

**STATE OF NEW MEXICO
SECRETARY OF ENVIRONMENT**

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

v.

NO. AQB DCP-0589-1201 (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 Complainant, 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 at the Linam Ranch Gas Plant (“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. DCPM is a limited partnership doing business in New Mexico at the Facility, which is located in Lea County, New Mexico. DCPM operates the Facility under Air Quality Permit Number 0039-M6 (“Permit”).

B. HISTORY AND ALLEGED VIOLATIONS

3. 40 CFR § 60.632 provides in relevant part, "... (a) Each owner or operator subject to the provisions of this subpart shall comply with the requirements of §§ 60.482-1 (a), (b), and (d) and 60.482-2 through 60.482-10, except as provided in § 60.633. . . ." 40 CFR § 60.633 provides in relevant part, "... (a) Each owner or operator subject to the provisions of this subpart may comply with the following exceptions to the provisions of subpart VV [40 CFR §§ 480 – 489]"; "(b)(3)(i) When a leak is detected, it shall be repaired as soon as practicable, but no later than 15 calendar days after the leak is detected, except as provided in § 60.482-9." 40 CFR § 60.482-9 states in relevant part, "Standards: Delay of repair...(d) Delay of repair for pumps will be allowed if: (1) Repair requires the use of a dual mechanical seal system that includes a barrier fluid system, and (2) Repair is completed as soon as practicable, but not later than 6 months after the leak was detected."

4. On January 31, 2013 and July 29, 2013, the Bureau received from DCPM two Semi-Annual Monitoring Reports required for compliance with 40 CFR 60 Subpart KKK (KKK Reports) and pertaining to operations at the Facility. Both KKK Reports described the delay of repair of a leak from Tag ID Number 3340. According to 40 CFR § 60.482-9(d)(2), the leak was required to be repaired no later than October 8, 2011, which is six months after April 8, 2011, when the leak was detected. However, the leak went unrepaired and the valve was removed from service in May, 2012. Therefore, the valve was leaking and in service for at least 206 days after the repair deadline specified in 40 CFR § 60.482-9(d)(2).

5. 40 CFR § 60.632 provides in relevant part, "... (a) Each owner or operator subject to the provisions of this subpart shall comply with the requirements of §§ 60.482-1 (a), (b), and (d) and 60.482-2 through 60.482-10, except as provided in § 60.633..." 40 CFR § 60.482-7

provides in relevant part, “Standards: Valves in gas/vapor service and in light liquid service...(d)(1) When a leak is detected, it shall be repaired as soon as practicable, but no later than 15 calendar days after the leak is detected, except as provided in § 60.482-9; (d)(2) A first attempt at repair shall be made no later than 5 calendar days after each leak is detected. . . .” 40 CFR § 60.482-9 states in relevant part, “Standards: Delay of repair...(c) Delay of repair for valves will be allowed if: (1) The owner or operator demonstrates that emissions of purged material resulting from immediate repair are greater than the fugitive emissions likely to result from delay of repair, and (2) When repair procedures are effected, the purged material is collected and destroyed or recovered in a control device complying with § 60.482-10.” 40 CFR § 60.633 states in relevant part, “... (a) Each owner or operator subject to the provisions of this subpart may comply with the following exceptions to the provisions of subpart VV [40 CFR §§ 480 – 489]”; “(b)(3)(i) When a leak is detected, it shall be repaired as soon as practicable, but no later than 15 calendar days after the leak is detected, except as provided in § 60.482-9.”

6. On July 29, 2013, the Bureau received from DCPM a Semi-Annual Monitoring Report required for compliance with 40 CFR 60 Subpart KKK (KKK Report) and pertaining to operations at the Facility. The KKK Report described the delay of repair for leaks from three valves with Tag ID Numbers 0260, 12403, and 2612.

7. Permit Condition A203.E states in relevant part, “20.2.38 NMAC (Units TK-VRU and TK-VRUTMP)...Requirement:...The permittee shall install a VRU system to minimize hydrocarbon and hydrogen sulfide loss to the atmosphere and shall not operate the tank without the control device...”

8. On November 1, 2012 and three other dates in November 2012, DCPM submitted to the Bureau Final Excess Emission Reports (EERs) pertaining to operations at the Facility.

Information provided in the EERs indicates that there were three instances of operation of the tanks without the VRU control device: 1) three days duration, October 22 through October 24, 2012, 2) two days duration, November 16 through November 17, 2012, and 3) one day duration, November 20, 2012.

9. On October 24, 2013, the Bureau issued to DCPM Notice of Violation DCP-0589-1201 (“NOV”), alleging violations of the AQCA, the AQCR, and the Permit. The alleged violations were: 1) the failure to repair the leak of pump Tag ID Number 3340 not later than six months after the leak was detected, which is a violation of 40 CFR § 60.632, 40 CFR § 60.633 and 40 CFR § 60.482-9; 2) the failure to repair leaks of three valves, having Tag ID Numbers 0260, 12403, and 2612, no later than 15 days after the leaks were detected, which is a violation of 40 CFR § 60.632, 40 CFR § 60.482-7, 40 CFR § 60.482-9 and 40 CFR § 60.633; and 3) the operation of the stabilized condensate tanks without the VRU control device, which is a violation of Permit Condition A203.E.

10. 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.

11. On December 11, 2013, the Bureau received the CAV from DCPM. The corrective action undertaken was determined to be satisfactory by the Bureau on January 23, 2014.

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

II. COMPROMISE AND SETTLEMENT

A. GENERAL

13. The DCPM does not admit any of the allegations in the NOV. To avoid further legal proceedings, the Division and the 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 DCPM's good faith efforts to comply, the Parties agree that DCPM shall pay a civil penalty of \$61,248.00 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 this 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 Division, on its own behalf and on behalf of the Department and 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 the DCPM and the Division, respectively, represent that he or she has the authority to execute this Final Order on behalf of the DCPM and the Division.

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
MICHAEL VONDERHEIDE
DIRECTOR

Date: _____

10/15/14

DCP MIDSTREAM, LP

By: _____

Print Name: _____
Print Title: _____

Steven Hartless
Steven Hartless
GM

Date: _____

10-14-14

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: 10-24-2014