

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

**IN THE MATTER OF THE APPLICATION OF  
TARGA NORTHERN DELAWARE LLC FOR  
AN AIR QUALITY PERMIT FOR ROAD  
RUNNER GAS PROCESSING PLANT  
NO. 7200-M4**

**AQB 23-58 (P)**

**HEARING OFFICER REPORT**

**INTRODUCTION**

Applicant Targa Northern Delaware, (“Targa” or “Applicant”) seeks to modify its air quality permit for its Road Runner Facility, a gas processing plant located 1.6 miles south-southwest of Loving, in Eddy County, 4 miles northwest of Malaga.

Targa currently holds a Part 72 New Source Review (“NSR”) Permit for the Road Runner Gas Processing Plant (“Road Runner” or the “Facility”). During construction of this Facility, Targa determined that revisions were required to the current NSR permit. It is typical for a permittee to revise or modify an initial construction permit as designs and equipment specifications are finalized and modes of operations are changed to increase efficiency when the facility begins operation. Targa Ex. 2 at 9, lns 1-2. Targa submitted an application to revise its construction permit on December 16, 2022, and updated it several times during the administrative process.

The New Mexico Environment Department Air Quality Bureau (“AQB” or “Bureau”) supports the approval of the permit modification with conditions necessary to protect human health and welfare and the environment. The proposed conditions will ensure that the Facility can meet all applicable requirements, including monitoring, testing, recordkeeping and reporting to track ongoing activities. Based on air dispersion modeling and EPA Guidance regarding ozone, the Facility represented in the application demonstrates compliance with all federal and state

regulations. The Facility's operations, as represented in the application, will not cause or contribute to any exceedances of applicable air quality standards.

This matter was heard on September 25, 2023, by Felicia Orth, Hearing Officer, during a brief hybrid event that allowed for participation in person or on a virtual platform. The hearing was conducted in accordance with 20 NMAC 1.4, the Department's Permitting Procedures.

The Bureau was represented by Counsel Carol Parker, who was joined by several Bureau employees, including Bureau witnesses Joseph Kimbrell, AQB Permitting Manager, and Dr. Angela Raso, air dispersion modeling expert. The Applicant was represented by Louis Rose of Montgomery and Andrews; he was joined by Applicant witness Adam Erenstein, air quality permitting Principal Consultant. No other person appeared to offer technical testimony or public comment on the draft permit. The hearing was recorded and transcribed by Cheryl Arreguin of Albuquerque Court Reporting Services.

The record proper includes, *inter alia*, the application for air quality permit modification; written public comment and the public hearing determination memo; notices of public hearing in English and in Spanish; the Bureau and Applicant's notices of intent to present technical testimony; the administrative record submitted by the Bureau; notices of filing and affidavits of publication; correspondence; the hearing transcript; the notice of transcript filing; a post-hearing submittal from the Applicant and the Bureau; and this Report.

#### APPLICABLE LAW

New Mexico Air Quality Control Act, NMSA 1978, §§ 74-2-1 to 74-2-17

New Mexico Air Quality Regulations - Construction Permits, 20.2.72 NMAC

## RECOMMENDATION

Based upon the administrative record in its entirety, including the parties' post-hearing submittal, I recommend that the proposed final draft permit be issued as set forth by the Bureau on August 30, 2023, at AR Bates No. 20566-20600 (Part A) and 1710-1731 (Parts B and C). A draft order is attached.

## RECOMMENDED FINDINGS OF FACT

### **A. Background and Procedural History for the Draft Permit**

#### **Road Runner Facility Background**

1. Targa's Road Runner Facility is a gas processing plant, located 1.6 miles south-southwest of Loving, in Eddy County, and 4 miles northwest of Malaga. *See* Targa Ex. 2 at 6, lns 9-10.
2. The Facility separates natural gas (methane) from heavier (liquid) hydrocarbons and raw sweet field gas so that the gas can meet pipeline specifications. *See* Targa Ex. 2 at 6, lns 10-12.
3. The Road Runner Facility is expected to operate 24 hours per day. *See* Targa Ex. 2 at 6, lns 12-13.
4. Natural gas and natural gas liquids (including hydrocarbons) are received at the Facility. *See* Targa Ex. 2 at 7, lns 9-11.
5. An amine unit is then used to remove carbon dioxide and hydrogen sulfide from the gas. *See* Targa Ex. 2 at 7, lns 12-13.

6. A molecular sieve removes moisture, then stabilization towers and cryogenic distillation equipment separate the dry gas from the natural gas liquids. *See* Targa Ex. 2 at 7, Ins 13-15.

