



# Office of the Attorney General

Governor  
Dave Freudenthal

Attorney General  
Bruce A. Salzburg

Water and Natural Resources Division  
123 State Capitol  
Cheyenne, Wyoming 82002  
307-777-6946 Telephone  
307-777-3542 Fax

Chief Deputy Attorney General  
Elizabeth C. Gagen

Division Deputy  
Jay A. Jerde

March 19, 2010

Optigas, LLC  
Attn: Mr. Lee Conley  
1775 Sherman, Ste 220  
Denver, Colorado 80202

RE: *In re DEQ Notice of Violation No. 4545-09, 4546-09, 4548-09 and 4587-09 issued to Optigas, LLC - Settlement Agreement*

Dear Mr. Conley,

We are in receipt of the first payment of the cash penalty in the above-referenced matter. Thank you for your professional courtesy.

Sincerely,

A handwritten signature in black ink, appearing to read "J.S. Burbridge".

John S. Burbridge  
Senior Assistant Attorney General

cc w/enc: Karen Godman

**BEFORE THE  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
STATE OF WYOMING**

**IN THE MATTER OF THE NOTICE OF VIOLATION )  
ISSUED TO OPTIGAS, LLC., ) Nos. 4545-09  
MR. LEE CONLEY, ) 4546-09  
1675 BROADWAY, SUITE 2250 ) 4548-09  
DENVER, COLORADO 80202 ) 4587-09**

**SETTLEMENT AGREEMENT**

The Wyoming Department of Environmental Quality, Air quality Division ("DEQ/AQD"), Herschler Building, 122 West 25<sup>th</sup> Street, Cheyenne, WY 82002, and Optigas, LLC. ("Optigas"), 1675 Broadway, Suite 2250, Denver, Colorado 80202 enter into this Settlement Agreement ("Agreement") to fully and finally resolve without litigation the violations cited in DEQ Notice of Violations, Docket Nos. 4545-09, 4546-09, 4548-09 and 4587-09 ("NOVs"). The NOVs allege that Optigas exceeded formaldehyde emission limits from the Caterpillar G3606LE engine (S/N: 4ZS-00449) in violation of condition 10 of permit MD-6165 at its Barber Creek Compressor Station; failed to repair and retest/monitor the Caterpillar G3606LE engine (S/N: 4ZS-00449) and failed to demonstrate that the engine had been returned to operation within the permitted emission limits within 7 days of failing the formaldehyde test in violation of condition 12b of permit MD-6165 at its Barber Creek Compressor Station; failed to annually measure and comply with formaldehyde emission limits from five of its Caterpillar G3516LE engines: E1 (S/N: WPW-00217), E2 (S/N: WPW-0078), E4 (S/N: WPW-00245), E5 (S/N: WPW-00628), and E6 (S/N: WPW-00621) in violation of conditions F3 and F10 of permit 3-0-221 at its Cat Creek Compressor Station; failed to annually measure and comply with formaldehyde emission limits from six of its Caterpillar G3516LE engines: (S/N: 4EK-03336), (S/N: 4EK-04225), (S/N: 4EK-04549), (S/N: 4EK-04678), (S/N: 4EK-04679), and (S/N: 4EK-04990) in violation of conditions F3 and F8 of permit 3-0-212 at its Big Mike Compressor Station; and failed to annually measure and comply with formaldehyde emission limits from three of its Caterpillar G3516LE engines: E4 (S/N: 4EK-04724), E5 (S/N: WPW-00215), and E6 (S/N: 4EK-04719) in violation of conditions F3 and F10 of permit 3-0-214 at its Powder River Compressor Station in violation of the Air Quality Act ("Act"), applicable Wyoming Air Quality Standards and Regulations ("WAQSR") and air quality permits MD-6165, 3-0-221, 3-0-212 and 3-0-214 issued to Optigas.

