

APR 06 2015

**STATE OF NEW MEXICO  
BEFORE THE SECRETARY OF ENVIRONMENT**

**ENVIRONMENTAL PROTECTION DIVISION of  
the NEW MEXICO ENVIRONMENT DEPARTMENT,**

**Complainant,**

**v.**

**Nos. AQCA 10-11 (CO)  
AQCA 10-12 (CO)  
SOU-0569-1101-R1**

**REGENCY FIELD SERVICES LLC,**

**Respondent.**

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**SETTLEMENT AGREEMENT**

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**I. BACKGROUND**

1. The Environmental Protection Division (“Division”) is an organizational unit of the New Mexico Environment Department (“Department”), created pursuant to NMSA 1978, §9-7A-6.B(3) (1991). The Secretary of the Department has delegated to the Director of the Division the authority to seek administrative enforcement, including injunctive relief and civil penalties, for violations of the Air Quality Control Act, NMSA 1978, §74-2-1 *et seq.*, and the Air Quality Control Regulations. The Division has the authority to enter into this Settlement Agreement (“Agreement”).

2. Regency Field Services LLC (“Regency”) is Delaware limited liability company and a wholly-owned (indirect) subsidiary of Regency Energy Partners LP, based in Dallas, Texas and is a person within the meaning of NMSA 1978 § 74-2-2(O). In 2013, Regency Energy Partners purchased Southern Union Gas Services Ltd (“Southern Union”) and merged certain

Southern Union entities, including the one that previously owned the Jal #3 Gas Plant and Jal #4 Compressor Station, into Regency Field Services LLC.<sup>1</sup>

3. Regency is the owner and operator of both the Jal #3 Gas Plant and Jal #4 Compressor Station (“Facilities”) located in Lea County, New Mexico.

4. Regency operates the Jal #3 Gas Plant pursuant to New Source Review (“NSR”) Air Quality Permit 1092, last modified on August 1, 2013 (NSR 1092-M8), and Title V Permit P090-R2.

5. Southern Union operated the Jal #4 Compressor Station pursuant to NSR Air Quality Permit 0070-M3 and M3-R1 and Title V Permit P091, which were cancelled at the request of Southern Union on December 29, 2010. As of March 21, 2013, Jal #4 is operated pursuant to Air Quality Permit GCP-4-5059.

6. On November 30, 2011, the Division issued Amended Compliance Order AQCA 10-11 (CO) to Southern Union, alleging nineteen (19) claims of violations of the AQCR and permits at Jal #3 and assessing a civil penalty.

7. On January 17, 2012, Southern Union filed its Request for Hearing and Answer to Amended Compliance Order in AQCA 10-11 (CO). In its answer, Southern Union denied several of the alleged violations, raised several affirmative defenses to the alleged violations and challenged the proposed civil penalty.

8. On November 30, 2011, the Division also issued Amended Compliance Order AQCA 10-12 (CO) to Southern Union, alleging three (3) claims of violations of the AQCA and permits at the Jal #4 Compressor Station, and assessing a civil penalty.

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<sup>1</sup> This Agreement refers to “Southern Union” for events that occurred prior to the merger and “Regency” for events occurring after the merger.

9. On January 9, 2012, Southern Union filed its Request for Hearing and Answer to Amended Compliance Order in AQCA 10-12 (CO). In its answer, Southern Union denied several of the alleged violations, raised several affirmative defenses to the alleged violations and challenged the proposed civil penalty.

10. On January 25, 2012, the Division issued Notice of Violation (“NOV”) SOU-0569-1101 to Southern Union alleging seven (7) air quality violations. On February 23, 2012, Southern Union submitted its response to NOV SOU-0569-1101. On June 14, 2012, the Division issued Revised NOV SOU-0569-1101-R1 to Southern Union alleging seven (7) violations of the AQCR and permits at Jal #3, and assessing a civil penalty.

11. In August 2012, the Division was notified by Southern Union that the #10F flare at Jal #3 was smoking. In September 2013, Regency provided the Division with written confirmation from the flare manufacturer that a design change was necessary to correct a possible design flaw in the Flare #10F tip (“Flare Tip”).

