

SETTLEMENT AGREEMENT

The Wyoming Department of Environmental Quality, Air Quality Division (DEQ/AQD), Herschler Building, 122 West 25th Street, Cheyenne, WY 82002, and Lower Valley Energy, Inc. (Lower Valley Energy), P.O. Box 188, Afton, WY 83110, enter into this Settlement Agreement (Agreement) to fully and finally resolve without litigation the alleged violations cited in DEQ Notice of Violation Docket No. 5111-13 (Notice of Violation). As more fully set forth below, the Notice of Violation alleges that Lower Valley Energy failed to route the non-condensable reboiler still vent vapors to a combustion device at the Hoback Pipeline - Rim Station facility (Facility) located in Sublette County, Wyoming, thereby violating the Wyoming Environmental Quality Act (Act), applicable Wyoming Air Quality Standards and Regulations (Air Quality Rules), and Condition No. 6 of DEQ/AQD Permit No. CT-9249.

Wyo. Stat. Ann. § 35-11-901(a)(ii) (2012) authorizes stipulated settlement, including payment of a penalty, implementation of compliance schedules or other settlement conditions in lieu of litigation. To that end, Lower Valley Energy and the DEQ/AQD hereby stipulate and agree as follows:

1. Lower Valley Energy is a Wyoming non-profit corporation that owns and/or operates the Facility.
2. The DEQ/AQD is responsible for enforcing the Act, the Air Quality Rules and permits issued thereunder, including Permit CT-9249.
3. Wyo. Stat. Ann. § 35-11-801(a) states: “[i]n granting permits, the director may impose such conditions as may be necessary to accomplish the purpose of this act which are not inconsistent with the existing rules, regulations and standards.”
4. Chapter 6, Section 2 of the Air Quality Rules prescribes the applicability and procedures for issuing permits to sources under Wyoming’s construction and modification permitting program.
5. On or about June 2, 2009, the DEQ/AQD issued Permit No. CT-9249 to Lower Valley Energy for the Facility.
6. Condition No. 6 of Permit CT-9249 requires the non-condensable reboiler still vent vapors to be routed to a combustion device to “reduce the mass content of total HAP and VOC emissions in the reboiler still vent by at least ninety-eight percent (98%) by weight.”
7. On October 26, 2012, a DEQ/AQD Engineer/Inspector observed that the non-condensable reboiler still vent vapors were routed to a reboiler heater instead of a combustion device.
8. On January 15, 2013, the DEQ/AQD issued the Notice of Violation to Lower Valley Energy, alleging that Lower Valley Energy’s failure to route the non-condensable reboiler still vent vapors to the combustion device at the Facility violated the Act, the Air Quality Rules, and Condition No. 6 of Permit No. CT-9249.

9. Without admitting liability and in lieu of litigation under Wyo. Stat. Ann. § 35-11-901(a)(ii), Lower Valley Energy agrees to resolve the alleged violations described above and also set forth in the Notice of Violation as follows:

A. Lower Valley Energy agrees to pay the DEQ/AQD, eleven thousand dollars and no cents (\$11,000.00) as a stipulated civil penalty. Lower Valley Energy shall make full payment by check made payable to the Wyoming Department of Environmental Quality, Air Quality Division, within thirty (30) days after Lower Valley Energy has been notified by the DEQ/AQD that the final signature has been affixed to this Agreement. Lower Valley Energy shall mail the payment to Nancy Vehr, Sr. Asst. Attorney General, 123 Capitol Building, Cheyenne, WY 82002.

B. Lower Valley Energy also agrees to install a combustor at the Facility by April 30, 2013. Within fifteen (15) days after Lower Valley has installed the combustor, Lower Valley Energy shall file a notice of installation with the DEQ/AQD, Attn: Mr. Robert Gill, 122 West 25th Street, Cheyenne, WY 82002, and provide a copy to DEQ/AQD - District Five, Attn: Mr. Tony Hoyt, 510 Meadowview Drive, Lander, WY 82520.

10. Lower Valley Energy, by entering into this Agreement, neither admits nor denies the validity of any allegation contained in the Notice of Violation, nor does Lower Valley Energy concede or admit to any liability or fault, and this Agreement constitutes no admission of fault or non-compliance.

11. Full compliance with this Agreement shall constitute full satisfaction for all claims by the DEQ/AQD against Lower Valley Energy based on the Notice of Violation and, solely in reliance on this Agreement, the DEQ/AQD will refrain from taking further enforcement action against Lower Valley Energy for these particular alleged violations.

12. In the event that Lower Valley Energy fails to fulfill its obligations under this Agreement, Lower Valley Energy waives any statute of limitation claims which may apply in an enforcement action by the DEQ/AQD involving the specific matters described in the Notice of Violation.

13. This Agreement shall be admissible by either Lower Valley Energy or the DEQ/AQD (hereinafter Lower Valley Energy and the DEQ/AQD may be referred to individually as "Party" and collectively as "Parties") without objection by the other Party only in an action between these Parties relating to the specific Notice of Violation herein; provided, however, that nothing herein constitutes an admission by Lower Valley Energy of liability or fault.

14. Neither Party hereto shall have any claim against the other for attorneys' fees or other costs incurred with the allegations resolved hereby, including costs incurred in the preparation of this 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.

15. 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.

16. 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.

17. This Agreement, consisting of four (4) pages, represents the entire and integrated agreement between the Parties and supersedes all prior negotiations, representations, and agreements, whether written or oral.

18. 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.

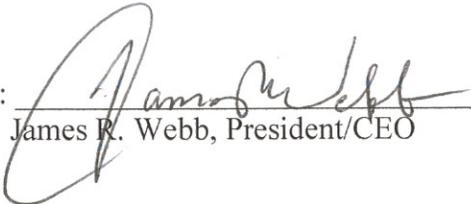
19. The Parties do not intend to create in any other individual or entity the status of third party beneficiary, and this Agreement shall not be construed so as to create such status. The rights, duties and obligations contained in this Agreement shall operate only between the Parties to this Agreement. The Parties to this Agreement intend and expressly agree that only Parties signatory to this Agreement shall have any legal or equitable right to seek to enforce this Agreement, to seek any remedy arising out of 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.

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20. 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.

LOWER VALLEY ENERGY, INC.:

By: 
James R. Webb, President/CEO

Date: 3/8/13

STATE OF WYOMING, DEPARTMENT OF ENVIRONMENTAL QUALITY:

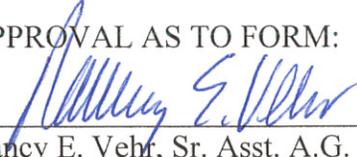
By: 
Steven A. Dietrich, AQD Administrator

Date: 3-15-13

By: 
Todd Parfitt, DEQ Director

Date: 3/19/13

APPROVAL AS TO FORM:


Nancy E. Vehr, Sr. Asst. A.G.
Attorney for DEQ/AQD

Date: 3/5/2013