7. The dry natural gas or residue gas is compressed by electric driven compressors and transported offsite via a pipeline. *See* Targa Ex. 2 at 7, Ins 17-18.

8. Natural gas liquids, after being stabilized, are also transported offsite via a pipeline. *See* Targa Ex. 2 at 7, Ins 18-19.

### **Road Runner Facility Permitting Background**

9. AQB issued Air Quality Permit No. 7200-M3 on February 19, 2021. *See* Targa Ex. 2 at 7, ¶ 21.

10. The Road Runner Facility is currently permitted under NSR 7200-M3, issued February 19, 2021, to Lucid Energy Delaware, LLC. *See* AQB Ex. 1A at 3, Ins 1-2.

11. On September 29, 2022, AQB transferred ownership of Road Runner from Lucid Energy Delaware, LLC to Targa by Administrative Revision 7200-M3R1. *See* AQB Ex. 1A at 3, Ins 4-6.

12. The purpose of Targa's application for NSR Permit 7200-M4 is to update conditions and requirements for monitoring, testing, recordkeeping, and reporting. *See* AQB Ex. 1A at 3, Ins 6-8.

13. The application requested the following revision to Permit No. 7200-M3:
- a. removal of process train 4;
  - b. decreased site processing;
  - c. updated specifications and permit limits for proposed processing trains 2 and 3;
  - d. updated permit representation for heaters;

- e. addition of exempt methanol tanks;
- f. increased plant fugitives;
- g. updated tank emission calculations;
- h. updated number of compressors; and
- i. updated representations to comply with state regulations.

*See* Targa Ex. 2 at 8, lns 15-20.

**B. AQB Administrative Review of Application 7200-M4**

14. The AQB received Application 7200-M4 on December 16, 2022. *See* AQB Ex. 1A at 3, lns 10-11.

15. The AQB conducted an administrative review of the application. *See* AQB Ex. 1A, p. 3, ln 10 to p. 5, ln 2.

16. Pursuant to 20.2.72.207(A) NMAC, the AQB had 30 days to review the application for administrative completeness. *See* AQB Ex. 1A at 3, lns 11-12.

17. The administrative review included a review of the applicant's modeling analysis, the proof of public notice, and a notarized certification stating that the information and data submitted in the application is true and accurate. *See* AQB Ex. 1A at 3, lns 13-16.

18. On January 13, 2023, application 7200-M4 was ruled administratively complete. *See* AQB Ex. 1A at 4, ln 3.

19. On January 13, 2023, AQB sent the completion determination letter and the invoice for the permit fee to Targa. *See* AQB Ex. 1A at 4, lns 4-6.

20. Upon receipt of the Application, the modeling files were submitted to the AQB Modeling manager, Mr. Sufi Mustafa, for assignment to an AQB dispersion modeler. *See* AQB Ex. 1A at 3, lns 17-19.

21. On March 1, 2023, Dr. Angela Raso (the assigned modeler) notified Mr. Kimbrell that her modeling review was complete and sent Mr. Kimbrell the completed modeling review. *See* AQB Ex. 1A at 3, lns 19-21.

22. Dr. Raso concluded that operation of the Road Runner Facility neither causes nor contributes to any exceedances of applicable ambient air quality standards and that, based on the modeling analysis, the permit may be issued. *See* AQB Ex. 1A at 3, lns 19-23; and Ex. 3, p. 4, ln 10 – p. 5, ln 8.

23. The permit fee for the application was calculated based on fee units in 20.2.75 NMAC and an invoice was generated by administrative staff. *See* AQB Ex. 1A at 4, lns 1-2.

#### **C. AQB Technical Review of Application 7200-M4**

24. After the application was ruled administratively complete, technical review of Application 7200-M4 began. The technical review requires verification of emission calculations and a determination of applicable federal and state regulations. AQB Ex. 1A, p. 5, lns 4-6.

25. In general, Mr. Kimbrell requested updates and/or clarifications of discrepancies in the Application if they became apparent while drafting Permit 7200-M4. AQB Ex. 1A, p. 5, lns 11-12

26. The Department reviewed the emissions calculations submitted in the Application for all regulated equipment and the emissions factors relied upon in those calculations. The Facility emissions were calculated using Excel spreadsheets and manufacturer's data sheet emission factors, Texas Commission on Environmental Quality ("TCEQ") emission factors, or US EPA AP-42 Compilation of Air Emission Factors, as well as oil and gas industry software. AQB Ex. 1A, p. 5, lns 13-17.