WYO. STAT. ANN. § 35-11-901(a)(ii) (West 2008) authorizes stipulated settlement, including payment of a penalty, in lieu of litigation. To that end, Optigas and the DEQ/AQD hereby stipulate and agree as follows:

1. The DEQ/AQD is responsible for enforcing the Act and WAQSR.
2. WYO. STAT. ANN. § 35-11-201 states: "No person shall cause, threaten or allow the discharge or emission of any air contaminant in any form so as to cause pollution which violates rules, regulations and standards adopted by the council."
3. Chapter 6, Section 2 of the WAQSR prescribes the applicability and procedures for issuing permits to sources under DEQ/AQD's construction and modification permitting program.

4. Chapter 6, Section 2(h) of the WAQSR allows reasonable conditions to be imposed upon construction or modification permits, including emission limits, monitoring and reporting requirements.

5. Chapter 6, Section 3 of the WAQSR prescribes the applicability and procedures for issuing permits to major sources under Wyoming's operating permitting program.

6. Permit number MD-6165 was issued to Optigas on or about July 24, 2007, for its Barber Creek Compressor Station located in Campbell County, Wyoming.

7. Condition 10 of permit number MD-6165 sets formaldehyde emission limits for the Caterpillar G3606LE engine (S/N: 4ZS-00449) of 0.27 lb/hr.

8. On November 5 & 12, 2008, Aspen Consulting & Testing, Inc. ("Aspen") conducted the required formaldehyde emission tests on the Caterpillar G3606LE engine. The test results were provided to the AQD under cover letter dated December 5, 2008. Based on a review by the AQD, the Caterpillar G3606LE engine (S/N: 4ZS-00449) exceeded the allowable limits for formaldehyde emissions of 0.27 lb/hr, with a result of 0.478 lb/hr.

9. Optigas exceeded formaldehyde emission limits from the Caterpillar G3606LE engine (S/N: 4ZS-00449) in violation of condition 10 of permit MD-6165 at its Barber Creek Compressor Station.

10. Condition 12b of permit MD-6165 requires that the AQD be notified within 24 hours of any engine where the testing/monitoring shows operation outside the permitted emission limits. It also requires that by no later than 7 calendar days of such testing/monitoring event, the owner or operator shall repair and retest/monitor the affected engine to demonstrate that the engine has been returned to operation within the permitted emission limits.

11. Optigas failed to repair and retest/monitor the Caterpillar G3606LE engine (S/N: 4ZS-00449) and failed to demonstrate that the engine had been returned to operation within the permitted emission limits within 7 days of failing the formaldehyde test in violation of condition 12b of permit MD-6165 at its Barber Creek Compressor Station.

12. Permit number 3-0-221 was issued to Optigas on or about July 22, 2008, for its Cat Creek Compressor Station located in Johnson County, Wyoming.

13. Condition F3 of permit 3-0-221 limits the formaldehyde emissions from the Caterpillar G3516LE engines to 0.21 lb.hr and 0.91 tons per year.

14. Condition F10 of permit 3-0-221 requires that Optigas measure formaldehyde emissions from each Caterpillar engine at least annually for comparison with the emission limits specified in condition F3.

15. On November 19, 2008, Aspen conducted the required formaldehyde emission tests on six Caterpillar G3516LE engines, five of which showed results higher than the permitted formaldehyde limit. The test results were provided to the AQD on December 11, 2008. Based on a review of the test results by the AQD, the following engines exceeded the allowable limit for formaldehyde emissions of 0.21 lb/hr: E1 (S/N: WPW-00217) with a result of 0.448 lb/hr, E2 (S/N: WPW-0078) with a result of 0.408 lb/hr, E4 (S/N: WPW-00245) with a

result of 0.365 lb/hr, E5 (S/N: WPW-00628) with a result of 0.341 lb/hr, and E6 (S/N: WPW-00621) with a result of 0.289 lb/hr.

16. Optigas failed to comply with formaldehyde emission limits from five of its Caterpillar G3516LE engines: E1 (S/N: WPW-00217), E2 (S/N: WPW-0078), E4 (S/N: WPW-00245), E5 (S/N: WPW-00628), and E6 (S/N: WPW-00621) in violation of conditions F3 and F10 of permit 3-0-221 at its Cat Creek Compressor Station.