12. The Division and Regency negotiated this Agreement to resolve the potential claims and alleged violations identified in paragraphs 6-11 above, and additional excess emissions at Jal #3 through February 16, 2014 that have been reported by Regency, as set forth in Appendix A attached hereto.

## **II. DEFINITIONS**

13. Unless otherwise expressly provided herein, a term used in this Agreement that is defined in the New Mexico Air Quality Control Act or implementing regulations shall have the meaning set forth therein.

Whenever a term set forth below is used in this Agreement, the following definitions shall apply:

“Agreement” means this Settlement Agreement, including any attachments and modifications.

“AQCA” means the New Mexico Air Quality Control Act, NMSA 1978 §74-2-1 *et seq.*

“AQCR” means the New Mexico Air Quality Control Regulations. 20.2.1 NMAC *et seq.*

“CAA” means the federal Clean Air Act, 42 U.S.C. §7401 *et seq.*

“Day” means a calendar day. In computing any period of time for which an action must be taken under this Agreement, when the last day would fall on a Saturday, Sunday legal holiday, the period ends on the next day that is not a Saturday, Sunday or legal holiday.

“Effective Date” shall have the meaning set forth in Section XXII (Effective Date and Termination of Agreement).

“Emergency” means any situation arising from sudden and reasonably unforeseeable events beyond the control of Regency, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventive maintenance, or careless or improper operation. 20.2.7.113.A NMAC.

“Excess emission” means the emission of an air contaminant, including a fugitive emission, in excess of the quantity, rate, opacity or concentration specified by an air quality regulation or permit condition. 20.2.7.7.D NMAC.

“Flaring” means the uncontained, open-air combustion of natural gas, acid gas, or component thereof at Jal #3.

“Flaring Device” means a device used or intended for use for Flaring.

“Flaring Incident” means the continuous or intermittent Flaring from any Flaring Device that results in the individual or combined excess emissions of nitrous oxide, carbon monoxide, sulfur dioxide, hydrogen sulfide, and volatile organic compounds greater than two hundred fifty (250) pounds in a 24-hour period. Provided, however, that if the Flaring Incident lasts for more than one 24-hour period and continues into one or more subsequent, contiguous, non-overlapping 24-hour periods, each period of which meets the emissions criteria outlined above, then one Flaring Incident shall be deemed to have occurred in each 24-hour period.

“Parties” means collectively the Division and Regency.

“Permits” mean the NSR and Operating Permits issued by the Division for the Facilities.

“State” means the State of New Mexico, including all of its departments, agencies, and instrumentalities.

### **III. APPLICABILITY**

14. This Agreement shall apply to and be binding upon the Division and Regency, and each of their officers, employees, agents, successors, and assigns. The Division and Regency admit the jurisdictional allegations in the Amended Compliance Orders in AQCA 10-11 (CO) and AQCA 10-12 (CO). The Division and Regency further acknowledge that the Department has jurisdiction for the allegations contained in SOU-0569-1101-R1. Regency denies the alleged violations in paragraphs 6 – 11, contests the civil penalty calculations, and does not admit any liability, fact or legal conclusion by stipulating to this Agreement.

### **IV. CIVIL PENALTIES**

15. Regency agrees to pay a civil penalty of one million two hundred twenty-seven thousand seven hundred sixty-seven dollars (\$1,227,767.00).

16. Within thirty (30) days of the Effective Date of this Agreement, Regency shall make the payment required by paragraph 15 by certified or corporate check payable to the *State of New Mexico General Fund* and sent to the following address:

General Counsel  
Office of General Counsel  
New Mexico Environment Department  
1190 St. Francis Dr.  
P.O. Box 5469  
Santa Fe, NM 87502-5469

17. This Agreement shall constitute an enforceable judgment for the purpose of post-judgment collection in accordance with state law, and the State of New Mexico shall be deemed a judgment creditor for the purpose of collecting the unpaid amount of any cash civil penalty, stipulated penalty, or interest.

