STATE OF NEW MEXICO
ENVIRONMENT DEPARTMENT

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

NO. AQB RIO-0150-1201 (NOV)

Rio Valley Chili, Inc.,
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, Rio Valley Chili, Inc. ("Respondent") (collectively, the "Parties") to resolve an alleged statutory, regulatory, and permit violation by the Respondent. The Department alleges a violation 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 Notice of Intent Number 1986 ("NOI").

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

8. On February 28, 2013, the Bureau issued to Respondent a proposal of a civil penalty for the alleged violation at the Facility.

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

II. COMPROMISE AND SETTLEMENT OF NOTICE OF VIOLATION

A. GENERAL

10. 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 violation in the NOV.

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

B. CIVIL PENALTY

12. In compromise and settlement of the alleged violation 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 $8,820.00 to the State of New Mexico within 30 calendar days after the effective date of this Final Order.

13. 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

14. 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

15. 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

16. The Parties mutually release each other from all claims that each party raised or could have raised against the other regarding the facts and violation alleged in the NOV. Such release applies only to civil liability.

C. WAIVER OF STATE LIABILITY

17. 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

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

19. 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 15 and 16 shall not terminate, and shall remain in effect as an agreement between the Parties.

E. INTEGRATION

20. 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

21. 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

22. 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 E Rose **Date:** April 12, 13
MARY ROSE
ACTING DIRECTOR

RIO VALLEY CHILI, INC.

By: Nick Carson **Date:** APRIL 4, 2013
Print Name: NICK CARSON
Print Title: PRESIDENT

STIPULATED FINAL COMPLIANCE ORDER

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

F. David Martin

F. DAVID MARTIN
SECRETARY OF ENVIRONMENT

Date: 4-16-13