17. Permit number 3-0-212 was issued to Optigas on or about July 18, 2007, for its Big Mike Compressor Station located in Johnson County, Wyoming.

18. Condition F3 of permit 3-0-212 limits the formaldehyde emissions from the Caterpillar G3516LE engines to 0.21 lb.hr and 0.91 tons per year.

19. Condition F8 of permit 3-0-212 requires that Optigas measure formaldehyde emissions from each Caterpillar engine at least annually for comparison with the emission limits specified in condition F3.

20. On November 19, 2008, Aspen conducted the required formaldehyde emission tests on nine Caterpillar G3516LE engines, six of which showed results higher than the permitted formaldehyde limit. The test results were provided to the AQD on December 11, 2008. Based on a review of the test results by the AQD, the following engines exceeded the allowable limit for formaldehyde emissions of 0.21 lb/hr: (S/N: 4EK-03336) with a result of 0.276 lb/hr, (S/N: 4EK-04225) with a result of 0.297 lb/hr, (S/N: 4EK-04549) with a result of 0.255 lb/hr, (S/N: 4EK-04678) with a result of 0.258 lb/hr, (S/N: 4EK-04679) with a result of 0.276 lb/hr, and (S/N: 4EK-04990) with a result of 0.377 lb/hr.

21. Optigas failed to comply with formaldehyde emission limits from six of its Caterpillar G3516LE engines: (S/N: 4EK-03336), (S/N: 4EK-04225), (S/N: 4EK-04549), (S/N: 4EK-04678), (S/N: 4EK-04679), and (S/N: 4EK-04990) in violation of conditions F3 and F8 of permit 3-0-212 at its Big Mike Compressor Station.

22. Permit number 3-0-214 was issued to Optigas on or about October 3, 2007, for its Powder River Compressor Station located in Johnson County, Wyoming.

23. Condition F3 of permit 3-0-214 limits the formaldehyde emissions from the Caterpillar G3516LE engines to 0.21 lb.hr and 0.91 tons per year.

24. Condition F10 of permit 3-0-214 requires that Optigas measure formaldehyde emissions from each Caterpillar engine at least annually for comparison with the emission limits specified in condition F3.

25. On November 13, 2008, Aspen conducted the required formaldehyde emission tests on six Caterpillar G3516LE engines, three of which showed results higher than the permitted formaldehyde limit. The test results were provided to the AQD on December 10, 2008. Based on a review of the test results by the AQD, the following engines exceeded the allowable limit for formaldehyde emissions of 0.21 lb/hr: engines E4 (S/N: 4EK-04724) with a result of 0.316 lb/hr, E5 (S/N: WPW-00215) with a result of 0.269 lb/hr, and E6 (S/N: 4EK-04719) with a result of 0.303 lb/hr.

26. Optigas failed to comply with formaldehyde emission limits from three of its Caterpillar G3516LE engines: E4 (S/N: 4EK-04724), E5 (S/N:

WPW-00215), and E6 (S/N: 4EK-04719) in violation of conditions F3 and F10 of permit 3-0-214 at its Powder River Compressor Station.

27. Optigas agrees to pay the DEQ/AQD two hundred forty five thousand one hundred dollars and no cents (\$245,100.00) as a stipulated settlement amount. Optigas shall make three (3) equal payments of eighty one thousand seven hundred dollars and no cents (\$81,700.00), by check made payable to the Wyoming Department of Environmental Quality, Air Quality Division. The first payment shall be due within thirty (30) days after Optigas has been notified by DEQ/AQD that the final signature has been affixed to the Agreement. The second payment shall be due on or before July 31, 2010 with the last payment being due on or before December 31, 2010. Optigas shall mail all payments to John S. Burbridge, Senior Assistant Attorney General, 123 Capitol Building, Cheyenne, WY 82002.