#### V. CORRECTIVE ACTION

18. **Replacement of Damaged Flare Tip.** Regency replaced the #10F Flare Tip at Jal #3 on November 15, 2013.

#### VI. ENVIRONMENTAL PROJECTS

19. **Turbine Replacement Project.** Regency completed the Turbine Replacement Project on March 26, 2014.

20. **Certification of Costs.** Regency shall submit a certification of costs for the Turbine Replacement Project within thirty (30) days of the Effective Date of this Agreement.

21. **Electrical System Reliability Project.** Regency shall conduct an electrical reliability assessment of Jal #3, which will evaluate plant runtime and flaring events associated with internal electrical system reliability and third party supply reliability. Based on the results, Regency will evaluate economically beneficial and operationally feasible options to improve the electrical system and supply reliability at Jal #3, with a specific focus on reducing Flaring

Incidents. This study shall be submitted to the Department within thirty (30) days of the Effective Date of this Agreement.

**VIII. STIPULATED PENALTIES**

22. **Certifications of Costs.** The stipulated penalty for failing to timely submit a certification of costs, to include all required information, or otherwise to conform to the specified requirements of this Agreement, from the date that the certification must be submitted, shall be:

<u>Period of Delay/Nonconformity</u>	<u>Penalty per day</u>
Days 1-30	\$750
Days 31-60	\$1,500
More Than 60 days	\$3,000

23. **Civil Penalties.** The stipulated penalty for failing to pay the amounts specified in Section IV (Civil Penalties) shall be:

<u>Period of Delay/Nonconformity</u>	<u>Penalty per day</u>
Days 1-30	\$2,500
Days 31-60	\$5,000
More Than 60 days	\$10,000

24. **Other Requirements.** The stipulated penalty for violating any requirement of this Agreement not specified above shall be \$2,500 per day.

25. **Interest.** Regency shall be liable for interest on the unpaid balance of a civil or stipulated penalty required or accrued under this Agreement for each day after a specified deadline for payment has passed and the balance remains unpaid. Interest shall accrue at the regular rate established for judgments and decrees under NMSA 1978, §56-8-4 (2004).

26. **Administration of Stipulated Penalties.**

a. Within ten (10) days following its receipt of a written demand by the Department, the Respondent shall make payment of any stipulated penalty. The Respondent shall make a cash payment, by certified or corporate check, of any stipulated penalty to the State of New Mexico General Fund, and sent to the address specified in Paragraph 16.

b. The Division reserves the right to pursue any other remedy to which it is entitled under applicable law to enforce this Agreement, including injunctive relief; provided however, that the Division's acceptance of a stipulated penalty shall constitute the resolution of its claim for a civil penalty only, not injunctive relief, and only for the undisputed days or events to which the stipulated penalty is applicable.

**X. RECORD PRESERVATION**

27. For at least five (5) years after the date of termination of this Agreement pursuant to Section XXII (Effective Date and Termination of Agreement), Regency shall maintain all records related to this Agreement. Nothing in this Agreement shall be construed as a waiver of any privilege that Regency might possess.

**XIII. MODIFICATION**

28. Any material modification of this Agreement shall be in writing, signed by the Division and Regency, and approved by amendment of the Stipulated Final Order by the Secretary of the Department. Non-material modifications of this Agreement shall be made upon written agreement of the Division and Regency.

**XIV. NOTICE TO PARTIES**

29. Whenever this Agreement requires a party to provide notice or submit a document to another party, the notice or document shall be sent in writing via electronic mail, overnight



courier, or certified or registered mail to the parties listed below. Notice by electronic mail shall be deemed to have been given when received by the recipient's electronic mail server for the applicable electronic mail addresses specified below. Notice by overnight courier or certified or registered mail shall be deemed to have been given upon actual receipt, or, if receipt is refused or rejected, upon attempted delivery. All documents submitted to the Air Quality Bureau Compliance and Enforcement Section shall be sent in hard copy using the Department's report submittal form with courtesy copies to the electronic mail addresses listed below.

