZ AND MILAGRO

13. 20.2.72.200.E NMAC provides, “For all sources subject to this Part, applications for permits shall be filed prior to the commencement of the construction, modification or installation. Regardless of the anticipated commencement date, no construction, modification or installation shall begin prior to issuance of the permit.

14. 20.2.72.202.B NMAC provides in relevant part, “The presence of the following new or modified sources and activities at the facility shall be reported as provided for in the permit application forms supplied by the department. Emissions from such sources and activities shall not be included in the calculation of facility-wide potential emission rate under Paragraphs 1 or 2 of Subsection A of 20.2.72.200 NMAC. ... (3) Standby generators which are: (a) Operated only during the unavoidable loss of commercial utility power... .”

15. By letter dated June 13, 2013, Respondent advised the Bureau that both Kutz and Milagro did not “purchase electricity from a local utility, but rather they operate with electricity generated on-site.” Respondent further advised that in a review of its facilities, it was determined that standby generators existed at both Kutz and Milagro.

16. The Bureau staff determined that the standby generators at Kutz and Milagro, which had been permitted as exempt emergency generators, did not meet the exemption requirement of 20.2.72.202.B(3) NMAC and therefore were sources subject to 20.2.72.200.E NMAC.

17. The failure to permit the standby generators at Kutz and Milagro prior to construction, modification, or installation is a violation of 20.2.72.200.E NMAC.

18. The Parties have engaged in settlement discussions to resolve the alleged violations at El Cedro, Kutz and Milagro without further proceedings.

II. COMPROMISE AND SETTLEMENT

A. GENERAL

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

20. The Parties admit jurisdiction and consent to the relief specified herein.

B. CIVIL PENALTY

21. In compromise and settlement of the alleged violations set forth in the NOV and paragraph 17, and upon consideration of the seriousness of the alleged violations and Respondent's good faith efforts to comply, the Parties agree that Respondent shall pay a civil penalty of \$79,874.00 to the State of New Mexico within 30 calendar days after the effective date of this Final Order.

22. 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

23. If Respondent fails to make timely and complete payment of the civil penalty, the Respondent shall pay a stipulated penalty of \$250.00 per day for each day a payment is not timely or complete. The Respondent shall not contest or dispute in any way the stipulated

penalty of \$250.00 per day in the event that the Department brings an action against the Respondent for the failure to make timely or complete payment.

C. CORRECTIVE ACTION

24. On May 6, 2015, Respondent submitted an application to include the standby generator as a permitted emission source at Milagro.

25. Respondent shall submit applications to the Bureau to include the standby generators as a permitted emission sources at El Cedro and Kutz. Such applications shall be submitted within 120 days of the effective date of this Agreement.

26. If Respondent fails to submit the applications described in Paragraph 25, Respondent shall pay a stipulated penalty of \$250.00 per day for each day the applications are not submitted. Respondent shall not contest or dispute in any way the stipulated penalty of \$250.00 per day in the event that the Department brings an action against Respondent for the failure to submit the applications to include the standby generators as a permitted emission source at El Cedro and Kutz.

III. OTHER TERMS AND CONDITIONS

A. RESERVATION OF RIGHTS AND DEFENSES

27. 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 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 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

28. 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 and paragraph 17. Such release applies only to civil liability.

C. WAIVER OF STATE LIABILITY

29. 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

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

31. 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 27 and 28 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

32. 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

33. 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

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


H. SIGNATURE AND COUNTERPARTS

35. 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:  Date: 5/29/15
MICHAEL VONDERHEIDE
DIRECTOR

WILLIAMS FOUR CORNERS LLC

By:  Date: 5/28/15
Print Name: GLEN JASEK
Print Title: VP EGM, WFC



STIPULATED FINAL COMPLIANCE ORDER

This Settlement Agreement and Stipulated Final Compliance Order, agreed to by the Division and Respondent Williams Four Corners LLC, 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: 6-3-2015

