

NOV 18 2014

**STATE OF NEW MEXICO
SECRETARY OF ENVIRONMENT**

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

NO. AQB DCP-0199-1301 (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 (“DCPM”) (collectively, the “Parties”) to resolve alleged statutory, regulatory, and permit violations by DCPM. 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 Numbers P095R1M1 and P095R2 (“Permits”).

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. DCPM 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, removal of hydrogen sulfide with an amine unit, the 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 P095R1M1, Condition A202 states in relevant part, "A. Control Device Inspection (Unit Glycol Dehydrator) ... Requirement: The glycol dehydration system shall be a completely closed system, with any flash and regeneration gases routed to the vapor recovery unit (VRU) and re-injected into inlet gas #5 for recycling. The VRU shall be operational at all times the facility is in operation."

4. In a semi-annual monitoring report received by the Bureau on June 27, 2013, DCPM reported that during the period of December 1, 2012 through May 31, 2013, the VRU did not operate for a total of 374.3 hours, during which a total of 22,458 pounds of volatile organic compounds were emitted from the VRU to the atmosphere.

5. Permit P095R2, Condition A206 states in relevant part, "Flares ... A. Operation (Units 22 and 23) ... Requirement: 1. The permittee shall operate the flares in compliance with 40 CFR [§] 60.18 for 15 years."

6. 40 C.F.R. § 60.18(c) states in relevant part, "(1) Flares shall be designed for and operated with no visible emissions as determined by the methods specified in paragraph (f), except for periods not to exceed a total of 5 minutes during any 2 consecutive hours."

7. From 9:23 a.m. to 9:33 a.m. on August 20, 2013, Bureau personnel conducted an EPA Reference Method 22 observation of visible emissions from Unit 23, the Emergency Acid Gas Flare, at the Facility. Ten (10) minutes of visible emissions were recorded during the ten-minute observation, which exceeded the five (5) minutes allowed during any two (2) consecutive hours.

8. On March 26, 2014, the Bureau issued to DCPM Notice of Violation DCP-0199-1301 (“NOV”), alleging violations of the AQCA, the AQCR, and the Permits. The alleged violations consisted of: 1) the failure to operate the vapor recovery unit at all times the facility is in operation, which is a violation of Permit P095-R1M1, Condition A202; and 2) the failure to operate the Emergency Acid Gas Flare (Unit 23) with no visible emissions for more than five minutes within a two-hour period, which is a violation of Permit P095-R2, Condition A206.

9. The NOV included a Corrective Action Verification (“CAV”) requiring DCPM to submit to the Bureau measures taken to ensure future compliance with the permit conditions.

10. On May 30, 2014, the Bureau received the CAV from DCPM. The CAV was determined to be satisfactory as to Violation 1 by the Bureau on May 30, 2014.

11. On September 8, 2014, the Bureau received the CAV regarding Violation 2. The CAV was determined to be satisfactory as to Violation 2 by the Bureau on October 8, 2014.

12. The Parties have engaged in settlement discussions to resolve the NOV without further proceedings.

II. COMPROMISE AND SETTLEMENT

A. GENERAL

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

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

B. CIVIL PENALTY

15. In compromise and settlement of the alleged violations set forth in the NOV and upon consideration of the seriousness of the alleged violations and Respondent's good faith efforts to comply, the Parties agree that DCPM shall pay a civil penalty of \$110,880.00 to the State of New Mexico within 30 calendar days after the effective date of this Final Order.

16. 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

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

III. OTHER TERMS AND CONDITIONS

A. RESERVATION OF RIGHTS AND DEFENSES

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

B. MUTUAL RELEASE

19. 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

20. DCPM 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 DCPM's performance of any obligation under this Final Order.

D. EFFECTIVE DATE AND TERMINATION DATES

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

22. Except as otherwise provided in this Paragraph, the terms of this Final Order shall terminate when DCPM has fulfilled the requirements of this Final Order. The reservations of rights and defenses and the mutual release in Paragraphs 18 and 19 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

23. 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

24. 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

25. The persons executing this Final Order on behalf of DCPM and the Department, respectively, represent that he or she has the authority to execute this Final Order on behalf of DCPM and the Department.

H. SIGNATURE AND COUNTERPARTS

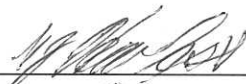
26. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same agreement.

**ENVIRONMENTAL PROTECTION DIVISION
NEW MEXICO ENVIRONMENT DEPARTMENT**

By: 
MICHAEL VONDERHEIDE
DIRECTOR

Date: 11/21/14

DCP MIDSTREAM, LP

By: 
Print Name: Steven Harkess
Print Title: GM

Date: 11-12-14

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.



RYAN FLYNN
SECRETARY
ENVIRONMENT DEPARTMENT

Date: 12/1/2014

APPROVED AS TO FORM:



WILLIAM G. GRANTHAM
Attorney for the Division



LOUIS W. ROSE
Attorney for DCP Midstream, LP