Notice to the Division

Air Quality Bureau  
Compliance and Enforcement Section  
525 Camino de los Marquez, Suite 1  
Santa Fe, NM 87505  
Phone: (505) 476-4300  
Fax: (505) 476-4375  
Email Address: [Submittals.aqb@state.nm.us](mailto:Submittals.aqb@state.nm.us)

General Counsel  
New Mexico Environment Department  
1190 St. Francis Dr.  
P.O. Box 5469  
Santa Fe, NM 87502-5469  
Phone: (505) 827-2990  
Fax: (505) 827-1628

Notice to Regency:

Jacob Krautsch  
Senior Director – EH & S  
Regency Field Services LLC  
421 West Third Street Suite 250  
Fort Worth, TX 76102  
Phone 817-302-9426  
Email [Jacob.krautsch@regencygas.com](mailto:Jacob.krautsch@regencygas.com)

General Counsel  
Regency Field Services LLC  
2001 Bryan Tower, Suite 3700  
Dallas, TX 75201  
Phone: (214) 840-5400

30. A Party may change the name, title, address, telephone number or fax number of a contact person identified above by providing written notice to the other party. Such a change shall not constitute a modification for the purpose of Section XIII (Modification).

#### **XV. ENTRY AND INSPECTION**

31. Nothing in this Agreement shall be construed to limit or impair the Division's authority under any law or regulation to enter and inspect the Facilities. An authorized representative of the Division, including an independent contractor representing the Division, upon the presentation of credentials and compliance with applicable health and safety requirements, shall have a right of entry at any reasonable time upon the premises of the Facilities to monitor compliance with the provisions of this Agreement, including the inspection of equipment and records related to this Agreement. Regency shall retain records related to this Agreement pursuant to Section X (Record Preservation) and shall provide such records to the Division upon request. Nothing in this Agreement shall limit the authority of the Division to conduct tests, inspections, or other activities under any law or regulation.

#### **XVI. AVAILABILITY OF INFORMATION**

32. Nothing in this Agreement shall be construed to limit or impair the Division's authority under any law or regulation to require Regency to provide information regarding the Facilities, or to otherwise enforce this Agreement.

## **XVII. COMPLIANCE WITH APPLICABLE LAWS**

33. Regency shall undertake the obligations required by this Agreement in accordance with applicable federal, state, and local laws and regulations.

34. This Agreement is not a permit. Nothing in this Agreement shall relieve Regency of its responsibility to comply with all federal, state, and local laws and regulations and orders.

35. Notwithstanding the foregoing, if any current or future federal, state, or local law or regulation conflicts with or, has the effect of relaxing, any requirement in this Agreement, the more stringent requirement shall apply.

## **XVIII. EFFECT OF SETTLEMENT**

36. This Agreement constitutes a complete and final release of all claims for the violations alleged in paragraphs 6-11, including excess emissions events as described in Appendix A, through the Effective Date of this Agreement.

37. Nothing in this Agreement shall be construed to create, waive, or nullify any right or grant any cause of action to a third party who is not a signatory to this Agreement. The Division expressly reserves all rights, defenses, claims, demands, and causes of action that it might have against Regency with respect to any matter, transaction, or occurrence relating to the Facilities that is not addressed in this Agreement. Regency expressly reserves all rights and defenses that it may have to any claim, demand, or cause of action related to the Facilities that is not addressed in this Agreement. The Division and Regency expressly reserve all rights, defenses, claims, demands, and causes of action which each Party may have against any third party who is not a signatory to this Agreement with respect to any matter, transaction, or occurrence relating to the Facilities. Nothing in this Agreement shall be construed as a waiver of any privilege by a Party.

38. The Division covenants not to sue Regency, its officers, agents, successors, or assigns for the alleged violations released in this section. This covenant not to sue shall survive the termination of this Agreement. Nothing herein shall prevent the Division from seeking a legal or equitable remedy to enforce the requirements of this Agreement or prevent the Division from taking an action under applicable law to address conditions at the Facilities that constitute an emergency or that present an immediate threat to public health or the environment.