28. Optigas, by entering into this Agreement, does not concede or admit to any liability, and this Agreement constitutes no admission of fault or noncompliance.

29. Full compliance with the signed Agreement shall constitute full satisfaction for all claims by the DEQ/AQD against Optigas based on the NOV and, solely in reliance on the Agreement, the DEQ/AQD will refrain from taking further enforcement action against Optigas for that particular violation.

30. Optigas waives any statute of limitations which may apply to an enforcement action by the DEQ/AQD involving the specific matters described in the NOV in the event that Optigas fails to fulfill its obligations under this Agreement.

31. This Agreement shall be admissible by either Optigas or DEQ/AQD (hereinafter Optigas and DEQ/AQD may be referred to individually as "Party" and collectively as "Parties") without objection by the other Party in any action between these Parties relating to the violations alleged herein.

32. Neither Party hereto shall have any claim against the other for attorney's fees or other costs incurred with the allegations resolved hereby, including costs incurred in the preparation of the Agreement. Each Party shall bear its own attorney fees and costs, if any, incurred through the date this Agreement is signed by both Parties. Each Party assumes the risk of any liability arising from its own conduct. Neither Party agrees to insure, defend or indemnify the other.

33. Any changes, modifications, revisions or amendments to this Agreement which are mutually agreed upon by the Parties shall be incorporated by written instrument, executed and signed by all Parties to this Agreement.

34. The construction, interpretation and enforcement of this Agreement shall be governed by the laws of the State of Wyoming. The Courts of the State of Wyoming shall have jurisdiction over this Agreement and the Parties, and the venue shall be the First Judicial District, Laramie County, Wyoming.

35. This Agreement, consisting of five (5) pages represents the entire and integrated agreement between the Parties and supersedes all prior negotiations, representations, and agreements, whether written or oral.

36. The State of Wyoming and the DEQ/AQD do not waive sovereign immunity by entering into this Agreement and specifically retain immunity and all

defenses available to them as sovereigns pursuant to WYO. STAT. ANN. § 1-39-104(a) and all other state law.

37. The Parties do not intend to create in any other individual or entity the status of third party beneficiary, and this Agreement shall not be construed so as to create such status. The rights, duties and obligations contained in the Agreement shall operate only between the Parties to this Agreement, and shall inure solely to the benefit of the Parties to this Agreement. The Parties to this Agreement intend and expressly agree that only Parties signatory to this Agreement shall have legal or equitable right to seek to enforce this Agreement, to seek any remedy arising out of a Party's performance or failure to perform any term or condition of this Agreement, or to bring an action for the breach of this Agreement.

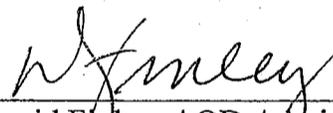
38. Each Party represents that they are authorized to enter into this Agreement and agree to be bound hereby. This Agreement shall become binding upon the Parties once executed by all Parties.

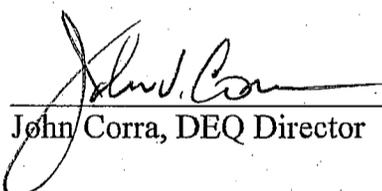
IN WITNESS THEREOF, the Parties, by their duly authorized representatives, have executed this Agreement on the days and dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this Agreement:

OPTIGAS, LLC.

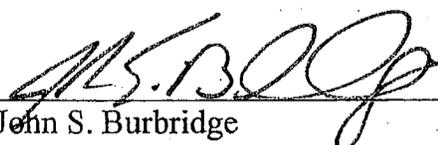
By:  2/16/2010  
VICE PRESIDENT Date

STATE OF WYOMING, DEPARTMENT OF ENVIRONMENTAL QUALITY:

By:  2/19/2010  
David Finley, AQD Administrator Date

By:  2/19/10  
John Corra, DEQ Director Date

APPROVAL AS TO FORM:

By:  2-19-2010  
John S. Burbridge Date  
Senior Assistant Attorney General  
Attorney for DEQ/AQD