27. The emission factors used in the Application are appropriate for this source type and are approved by the Department. The approved calculated emission rates were used as inputs into the Department's air dispersion modeling analysis. AQB Ex. 1A, p. 5, lns 18-21.

28. Mr. Kimbrell summarized his review of the Application in the Statement of Basis. The Statement of Basis is a permitting record that includes a description and history of the Facility, public response received by the Department, a regulatory compliance discussion, and unique conditions in the permit. AQB Ex. 1A, p. 5, ln 22 to 6, ln3; Administrative Record ("AR") Bates 1507-1524; and Bates 1732-1755.

29. Dr. Raso reviewed the air dispersion modeling submitted by Targa for Permit 7200-M4. She verified that the Facility had followed appropriate modeling practices, as informed by the New Mexico Modeling Guidelines, and produced an Air Dispersion Modeling Report. Dr. Raso determined that if Targa operates the Facility in compliance with the terms and conditions of the Proposed Permit, then it will not cause or contribute to any concentrations above national or New Mexico ambient air quality standards or PSD increments. Dr. Raso concluded that the Facility had satisfied all modeling requirements, and the permit may be issued. AQB Ex. 3, Raso Test. p. 3, lns 4-12.

30. State Regulation 20.2.50 NMAC became effective on August 5, 2022. Targa provided updates to its application and comments to AQB to accommodate the Part 50 requirements on February 14, 2023. AQB Ex. 1A, p. 6, lns 4-10.

#### **D. Public Outreach**

31. Following publication of the legal notice, interested persons were allowed 30 days to express an interest in writing in the permit application per 20.2.72.206(A)(5) NMAC. *See* AQB Ex. 1A at 6, lns 12-13.

32. On January 24, 2023, the AQB posted its Legal Notice on the AQB website, and published notice in the Carlsbad Current Argus on January 19, 2023. *See* AQB Ex. 1A at 4, lns 9-10.

33. On January 27, 2023, the State of Texas and Carlsbad Caverns National Park were identified as Affected Parties and notified of legal notice publication. *See* AQB Ex. 1A at 4, lns 6-7.

34. On February 22, 2023, AQB sent notification of legal notice to EPA Region 6. *See* AQB Ex. 1A at 4, lns 8-9.

35. WEG's website provided concerned persons a form letter to use for submittal of comments to the AQB. *See* AQB Ex. 1A at 6, lns 15-16.

36. On July 25, 2023, AQB filed Notice of the Secretary's Hearing Determination for the Road Runner Gas Processing Plant with the Office of Public Facilitation. *See* AQB Ex. 1A at 7, lns 1-2.

37. On August 16, 2023, the AQB requested public service announcements about the hearing in English and Spanish. *See* AQB Ex. 1A at 7, lns 2-3.

38. On August 16, 2023, notice of the public hearing was posted on AQB's website in both English and Spanish. *See* AQB Ex. 1A at 7, lns 4-5.

39. On August 19, 2023, notice of the hearing was published in the Albuquerque Journal in English and Spanish. *See* AQB Ex. 1A at 7, lns 7-8.

40. On August 20, 2023, notice of the hearing was published in the Carlsbad Current Argus in English and Spanish. *See* AQB Ex. 1A at 7, lns 5-6.

#### **E. Public Comment**

41. The AQB received 4,610 form comment letters during the first 30-day public comment period. *See* AQB Ex. 1A at 4, lns 11-12.



42. The form letters contained three comments identifying the following concerns: (1) increased smog-forming emissions; (2) inappropriate loophole conditions when the plant breaks down; and (3) toxic emission assessment impacting people and communities in the region. AQB Ex. 1A at p. 8, ln 22 to p. 9, ln 2.

43. The second 30-day comment period, provided by 20.2.72.206(B)(2) NMAC, began on April 19, 2023, when the AQB's analysis became available for public review. No comments were received during this period. AQB Ex. 1A at 6, lns 21-22.

44. The AQB attempted to respond by email to 4,500 commenters, but all emails were returned as undeliverable. *See* AQB Ex. 1A at 4, lns 12-13.

45. The AQB combined the first and second commenter letters and mailed them by US Postal Service to each commenter who provided a complete mailing address and commented within the 30-day period. *See* AQB Ex. 1A at 4, lns 13-15.

46. The mailings were sent by the AQB between March 28 and April 19, 2023 to the 4,410 commenters with mailing addresses. *See* AQB Ex. 1A at 4, lns 15-17.

47. The letters contained general information concerning the air quality permitting process and notification of the date and location that the application and the AQB's analysis and draft permit were available for review. *See* AQB Ex. 1A at 4, lns 19-21.

