

**STATE OF NEW MEXICO
SECRETARY OF ENVIRONMENT**

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

Complainant,

No. AQB 20-46 (CO)

DCP OPERATING COMPANY, LP

Respondent.

and

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

Complainant,

No. AQB 20-64 (CO)

DCP OPERATING COMPANY, LP

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 (“Department” or “NMED”) and Respondent, DCP Operating Company, LP and relevant affiliates thereof, (“DCP”) (collectively, the “Parties”) to resolve alleged statutory, regulatory, and permit violations by DCP. The Department alleges violations of the New Mexico Air Quality Control Act (“AQCA”), NMSA 1978, Sections 74-2-1 to -17; the Air Quality Control Regulations (“Regulations”) at Title 20, Chapter 2 NMAC, and various Air Quality Permits (“Permits”) as identified below.

I. BACKGROUND

A. PARTIES

1. The Division is an organizational unit of the Department and has been delegated the authority by the Secretary of the Department to issue compliance orders under the AQCA. NMSA 1978, § 74-2-12.A (2006). The Air Quality Bureau (“Bureau”) is an organizational unit of the Division.

2. DCP is a limited partnership doing business in New Mexico at the following facilities: Burton Flats Compressor Station, Fitz Compressor Station, Lovington Booster Station, Lynch Booster Station, Monument Booster Station, Sand Dunes Compressor Station, South Hat Compressor Station, West Turkey Track Compressor Station, Artesia Gas Plant, Eunice Gas Plant, Linam Ranch Gas Plant and Zia II Gas Plant (collectively, the “Facilities”). DCP owns and operates the Facilities, located in Lea and Eddy Counties, New Mexico. At all times relevant to this Final Order, DCP owned and operated the Facilities.

B. HISTORY AND ALLEGED VIOLATIONS

The alleged violations are set forth in the two Compliance Orders and are summarized below.

Burton Flats Compressor Station

3. Since April 15, 2014, Burton Flats has been authorized to operate under NSR Permit 0612-M5.

4. The following table from NSR permit 0612-M5, Condition A106 lists the Facility emission units and their allowable emission limits. *See* 40 CFR Part 50; 40 CFR Part 60, Subparts A and JJJJ; 40 CFR Part 63, Subparts A and ZZZZ; 20.2.72.210.A and B(1) NMAC.

Table 1: Burton Flats, Table 106.A, Allowable Emissions

| Unit No. | NO _x ¹ (pph) | NO _x ¹ (tpy) | CO (pph) | CO (tpy) | VOC (pph) | VOC (tpy) |
|-------------------|------------------------------------|------------------------------------|----------|----------|----------------|-----------|
| 1 | 2.8 | 12.2 | 2.8 | 12.2 | 1.4 | 6.1 |
| 2 | 2.8 | 12.2 | 2.8 | 12.2 | 1.4 | 6.1 |
| 3 | 2.8 | 12.2 | 2.8 | 12.2 | 1.4 | 6.1 |
| 4 | 2.8 | 12.2 | 2.8 | 12.2 | 1.4 | 6.1 |
| 5 | 2.8 | 12.2 | 2.8 | 12.2 | 1.4 | 6.1 |
| 6 | 2.8 | 12.2 | 2.8 | 12.2 | 1.4 | 6.1 |
| 7 | 3.6 | 15.8 | 3.6 | 15.8 | 1.8 | 7.9 |
| TK-1 ⁴ | - ² | - | - | - | * ³ | 4.9 |
| TK-2 | - | - | - | - | * | 4.9 |
| LOAD | - | - | - | - | * | 0.87 |

1 Nitrogen dioxide emissions include all oxides of nitrogen expressed as NO₂

2 Total Particulate matter (TSP) is estimated to equal PM10 and PM2.5. These emissions include condensable PM emissions.

3 For Title V facilities, the Title V annual fee assessments are based on the sum of allowable tons per year emission limits in Sections A106 and A107.

4 F-100R represents routine flaring from tank flash, amine, pilot, dehydrator.

5. The following table from NSR Permit 0612 M5, Condition A.107 - “Facility: Allowable Startup, Shutdown, and Maintenance and Malfunction Emissions,” lists the facility-wide startup, shutdown, maintenance (“SSM”), and malfunction emission limits:

Table 2: Burton Flats, Table 107.A, Allowable SSM & M Units, Activities, and Emission Limits

| Unit No. | Description | VOC (tpy) |
|-------------------|---|-----------|
| SSM Facility Wide | Compressor & Associated Piping Blowdowns during Routine and Predictable Startup, Shutdown, Maintenance (SSM), and/or Malfunctions | 10 |

(This authorization does not include VOC combustion emissions.)

6. Between December 29, 2017 and June 30, 2019, DCP reported ten (10) excess emission events and asserted affirmative defenses as provided in 20.2.7 NMAC.

7. The Bureau issued Notice of Violation (“NOV”) DCP-0251-1801 for four of these alleged violations on December 7, 2018.

8. The Division alleges that DCP violated NSR permits 0612-M5, Condition A106.A and A107.A, by exceeding the permitted allowable emission limits of the emergency blowdown

vent during ten (10) excess emission events. These events resulted in a total of eighty-nine (89) alleged violations (“Burton Flats Violations”).

9. The Division alleges that the Burton Flats Violations resulted in the unlawful emission of 63,437 pounds of volatile organic compounds (“VOC”) and hydrogen sulfide (“H₂S”)

10. The Division maintains that DCP’s reported excess emission events at Burton Flats Compressor Station do not qualify for affirmative defenses under the New Mexico Air Quality Control Act and the NMED Air Quality Bureau Civil Penalty Policy and are therefore subject to penalties. DCP maintains that its affirmative defense claims are valid.

Fitz Compressor Station

11. Between June 21, 2012 and October 3, 2019, the Fitz Compressor Station was authorized to operate under NSR permit 0832-M2. Since October 4, 2019, the Fitz Compressor Station has been authorized to operate under GCP-O&G Permit number 0832-M3.

12. The following table from NSR Permit 0832-M2, Condition A.106 – “Facility: Allowable Emissions,” lists the emission units and their allowable emission limits. *See* 40 CFR Part 50; 40 CFR Part 63, Subparts A and ZZZZ; and 20.2.72.210.A and B(1) NMAC:

Table 3: Fitz, Table 106.A, Allowable Emissions

| Unit No. | NO_x¹ (pph) | NO_x¹ (tpy) | CO (pph) | CO (tpy) | VOC (pph) | VOC (tpy) | SO₂ (tpy) |
|--------------------------|---|---|-----------------|-----------------|------------------|------------------|-----------------------------|
| 1 | 4.2 | 18.5 | 5.0 | 21.9 | < ³ | 2.5 | 1.1 |
| 2 | 4.2 | 18.5 | 5.0 | 21.9 | < ³ | 2.5 | 1.1 |
| 3 | 4.2 | 18.5 | 5.0 | 21.9 | < ³ | 2.5 | 1.1 |
| 4 | 4.2 | 18.5 | 5.0 | 21.9 | < ³ | 2.5 | 1.1 |
| TK-1 | - ² | - ² | - ² | - ² | * ⁵ | 9.9 | - ² |
| L-1 | - ² | - ² | - ² | - ² | * ⁵ | 2.5 | - ² |
| Total⁴ | 16.8 | 74.0 | 20.0 | 87.6 | 4.7 | 23.0 | 4.4 |

1 Nitrogen dioxide emissions include all oxides of nitrogen expressed as NO₂

2 “-” indicates the application represented emissions of this pollutant are not expected

3 “<” indicates the application represented uncontrolled emissions are less than 1.0 pph or 1.0 tpy for this pollutant. Allowable limits are not imposed on this level of emissions, except for flares and pollutants with controls.

