

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

NMOCD- 124

IN THE MATTER OF COLEMAN OIL AND GAS, INCORPORATED,

Respondent.

AGREED COMPLIANCE ORDER

Pursuant to the New Mexico Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38, as amended (hereinafter, "Act"), and the rules promulgated under the Act, the Director of the Oil Conservation Division of the Energy Minerals and Natural Resources Department of the State of New Mexico (hereinafter, "OCD") issues this Order to **COLEMAN OIL AND GAS, INCORPORATED** (hereinafter "Coleman") directing compliance with the Act and OCD Rules, and assessing a penalty for violations of the Act and OCD Rules.

I. FINDINGS

- 1) The OCD is the state division charged with administration and enforcement of the Act and OCD Rules.
- 2) Coleman is a domestic profit corporation doing business in New Mexico, registered with the Public Regulatory Commission Secretary of State under number 1036359. Coleman is an active entity with a principal address at 6540 East Main, Farmington, New Mexico 87499. Its registered agent for service of process in New Mexico is George E. Coleman. Coleman's local address is Chris G. Coleman, Vice-President, P. O. Drawer 3337, Farmington, New Mexico 87499-3337. Coleman's OGRID is 4838.
- 3) On October 24, 2005, OCD Deputy Oil and Gas Inspector Henry Villanueva responded to a complaint from the public and inspected the Coleman Payne #221S, Unit Letter J, Section 22, Township 32 North, Range 10 West, API # 30-045-32517.
- 4) Deputy Inspector Villanueva noted a lined drilling pit at the site with fluid standing in the pit. The liner had been cut and ripped out to a level below the fluid level. Mike Hanson and Bruce Taylor of Coleman were on location. Coleman personnel stated the water truck had not arrived so the contractor personnel proceeded to cut and rip the liner below the standing waters surface. Deputy Inspector Villanueva instructed Coleman to empty the pit of fluids before proceeding to stabilize the drill cuttings that contained a significant amount of coal. Deputy Inspector Denny Foust traveled to the well site where he split samples of thixotropic drilling solids with Coleman personnel. The OCD's samples were delivered to Envirotech for analysis; Coleman's samples were to be taken to Ina Ba laboratory.

- 5) A subsequent OCD investigation found the following:
- a) The OCD approved a drilling pit permit for the Payne 221S on June 8, 2005. The pit permit outlined a closure procedure that included drying the cuttings and hauling them to an OCD-approved disposal site.
 - b) Coleman received first production from the well on June 22, 2005. The well was completed by cavitation in the Fruitland coal, which contributed a significant portion of the coal fines found in the cuttings.
 - c) Bruce Taylor of Coleman visited the OCD district office on October 20, 2005. At that time he received permission to stabilize the cuttings after removing all the standing fluid from the pit.
 - d) Coleman had not removed any standing fluids from the pit from October 20 through October 23, 2005. On October 24, 2005, Coleman cut off the liner below the fluid level, before a water truck arrived on location. The water truck removed approximately 40 barrels of water to drop the fluid level below the liner edges; a total of 80 barrels of water were hauled to Basin Disposal.
 - e) Coleman felt a time constraint to accomplish the pit closure due to the Bureau of Land Management wildlife closure dates of November 1st - March 31st, which would limit access to the well site.
 - f) OCD's samples sent to Envirotech showed a TPH (C5 - C28) of 475 parts per million (ppm), which exceeds the OCD Rule 50 guidelines for pit closure standards of 100 parts per million.
 - g) OCD Rule 50.C(2)(b)(i) [19.15.2.50C(2)(b)(i) NMAC] requires that "[e]ach drilling pit or workover pit shall contain, at a minimum, a single liner appropriate for conditions at the site. The liner shall be designed constructed and maintained so as to prevent the contamination of fresh water, and protect public health and the environment."
 - h) OCD Rule 50.E [19.15.2.50.E NMAC] states that "[d]rilling fluids and drill cuttings shall either be recycled or disposed of as approved by the division in a manner to prevent the contamination of fresh water and protect public health and the environment. The operator shall describe the proposed disposal method in the application for permit to drill or the sundry notices and reports on wells."
- 6) Coleman knowing and willfully violated:
- a) OCD Rule 50.C(2)(b)(i) by failing to remove free standing liquids from the drilling pit before cutting and ripping the liner to below the water level.

