

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

**IN THE MATTER OF SANGRE DE CRISTO  
GRAVEL PRODUCTS, LLC,**

**Nos. AQCA 12 - 13 (CO)  
and AQCA 10 – 32 (CO)**

**Respondent.**

**SETTLEMENT AGREEMENT AND STIPULATED FINAL ORDER**

Pursuant to 20.1.5.600.B(2) NMAC, the New Mexico Environment Department ("Department") and Sangre de Cristo Gravel Products LLC ("Sangre de Cristo") agree to resolve Administrative Compliance Orders No. AQCA 12-13(CO) and AQCA 10-32(CO) on the terms and conditions specified in this Settlement Agreement and Stipulated Final Order ("Final Order"). For purposes of this Final Order, Sangre de Cristo admits the jurisdictional allegations of this Final Order and consents to the relief specified herein.

**I. BACKGROUND OF DISPUTE**

**A. PARTIES**

1. The Secretary of the Department delegated to the Director of the Environmental Protection Division ("Division") the authority to seek administrative enforcement, including injunctive relief and civil penalties, for violations of the Air Quality Control Act ("AQCA"), NMSA 1978, §§ 74-2-1 to -17, and the Air Quality Control Regulations, 20.2 NMAC ("Regulations"). The Air Quality Bureau ("Bureau") is the organizational unit of the Division responsible for identifying and resolving air quality enforcement issues.

2. Sangre de Cristo is a domestic New Mexico Limited Liability Company that operates an asphalt production facility ("Facility") located near the city of Las Vegas in San Miguel County, New Mexico, known as the Airport Road Asphalt Plant.

B. ALLEGED VIOLATIONS

3. As a result of an inspection of the Facility on August 4, 2011, the Bureau identified the following violation: failure to control fugitive emissions in violation of Specific Condition 2(a) of the operating permit and 20.2.11.109 NMAC.

4. On May 8, 2012, the Bureau issued Compliance Order No. AQCA 12-13 to Sangre de Cristo setting forth the above alleged violation in greater detail, and assessing a civil penalty.

5. The Bureau had previously issued Compliance Order No. AQCA 10-32 to Sangre de Cristo, alleging two violations similar to the one contained in Compliance Order No. AQCA 12-13, and assessing a civil penalty.

6. Sangre de Cristo did not dispute the allegations in Compliance Order No. AQCA 10-32, and that order became final by operation of law on July 28, 2010.

II. COMPROMISE AND SETTLEMENT

7. The parties have engaged in settlement discussions to resolve the Compliance Orders without further proceedings.

8. The parties agree to this Stipulated Final Order for the sole purpose of settling the Compliance Orders referenced above.

9. Sangre de Cristo agrees to pay a civil penalty of \$11,500.00, in two equal installments of \$5,750.00.

10. Sangre de Cristo paid the first installment of \$5,750.00, by check number 9146, on October 11, 2012, and shall pay the remaining installment of \$5,750.00 by corporate or certified check payable to the State of New Mexico, on or before December 31, 2012.

11. The payment shall be made to the *State of New Mexico General Fund* and either

be delivered in person or sent by certified mail to the following address:

Manager, Enforcement Section  
Air Quality Bureau  
1301 Siler Road, Building B  
New Mexico Environment Department  
Santa Fe, New Mexico 87507

12. If Sangre de Cristo fails to pay the second installment as specified by Paragraph 8, Sangre de Cristo shall pay interest on the outstanding balance at the rate established for judgments and decrees under NMSA 1978, § 56-8-4 (1993).

13. If Sangre de Cristo fails to make the second payment by January 31, 2013, the Department may revoke permit number NSR-0541-M1. Revocation will be accomplished by providing Sangre de Cristo with written notice, by certified mail, and will be effective upon the date of the post mark.

### **III. OTHER TERMS AND CONDITIONS**

14. Enforcement. The Department retains the right to pursue any relief authorized by the AQCA for any violation not addressed herein. The Department retains the right to enforce the Final Order by administrative or judicial action, which decision shall be in its sole discretion. In the event that the Department elects to file a judicial action to enforce the Final Order, the parties agree that the action shall be heard by the district court for Santa Fe County, which shall have exclusive jurisdiction over the parties and the Final Order, and they waive any right to challenge such jurisdiction in any forum. The laws of New Mexico shall govern the construction and interpretation of the Final Order.

15. Binding Effect. The Final Order shall be binding on the parties and their officers, directors, employees, agents, subsidiaries, successors, assigns, trustees, or receivers.

16. Duration. The Final Order shall remain in effect until Sangre de Cristo complies with its terms and conditions or it is terminated by written agreement of the parties.

17. Integration. The Final Order merges all prior written and oral communications between the parties concerning the subject matter of the Final Order, and contains the entire agreement between the parties. The Final Order shall not be modified without the express written consent of the parties.

18. Reservation of Rights and Defenses. The Final Order shall not be construed to prohibit or limit in any way the Department from requiring Sangre de Cristo to comply with any applicable state or federal requirement. The 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 Sangre de Cristo not resolved herein.

19. Mutual Release. The parties mutually release each other from all claims that each party raised or could have raised against the other regarding the facts and legal conclusions alleged above.

20. Authority to Bind. The person executing this Final Order on behalf of Sangre de Cristo represents that he has the authority to execute this Final Agreement on behalf of Sangre de Cristo.

21. Disclosure to Successors-in-Interest. Sangre de Cristo shall disclose the Final Order to any successor-in-interest and shall advise such successor-in-interest that the Final Order is binding on the successor-in-interest until such time as Sangre de Cristo complies with its terms and conditions or it is terminated by written agreement of the parties.

22. Effective Date. The Final Order shall become effective upon execution by the Secretary of the Department.

ENVIRONMENTAL PROTECTION DIVISION  
NEW MEXICO ENVIRONMENT DEPARTMENT

  
\_\_\_\_\_  
Michael Vonderheide  
Director

7/17/13  
\_\_\_\_\_  
Date

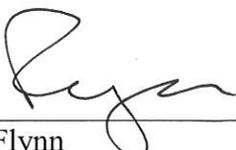
SANGRE DE CRISTO GRAVEL  
PRODUCTS LLC

  
\_\_\_\_\_  
Miguel Melendez  
Owner

7-11-13  
\_\_\_\_\_  
Date

**ORDER**

Pursuant to Section 20.1.5.600.B(2) NMAC, this Final Order is hereby APPROVED and ORDERED.

  
\_\_\_\_\_  
Ryan Flynn  
Cabinet Secretary Designate  
New Mexico Environment Department

7-22-2013  
\_\_\_\_\_  
Date