4 Total allowables are for information and are not enforceable conditions

5 “*” indicates hourly emission limits are not appropriate for this operating situation

13. The following table from NSR Permit 0832-M2, Condition A.107 – “Facility: Allowable Startup, Shutdown, & Maintenance and Malfunction Emissions,” lists the facility-wide SSM and malfunction emission limits:

Table 4: Fitz, Table 107.A, Allowable SSM and Malfunction Units, Activities and Emission Limit

| Unit No. | Description | VOC (tpy) |
|-----------------------------------|--|-----------|
| SSM and Malfunction from facility | Includes, but is not limited to, engine startup compressor and associated piping blowdowns and venting of gas due to malfunction | 10 |
| | Total ¹ | 10 |

¹Totals are for information only, not enforceable conditions
(This authorization does not include VOC combustion emissions)

14. The following table from NSR Permit 0832-M3, Oil and Gas GCP Application Table 2B: “Allowable Emission Limits,” (beginning October 4, 2019) lists the maximum allowable unit and facility-wide SSM and malfunction emission limits:

Table 5: Fitz, Table 2B, Allowable Emission Limits

| Unit No. | NO _x ¹ (pph) | NO _x ¹ (tpy) | CO (pph) | CO (tpy) | VOC (pph) | VOC (tpy) | SO ₂ (pph) | SO ₂ (tpy) | H ₂ S (pph) | H ₂ S (tpy) |
|----------|------------------------------------|------------------------------------|----------|----------|-----------|-----------|-----------------------|-----------------------|------------------------|------------------------|
| 1 | 1.76 | 7.7 | 1.76 | 7.7 | 0.91 | 3.96 | 0.07 | 0.31 | - | - |
| 2 | 1.76 | 7.7 | 1.76 | 7.7 | 0.91 | 3.96 | 0.07 | 0.31 | - | - |
| 3 | 1.76 | 7.7 | 1.76 | 7.7 | 0.91 | 3.96 | 0.07 | 0.31 | - | - |
| 4 | 1.76 | 7.7 | 1.76 | 7.7 | 0.91 | 3.96 | 0.07 | 0.31 | - | - |
| 5 | 1.9 | 8.33 | 0.34 | 1.5 | 1.09 | 4.75 | 0.14 | 0.62 | - | - |
| 6 | 1.9 | 8.33 | 0.34 | 1.5 | 1.09 | 4.75 | 0.14 | 0.62 | - | - |
| TK-1 | - | - | - | - | 0.11 | 0.5 | - | - | - | - |
| TK-2 | - | - | - | - | 0.11 | 0.5 | - | - | - | - |
| L-1 | - | - | - | - | 62.71 | 1.53 | - | - | - | - |
| FUG-1 | - | - | - | - | 1.54 | 6.72 | - | - | <0.01 | <0.01 |
| SSM/M | - | - | - | - | - | 30 | - | - | - | - |

15. Between January 1, 2018 and June 30, 2019, DCP reported eighty-six (86)¹ excess emission events and asserted affirmative defenses as provided in 20.2.7 NMAC.

16. The Bureau issued two NOVs for fifty-one of these alleged violations: DCP-0263-1801 on December 14, 2018, and DCP-0263-1802 on March 18, 2019.

17. The Division alleges that DCP violated NSR Permit 0832-M2, Conditions A106.A and A107.A and NSR Permit 0832-M3, Oil and Gas GCP Application Table 2B, by venting emissions in excess of the permitted allowable emission limits for the vent during eighty-six (86) excess emission events. These events resulted in a total of one thousand one hundred and eighty (1,180) alleged violations (“Fitz Violations”).

18. The Division alleges that the Fitz Violations resulted in the unlawful emission of 822,823.15 pounds of VOC and H₂S.

19. The Division maintains that the Fitz Violations do not qualify for affirmative defenses under the Act or the Penalty Policy, and DCP is therefore subject to penalties for those violations. DCP maintains that its affirmative defense claims are valid.

Lovington Booster Station

20. Between June 2, 2006 and April 23, 2019, the Lovington Booster Station was authorized to operate under NSR Permit 0423-M7.

21. The following table from NSR Permit 0423-M7, “Table 2.1, Allowable Emissions,” lists the emission units and their allowable emission limits. Malfunction and SSM emissions are not listed separately.

¹ Revised Compliance Order No. AQB-20-46 stated that 51 excess emission events were reported and included in the two NOVs, and an additional 45 excess emission events were reported and not included in NOVs. DCP’s Answer identified that ten of the additional 45 events were included in one of the NOVs, resulting in 35 excess emission reports not included in the two NOVs.

Table 6: Lovington, Table 2.1, Allowable Emissions

| Unit No. | PM ₁₀ (pph) | PM ₁₀ (tpy) | SO ₂ (pph) | SO ₂ (tpy) | NO _x ¹ (pph) | NO _x ¹ (tpy) | CO (pph) | CO (tpy) | VOC (pph) | VOC (tpy) | H ₂ S (pph) | H ₂ S (tpy) |
|--------------|------------------------|------------------------|-----------------------|-----------------------|------------------------------------|------------------------------------|----------|----------|-----------------|-----------|------------------------|------------------------|
| 1 | - ² | - | - | - | 5.3 | 23.2 | 5.3 | 23.2 | 1.8 | 7.7 | - | - |
| 2 | - | - | - | - | 5.3 | 23.2 | 5.3 | 23.2 | 1.8 | 7.7 | - | - |
| 3 | - | - | - | - | 9.8 | 42.8 | 9.8 | 42.8 | 3.3 | 14.3 | - | - |
| 4 | - | - | - | - | 5.9 | 25.9 | 8.9 | 38.8 | 3.0 | 12.9 | - | - |
| L-1 | - | - | - | - | - | - | - | - | -- ³ | 0.5 | - | - |
| Flare | | | 3226.4 | 96.8 | 37.6 | 1.2 | 204.4 | 6.4 | 510.5 | 15.4 | 35.1 | 1.1 |
| TK-5 | - | - | - | - | - | - | - | - | 3.8 | 16.5 | - | - |

1 Nitrogen dioxide emissions include all oxides of nitrogen expressed as NO₂

2 "--" indicates that in accordance with the application, no emissions of this pollutant are expected

3 "--" indicates that emissions are less than 0.5 pph or 0.5 tpy and emission limits are not required for this permit

22. Between November 27, 2018 and April 26, 2019, DCP reported ten (10) excess emission events and asserted affirmative defenses as provided by 20.2.7 NMAC.

23. The Division alleges that DCP violated NSR Permit 0423-M7, Table 2.1, by flaring emissions from the unit Flare in excess of its permitted allowable emission limits during ten (10) excess emission events. These events resulted in a total of one hundred and sixty (160) alleged violations ("Lovington Violations").

24. The Division alleges that the Lovington Violations resulted in the unlawful emission of 21,499.33 pounds of carbon monoxide ("CO"), sulfur dioxide ("SO₂"), nitrogen oxide ("NO_x"), H₂S, and VOC.

25. The Division maintains that nine (9) of the ten (10) excess emissions events underlying the Lovington Violations do not qualify for affirmative defenses under the New Mexico Air Quality Control Act or the Penalty Policy, and therefore DCP is subject to penalties for one hundred and fifty-five (155) of the Lovington Violations. DCP maintains that its affirmative defense claims are valid.

Lynch Booster Station

26. Since July 29, 2015, the Lynch Booster Station has been authorized to operate under NSR Permit 0609-M7.

27. The following table from NSR Permit 0609-M7, Condition A.106 – “Facility: Allowable Emissions,” lists the emission units and their allowable emission limits. *See* 40 CFR Part 50; 40 CFR Part 63, Subparts A and ZZZZ; and 20.2.72.210.A and B(1) NMAC:

Table 7: Lynch, Table 106.A: Allowable Emissions

| Unit No. | NO_x¹ (pph) | NO_x¹ (tpy) | CO (pph) | CO (tpy) | VOC (pph) | VOC (tpy) | SO₂ (pph) | SO₂ (tpy) |
|-----------------|---|---|-----------------|-----------------|------------------|------------------|-----------------------------|-----------------------------|
| 1 | 4.4 | 19.3 | 4.4 | 19.3 | 2.4 | 10.7 | < ³ | < |
| 2 | 4.4 | 19.3 | 4.4 | 19.3 | 2.4 | 10.7 | < | < |
| 3 | 4.4 | 19.3 | 4.4 | 19.3 | 2.4 | 10.7 | < | < |
| 4 | 4.4 | 19.3 | 4.4 | 19.3 | 2.4 | 10.7 | < | < |
| 5 | 4.4 | 19.3 | 4.4 | 19.3 | 2.4 | 10.7 | < | < |
| TK-6 | - ² | - | - | - | * ⁴ | 5.9 | - | - |

1 Nitrogen dioxide emissions include all oxides of nitrogen expressed as NO₂

2 “-” indicates the application represented emissions of this pollutant are not expected

3 “<” indicates the application represented uncontrolled emissions are less than 1.0 pph or 1.0 tpy for this pollutant. Allowable limits are not imposed on this level of emissions, except for flares and pollutants with controls.

