

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

**NMOCD-07-146**

**IN THE MATTER OF HART OIL & GAS INC.,**

**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 **HART OIL & GAS INC.** (hereinafter "Hart") 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) Hart is a foreign, for profit, corporation doing business in New Mexico, originally registered with the Public Regulatory Commission Secretary of the State, under number 1665132. Hart's corporation status has been revoked in New Mexico. Hart is an active entity with a business address at P.O. Box 385, Rangely, Colorado. Hart's OGRID is 10141.
- 3) Hart operates the Navajo Tribe of Indians F #117, UL G, S10 T31N, R17W, injection line, API # 30-045-10956, San Juan County, New Mexico.
- 4) On Wednesday, July 26, 2006, New Mexico Oil Conservation Division (hereinafter "OCD") Deputy Oil and Gas Inspector Brandon Powell received a call from the Bureau of Land Management (hereinafter, "BLM") about a large produced water spill from an injection line leak at a Hart well site. A member of the public had called the spill into the BLM.
- 5) A subsequent OCD investigation found the following:
  - a. Inspector Powell arrived on site and met with Hart's field representative and the BLM field officer, Val Jamison. They found an excavated injection line that had two new temporary hole clamps attached to the line.

- b. The line is located approximately five hundred twenty (520) feet northeast of Navajo Tribe of Indians F #164 well site, UL (E), Sec. 10, T31N, R17W, API # 30-045-10956.
- c. The soil was still damp and stained.
- d. The Hart representative stated that there was a small leak on the evening of July 19, 2006. Hart attached the first clamp to the line that evening.
- e. The line had another, larger, leak on the night of July 20, 2006; Hart attached the second clamp to the line on July 21, 2006.
- f. The produced water traveled approximately five hundred twenty (520) feet to the Navajo Tribe of Indians F #164 well site, where it collected on the well pad, ran over the containment berm and traveled approximately another twelve hundred (1200) feet.
- g. The Hart representative stated that they had tried to clean up the spill with a backhoe, but the soil was too saturated, causing the backhoe to get stuck.
- h. The BLM and the BIA estimated the spill to be approximately four hundred (400) barrels.
- i. Hart failed to give immediate verbal notification to OCD of the release, as required by OCD Rule 116.B(1) [19.15.3.116.B(1)(b)(ii) NMAC].
- j. OCD Rule 116.B(1) requires that a major release be reported to the OCD by giving "both immediate verbal notice and timely written notice." A major release is defined by the Rule to be an unauthorized release in excess of twenty (25) barrels, or any volume that will reach a watercourse or may, with reasonable probability, endanger public health or damage property or the environment.
- k. Rule 116.C defines "immediate verbal notification" of a major spill to be a verbal report within twenty-four (24) hours of discovery of the spill to the OCD District Office for the area within which the release takes place.
- l. Rule 116.D requires the responsible person to complete division approved corrective action for a major release, in accordance with a remediation plan submitted to and approved by the division, or an abatement plan submitted in accordance with Section 19 of 19.15.1 NMAC.
- m. Hart violated Rule 116.B(1) and D by failing to provide immediate verbal notification of the release, and by failing to submit a remediation plan to the OCD for approval.
- n. As a result of its investigation, the OCD issued a Notice of Violation (3-06-38) to Hart, alleging violations of Rule 116.B(1) and 116.D.

- 6) At the Administrative Conference on this matter, Hart presented the following:
- a. The spill was not 100 percent crude oil or any by-product that would endanger the environment.
  - b. The substance at issue is semi-potable water.
  - c. The semi-potable water may not be fit for human consumption, but it will not harm the desert, groundwater, as there is none, people living in the immediate area, as there are none, or animals, as there are none except for one heard of sheep that is watered occasionally from the semi-potable water.
  - c. Doing business on the Reservation requires Hart to comply with and answer to no less than 6 governmental agencies.
  - d. A Hart employee gave one agency immediate verbal notification of the spill but failed to notify the others.
  - e. The leak was small, nowhere near the four hundred (400) barrel estimate of the BLM and BIA. Hart employees believe twenty (20) barrels would be a better estimate.
  - f. The sections of line that had the leaks are no longer in use until they can be replaced.

## **II. CONCLUSION**

- 1) The OCD has jurisdiction over the parties and subject matter in this proceeding.
- 2) Hart 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) Hart is subject to civil penalties under NMSA 1978, § 70-2-31(A) at the Navajo Tribe of Indians F #117 for knowing and willful violation of OCD Rule 116.B and 116.D.

## **III. ORDER AND CIVIL PENALTY**

- 1) Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty against Hart totaling **Two Thousand Dollars (\$2,000.00)**. This penalty is based on one (1) violation each of Rule 116.B and 116.D.
- 2) Hart shall pay the civil penalty in three payments as follows: the first payment of One Thousand Dollars (\$1,000.00) shall be paid on or before February 1, 2007; the second payment of Five Hundred Dollars (\$500.00) shall be paid on or before March 1, 2007; and the third payment of Five Hundred Dollars (\$500.00) shall be paid on or before April 1, 2007. Payment shall be made by cashiers or certified 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) In addition to the civil penalty, Hart shall submit a C-116 release report and remediation plan by February 1, 2007.
- 4) By signing this Order, Hart expressly:
- acknowledges the correctness of the Findings and Conclusions set forth in this Order;
  - agrees to comply with Ordering paragraphs two (2) and three (3);
  - 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;
  - 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 Hart 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 HART of its responsibility for compliance with any other federal, state or local laws and/or regulations.

Done at Santa Fe, New Mexico, this 21<sup>st</sup> day of February 2007.

By: \_\_\_\_\_

Mark Fesmire, P.E.

Director, Oil Conservation Division

#### ACCEPTANCE

**HART OIL AND GAS, INC.** hereby accepts the foregoing Order and agrees to all of the terms and provisions set forth in the Order.

**HART OIL AND GAS INC.**

By: \_\_\_\_\_

Title: President, Hart Oil & Gas Inc.

Date: 2/10/07