

**BEFORE
THE DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF NORTH DAKOTA**

The North Dakota Department of Environmental Quality (“Department”) has reason to believe (COMPANY) (“Respondent”) has violated the state’s air pollution control rules.

The Department and Respondent enter into this Expedited Settlement Agreement (“Agreement”) to resolve the specific alleged violation or violations of N.D. Admin Code § 33.1-15-07-02(1) identified herein (“Violation”). Upon Respondent’s submission of the completed Air Expedited Settlement Agreement Form to the online CERIS-ND system and payment of the penalty as defined herein, this Agreement constitutes final agency action of the Department against Respondent for the Violation.

APPLICABLE LAWS AND REGULATIONS

1. North Dakota Administrative Code (“N.D. Admin. Code”) art. 33.1-15 contains the rules adopted by the Department to implement N.D.C.C. ch. 23.1-06.
2. N.D. Admin. Code § 33.1-15-07-02(1) makes it unlawful to “cause or permit the emission of organic compounds gases and vapors, except from an emergency vapor blowdown system or emergency relief system, unless these gases and vapors are burned by flares, or an equally effective control device as approved by the department.”
3. North Dakota Century Code (“N.D.C.C.”) § 23.1-06-14(4) provides that any person who violates N.D.C.C. ch. 23.1-06, “or any permit condition, rule, order, limitation, or other applicable requirement implementing this chapter, is subject to a civil penalty not to exceed ten thousand dollars per day per violation.”

FACTUAL FINDINGS

4. On (DATE), Department personnel conducted an inspection at (FACILITY). The Department observed ___ (unignited control device(s) emitting organic compounds and vapors using an optical gas imaging camera) (and/or) ___ (open thief hatch(es) emitting organic compounds and vapors using an optical gas imaging camera).
5. The inspection report and OGI videos of the Violation are digitally stored at (AIRFCE #) in the Department’s Combined Environmental Regulatory Information System – North Dakota (CERIS-ND).

VIOLATIONS

6. On (DATE), Respondent failed to adequately control organic compound emissions at the (FACILITY) oil and gas production facility in violation of N.D. Admin. Code § 33.1-15-07-02(1).

PENALTY

7. For this Violation, the Department levies a penalty of Five Thousand Dollars (\$5,000) against

Respondent (“Penalty”).

SETTLEMENT TERMS

8. By signing this Agreement and paying the Penalty, Respondent does not dispute the factual findings of the Department that gave rise to the Violation. Respondent's election to resolve the Violation through this Agreement reflects a business decision to avoid the time and expense of further administrative proceedings and does not constitute an admission of liability or fault by Respondent. This Agreement and any documents submitted in response to the Violation are inadmissible by the Department as evidence of liability in an administrative, civil, or judicial enforcement proceeding regarding the Violation.
9. If any negotiable instrument presented as payment is not honored, Department may file a civil action to collect the amount due, plus interest, attorney's fees, and costs. In any collection action, the validity, amount, and appropriateness of penalties is not subject to appellate review.
10. Respondent acknowledges and agrees that the Department properly notified Respondent of the Violation.
11. Respondent acknowledges that it is knowingly and voluntarily waiving the rights and procedures that would otherwise protect it and that it would have in any formal administrative adjudicatory proceeding or any civil action in a court of law, including the right to the filing of a notice of intent to file suit, to present evidence and witnesses on its behalf, to cross-examine Department's witnesses, to a jury trial, and to administrative and judicial review.
12. Nothing in this Agreement limits the Department's authority to make findings during an inspection or enforce separate, subsequent, or continuing violations.
13. CEAP enforcement action documents, including this Agreement and all related submissions, shall not be made publicly available prior to the certification and signature of the Air Expedited Settlement Agreement Submission Form in CERIS-ND. Upon certification and signature, enforcement action documents shall be finalized and made available consistent with the Department's standard practice for Administrative Consent Agreements.
14. This Agreement constitutes the entire agreement between the Department and Respondent. No amendment, alteration, or addition to the Agreement is binding unless reduced to writing and signed by the Department and Respondent. If any provision of this Agreement is held to be invalid or unenforceable for any reason, the remaining provisions shall continue in full force and effect. The invalidity or unenforceability of any provision shall not affect the validity or enforceability of any other provision.
15. If Respondent does not sign this Agreement, submit the completed Air Expedited Settlement Agreement Form to the online CERIS-ND system, and pay the Penalty, Respondent does not waive any rights or procedures that would otherwise protect it including the right to a formal administrative adjudicatory proceeding on the alleged violations, to present evidence and witnesses, cross-examine the Department's witnesses, and the right to a jury trial or judicial

review. The Respondent may request that the Department defer proceedings to an alternative method of enforcement resolution, specifically utilizing the Department's Notice of Violation and Administrative Consent Agreement process.

16. If Respondent does not sign the Air Expedited Settlement Agreement Form by _____, the Department shall proceed with further enforcement action regarding the Violation.

EXAMPLE