48. The letter also informed the commenters that a second 30-day comment period starts once the AQB's analysis is available for review. *See* AQB Ex. 1A at 4, lns 21-23.

49. On March 21, 2023, the AQB posted the application, draft permit, and draft analysis on the AQB website for Permit Public Notices. *See* AQB Ex. 1A at 4-5, lns 23-2.

## **F. AQB's Responses to Public Comments.**

50. The AQB received a comment from Don Shepherd, Air Resources Division – National Park Service expressing interest in the permit application due to proximity of the Facility to Carlsbad Caverns and the National Park. *See* AQB Ex. 3 at 3, lns 18-20.

51. The AQB responded to Don Shepherd's inquiry on February 17, 2023, sending him a summary of recent actual emissions from the Facility. *See* AQB Ex. 3 at 3, ln 20 to p. 4, ln 1.

52. In response to the commenters' Comment 1—regarding alleged increases in smog-forming emissions in the Permian Basin—AQB explained that:

- a. The Road Runner Facility is a minor PSD source;
- b. Minor PSD sources do not individually cause or contribute to ozone concentrations in the region; and
- c. The AQB has determined that no meaningful information could be gained by requiring individual PSD minor sources to demonstrate compliance [with the ozone standard]. *See* AQB Ex. 3 at 4, ln 10 to p. 5, ln 8.

53. In response to commenters' Comment 2—regarding alleged inappropriate loopholes—the AQB explained its process of calculating emissions from SSM events and concluded that “[t]he permit does not contain inappropriate loopholes that allow Targa to violate emission limits as alleged in this comment.” *See* AQB Ex. 1A at 10, lns 6-17.

54. In response to commenters' Comment 3 –regarding allegations that the AQB had not assessed how emissions at the Facility will impact people and communities in the region—the AQB explained that:

- a. Targa submitted an analysis for toxic air pollutants that will be emitted from the Facility;

b. This analysis demonstrated that no toxic air pollutants will be emitted above the screening levels; and

c. Therefore, no permitting or modeling is required for toxic air pollutants in the application.

*See* AQB Ex. 3 at 6, lns 7-13.

## **G. Evidence in Support of Targa’s Burden to Show the Draft Permit Should be Approved and Not Denied**

### **Sufficiency of the Draft Permit**

55. When the AQB issues a permit, the permit includes specific information describing the equipment authorized to be installed and operated, limits on air pollutants, and requirements about how to operate the equipment. *See* AQB Ex. 1A at 7, lns 12-14

56. A permit is an enforceable legal document, which includes emission limits and methods for determining compliance on a regular basis. It establishes monitoring, recordkeeping, and reporting requirements to ensure and verify compliance with the terms of the permit. *See* AQB Ex. 1A at 7, lns 14-17.

57. Part A of the permit contains conditions, known as Facility Specific Requirements, which are unique to the Facility, site specific, and based on information provided in the application. *See* AQB Ex. 1A at 7, lns 18-19.

58. Part B of the permit contains General Conditions and standard language which generally apply to all sources. *See* AQB Ex. 1A at 7, lns 19-20.

59. Part C of the permit is also standard language about supporting online documents, definitions, and acronyms which apply to all sources. *See* AQB Ex. 1A at 7, lns 21-22.

60. Draft permits are dynamic working documents subject to updates throughout the review process. *See* AQB Ex. 1A at 8, lns 1-2.

61. Draft Permit 7200-M4 started with standardized language in an AQB permit template and standardized AQB monitoring protocols were added as necessary. *See* AQB Ex. 1A at 8, lns 2-3.

62. Unique permitting conditions for site specific operations and equipment were added to customize the permit. *See* AQB Ex. 1A at 8, lns 4-6.

63. Conditions of the permit require ongoing testing and monitoring for processes and pieces of equipment to ensure the equipment is operating in accordance with the permitted emission limits. *See* AQB Ex. 1A at 8, lns 7-9.

64. Table 106 states the Facility: Allowable Emissions while Table 107.A of the permit, “Allowable SSM Units, Activities, and Emission Limits” states the authorized emissions related to Startup, Shutdown, and Maintenance Activities. *See* Targa Ex. 2 at 10, lns 21-23; and *see* the Proposed Permit, AR Bates 20566-20600, at 20576-20577 (Table 106) and 20578-20579 (Table 107.A).

65. Targa’s Application for Road Runner demonstrated its compliance with all applicable federal and state emissions regulations. *See* Targa Ex. 2 at 12, lns 13-22.

66. Targa was not required to submit a dispersion modeling protocol because the Road Runner permit is a minor NSR application. *See* Targa Ex. 2 at 13, lns 11-16.