- b) OCD Rule 50.E by failing to remove the stabilized drill cuttings from the well site, as approved on their drilling permit, in a manner to prevent the contamination of fresh water and protect public health and the environment.
- 7) NMSA 1978, §70-2-31(A) provides in relevant part, “[a]ny person who knowingly and willfully violates any provision of the Oil and Gas Act or any provision of any rule or order issued pursuant to that act shall be subject to a civil penalty of not more than one thousand dollars (\$1,000) for each violation. For purposes of this subsection, in the case of a continuing violation, each day of violation shall constitute a separate violation.”

NMSA 1978, §70-2-33(A) defines “person” as “any individual estate, trust receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate or other entity....”

- 8) As a result of its investigation, the OCD issued Notice of Violation (3-05-14) to Coleman alleging violations of Rule 50.C and Rule 50.E.
- 9) At the Administrative Conference on this matter, Coleman presented the following:
- a) Coleman’s contractor hired to close the pit cut-off the liner before a Coleman representative arrived on location.
 - b) Coleman submitted a revised pit permit, which arrived in the OCD office after the closure had started on October 24, 2006
 - c) After the liner had been cut, Coleman removed the excess water overtopping the cut-off liner.
 - d) Coleman stabilized the cuttings, took samples and waited for sample results; Coleman indicated their lab results were in question.
 - e) Coleman stabilized and removed the cuttings to a commercial land farm and backfilled the drilling pit with clean fill from offsite.

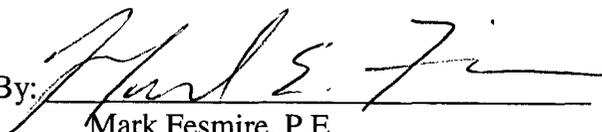
II. CONCLUSIONS

- 1) The OCD has jurisdiction over the parties and subject matter in this proceeding.
- 2) Coleman is a person as defined by NMSA 1978, § 70-2-33(A) that may be subject to civil penalties under NMSA 1978, §70-2-31(A).
- 3) Coleman is subject to civil penalties under NMSA 1978, § 70-2-31(A) at the Payne #221S for one violation of OCD Rule 50.C and one violation of OCD Rule 50.E.

III. ORDER AND CIVIL PENALTY

- 1) Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty against Coleman totaling **Two Thousand Dollars (\$2,000.00)** for one violation of Rule 50.C and one violation of Rule 50.E.
- 2) The civil penalty shall be paid at the time Coleman executes this Order. Payment shall be made by check payable to the "New Mexico Oil Conservation Division," and mailed or hand-delivered to the New Mexico Oil Conservation Division, Attention: Director, 1220 South Saint Francis Drive, Santa Fe, New Mexico 87505.
- 3) Coleman has closed the drilling pit at the Payne #221S under an OCD approved plan that included sampling under the liner for BTEX and TPH.
- 4) By signing this Order, Coleman expressly:
 - a. acknowledges the correctness of the Findings and Conclusions set forth in this Order;
 - b. agrees to comply with ordering paragraphs 2 and 3;
 - 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;
 - 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;
- 5) Nothing in this Order relieves Coleman of its liability should its operations fail to adequately investigate and remediate contamination that poses a threat to ground water, surface water, human health or the environment. In addition, nothing in this Order relieves Coleman of its responsibility for compliance with any other federal, state or local laws and/or regulations.

Done at Santa Fe, New Mexico, this 6th day of July ~~May~~ 2006.

By: 
Mark Fesmire, P.E.
Director, Oil Conservation Division

ACCEPTANCE

Coleman Oil and Gas, Incorporated hereby accepts the foregoing Order, and agrees to all of the terms and provisions set forth in the Order.

Coleman oil and Gas, Incorporated

By:  _____

Title: Vice-President

Date: 5-21-06