4 “*” indicates hourly emission limits are not appropriate for this operating situation

28. The following table from NSR Permit 0609-M7, Condition A.107 – “Facility: Allowable Startup, Shutdown, and Maintenance and Malfunction Emissions,” lists the facility-wide SSM and malfunction emission limits:

Table 8: Lynch, Table 107.A: Allowable SSM and Malfunction Units, Activities, and Emission Limits

| Unit No. | Description | VOC (tpy) |
|-----------------|--|------------------|
| SSM/M | ¹ Venting of Gas Due to SSM and | 10 |

¹This authorization does not include VOC combustion emissions.

29. Between February 12, 2018 and June 30, 2019, DCP reported forty-five (45) excess emission events and asserted affirmative defenses as provided by 20.2.7 NMAC.

30. Two NOV's were issued for eleven of these alleged violations: DCP-0641-1802 on November 1, 2018, and DCP-0641-1803 on December 7, 2019.

31. The Division alleges that DCP violated NSR Permit 0609-M7, Conditions A106.A and A107.A, by exceeding the permitted allowable emission limits of the vent during forty-five (45) excess emission events. These events resulted in a total of three hundred and eighty-one (381) alleged violations (“Lynch Violations”), exceeding permitted allowable emissions by 279,693.69 pounds of VOC and NO_x.

32. The Division alleges that the Lynch Violations resulted in the unlawful emission of 279,693.69 pounds of VOC and NO_x.

33. The Division maintains that forty-four (44) of the forty-five (45) excess emissions events underlying the Lynch Violations do not qualify for affirmative defenses under the New Mexico Air Quality Control Act or the Penalty Policy, and therefore DCP is subject to penalties for three hundred and eighty (380) of the Lynch Violations. DCP maintains that its affirmative defense claims are valid.

Monument Booster Station

34. Between August 6, 2014 and October 16, 2018, the Monument Booster Station was authorized to operate under NSR Permit 0123-M6R2. Since October 16, 2018, the Monument Booster Station has been authorized to operate under NSR Permit 0123-M6R3.

35. The following table from NSR Permit 0123-M6R2, Condition A.106 – “Facility: Allowable Emissions,” lists the emission units and their allowable emission limits. *See* 40 CFR Part 50; 40 CFR Part 63, Subparts A and ZZZZ; and 20.2.72.210.A and B(1) NMAC:

Table 9: Monument, Table 106.A: Allowable Emissions

| Unit No. | NO _x ¹ (pph) | NO _x ¹ (tpy) | CO (pph) | CO (tpy) | VOC (pph) | VOC (tpy) |
|----------|------------------------------------|------------------------------------|----------|----------|----------------|-----------|
| 3 | 6.5 | 28.4 | 0.6 | 2.8 | 0.7 | 3.1 |
| 4 | 0.9 | 3.7 | 0.6 | 2.6 | 0.2 | 0.9 |
| TK-7 | - ² | - | - | - | * ³ | 3.0 |
| TK-8 | - | - | - | - | * | 4.4 |
| Flash | - | - | - | - | * | 1.2 |
| Load | - | - | - | - | * | 2.8 |
| Flare | 0.15 | 0.66 | 0.82 | 3.6 | 0.14 | 0.61 |
| Fug | - | - | - | - | * | 7.9 |

1 Nitrogen dioxide emissions include all oxides of nitrogen expressed as NO₂

2 “-” indicates the application represented emissions of this pollutant are not expected

3 “*” indicates hourly emission limits are not appropriate for this operating situation

36. The following table from NSR Permit 0123-M6R3, Condition A.106 – “Facility Allowable Emissions,” lists the emission units and their allowable emission limits. *See* 40 CFR Part 50; 40 CFR Part 63, Subparts A and ZZZZ; 20.2.72.210.A and B(1) NMAC:

Table 10: Monument, Table 106.A: Allowable Emissions

| Unit No. | NO _x ¹ (pph) | NO _x ¹ (tpy) | CO (pph) | CO (tpy) | VOC (pph) | VOC (tpy) |
|----------|------------------------------------|------------------------------------|----------|----------|----------------|-----------|
| 3 | 6.5 | 28.4 | 0.6 | 2.8 | 0.7 | 3.1 |
| 4 | 0.9 | 3.7 | 0.6 | 2.6 | 0.2 | 0.9 |
| TK-7 | - ² | - | - | - | * ³ | 3.0 |
| TK-8b | - | - | - | - | * | 3.0 |
| Flash | - | - | - | - | * | 1.2 |
| Load | - | - | - | - | * | 2.8 |
| Flare | 0.2 | 0.7 | 0.8 | 3.6 | 0.03 | 0.14 |

1 Nitrogen dioxide emissions include all oxides of nitrogen expressed as NO₂

2 “-” indicates the application represented emissions of this pollutant are not expected

3 “*” indicates hourly emission limits are not appropriate for this operating situation

37. The following table from NSR Permit 0123-M6R2 and M6R3, Condition A.107 – “Facility: Allowable SSM and Malfunction Emissions,” lists the SSM and malfunction emission limits:

Table 11: Monument, Table 107.A, Allowable SSM and Malfunction Units, Activities, and Emission Limits

| Unit No. | Description | VOC (tpy) | H₂S (tpy) |
|--------------------|---|------------------|-----------------------------|
| SSM from Units 3-4 | Compressor & Associated Piping Blowdowns during Routine and Predictable Startup, Shutdown, and/or Maintenance (SSM); and Malfunction emissions. | 3.9 | 0.22 |

(This authorization does not include VOC combustion emissions)

38. Between September 1, 2018 and June 30, 2019, DCP reported twenty-one (21) excess emissions events and asserted affirmative defense claims as provided by 20.2.7 NMAC.

39. The Division alleges that DCP violated NSR Permits 0123-M6R2 and -M6R3, Conditions A106.A and A107.A, by exceeding the permitted allowable emission limits from the unit Flare during twenty-one (21) excess emission events. These events resulted in a total of two hundred and forty-nine (249) alleged violations (“Monument Violations”).

40. The Division alleges that the Monument Violations resulted in the unlawful emission of 4,756 pounds of CO, SO₂, VOC and NO_x.

41. The Division maintains that twenty (20) of the twenty-one (21) excess emissions events underlying the Monument Violations do not qualify as emergencies, startup, shutdown, or malfunctions under the Act or the Penalty Policy, and therefore DCP is subject to penalties for two hundred and thirty-three (233) of the Monument Violations. DCP maintains that its affirmative defense claims are valid.

Sand Dunes Compressor Station

42. From October 24, 2006 to January 24, 2019, the Sand Dunes Compressor Station was authorized to operate under NSR Permit 1201-M6.

43. Since January 25, 2019, the Sand Dunes Compressor Station has been authorized to operate under NSR Permit 1201-M7R4.

44. The following table from NSR Permit 1201-M6, Table 2.1 lists the emission units and their allowable emission limits. Malfunction and SSM are not listed separately. *See* 20.2.72.210 NMAC, paragraphs A and B.1.

Table 12: Sand Dunes, Table 2.1, Allowable Emissions

| Unit No. | NO _x ¹ (pph) | NO _x ¹ (tpy) | CO (pph) | CO (tpy) | VOC (pph) | VOC (tpy) |
|----------|------------------------------------|------------------------------------|----------|----------|-----------|-----------|
| 1 | 4.4 | 19.3 | 4.4 | 19.3 | 1.8 | 7.7 |
| 2 | 4.4 | 19.3 | 4.4 | 19.3 | 1.8 | 7.7 |
| 3 | 4.5 | 19.9 | 4.5 | 19.9 | 2.0 | 8.7 |
| 4 | 4.4 | 19.3 | 4.4 | 19.3 | 1.8 | 7.7 |
| 5 | 4.5 | 19.9 | 4.5 | 19.9 | 2.0 | 8.7 |
| F-2 | - ² | - | - | - | 42.7 | 0.7 |
| F-3 | - | - | - | - | N/A | 30 |

1 Nitrogen dioxide emissions include all oxides of nitrogen expressed as NO₂

2 “-“ indicates that in accordance with the application, emissions of this pollutant are not expected.