67. Targa’s modeling of the Road Runner Facility was performed in accordance with the AQB’s Modeling Guidelines and accounted for adjacent facilities’ emissions. *See* Targa Ex. 2 at 13-14, lns 17-5.

68. The modeling determined that the impacts of the Road Runner Facility, when combined with existing air quality in the area, do not cause or contribute to ambient air

concentrations in excess of applicable NAAQS, NMAAQs and PSD increments for each pollutant and averaging period. *See* Targa Ex. 2 at 15, lns 8-11.

#### **H. There is No Basis to Deny the Permit Application.**

69. If the Targa Facility operates in compliance with the terms and conditions of the Proposed Permit, it will comply with all applicable air quality regulations and ambient air quality standards, state and federal, and PSD increments. *See* Targa Ex. 2 at 17, lns 3-5.

70. The Proposed Permit complies with all applicable air quality regulations and contains conditions to assure compliance for all applicable requirements. *See* AQB Ex. 1A at 11, lns 8-9.

71. Targa's proposed revisions will not cause or contribute to an exceedance of the ambient air quality standards. Targa Ex. 2 at 15, lns 11-13.

72. The AQB recommends that the Secretary issue the Proposed Permit. *See* AQB Ex. 1A at 11, lns 9-10; AR Bates 20566-20600.

#### **I. Commenters' Opposition to the Proposed Permit.**

73. The AQB, in the testimony of Mr. Kimbrell and Dr. Raso, responded to each comment raised by commenters. *See* AQB Ex. 1A at 11, lns 5-6.

74. The AQB concluded that none of the comments raised any substantive concern that would justify denial of this application. *See* AQB Ex. 1A at 11, ¶ 7.

75. None of the comments established a basis for adding or revising any permit condition or denying the permit under 20.2.72.208 NMAC. *See* Targa Ex. 2 at 16, lns 21-23.

### **PROPOSED CONCLUSIONS OF LAW**

#### **A. Jurisdiction and Standard of Decision**

1. The Secretary has jurisdiction over the subject matter of Targa's application and the parties to this proceeding and is authorized by the Air Quality Control Act ("State Act") to

issue or deny air quality construction permits based upon information submitted in a permit application and relevant information received during the review process, including information from the public hearing. NMSA 1978, § 74-2-7(C-G); 20.2.72.206-207 NMAC.

2. In a permit hearing before the Secretary of the Environment, “the Applicant...has the burden of proof that a permit...should be issued and not denied...the [Bureau] has the burden of proof for a challenged condition of a permit or license which the Bureau has proposed. Any person who contends that a permit condition is inadequate, improper, or invalid, or who proposes to include a permit condition shall have the burden of proof of going forward to present an affirmative case on the challenged condition.” 20.1.4.400(A)(1) NMAC.

### **B. Air Quality Standards**

3. The Clean Air Act (“CAA”) requires the Environmental Protection Agency (“EPA”) to set National Ambient Air Quality Standards (“NAAQS”) for pollutants that EPA determines may endanger public health and welfare. 40 U.S.C. § 7409.

4. Pursuant to the CAA, EPA has established NAAQS for six principal pollutants, known as “criteria pollutants.” These pollutants are carbon monoxide (“CO”); nitrogen dioxide (“NO<sub>2</sub>”); sulfur dioxide (“SO<sub>2</sub>”); particulate matter (“PM”) at 10 microns or less (referred to as coarse particulate matter) and 2.5 microns or less (referred to as fine particulate matter); ground level ozone; and lead. 40 C.F.R. Part 50.

5. The Department has authority over all air quality standards in New Mexico except for Bernalillo County and Tribal Lands. NMSA 1978, § 74-2-5.2 (1992); 42 U.S.C. § 7410 (2018).

### **C. Legal Requirements for Issuing a Construction Permit**

6. In New Mexico, permits must be obtained by “[a]ny person constructing a stationary source which has a potential emission rate greater than 10 pounds per hour or 25 tons

per year of any regulated air contaminant for which there is a National or New Mexico Ambient Air Quality Standard.” 20.2.72.200(A)(1) NMAC.

7. Permits must also be obtained by “[a]ny person modifying a stationary source when all of the pollutant emitting activities at the entire facility, either prior to or following the modification, emit a regulated air contaminant for which there is a National or New Mexico Ambient Air Quality Standard with a potential emission rate greater than 10 pounds per hour or 25 tons per year and the regulated air contaminant is emitted as the result of the modification.” 20.2.72.200(A)(2) NMAC.

