

**STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION DIVISION**

NMOCD - OGA 04-__

32 SF

IN THE MATTER OF JFJ LANDFARM, LLC,

Respondent.

**AGREED ORDER DIRECTING COMPLIANCE
AND ASSESSING CIVIL PENALTY**

Pursuant to the New Mexico Oil and Gas Act, NMSA 1978, §§70-2-1 through 70-2-38, as amended ("Act"), the Director of the New Mexico Oil Conservation Division (OCD) issues this Order to JFJ Landfarm, LLC directing compliance with the Act and the OCD Rules, and assessing a penalty for violations of the Act and OCD Rules.

FINDINGS

1. The OCD is the state division charged with administration and enforcement of the Act and OCD Rules.
2. JFJ Landfarm, LLC (JFJ) is a domestic limited liability company doing business in New Mexico under SCC number 2270601.
3. JFJ operates an oilfield surface waste management facility located in Section 2, of Township 29 North, Range 12 West, NMPM, San Juan County, New Mexico.
4. On December 2, 2003, OCD Deputy Inspectors Denny Foust and Martyne Kieling inspected the facility operated by JFJ.
5. This OCD inspection of the facility and facility records revealed the following:
 - a) The concrete mixing impoundment was surrounded on three sides by contaminated soil.
 - b) During the period June 2 to June 12, 2003, JFJ accepted sludge from Basin Disposal into JFJ's storage tanks and then took the sludge from the storage tanks and applied it directly to the compost piles without first stabilizing it.
 - c) Under the direction of JFJ, trucks from Inland Trucking applied water from the Red Cedar Blackridge compressor facility to the roads within the facility and added the water directly to open trenches on the compost piles without first screening the water.

- d) JFJ applied water from the facility storage tanks to the compost piles during the Basin Disposal pond cleaning from June 2 through June 12, 2003, without screening the water.
 - e) JFJ failed to perform weekly inspections of the exterior of the concrete mixing impoundment.
 - f) At the time of the aforementioned inspection, JFJ could not produce results of screening of free water from tank bottoms or sludge received at the facility.
- 6. OCD Rule 711 [19.15.9.711.B NMAC] states in relevant part, "...all commercial and centralized facilities including facilities in operation on the effective date of Section 19.15.9.711 NMAC...shall be permitted by the Division".
 - 7. Permit number NM-01-010 (B) issued to JFJ on May 11, 2001, includes conditions under which JFJ must operate the facility.
 - 8. JFJ's permit for operation contains a condition, which states, in pertinent part, "Spills and slop-over that occur outside the impoundments must be cleaned up on a regular basis and placed into a landfarm or compost cell."
 - 9. JFJ's permit for operation contains a condition, which states, in pertinent part, "All tank bottoms and sludge must be accepted into either the concrete mixing impoundment or frac tanks for settling prior to landfarm or compost application."
 - 10. JFJ's permit for operation contains a condition, which states, in pertinent part, "Water removed from tank bottoms and sludge... after appropriate screening may be spread on the landfarm or compost piles for dust control and to enhance bioremediation."
 - 11. JFJ's permit for operation contains a condition, which states, in pertinent part, "The concrete mixing impoundment must be inspected inside and outside weekly for containment leaks and overall integrity."
 - 12. JFJ's permit for operation contains a condition, which states, in pertinent part, "Landfarm and compost pile monitoring and maintenance must be recorded and maintained for OCD review."
 - 13. The Oil and Gas Act authorizes penalties of up to one thousand dollars (\$1,000) per day for a knowing and willful violation of any provision of the Act or any rule or order issued pursuant to the Act. NMSA 1978, § 70-2-31(A).
 - 14. The Oil and Gas Act defines "person" as "any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate or other entity..." NMSA 1978, § 70-2-33(A)(1).