45. The following table from NSR Permit 1201-M7R4, Condition A.106 – “Facility: Allowable Emissions,” lists the emission units and their allowable emission limits. *See* 40 CFR Part 50; 40 CFR Part 63, Subparts A and ZZZZ; and 20.2.72.210.A and B(1) NMAC:

Table 13: Sand Dunes, Table 106.A: Allowable Emissions

| Unit No. | | | NO _x ¹ (pph) | NO _x ¹ (tpy) | CO (pph) | CO (tpy) | VOC (pph) | VOC (tpy) |
|----------|--|--|------------------------------------|------------------------------------|----------|----------|----------------|-----------|
| 1 | | | 4.4 | 19.3 | 4.4 | 19.3 | 1.8 | 7.7 |
| 2 | | | 4.4 | 19.3 | 4.4 | 19.3 | 1.8 | 7.7 |
| 3 | | | 4.5 | 19.7 | 4.5 | 19.7 | 2.0 | 8.7 |
| 4 | | | 4.4 | 19.3 | 4.4 | 19.3 | 1.8 | 7.7 |
| 5 | | | 4.5 | 19.7 | 4.5 | 19.7 | 2.0 | 8.7 |
| F-2 | | | - ² | - | - | - | * ³ | 0.3 |
| TK-1a | | | - | - | - | - | * | 4.4 |

1 Nitrogen dioxide emissions include all oxides of nitrogen expressed as NO₂

2 “-“ indicates that application represented emissions of this pollutant are not expected

3 “*“ indicates hourly emission limits are not appropriate for this operation

46. The following table from NSR Permit 1201-M7R4, Condition A.107 – “Facility: Allowable SSM and Malfunction Emissions,” lists the facility-wide SSM emission limits:

Table 14: Sand Dunes, Table 107.A: Allowable SSM Units, Activities, and Emission Limits

| Unit No. | Description | VOC (tpy) |
|-----------------|---------------------------------|------------------|
| SSM from F-3 | ¹ Emergency Blowdown | 30 |

¹ This authorization does not include VOC combustion emissions

47. Between January 2, 2018 and June 30, 2019, DCP reported forty-six (46) excess emission events and asserted affirmative defenses as provided by 20.2.7 NMAC.

48. The Bureau issued two NOV's for a portion of these alleged violations: DCP-0302-1801 on November 15, 2018, and DCP-0302-1802 on January 31, 2019.

49. The Division alleges that DCP violated NSR Permit 1201-M6 or 1201-M7R4, Tables 14 and 15, by exceeding the permitted allowable emission limits of the emergency blowdown vent during forty-six (46) excess emission events. These events resulted in a total of one hundred and twenty-five (125) alleged violations ("Sand Dunes Violations").

50. The Division alleges that the Sand Dunes Violations resulted in the unlawful emission of 228,549.52 pounds of VOC.

51. The Division maintains that thirty-eight (38) of the forty-six (46) excess emission events underlying the Sand Dunes Violations do not qualify for affirmative defenses under the Act or the Penalty Policy, and therefore DCP is subject to penalties for one-hundred seventeen (117) of the Sand Dunes Violations. DCP maintains that its affirmative defense claims are valid.

South Hat Booster Station

52. Between November 22, 2010 and August 13, 2018, South Hat Booster Station was authorized to operate under NSR Permit 1018-M7.

53. Between May 21, 2012 and January 11, 2018, South Hat Booster Station was authorized to operate under Title V Permit P044-R3.

54. Between January 12, 2018, and August 13, 2018, South Hat Booster Station was authorized to operate under Title V Permit P044-R4. That permit was terminated on August 14, 2018.

55. Since August 14, 2018, South Hat Booster Station has been authorized to operate under GCP-O&G Permit 1018-M8.

56. The following table from Title V Permit P044-R3, Condition A.106 – “Facility: Allowable Emissions,” lists the emission units, and their allowable emission limits. *See* 40 CFR Part 50; 40 CFR Part 60, Subparts A & JJJJ; 40 CFR Part 63, Subparts A & ZZZZ; 40 CFR Part 64; 20.2.70.302.A(1), (7), and (8) NMAC; and NSR Permit 1018-M7:

Table 15: South Hat, Table 106.A, Allowable Emissions

| Unit No. | NO _x ¹ (pph) | NO _x ¹ (tpy) | CO (pph) | CO (tpy) | VOC (pph) | VOC (tpy) |
|--------------------|------------------------------------|------------------------------------|----------|----------|----------------|-----------|
| 1 | 5.3 | 23.2 | 5.3 | 23.2 | 1.8 | 7.7 |
| 2 | 5.3 | 23.2 | 5.3 | 23.2 | 1.8 | 7.7 |
| 3 | 5.4 | 23.7 | 5.4 | 23.7 | 1.8 | 7.8 |
| 4 | 5.4 | 23.7 | 5.4 | 23.7 | 1.8 | 7.8 |
| 5 | 5.3 | 23.2 | 5.3 | 23.2 | 1.8 | 7.7 |
| 6 | 5.3 | 23.2 | 5.3 | 23.2 | 1.8 | 7.7 |
| 7 | 9.8 | 28.642.8 | 9.8 | 42.8 | 3.3 | 14.3 |
| 8 | 6.5 | 28.6 | 5.2 | 22.9 | 3.3 | 14.3 |
| TK-6 | - ² | - | - | - | < ³ | 2.7 |
| TK-7 | - | - | - | - | < | 2.7 |
| Load | - | - | - | - | < | 1.5 |
| Total ⁴ | - | 211.3 | | | < | 81.8 |

1 Nitrogen dioxide emissions include all oxides of nitrogen expressed as NO₂

2 “-” indicates the application represented emissions of this pollutant are not expected

3 “<” indicates the application represented uncontrolled emissions are less than 1.0 pph or 1.0 tpy for this pollutant. Allowable limits are not imposed on this level of emissions, except for flares and pollutants with controls.

4 Total allowables are for information and are not enforceable conditions

57. The following table from Title V Permit P044-R3, Condition A.107 – “Facility: Allowable Startup, Shutdown, and Maintenance and Malfunction Emissions,” lists the facility-wide SSM and malfunction emission limits:

Table 16: South Hat, Table 107.A, Allowable SSM and Malfunction Units, Activities, and Emission Limits

| Unit No. | Description | VOC (tpy) |
|---------------------------------|---|-----------|
| SSM from 1, 2, 3, 4, 5, 6, 7, 8 | Compressor & Associated Piping Blowdowns during Routine and Predictable Startup, Shutdown, and/or Maintenance (SSM) | 1.9 |
| M1 | Venting ² of Gas due to Malfunctions. | 10.0 |
| Total ¹ | | 11.9 |

¹ Totals are for information only, not enforceable conditions.

² This authorization does not include VOC combustion emissions.

58. Title V Permit P044-R4, Tables 106.A and 107.A unit emission limits are equal to Title V Permit P044-R3.

59. The following table from Oil and Gas GCP Application Table 2: “Allowable Emission Limits” lists (beginning August 14, 2018) the maximum allowable, facility-wide SSM and malfunction emission limits:

Table 17: South Hat, Table 2. Oil and Gas GCP Application, Allowable Emission Limits

| Unit No. | NO _x ¹ (pph) | NO _x ¹ (tpy) | CO (pph) | CO (tpy) | VOC (pph) | VOC (tpy) | SO ₂ (pph) | SO ₂ (tpy) |
|--------------------------|------------------------------------|------------------------------------|----------|----------|-----------|-----------|-----------------------|-----------------------|
| 1 | 0.22 | 0.97 | 0.44 | 1.93 | 0.056 | 0.25 | 0.0035 | 0.015 |
| 2 | 0.22 | 0.97 | 0.44 | 1.93 | 0.056 | 0.25 | 0.0035 | 0.015 |
| 3 | 0.29 | 1.28 | 0.41 | 1.78 | 0.044 | 0.19 | 0.0032 | 0.014 |
| 4 | 0.29 | 1.28 | 0.41 | 1.78 | 0.044 | 0.19 | 0.0032 | 0.014 |
| 5 | 0.22 | 0.97 | 0.44 | 1.93 | 0.056 | 0.25 | 0.0035 | 0.015 |
| 6 | 0.22 | 0.97 | 0.44 | 1.93 | 0.056 | 0.25 | 0.0035 | 0.015 |
| 7 | 1.06 | 4.64 | 2.57 | 11.24 | 0.13 | 0.58 | 0.0065 | 0.028 |
| 8 | 1.06 | 4.64 | 2.57 | 11.24 | 0.13 | 0.58 | 0.0065 | 0.028 |
| TK-6 | - ² | - | - | - | * | 6.31 | - | - |
| TK-7 | - | - | - | - | * | 6.31 | - | - |
| Load | - | - | - | - | * | 0.69 | - | - |
| Fug ³ | - | - | - | - | 4.99 | 21.88 | - | - |
| SSM ⁴ | - | - | - | - | * | 50.00 | - | - |
| Malfunction ⁵ | - | - | - | - | * | 10.00 | - | - |
| Total ⁴ | 3.59 | 15.71 | 7.71 | 33.76 | 5.57 | 97.71 | 0.033 | 0.15 |

¹ Significant Figures Examples: One significant figure – 0.03, 3, 0.3. Two significant figures – 0.34, 34, 3400, 3.4

² Condensable PM: Include condensable particulate matter emissions in particulate matter calculations.