8. Permits must also be obtained from “[a]ny person constructing or modifying a source or installing any equipment which is subject to 20.2.77 NMAC (New Source Performance Standards), 20.2.78 NMAC (Emission Standards for Hazardous Air Pollutants), or any other New Mexico Air Quality Control Regulation which contains emission limitations for any regulated air contaminant.” 20.2.72.200(A)(3) NMAC.

9. “A permit must be obtained from the Department by any person prior to the construction or modification of a new source which has total potential emissions of a toxic air pollutant into the ambient air that exceed the emission level in pounds per hour specified in 20.2.72.502 NMAC, and . . . [t]he toxic air pollutant is identified by the department on or before the date the application is determined to be complete, as likely to be emitted from a source.” 20.2.72.402(B) NMAC.

10. All applications submitted pursuant to 20.2.72.200(A) NMAC must include all the relevant required information listed in 20.2.72.203 and 20.2.72.403 NMAC.

11. When an applicant submits all the required information, the application shall be ruled administratively complete unless the Bureau determines that the applicant is required to submit more information. 20.2.72.201(B) NMAC; 20.2.72.207(A) NMAC.

12. For all pending permit applications, the Bureau is required to make available to the public the following: (a) a list of all pending permit applications; and (b) the permit application and preliminary determination. 20.2.72.206(A)(1) and (2) NMAC.

13. After an application under 20.2.72 NMAC is determined by the Bureau to be administratively complete, the Bureau is required to publish a public notice in a newspaper of general circulation in the area closest to the location of the source that includes the following information: (a) the location of the permit application; (b) where the public can view the Bureau's analysis; (c) a description of the manner in which comments or evidence may be submitted to the Bureau; and (d) information directing that interested persons must inform the Department in writing of their interest in the permit application in order to have a 30-day period to review and comment on the Bureau's analysis. The notice is also required to clearly state that any person who does not express such interest in writing prior to the end of the initial 30-day comment period will not receive notification of the availability of the analysis. 20.2.72.206(A)(3) NMAC.

14. When any person expresses an interest in writing in the permit application, the Bureau is required to notify each person who submitted written interest in the permit application when the Bureau's analysis is completed and where the analysis is available for review. The Bureau may not issue a permit until at least thirty (30) days after the Bureau's analysis is available for review. During this thirty (30) day period, any person may submit written public comments or request a public hearing. 20.2.72.206(B) NMAC.



15. If the Secretary of the Environment Department determines there is significant public interest, the Department shall hold a public hearing in the area that is likely to be impacted by the permit. The Department is required to give notice of the hearing to the applicant and the public. 20.2.72.206(C) NMAC.

16. Among other things, the Bureau shall specify appropriate conditions on a permit, including the following: [a] emissions limitations that comply with State and federal air quality standards which may only be as stringent as necessary to meet the requirements of the CAA or Air Quality Control Act or the emission rate specified in the application; [b] appropriate control technologies sufficient to meet the requirements of the State and federal standards; [c] compliance with applicable New Source Performance Standards (“NSPS”) or National Emission Standards for Hazardous Air Pollutants (“NESHAP”); [d] reasonable restrictions and limitations other than those relating to emission limits or emission rates; [e] any combination of the foregoing; and [f] in the case of a modification, these requirements may only be applied to the facility or facilities involved in such application. 20.2.72.210(B) NMAC.

17. The Department shall grant the permit, grant the permit subject to conditions, or deny the permit based on information contained in the Department's administrative record. 20.2.72.207(D) NMAC.

18. Pursuant to 20.2.72.208 NMAC, the Department is required to deny an application for a permit if considering emissions after controls:

[a] It appears that the construction, modification or permit revision will not meet applicable regulations adopted pursuant to the Air Quality Control Act; [b] The source will emit a hazardous air pollutant or an air contaminant in excess of any applicable New Source Performance Standard or National Emission Standard for Hazardous Air Pollutants or a regulation of the board; [c] For toxic air pollutants, see 20.2.72.400 NMAC - 20.2.72.499 NMAC; [d] The construction, modification, or permit revision will cause or

contribute to air contaminant levels in excess of any National Ambient Air Quality Standard or New Mexico ambient air quality standard unless the ambient air impact is offset by meeting the requirements of either 20.2.79 NMAC or 20.2.72.216 NMAC, whichever is applicable; [e] The construction, modification, or permit revision would cause or contribute to ambient concentrations in excess of a prevention of significant deterioration (PSD) increment; [f] Any provision of the Air Quality Control Act will be violated; [g] It appears that the construction of the new source will not be completed within a reasonable time; or [h] The department chooses to deny the application due to a conflict of interest in accelerated review as provided for under Subsection C of 20.2.72.221 NMAC.