#### **XIX. RETENTION OF JURISDICTION**

39. The Division shall retain jurisdiction of this matter for the purpose of enforcing the terms and conditions of this Agreement until the termination of this Agreement.

#### **XX. ENFORCEMENT**

40. This Agreement is an enforceable document. If Regency violates any requirement of this Agreement, then the Division may request any legal or equitable remedy available under this Agreement or the law to achieve full compliance with such requirement. Regency reserves all rights and defenses to an enforcement action by the Division not expressly precluded by this Agreement, and nothing in this Agreement shall constitute a waiver of such rights or defenses, including the claim that a violation was resolved by payment of a stipulated penalty.

#### **XXI. EFFECTIVE DATE AND TERMINATION OF AGREEMENT**

41. The effective date of this Agreement shall be the date on which the Secretary signs and enters the Stipulated Final Order (“Effective Date”).

42. This Agreement shall remain an enforceable order of the Secretary from the Effective Date until the Respondent has fulfilled the requirements of this Final Order.

## **XXII. COSTS AND LIABILITY**

43. Regency shall assume all costs and liabilities incurred in performing any obligation of Regency under this Agreement. The Division, on its own behalf or on behalf of the Department or the State of New Mexico, shall not assume liability for Regency's performance of any obligation of Regency under this Agreement.

## **XXIII. SEVERABILITY**

44. If any provision or authority of this Agreement is held by a court of competent jurisdiction to be invalid, if that provision or authority is severable from the remainder of this Agreement, the remainder of this Agreement shall remain in force and shall not be affected by the court's order and ruling. If the application of this Agreement to any party or circumstance is held by a court of competent jurisdiction to be invalid, the application of this Agreement to the other party or circumstances shall remain in force and shall not be affected thereby.

## **XXIV. INTEGRATION AND MODIFICATIONS**

45. This Agreement merges all prior written and oral communications between the Division and Regency concerning this Agreement, and contains their entire agreement. This Agreement shall only be modified in accordance with Section XIII (Modification).

## **XXV. DISCLOSURE TO SUCCESSORS-IN-INTEREST**

46. After the Effective Date of this Agreement, Regency shall disclose this Agreement to any successor-in-interest to Regency's ownership or operation of Jal #3 and shall advise the successor-in-interest that this Agreement is binding on the successor-in-interest until the termination of this Agreement.

## **XXVII. HEADINGS**

47. Section and paragraph headings in this Agreement are provided solely as a matter of convenience to the reader and shall not be construed to alter the meaning of any provision of this Agreement.

## **XXVIII. SIGNATORIES AND ASSIGNMENT**

48. The undersigned representatives of the Division and Regency certify that they are fully authorized to enter into the terms and conditions of this Agreement and to execute and legally bind the respective Party to this Agreement.

49. If Regency proposes to sell or transfer all or part of its ownership interest in Jal #3 during the term of this Agreement, it shall advise the purchaser or transferee in writing of the existence of this Agreement and permit condition relating to this Agreement prior to such sale or transfer. For any obligation under this Agreement that is not incorporated into a permit condition, Regency shall remain liable for compliance with such obligation until the Agreement is terminated pursuant to Section XXII (Effective Date and Termination of Agreement) or until Regency is released by the Division upon the Division's execution (which shall not be unreasonably withheld) of an agreement in the form of Appendix B signed by the purchaser or transferee in which the purchaser or transferee accepts liability for such obligation.

50. Prior to the Division's approval of Regency's certification of compliance with Section XXIV (Integration and Modification), the sale or transfer of all or part of Regency's ownership interest in Jal #3 or any modification of its status as operator thereof shall not relieve Regency of its obligation to perform under this Agreement unless agreed upon in writing by the Parties and the purchaser or transferee, whereupon the Parties and the purchaser or transferee

shall execute a modification of this Agreement that relieves Regency and makes the purchaser or transferee liable for the applicable obligations under this Agreement.