³ FUG: Pursuant to condition A106 of the permit, fugitive emissions of VOC do not typically count toward Title V or PSD applicability. Thus, the total VOC emissions, including fugitive sources, may exceed 100 tpy without triggering additional permitting requirements.

⁴ SSM and Malfunction: As stated in NMED’s *Implementation Guidance for Permitting SSM Emissions and Excess Emissions* document (June 2012): there is no limit to the quantity of SSM emissions that can be permitted,

provided they are routine and predictable DCP would like to request 50 tpy of VOC and 1 tpy of HAP. In addition, pursuant to condition A107.C the permittee may select to authorize up to 10 tpy of malfunction events. DCP is requesting 10 tpy of VOC and 1 tpy of HAP associated with malfunction events in addition to the aforementioned SSM emissions limits.

“*” Denotes an hourly limit is not appropriate and is not being requested.

60. Between January 5, 2018 and June 30, 2019, DCP reported one hundred and nine (109)² excess emission events and asserted affirmative defenses as provided by 20.2.7 NMAC.

61. The Bureau issued two NOV's for sixty-nine (69) of these alleged violations: DCP-0665-1801 on December 14, 2018, and DP-0665-1802 and February 4, 2019.

62. The Division alleges that DCP violated Title V Permits P044-R3 and P044-R4, Conditions A106.A and A107.A, and GCP Oil and Gas Permit 1018-M8, Table 2, by exceeding its permitted allowable emission limits through a vent during one hundred and fourteen (114) excess emission events. These events resulted in a total of five hundred and ninety-seven (597) alleged violations (the “South Hat Violations”).

63. The Division alleges that the South Hat Violations resulted in the unlawful emission of a total of 687,013.20 pounds of VOC.

64. The Division maintains that one hundred and three (103) of the one hundred and nine (109) excess emission events underlying the South Hat Violations do not qualify for affirmative defenses under the Act or the Penalty Policy, and DCP is therefore subject to penalties for five hundred and eighty (580) of the South Hat Violations. DCP maintains that its affirmative defense claims are valid.

² Revised Compliance Order No. AQB-20-46 stated that 69 excess emission events were reported and included in the two NOV's, and a total of 114 excess emission events were reported. DCP's Answer identified that five events were included in both one of the NOV's and an exhibit of excess emission reports not included in any NOV, resulting in a total of 109 excess emission reports.

West Turkey Track Compressor Station

65. From June 28, 2013 to April 1, 2020, the West Turkey Track Compressor Station was authorized to operate under NSR Permit 2098-M4, GCP-4.

66. The following table from NSR Permit 2098-M4, GCP-4 Application Table 5: “Flares [Condition VII Line 5],” lists the emission units and their allowable emission limits:

Table 4: West Turkey Track, Table 5, Flares (abbreviated)

| Unit No. | NO_x¹ (pph) | NO_x¹ (tpy) | CO (pph) | CO (tpy) | VOC (pph) | VOC (tpy) |
|-----------------|---|---|-----------------|-----------------|------------------|------------------|
| Flare | 0.03 | 0.15 | 0.19 | 0.81 | 0.03 | 0.14 |

67. Between June 3, 2018 and June 30, 2019, DCP reported twenty-seven (27) excess emission events and asserted affirmative defenses as provided by 20.2.7 NMAC.

68. The Department issued NOV DCP-413-1801 for a portion of these alleged violations on January 31, 2019.

69. The Department alleges that DCP violated GCP Oil and Gas Permit 2098-M4, Application Table 5: “Flares [Condition 7 Line 5],” by exceeding the permitted allowable emission limits for the unit Flares during twenty-seven emissions events. These events resulted in a total of two hundred and forty-two (242) alleged violations (“West Turkey Violations”).

70. The Division alleges that the West Turkey Violations resulted in the unlawful emission of 49,896.50 pounds of NO_x, CO, and VOC.

71. The Division maintains that twenty-four (24) of the twenty-seven (27) excess emission events underlying the West Turkey Violations do not qualify for affirmative defenses under the Act or the Penalty Policy, and DCP is therefore subject to penalties for two hundred and eighteen (218) of the West Turkey Violations. DCP maintains that its affirmative defense claims are valid.

Artesia Gas Plant

72. Since June 27, 2017, the Artesia Gas Plant has been authorized to operate under Title V Permit P095-R3.

73. The following table from Title V Permit P095-R3, Condition A106 Facility: Allowable Emissions, lists, in part, the applicable emission units and their allowable emission limits (40 CFR 50; 40 CFR 60, Subparts A and JJJJ; 40 CFR 63, Subparts Kb and KKK; 40 CFR 63, Subparts A, HH, and ZZZZ; Paragraphs 1, 7, and 8 of 20.2.70.302.A NMAC; and NSR Permit 0434M10) (only applicable emission units listed):

Table 19: Artesia Gas Plant, Table 106.A, Allowable Emissions

| Unit No. | NO_x¹ (pph) | NO_x (tpy) | CO (pph) | CO (tpy) | VOC (pph) | VOC (tpy) | SO₂ (tpy) | H₂S (tpy) |
|-----------------|---|---------------------------------|---------------------|---------------------|----------------------|----------------------|---------------------------------|---------------------------------|
| 23 | 0.09 | 0.38 | 0.47 | 2.06 | - | - | 0.04 | 3.9E-5 |

¹ Nitrogen dioxide emissions include all oxides of nitrogen expressed as NO₂

² “-” indicates the application represented emissions of this pollutant are not expected

³ Compliance with emergency flare emission limits is demonstrated by limiting combustion to pilot and/or purge gas only.

74. The following table from Title V Permit P095-R3, Condition A107 Facility: Allowable Startup, Shutdown, and Maintenance (“SSM”) and Malfunction Emissions, lists the facility-wide startup, shutdown, and maintenance, and malfunction emission limits (only applicable emission units and information listed):

Table 20: Artesia Gas Plant, Table 107.A, Allowable SSM & M Units and Emission Limits

| Unit No. | Description | NO _x (pph) | NO _x (tpy) | CO (pph) | CO (tpy) | VOC (pph) | VOC (tpy) | SO ₂ (pph) | SO ₂ (tpy) | H ₂ S (pph) | H ₂ S (tpy) |
|----------|--|-----------------------|-----------------------|----------|----------|-----------|-----------|-----------------------|-----------------------|------------------------|------------------------|
| SSM (23) | Flaring during routine and predictable startup, shutdown, and/or maintenance | 10.4 | 2.4 | 56.6 | 13.2 | < | < | 2001.0 | 328.2 | 21.3 | 3.5 |
| M | Venting of gas and combustion of gas flared due to malfunction | * | 10.0 | * | 10.0 | * | 10.0 | * | 10.0 | * | 9.0 |

^{“<”} Indicates that the application represented the uncontrolled mass emission rates are less than 1.0 pph or 1.0 tpy for this emissions unit and this air pollutant. The Department determined that allowable mass emission limits were not required for this unit and this pollutant.

^{“*”} Pound per hour (pph) emission limits for SSM 23 shall apply during malfunction flaring events.

75. Between May 18, 2018 and June 14, 2018, DCP reported four (4) excess emission events at the Artesia Gas Plant and asserted affirmative defenses as provided by 20.2.7 NMAC.

76. The Bureau issued NOV DCP-0199-1801 for these alleged violations on March 18, 2019.

77. The Division alleges that DCP violated Title V Permit P095-R3, Condition A106.A by exceeding the permitted allowable emission limits of the emergency acid gas flare during four (4) excess emission events. These events resulted in a total of two hundred and sixty (260) alleged violations (“Artesia Violations”).

78. The Division alleges that the Artesia Violations resulted in the unlawful emission of 99,768 pounds of NO_x, CO, SO₂, VOC and H₂S.