19. The Secretary of Environment may deny a construction permit if construction will not meet applicable standards, rules or requirements of the Air Quality Control Act or the CAA, will cause or contribute to air contaminant levels in excess of a national or state standard, or will violate any other provision of the Air Quality Control Act or the CAA. NMSA 1978, § 74-2-7(C).

20. Pursuant to Part 72, Subsection 405(A),

If the department finds that the eight-hour average concentration of the toxic air pollutant in the ambient air does not exceed one one-hundredth of the OEL, or for compounds without an OEL, the minimum detection levels as shown in 20.2.72.502 NMAC, the department shall grant the permit. The administrative screening level of one one-hundredth the OEL and the OEL shall not be a basis for denying a permit and shall not constitute an ambient air quality standard.

#### **D. Public Notice Requirements for the Public Hearing**

21. No later than thirty days prior to the date of the public hearing, the Bureau is required to send a Notice of Hearing and request for publication to at least one newspaper of general circulation in the state, and at least one newspaper published or distributed at least weekly in the area affected by the subject of the hearing. The Bureau also shall promptly file the

Notice of Hearing with the hearing clerk. Pursuant to 20.1.4.200(C)(2)(a) NMAC, the Notice of Hearing shall contain the following information:

(i) the date, time, and location of the hearing; (ii) a brief description of the nature and location of the action to be considered in the Draft Permit, Application or Petition, including the name and address of the Applicant or Petitioner; (iii) the name, address and telephone number of a person from whom further information, including a copy of the Draft Permit, Application or Petition, may be obtained; (iv) the requirements for an Entry of Appearance, a Statement of Intent to Present Technical Testimony, and a general written or oral statement; (v) a statement that this Part shall apply at the hearing; and (vi) any other requirement set forth in the Act or applicable regulation

22. Pursuant to 20.1.4.200(C)(2)(b) NMAC, the Bureau is also required to:

[a] mail a copy of the Notice of Hearing to each party and to each person who filed a written request for a hearing or who expressed to the Department in writing an interest in the Facility that is the subject of the proceeding; [and (b)] mail a copy of the Notice of Hearing to each local, state, or federal agency and Tribal government affected by the Facility that is the subject of the proceeding.

23. Publication of public notices must be:

published in a daily, tri-weekly, a semi-weekly or a weekly newspaper of general circulation that can be obtained by single copy and that is entered under the second class postage privilege in the county in which the notice or advertisement is required to be published . . . [and that] shall have been so published in the county continuously and uninterruptedly during the period of at least twenty-six consecutive weeks next prior to the first issue thereof containing any such notice or advertisement.

NMSA 1978, § 14-11-2.

24. Proof of publication may be made by a showing of an affidavit of publication from the publisher. NMSA 1978, §§ 14-11-4; and -6 (1941).

25. Public notices of a state agency are required to be posted on the state agency's web site. NMSA 1978, § 14-11-10.2 (2003).

**E. Analysis of the Processing of the Application for the Modification of the Permit for the Road Runner Gas Processing Plant, No. 7200-M4.**

26. Targa Northern Delaware, LLC (“Targa”) is a person under the State Act because it is a limited liability company which is an association of persons. *Martinez v. Roscoe*, 131 N.M. 137, 138 (Ct. App. 2001) (defining a limited liability company as an association of persons); NMSA 1978, § 74-2-2(O) (defining an association as a person for purposes of the State Act).

27. Targa properly submitted Application No. 7200-M4 pursuant to the State Act, NMSA 1978 § 74-2-1 to -17 (1967 as amended through 2021).

28. Application No. 7200-M4 establishes that the modification of the Road Runner Gas Processing Plant meets the applicable statutory and regulatory standards, will not cause or contribute to air contaminant levels in excess of national or state standards, and will not violate any other provision of the State Act or the CAA. NMSA 1978, § 74-2-7(C).

**F. The Adequacy of the Bureau’s Administrative Review of the Application for the Road Runner Gas Processing Plant.**

29. The Bureau’s administrative review for the Application for the Road Runner Gas Processing Plant was thorough, complete, and sufficient to support the determination that Application 7200-M4 was administratively complete.

**G. The Adequacy of the Bureau’s Public Notice for the Road Runner Gas Processing Plant Application, No. 7200-M4.**

30. The Bureau has met all the elements of the statutory and regulatory standards regarding public notice of the determination of administrative completeness and notice for Proposed Permit No. 7200-M4. NMSA 1978, §§ 14-11-2 (1941 as amended through 1999); 14-11-4 (1941); 14-11-6 (1941); 14-11-10.2 (2003); 20.2.72.206(A)(3) NMAC.

