

**STATE OF NEW MEXICO
ENVIRONMENT DEPARTMENT**

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

NO. AQB TAR-0609-1201 (NOV)

**TARGA MIDSTREAM SERVICES, LLC,
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, Targa Midstream Services, 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, Section 74-2-1 to 74-2-17; the Air Quality Control Regulations (“AQCR”), 20.2 NMAC (“Regulations”), and Air Quality Permit Number NSR 0067-M6R1 (“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 Eunice Gas Plant (“Facility”). The Facility is a natural gas processing plant, and is located in Lea County, New Mexico.

B. HISTORY AND ALLEGED VIOLATIONS

3. Permit Condition A106 does not have allowable emission limits for SO₂ during malfunctions of the Facility’s acid gas flare (Unit F-01).

4. In 2012 and 2013, the Bureau received Excess Emissions Reporting Forms (EER) from the Respondent for the Facility regarding Unit F-01. Eight events identified as malfunctions in the EERs occurred from June 28, 2012 to January 16, 2013; the events resulted in excess emissions of SO₂. The Permit provides allowable limits for pilot-only emissions from Unit F-01. Therefore, the SO₂ emissions that occurred from Unit F-01 during the eight events are in excess of those allowed by the permit.

5. Permit Condition A107 does not have allowable emission limits for NO_x, CO, SO₂, VOC and H₂S during startup, shutdown, and maintenance emissions for the plant flare (Unit F-02).

6. On October 1, 2012, the Bureau received a Final Excess Emissions Reporting Form (Final EER) from the Respondent for the Facility regarding Unit F-02. On May 6, 2013, the Bureau received an updated Final EER (Update). According to the Final EER and Update, the event occurred from September 9 to 21, 2012 and the excess emissions consisted of NO_x, CO, SO₂, VOC and H₂S resulting from a scheduled annual shutdown of the Facility. The Permit provides no allowable emissions limits for startup, shutdown, and maintenance emissions for

Unit F-02. Therefore, the NOx, CO, SO2, VOC and H2S emissions from Unit F-02 described in the Update are in excess of those allowed by the permit.

7. 20.2.7.110.A NMAC states in relevant part: “A. 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 end of the next regular business day after the time of discovery of an excess emission....”

8. On August 15, 2012, the Bureau received an Initial/Final Excess Emissions Reporting Form (Initial/Final EER) by email from the Respondent for the Facility. The Initial/Final EER reported excess emissions of SO2 from Unit F-01 that began on August 13, 2012; the event was discovered by the Respondent on the same day. An initial excess emissions report was required to be filed by August 14, 2012, which is no later than the end of the next regular business day after the time of discovery pursuant to 20.2.7.110.A(1) NMAC. Therefore, the Initial/Final EER was submitted one day after the required deadline.

9. On April 8, 2013, the Bureau sent a letter and a Post Inspection Notification (collectively the “PIN”) to Respondent, identifying certain “potential violations associated with Excess Emission Reports” submitted for the period from December 16, 2011 through December 15, 2012 concerning Respondent’s Eunice Gas Plant. Subsequently, on May 21, 2013, the Bureau issued to the Respondent Notice of Violation TAR-0609-1201 (“NOV”), alleging violations of the AQCA, the AQCR, and the Permit. The alleged violations were: 1) Exceedance of SO2 Emission Limits for Unit F-01; 2) Exceedance of NOx, CO, and SO2 Emission Limits for Unit F-02; 3) Exceedance of VOC and H2S Emissions Limits for Unit F-02;

and 4) Failure to Submit an Initial Excess Emission Report by the End of the Next Regular Business Day After Discovery.

10. On May 21, 2013, the Bureau issued to the Respondent a proposal of a civil penalty for the alleged violations at the Facility.

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

12. On June 13, 2013, the Bureau received the CAV from the Respondent. The CAV was determined to be satisfactory by the Bureau on June 13, 2013.

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. The Respondent does not admit any of the allegations in the NOV. To avoid further legal proceedings, the Division and the 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 for the in the NOV and upon consideration of the seriousness of the violations and good faith efforts to comply, the Parties agree that the Respondent shall pay a civil penalty of \$82,360.00 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 the Respondent fails to make timely and complete payment of the civil penalty, the 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 the 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 the Respondent not resolved herein. This Final Order shall not be construed to prohibit or limit in any way the 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. The 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 the 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 the Respondent has fulfilled the requirements of this Final Order. The reservations of rights and defenses and the mutual release in Paragraphs 21 and 22 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.

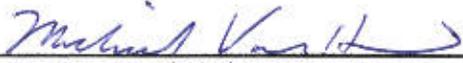
F. BINDING EFFECT

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

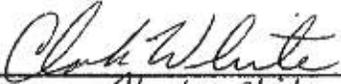
26. The persons executing this Final Order on behalf of the Respondent and the Complainant, respectively, represent that he or she has the authority to execute this Final Order on behalf of the Respondent and the Complainant.

ENVIRONMENTAL PROTECTION DIVISION
NEW MEXICO ENVIRONMENT DEPARTMENT

By: 
MICHAEL VONDERHEIDE
DIVISION DIRECTOR

Date: 6/28/13

TARGA MIDSTREAM SERVICES, LLC

By: 
Print Name: Clark White
Print Title: Vice President

Date: 6/27/2013

STIPULATED FINAL COMPLIANCE ORDER

This Settlement Agreement and Stipulated Final Compliance Order, agreed to by the Division and the Respondent Targa Midstream Services, 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
ENVIRONMENT DEPARTMENT
Date: 6/28/13