79. The Division maintains that the excess emissions events underlying the Artesia Violations do not qualify for affirmative defenses under the Act or the Penalty Policy, and DCP is

therefore subject to penalties for those violations. DCP maintains that its affirmative defense claims are valid.

Eunice Gas Plant

80. Since December 11, 2013, the Eunice Gas Plant has been authorized to operate under Title V Permit P086-R2.

81. The following table from Title V Permit P086-R2, Condition A106 Facility: Allowable Emissions, lists the emission units and their allowable emission limits (40 CFR 50; 40 CFR 60, Subpart A and GG, Kb, KKK; 40 CFR 63, Subpart A and HH, Paragraphs 1, 7, and 8 of 20.2.70.302.A NMAC; and NSR Permit 0044M10) (only applicable emission units listed):

Table 21: Eunice Gas Plant, Table 106.A, Allowable Emissions

| Unit No. | NO_x¹ (pph) | NO_x¹ (tpy) | CO (pph) | CO (tpy) | VOC (pph) | VOC (tpy) | SO₂ (pph) | SO₂ (tpy) | H₂S (pph) | H₂S (tpy) |
|----------------------------|---|---|---------------------|---------------------|----------------------|----------------------|---------------------------------|---------------------------------|---------------------------------|---------------------------------|
| SRU Incinerator (31) | 3.6 | 15.8 | 4.0 | 17.7 | 0.2 | 0.87 | 629.7 ³ | 2,758 | 6.8 | 29.9 |
| ESD Flare (112A) | 0.43 | 1.9 | 2.3 | 10.2 | - | - | 0.45 | 0.2 | 4.5E-05 | 2.0E-04 |
| Acid Gas Flare (113) | 0.1 | 0.36 | 0.45 | 2.0 | - | - | 0.0087 | 0.038 | 8.6E-06 | 3.8E-05 |
| Booster Flare (114) | 0.1 | 0.46 | 0.57 | 2.5 | - | - | 0.011 | 0.048 | 1.1E-05 | 4.8E-05 |

¹ Nitrogen dioxide emissions include all oxides of nitrogen expressed as NO₂

² “-” indicates the application represented emissions of this pollutant are not expected

³ “<” SO₂ emissions shall not exceed 629.7 pounds per hour during any three-hour period.

82. The following table from Title V Permit P086-R2, A107 Facility: Allowable Startup, Shutdown, & Maintenance (“SSM”) and Malfunction Emissions, lists the facility-wide startup, shutdown, and maintenance, and malfunction emission limits (only applicable emissions listed):

Table 22: Eunice Gas Plant, Table 107.A, Malfunction Emission Limit

| Unit No. | NO_x (pph) | NO_x (tpy) | CO | CO (tpy) | VOC (pph) | VOC (tpy) | SO₂ (pph) | SO₂ (tpy) | H₂S (pph) | H₂S (tpy) |
|-----------------|---------------------------------|---------------------------------|-----------|---------------------|----------------------|----------------------|---------------------------------|---------------------------------|---------------------------------|---------------------------------|
| SSM-113 | 8.57 | 0.92 | 46.7 | 5.0 | 5.9 | 0.18 | 4233.9 | 128.8 | 52.9 | 1.37 |
| Malfunction | | | | | | 10.0 | | | | |

83. Between May 1, 2017 and August 16, 2018, DCP reported one hundred and thirty-one (131) excess emission events at the Eunice Gas Plant and asserted affirmative defenses as provided by 20.2.7 NMAC.

84. The Bureau issued four NOV's for these alleged violations: DCP-0595-1702 on January 29, 2018; DCP-0595-1801 on March 7, 2018; DCP-0595-1802 on November 19, 2018; and DCP-0595-1804 December 14, 2018.

85. The Division alleges that DCP violated Title V Permit P086-R2, Conditions A106.A and A107A, by exceeding the permitted allowable emissions of a vent or the ESD or Acid gas flares during one hundred and thirty-one (131) events. These events resulted in a total of two thousand one hundred and seventy-two (2,172) alleged violations ("Eunice Violations").

86. The Division alleges that the Eunice Violations resulted in the unlawful emission of 396,664 pounds of NO_x, CO, SO₂, VOC, and H₂S.

87. The Division maintains that one hundred and sixteen (116) of the one hundred and thirty-one (131) excess emission events underlying the Eunice Violations do not qualify for affirmative defenses under the Act or the Penalty Policy, and therefore DCP is subject to penalties for one thousand eight hundred and eighty-two (1,882) of the Eunice Violations. DCP maintains that its affirmative defense claims are valid.

Linam Ranch Gas Plant

88. Since April 28, 2014, the Linam Ranch Gas Plant has been authorized to operate under Title V Permit P094-R2.

89. The following table from Title V Permit P094-R2, Condition 106.A, Allowable Emissions, lists the emission units and their allowable emission limits:

Table 23: Linam Ranch Gas Plant, Table 106.A, Allowable Emissions

| Unit No. | NO _x ¹ (pph) | NO _x ¹ (tpy) | CO (pph) | CO (tpy) | VOC (pph) | VOC (tpy) | SO ₂ (pph) | SO ₂ (tpy) |
|----------|------------------------------------|------------------------------------|----------|----------|-----------|-----------|-----------------------|-----------------------|
| 6 | 39.3 | 566 | 20 | 283 | 3.1 | 60.9 | < | 0.12 |
| 10 | 47.5 | 566 | 24 | 283 | 6.5 | 60.9 | < | 0.12 |
| 28 | 3.5 | 15.2 | 3.5 | 15.4 | 2.0 | 8.8 | 0.9 | 4.0 |
| 30 | 11.3 | 49.3 | 9.0 | 39.5 | 0.3 | 1.4 | 0.3 | 1.1 |
| 36 | 5.5 | 24.2 | 9.3 | 40.7 | 0.6 | 2.7 | < | < |
| 37 | 5.5 | 24.2 | 9.3 | 40.7 | 0.6 | 2.7 | < | < |

¹ Nitrogen dioxide emissions include all oxides of nitrogen expressed as NO_x

"<" indicates the application represented uncontrolled emissions less than 1.0 pph or 1.0 tpy for this pollutant.

90. The following table from Title V Permit P094-R2, A107 Facility: Allowable Startup, Shutdown, & Maintenance ("SSM") and Malfunction Emissions, lists the facility-wide startup, shutdown, and maintenance, and malfunction emission limits (only applicable emissions listed):

Table 24: Linam Ranch Gas Plant, Table 107.A, Malfunction Emission Limit

| Unit No. | NO _x ¹ (pph) | NO _x ¹ (tpy) | CO | CO (tpy) | VOC (pph) | VOC (tpy) | SO ₂ (pph) | SO ₂ (tpy) | H ₂ S (pph) | H ₂ S (tpy) |
|-------------|------------------------------------|------------------------------------|-------|----------|-----------|-----------|-----------------------|-----------------------|------------------------|------------------------|
| SSM 2 | 15.0 | 0.88 | 81.0 | 4.8 | 1.6 | 0.01 | 7,751 | 46.0 | 84.0 | 0.48 |
| SSM AGI | 18.0 | 0.71 | 97.0 | 44.0 | 1.90 | 0.00 | 9,301 | 4.1 | 101 | 0.048 |
| Malfunction | 288 | 10.0 | 1,565 | 10.0 | 3,029 | 10.0 | 9,301 | 10.0 | 101 | 9.0 |

¹ Nitrogen dioxide emissions include all oxides of nitrogen expressed as NO_x

Venting of gas due to malfunctions that does not include VOC combustion emissions

91. Between May 16, 2017 and April 30, 2018, DCP reported one hundred and sixty-three (163) excess emission events and asserted affirmative defenses as provided by 20.2.7 NMAC.

92. The Bureau issued three NOV's for these alleged violations: DCP-0589-1702 on January 30, 2018; DCP-0589-1801 on March 7, 2018; and DCP-0589-1802 on September 28, 2018.

93. The Division alleges that DCP violated Title V Permit P094-R2, Conditions A106.A and 107.A, by exceeding the permitted allowable emission limits of multiple units during one hundred and sixty-three (163) excess emission events. These events resulted in a total of four thousand one hundred and forty-four (4,144) alleged violations (“Linam Ranch Violations”).

94. The Division alleges that the Linam Ranch Violations resulted in the unlawful emission of 890,678 pounds of NO_x, CO, SO₂, VOC, and H₂S.