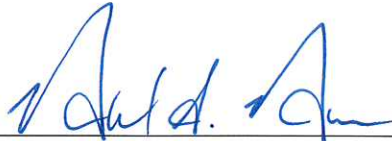
### XXIX. COUNTERPARTS

51. This Agreement may be signed in counterparts.

ENVIRONMENTAL PROTECTION DIVISION  
NEW MEXICO ENVIRONMENT DEPARTMENT

By:  Date: 4/7/15  
Michael Vonderheide  
Division Director

REGENCY FIELD SERVICES LLC  
BY: REGENCY GAS SERVICES LP, ITS SOLE MEMBER  
BY: REGENCY OLP GP LLC, ITS GENERAL PARTNER

By:  Date: APRIL 2<sup>ND</sup>, 2015  
Rich S. Rehm  
Executive Vice President - Operation



**STIPULATED FINAL COMPLIANCE ORDER**

This Settlement Agreement and Stipulated Final Compliance Order, agreed to by the Division and the Respondent Regency Field Services 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: 4-14-2015

APPROVED BY:



\_\_\_\_\_  
Louis W. Rose  
*Attorney for Regency Field Services LLC*



\_\_\_\_\_  
Andrew P. Knight  
*Attorney for Environmental Protection Division*



**APPENDIX A  
EXCESS EMISSIONS**

Event Activity Numbers	
000569-07032013-01	000569-01062014-01
000569-07312013-01	000569-01072014-01
000569-08122013-01	000569-01072014-02
000569-08122013-02	000569-01092014-01
000569-08122013-03	000569-01092014-01
000569-08192013-01	000569-01132014-01
000569-08192013-02	000569-01132014-02
000569-08192013-03	000569-01142014-01
000569-09042013-01	000569-01152014-01
000569-09042013-02	000569-01282014-01
000569-09122013-01	000569-02032014-01
000569-09232013-01	000569-02032014-02
000569-10282013-01	000569-02042014-01
000569-11122013-01	000569-02102014-01
000569-11132013-02	000569-02102014-02
000569-11132013-03	000569-02112014-01
000569-11252013-01	000569-02122014-01
000569-11262013-01	000569-02122014-02
000569-11252013-02	000569-02142014-01
000569-11252013-03	000569-02172014-01
000569-11272013-01	000569-02182014-01
000569-12092013-01	000569-02192014-01
000569-12092013-02	000569-02242014-01
000569-12092013-03	000569-02242014-02
000569-12122013-01	000569-02252014-01
000569-12182013-01	000569-02252014-02
000569-12262013-01	000569-02252014-03
000569-12262013-02	000569-02252014-04
000569-12312013-01	000569-02262014-01
000569-01022014-01	000569-02262014-02

**APPENDIX B**

**AGREEMENT BETWEEN NEW MEXICO ENVIRONMENT DEPARTMENT  
AND PURCHASER/TRANSFEEE TO ASSUME  
REGENCY FIELD SERVICES LLC'S LIABILITY UNDER STIPULATED  
FINAL ORDER**

[Purchaser/Transferee] has acquired the following natural gas processing plant from Regency Field Services LLC (“Regency”) effective on \_\_\_[date]\_\_\_:

[Jal #3] natural gas processing plant

Purchaser/Transferee has reviewed the Stipulated Final Order and Settlement Agreement (“Settlement Agreement”) between Regency and the Environmental Protection Division of the New Mexico Environment Department (“Department”), entered on [ \_date]. As provided in Section XXIX (Signatories and Assignment) of the Settlement Agreement, Purchaser/Transferee accepts liability for compliance with each obligation of the Settlement Agreement relating to the Jal #3 Facility incorporated into a permit pursuant to Section XXI of the Settlement Agreement, and hereby enters into an enforceable agreement with the Department to assume such liability. This Agreement shall become effective upon execution by both parties.

FOR PURCHASER/TRANSFEEE:

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

FOR NEW MEXICO ENVIRONMENT DEPARTMENT:

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_