31. The Bureau has met all legal requirements regarding public notice of the public hearing. NMSA 1978, §§ 14-11-2 (1941 as amended through 1999); 14-11-4 (1941); 14-11-6 (1941); 14-11-10.2 (2003); 20.1.4.200(C)(2) NMAC; 20.2.72.206(C) NMAC.

**H. The Adequacy of the Bureau’s Public Outreach for the Road Runner Gas Processing Plant Application No. 7200-M4.**

32. The Bureau has met all the regulatory standards regarding public outreach and receiving public comment for the Road Runner Gas Processing Plant Application No. 7200-M4. 20.2.72.206(A)(1-2) and (B) NMAC.

**I. The Public Hearing**

33. The Public Hearing in this matter was held in accordance with the Prehearing Order filed August 15, 2023. 20.2.72.206(C) NMAC.

34. The hybrid hearing held in this matter complied with all hearing requirements. For members of the public who wished to appear locally, the Department arranged for space at the Carlsbad Field Office in Carlsbad, New Mexico (the geographic area likely to be impacted by the source), 20.2.72.206(C) NMAC; and had a staff member on hand to assist the public with appearing and participating in the hearing. *See, e.g.,* Public Hearing Notice, AR, Bates 20560-20562. In addition, the hybrid hearing allowed parties and those members of the public who preferred to attend remotely to do so. This hearing procedure complied with all hearing requirements and allowed for full participation by the public and the parties.

**J. The Adequacy of the Targa Road Runner Gas Processing Plant Proposed Permit No. 7200-M4.**

35. Proposed Permit No. 7200-M4 meets all the applicable standards, rules, and requirements of the Air Quality Control Act. NMSA 1978. § 74-2-7(C) and (D).

36. The conditions specified by the Bureau for Proposed Permit No. 7200-M4 include emissions limitations that comply with State and federal air quality standards; include

appropriate control technologies sufficient to meet the requirements of the State and federal standards; and include other conditions, all of which are reasonable. 20.2.72.210 NMAC.

37. The Bureau's modeling analysis was thorough and complete and confirms that the conditions in Proposed Permit No. 7200-M4 will not cause or contribute to air contaminant levels in excess of any national or state standard or prevention of significant deterioration increment.

**K. Recommended Decision on the Proposed Permit**

38. Targa carried its burden of proof to demonstrate that the Proposed Permit should be issued and not denied.

39. No technical testimony was received from any party challenging any condition in the Proposed Permit. To the extent that any comment from a member of the public could be interpreted as challenging any condition in the Proposed Permit, such challenge was not supported by admissible technical evidence.

40. No credible evidence was presented at the hearing to support any basis for denying a permit under Section 74-2-7(C) or 20.2.72.208 NMAC.

41. AQB properly responded to each comment received from members of the public. None of those comments established a basis for denying the Proposed Permit.

42. No member of the public provided any technical testimony that suggested or supported the need for additional conditions in the Proposed Permit.

43. The conditions proposed by NMED satisfy the requirements of Section 74-2-7(D) and 20.2.72.210(B) NMAC.

44. Targa's application complies with all the applicable requirements of 20.2.72.203 NMAC, all applicable requirements of the State Act and Federal Act, and the applicable Air Quality Control Regulations for issuance of a construction permit.

45. Targa has complied with all requirements of the State Act and the New Mexico Air Quality Control Regulations for the filing of Application 7200-M4.

46. Application 7200-M4, the public hearing, and the Hearing Record reveal no basis under the State Act or applicable regulations to deny the permit to Targa.

47. The permit conditions proposed by the AQB in the Proposed Permit are enforceable and necessary and appropriate to ensure compliance with the State Act and applicable regulations.

48. The AQB recommends that the Secretary issue the Proposed Permit dated August 30, 2023 at AR Bates No. 20566-20600 (Part A) and 1710-1731 (Parts B and C).

49. Issuance of an air quality revision permit to Targa, as requested in Application 7200-M4 and with the operational limits, controls, requirements, and emissions limits in the Proposed Permit, complies with the State Act and applicable regulations.

Respectfully submitted,

*Original signed by*  
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Felicia L. Orth, Hearing Officer

Certificate of Service

I hereby certify that on October 13, 2023, a copy of the Hearing Officer Report was sent via electronic mail to the persons listed below:

A hard copy will be mailed upon request.

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*Madai Corral*

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