95. The Division maintains that one hundred and thirty-five (135) of the one hundred and sixty-three (163) excess emissions events underlying the Linam Ranch Violations do not qualify for affirmative defenses under the Act or the Penalty Policy, and therefore DCP is subject to penalties for two thousand three hundred and thirty-six (2,336) of the Linam Ranch Violations. DCP maintains that its affirmative defense claims are valid.

Zia II Gas Plant

96. Between December 22, 2016 and November 22, 2017, the Zia II Gas Plant was authorized to operate under PSD Permit PSD-5217M1-R2. Since November 22, 2017, the Zia II Gas Plant has been authorized to operate under PSD Permit PSD-5217M2.

97. The following table from PSD Permits PSD-5217M1-R2 and PSD-5217M2, Condition 107.A Facility: Allowable Startup, Shutdown, & Maintenance (“SSM”) Emissions, lists the facility-wide startup, shutdown, and maintenance emission limits:

Table 25: Zia II Plant, Table 107.A, Allowable SSM Emission Limits

| Unit No. | NO_x¹ (pph) BACT | NO_x¹ (tpy) | CO (pph) BACT | CO (tpy) | VOC (pph) BACT | VOC (tpy) | SO₂ (pph) BACT | SO₂ (tpy) | H₂S (pph) | H₂S (tpy) | CO_{2e} (typ) BACT |
|------------------------------|--|---|----------------------|-----------------|-----------------------|------------------|----------------------------------|-----------------------------|-----------------------------|-----------------------------|-----------------------------------|
| SSM FL1 | 799.2 | 3.9 | 4,348.8 | 21.1 | 2,942.1 | 11.8 | 14,977. | 59.9 | 162.9 | 0.7 | 6,518 |
| SSM FL2 | 102.0 | 1.2 | 554.8 | 6.5 | 7.8 | 0.09 | 4,409.8 | 22.0 | 48.0 | 0.2 | 1,094 |
| SSM Compressor Blowdown (CB) | - | - | - | - | 358.8 | 0.8 | - | - | - | - | 15 |
| SSM Plant Venting (PV) | - | - | - | - | 1,500.0 | 12.0 | - | - | - | - | 3,355 |

¹ Nitrogen dioxide emissions include all oxides of nitrogen expressed as NO₂

² Pound per hour limits for NO_x, CO, VOC, and SO_x and the ton per year limit for CO_{2e} are PSD BACT limits for units FL1, FL2, and SSM Compressor Blowdown and Plant Venting.

³ Allowable SSM emission limits for FL1 and FL2 for all pollutants include pilot and purge emissions, except for CO_{2e} which has separate emission limits for SSM and pilot and purge. Emission limits for pilot and purge appear in Table 106B.

⁴ SSM for FL2 includes assist gas and acid gas (not pilot or purge).

98. Between September 6, 2017 and August 31, 2018, DCP reported two hundred and thirty-five (235) excess emission events at the Zia II Gas Plant and asserted affirmative defenses as provided by 20.2.7 NMAC.

99. The Bureau issued three NOV's for these alleged violations: DCP-32800-1801 on March 21, 2018; DCP-32800-1802 on November 16, 2018; and DCP-32800-1803 on February 20, 2019.

100. The Division alleges that DCP violated PSD Permits PSD-5217M1-R2 and -M2, Condition A107.A by exceeding the permitted allowable emission limits for multiple units during two hundred and thirty-five (235) events. These events resulted in a total of six thousand seven hundred and one (6,701) alleged violations ("Zia II Violations").

101. The Division alleges that the Zia II Violations resulted in the unlawful emission of 251,197 pounds of NO_x, CO, SO₂, VOC, and H₂S.

102. The Division maintains that two hundred and twenty-two (222) of the two hundred and thirty-five (235) excess emissions events underlying the Zia II Violations do not qualify for affirmative defenses under the Act or the Penalty Policy, and therefore DCP is subject to penalties for six thousand and thirty (6,030) of the Zia II Violations. DCP maintains that its affirmative defense claims are valid.

C. SUMMARY OF ADMINISTRATIVE COMPLIANCE ORDERS

103. On May 13, 2020, the Division issued an Administrative Compliance Order alleging violations for the eight compressor or booster stations.

104. On June 30, 2020, the Division issued a Revised Administrative Compliance Order (“Compressor Station ACO”) alleging violations for the eight compressor or booster stations superseding the May 13, 2020 Administrative Compliance Order.

105. On July 30, 2020, DCP filed its Request for Hearing and Answer to the Compressor Station ACO, denying the alleged violations and proposed civil penalty, and requesting that after a hearing, the Secretary of the Department dismiss the Compressor Station ACO with prejudice and such other relief as the Secretary deems just and appropriate. The Department docketed this matter as AQB 20-46 (CO).

106. On August 28, 2020, the Division issued an Administrative Compliance Order (“Gas Plant ACO”) alleging violations for the four gas plants.

107. On September 25, 2020, DCP filed its Request for Hearing and Answer to the Gas Plant ACO, denying the alleged violations and proposed civil penalty, and requesting that after a hearing, the Secretary of the Department dismiss the Gas Plant ACO with prejudice and such other relief as the Secretary deems just and appropriate. The Department docketed this matter as AQB 20-64 (CO).

108. DCP identified a total of 194 excess emissions events at eight (8) compressor or booster station facilities for which a civil penalty is barred, in whole or in part, by the 1-year statute of limitations for administrative compliance orders in NMSA 1978, § 74-2-12.A(1) (2006). *See* DCP Operating Company's Request for Hearing and Answer to Revised Administrative Compliance Order, AQB 20-46 (CO), p. 18, ¶ 2.

II. COMPROMISE AND SETTLEMENT

A. GENERAL

109. Following good faith settlement negotiations to resolve this matter without further costly litigation, the Parties agree to a complete settlement of all the violations alleged in the Compressor Station ACO and the Gas Plant ACO, including DCP's affirmative defense claims, and have consented to the terms of this Final Order. DCP does not admit any of the violations alleged in the ACOs and does not waive or concede its affirmative defense claims, and the Division does not concede that DCP met its burden on the affirmative defense claims.

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

B. CIVIL PENALTY, INJUNCTIVE RELIEF, AND COMPLIANCE ASSURANCE

111. In compromise and settlement of all of the violations alleged in the Compressor Station ACO and the Gas Plant ACO, and upon consideration of the seriousness of the alleged violations and DCP's efforts to address the causes of excess emissions at the Facilities, the Parties agree that DCP shall: (1) pay a civil penalty of \$950,000 in a cash payment to the State of New Mexico; (2) permanently cease operation of its Eunice Gas Plant, with the exception of those operations identified in paragraph 112, and surrender or modify, as set forth in paragraph 116, its permits for the Eunice Gas Plant; and (3) comply with additional requirements relating to operations at its gas plant facilities, as set forth below.

112. The requirement to cease operations of the Eunice Gas Plant does not apply to those specific operations located at the Eunice Gas Plant that are associated with the compressor station known as the “Amanda Compressor Station,” and those liquids stabilization and loading/unloading facilities known as the “Eunice Treater.”

Civil Penalty

113. DCP shall pay a civil penalty of \$950,000.00 to the State of New Mexico within 30 calendar days after the effective date of this Final Order.

114. Payment shall be made to the *State of New Mexico General Fund, NMED-Air Quality Bureau, 525 Camino de los Marquez, Suite 1, Santa Fe, New Mexico, 87505* by certified or corporate check, or by wire transfer (ACH deposit). On the date that delivery of funds is initiated, notify the Air Quality Bureau Enforcement Manager by email at cindy.hollenberg@state.nm.us.

Certified or corporate checks must be 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

Wire transfers must be made to Wells Fargo Bank as follows:

Wells Fargo Bank, N.A.
100 W Washington Street, Floor 20
Phoenix, AZ 85003

Routing Transit Number: 121000248
Deposit Account Number: 4123107799
Descriptor: NMED-AQB-C&E

115. If DCP fails to make timely and complete payment of the civil penalty pursuant to paragraphs 113 and 114, and unless the Parties agree to extend the time for payment of the civil

penalty, DCP shall pay a stipulated penalty of \$1,500.00 per day for each day the payment is not timely or complete.