15. On August 19, 2004, OCD mailed "Notice of Violation" to JFJ, stating that JFJ was in violation of OCD Rule 711 and the conditions imposed by the permit issued pursuant to Rule 711.
16. On September 28, 2004, an officer of JFJ, Mr. Jake Hatcher, was in attendance at an administrative conference to discuss the Notice of Violation. Mr. Hatcher was very cooperative during the discussion.
17. JFJ has modified its internal procedures so that they include provisions to address all of the violations noted above.

CONCLUSIONS

1. The OCD has jurisdiction over the parties and subject matter in this proceeding.
2. JFJ is a "person" as defined by NMSA 1978, §70-2-33(A) subject to civil penalties under NMSA 1978 §70-2-31(A) for knowing and willful violations of the Act or any rule or order issued pursuant to that Act.
3. JFJ is subject to civil penalties under NMSA 1978, §70-2-31(A) for violating the following condition of its permit issued pursuant to OCD Rule 711: "Spills and slop-over that occur outside the impoundments must be cleaned up on a regular basis and placed into a landfarm or compost cell." This violation occurred on a continuing basis.
4. JFJ is subject to civil penalties under NMSA 1978, §70-2-31(A) for violating the following condition of its permit issued pursuant to OCD Rule 711: "All tank bottoms and sludge must be accepted into either the concrete mixing impoundment or frac tanks for settling prior to landfarm or compost application." This violation occurred during the period June 2 to June 12, 2003.
5. JFJ is subject to civil penalties under NMSA 1978, §70-2-31(A) for violating the following condition of its permit issued pursuant to OCD Rule 711: "Water removed from tank bottoms and sludge... after appropriate screening may be spread on the landfarm or compost piles for dust control and to enhance bioremediation." This violation occurred on two separate occasions. One of those occasions was a continuing violation during the period June 2 to June 12, 2003.
6. JFJ is subject to civil penalties under NMSA 1978, §70-2-31(A) for violating the following condition of its permit issued pursuant to OCD Rule 711: "The concrete mixing impoundment must be inspected inside and outside weekly for containment leaks and overall integrity." This violation occurred on a continuing basis.

7. JFJ is subject to civil penalties under NMSA 1978, §70-2-31(A) for violating the following condition of its permit issued pursuant to OCD Rule 711: "Landfarm and compost pile monitoring and maintenance must be recorded and maintained for OCD review." This violation occurred on a continuing basis.

ORDER AND CIVIL PENALTY

1. Taking into consideration both aggravating and mitigating factors, the OCD hereby assesses a civil penalty totaling six thousand dollars (\$6,000) against JFJ.
2. The civil penalty shall be paid within sixty days (60 days) of receipt of the Order. Payment shall be made by certified or cashier's check made payable to the "New Mexico Oil Conservation Division," and mailed or hand-delivered to the New Mexico Oil Conservation Division, Attention: Director, 1220 South St. Francis Drive, Santa Fe, NM 87505.
3. By signing this Order, JFJ expressly:
 - a) acknowledges the correctness of the Findings and Conclusions set forth in this Order;
 - b) agrees to comply with Ordering Paragraph 2;
 - c) waives any right, pursuant to the Oil and Gas Act or otherwise, to a hearing either prior or subsequent to the entry of this Order or to an appeal from this Order; and
 - d) agrees that if it fails to comply with this Order, the Order may be enforced by suit or otherwise to the same extent and with the same effect as a final Order of the Division entered after notice and hearing in accordance with all terms and provisions of the Oil and Gas Act (NMSA 1978, §§70-2-1 through 70-2-38, as amended).

Done at Santa Fe, New Mexico this 23rd day of Oct, 2004

By: 

Mark Fesmire, P.E.

Director, Oil Conservation Division

ACCEPTANCE

JFJ Landfarm, LLC hereby accepts the foregoing Order, and agrees to all of the terms and provisions set forth in that Order.

JFJ Landfarm, LLC

JFJ Landfarm, LLC

Agreed Compliance Order

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By: James Hatcher
JAMES HATCHER
Title: MANAGER OF US OPERATIONS
Date: 10-14-04