

**STATE OF NEW MEXICO  
ENVIRONMENT DEPARTMENT**

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

v.

**NO. AQB DCP-0744-1201(NOV)**

**DCP MIDSTREAM, LLC,  
Respondent.**

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**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, LLC (“Respondent”) (collectively, the “Parties”) to resolve alleged statutory, regulatory, and permit violations by the Respondent. The Department alleges violations 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 (“Regulations”), and Air Quality Permit Number 1921-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, § 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. The Respondent is a limited liability company doing business in New Mexico at the Alisha Booster Station Facility ("Facility"). The Facility is an oil and gas compressor station, and is located in Lea County, New Mexico.

**B. HISTORY AND ALLEGED VIOLATIONS**

3. Permit Table 2 lists the permitted NOx emission rate for emission Unit E-1 ("Unit") as 5.0 pounds per hour ("pph").

4. On June 4, 2012, the Bureau received from Respondent an Annual Report of 2011 Quarterly Emissions Monitoring for the Facility ("Report"). The Report shows a NOx emission rate of 5.6 pph for the Unit during a monitoring test conducted on December 20, 2011. This result exceeds the permitted emission limit of 5.0 pph for NOx for Unit E-1.

5. 20.2.7.110 A. NMAC states in relevant part, "The owner or operator of a source having an excess emission shall report the following information to the department on forms provided by the department...(1) Initial report: the owner or operator shall file an initial report, no later than the next regular business day after the time of discovery of an excess emission..."

6. Respondent was required to submit an initial excess emission report pertaining to the event described in Paragraph 4 no later than the next regular business day after the time of discovery of the event, or December 21, 2011. However, Respondent did not submit an initial excess emission report for this event.

7. 20.2.7.110 A. NMAC states in relevant part, "The owner or operator of a source having an excess emission shall report the following information to the department on forms provided by the department...(2) Final report: the owner or operator shall file a final report that contains specific and detailed information for each item in Subsection B of 20.2.7.110 NMAC no later than ten (10) days after the end of the excess emission..."

8. On March 13, 2012, Respondent submitted to the Bureau a Universal Stack Test Notification, Protocol, and Report Form for a test conducted on the Unit on February 21, 2012. Results from this test revealed that the unit was in compliance with the NOx emission rate allowed by the Permit. Therefore, the excess emission event described in Paragraph 4 ended on February 21, 2012. Respondent was required to submit a final excess emission report no later than March 2, 2012, which is ten (10) days after the end of the excess emission event. Respondent submitted a final excess emission report pertaining to this event on July 12, 2012. Therefore, the final excess emission report was submitted 132 days late.

9. On December 26, 2012, the Bureau issued to Respondent Notice of Violation DCP-0744-1201 ("NOV"), alleging violations of the AQCA, the AQCR, and the Permit. The alleged violations were 1) failure to limit NOx emission from the Unit to the permitted level; 2) failure to submit an initial excess emission report; and 3) failure to submit a final excess emission report within the required timeframe.

10. The NOV included a Corrective Action Verification ("CAV") requiring Respondent to submit to the Bureau measures taken to ensure future compliance with the permit conditions.

11. On February 1, 2013, the Bureau received the CAV from Respondent. The CAV was determined to be satisfactory by the Bureau on February 4, 2013.

12. On March 11, 2013, the Bureau issued to the Respondent a proposal of a civil penalty for the alleged violations at the Facility.

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

## **II. COMPROMISE AND SETTLEMENT OF NOTICE OF VIOLATIONS**

### **A. GENERAL**

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

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

## **B. CIVIL PENALTY**

16. In compromise and settlement of the alleged violations set forth in the NOV and upon consideration of the seriousness of the violations and good faith efforts to comply, the Parties agree that Respondent shall pay a civil penalty of \$18,800.00 to the State of New Mexico within 30 calendar days after the effective date of this Final Order.

17. 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

18. 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**

19. 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**

20. 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**

21. 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**

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

23. 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 19 and 20 shall not terminate, and shall remain in effect as an agreement between the Parties.

**E. INTEGRATION**

24. 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**

25. 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**

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

**ENVIRONMENTAL PROTECTION DIVISION  
NEW MEXICO ENVIRONMENT DEPARTMENT**

By: Mary Rose  
**MARY ROSE**  
**ACTING DIRECTOR**

Date: 6/5/13

**DCP MIDSTREAM, LLC**

By: Q. Mendenhall  
**Print Name:** Quentin Mendenhall  
**Print Title:** Environmental Manager - Permian

Date: 5-21-13

**STIPULATED FINAL COMPLIANCE ORDER**

This Settlement Agreement and Stipulated Final Compliance Order, agreed to by the Division and the Respondent DCP Midstream, LLC, is hereby incorporated herein and **APPROVED AS A FINAL COMPLIANCE ORDER** issued pursuant to NMSA 1978, §74-2-12.



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**RYAN FLYNN  
SECRETARY-DESIGNATE  
OF ENVIRONMENT**

Date: 6/10/13