Shutdown of Eunice Gas Plant

116. Within 60 days of the effective date of this Final Order, DCP shall permanently cease operations at the Eunice Gas Plant, except as specified in paragraph 112. Within the 60-day period, DCP shall surrender its authority to continue to operate the Eunice Gas Plant under the AQCA by filing: (1) an administrative revision to the NSR permit removing the SRU and other equipment associated with the gas plant and deleting conditions relating to those units, with the exception of conditions, provisions and authority to operate relating to the Amanda Compressor Station and the Eunice Treater; and (2) an administrative modification to the Title V permit terminating the permit.

117. In addition to permanently ceasing operations at the Eunice Gas Plant as specified in paragraph 116 and complying with the requirements of paragraph 116, DCP shall decommission the Eunice Gas Plant by removing process chemicals, including catalysts, and cleaning process vessels and piping within 270 days of the effective date of this Final Order. Within 30 days of the decommission completion date, DCP shall submit a written certification to the Department that the facility was properly decommissioned in accordance with this paragraph and applicable statutes and regulations. The certification shall include the following statement, signed by DCP's responsible official:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I have no personal knowledge that the information submitted is other than true, accurate, and complete. I am aware that there are significant penalties for

submitting false information, including the possibility of fines and/or revocation of air quality permits for knowingly and willfully submitting a materially false statement.

118. If DCP fails to permanently cease operations of the Eunice Gas Plant or submit the applications to surrender or modify the air quality permits issued by the Department for the Eunice Gas Plant as specified in paragraph 116 within 60 days of the effective date of this Final Order, and unless the Parties agree to extend the time by which DCP must permanently cease operations at the Eunice Gas Plant or submit the applications to surrender or modify the air quality permits issued by the Department for the Eunice Gas Plant as set forth in paragraph 116, DCP shall pay a stipulated penalty of \$1,500.00 per day for each day thereafter until the date operations at the Eunice Gas Plant are permanently ceased.

119. If DCP fails to submit the written certification specified in paragraph 117 within 30 days of completing decommissioning at the Eunice Gas Plant, and unless the Parties agree to extend the time by which DCP must submit the written certification, DCP shall pay a stipulated penalty of \$1,500.00 per day for each day thereafter until the date the required certification is submitted.

Compliance Assurance Requirements

120. Within 120 days from the signing of the Final Order by the Secretary of the Department, DCP shall comply with all of the requirements set forth in Appendix 1³ at the following three facilities:

DCP Operating Company, LP, Artesia Gas Plant

DCP Operating Company, LP, Linam Ranch Gas Plant

DCP Operating Company, LP, Zia II Gas Plant

³ These requirements are based on Title V Permit P094-R3 (Linam Ranch Gas Plant), Specific Condition A206. Flares.

To the extent that any of the requirements of Appendix 1 address emissions that are subject to requirements in existing permits for any of these facilities, the requirements of Appendix 1 shall supersede those permit requirements.

121. Within 60 days of the effective date of the Final Order, DCP shall submit applications to the Department for revision of the NSR permits for the Artesia Gas Plant and the Zia II Gas Plant to incorporate the applicable provisions set forth in Appendix 1, and to address any conflicting or duplicative provisions in the existing NSR permits.

122. The following specific compliance assurance requirements shall apply to the DCP facilities listed in Paragraph 2 for a period of two years beginning on the effective date of the Final Order:

- a. In addition to the “Once per calendar year” frequency of flare inlet gas analysis required by Appendix 1, Specific Condition A206.B(2)(a), DCP shall conduct 11 additional monthly flare inlet gas analyses within the first five business days of each month to meet the standards provided in Appendix 1, Specific Condition A206.(B)(2). Results of these analyses shall be used in production of monthly flare emissions calculations per Appendix 1, Specific Condition A206.C(2)(a). This requirement shall commence on the date of the signing of this Final Order by the Secretary of the Department.
- b. Within five days of the last business day of each month DCP shall compile all of the monitoring data and emissions calculations prepared for the previous month of affected facility flare operations, per the requirements of this Final order, and submit under separate NMED “Reporting Submittal Form” via electronic mail to cindy.hollenberg@state.nm.us.

- c. For any flaring event lasting longer than 3 hours continuous duration, the DCP shall prepare a root cause analysis in accordance with the requirements of 20.2.7.114 NMAC, ROOT CAUSE AND CORRECTIVE ACTION ANALYSIS, to determine the cause of the flaring event. DCP shall submit the results of any root cause analysis under this subparagraph to the Department on a monthly basis.

123. All submissions and reports required under paragraph 122 shall be submitted via email in accordance with Paragraph 108 and shall include the following statement, signed by DCP's responsible official:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I have no personal knowledge that the information submitted is other than true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and/or revocation of air quality permits for knowingly and willfully submitting a materially false statement.

124. If DCP fails to submit permit applications as specified in Paragraph 121 within 60 days of this Final Order, and unless the Parties agree to extend the time by which DCP shall submit the permit applications, DCP shall pay a stipulated penalty of \$1,500.00 per day for each day thereafter until the date all the required applications are submitted.

125. If DCP fails to submit the reports required in paragraph 122 of this final order within the specified timeframes, and unless the Parties agree to extend the time by which DCP shall submit a required report, DCP shall pay a stipulated penalty of 1,500.00 per day for each day thereafter until the date the required report is submitted.

126. Within 30 days following receipt of a written demand by the Department, DCP shall make payment of any stipulated penalty that is due and payable under this Final Order. DCP shall make a cash payment of any stipulated penalty in the same manner as the civil penalty payment, as instructed in paragraph 114. DCP shall not contest or dispute in any way the amount of the stipulated penalty of \$1,500.00 per day in the event that the Department brings an action against DCP to recover stipulated penalties due under paragraphs 115, 118, 119, 124 and/or 125, provided that DCP reserves the right to contest the basis for assessment of a stipulated penalty.

III. OTHER TERMS AND CONDITIONS

A. COMPLIANCE WITH OTHER LAWS AND REGULATIONS

127. Nothing in this Final Order shall relieve DCP of its obligation to comply with all applicable federal, state, and local laws and regulations.

B. RESERVATION OF RIGHTS AND DEFENSES

128. This Final Order shall not be construed to prohibit or limit the Department in any way from requiring DCP to comply with any applicable state or federal requirement not resolved herein. This Final Order shall not be construed to prohibit or limit the Department in any way from seeking any relief authorized by the AQCA for violation of any state or federal requirement applicable to DCP not resolved herein. This Final Order shall not be construed to prohibit or limit DCP in any way from raising any defense to a Department action seeking such relief.

C. MUTUAL RELEASE

129. 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's, the Compressor Station ACO and the Gas Plant ACO. Such release applies only to civil liability.

D. WAIVER OF STATE LIABILITY

130. DCP 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 DCP's performance of any obligation under this Final Order.

E. EFFECTIVE DATE AND TERMINATION DATES

131. This Final Order and any modifications thereto shall be effective when the Final Order or modification has been executed by both of the Parties.

132. Except as otherwise provided in this Paragraph, the terms of this Final Order shall terminate when DCP has fulfilled the requirements of this Final Order as set forth in Paragraphs 113 through 125, provided that the requirements in paragraphs 120 and 121 shall be deemed to be satisfied when the two NSR permits have been modified to incorporate the requirements of Appendix 1 as provided by paragraph 121. The reservations of rights and defenses and the mutual release in Paragraphs 128 and 129 shall survive the execution and performance of this Final Order, and shall remain in full force and effect as an agreement between the Parties.

F. INTEGRATION

133. 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.

G. BINDING EFFECT

134. This Final Order shall be binding on the Parties and their officers, directors, employees, agents, subsidiaries, successors, assigns, trustees, or receivers.

H. AUTHORITY OF SIGNATORIES

135. The persons executing this Final Order on behalf of DCP and the Department, respectively, represent that they have the authority to execute this Final Order on behalf of DCP and the Department.

I. SIGNATURE AND COUNTERPARTS

136. This Final Order is intended to be executed on separate pages. Faxed, emailed, electronic, or digital signatures shall constitute original signatures binding on the signing party.

137. This Final Order may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same agreement.

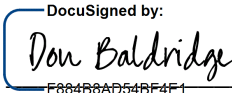
NEW MEXICO ENVIRONMENT DEPARTMENT

By: _____

**REBECCA ROOSE
DEPUTY SECRETARY**

Date: _____

DCP OPERATING COMPANY, LP

By:  _____
F884B8AD54BF4E1...

Date: 9/9/2021

Print Name: Donald A. Baldrige

Print Title: President