

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

NMOCD-07- 168

IN THE MATTER OF MOBIL PIPE LINE COMPANY,

Respondent.

AGREED COMPLIANCE ORDER

Pursuant to the New Mexico Oil and Gas Act, NMSA 1978, §§ 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 and **Mobil Pipe Line Company** (hereinafter, "Mobil") enter into this Order to resolve the violations alleged in Notice of Violation (1-06-19).

I. FINDINGS

1. The Oil Conservation Division (hereinafter "OCD") is the state division charged with administration and enforcement of the Act and OCD rules. Mobil is a foreign for-profit company registered to do business in New Mexico under SCC number 0631283. Mobil's mailing address is 800 Bell Street, Houston, Texas 77002. Its registered agent is the Corporation Service Company, 125 Lincoln Ave., Suite 223, Santa Fe, New Mexico 87501.

A. Background:

2. On July 18, 2003, Mobil was the owner of record of a pipeline on the State ZZ Lease, located in Lea County, New Mexico. The State ZZ Lease is approximately ten miles southwest of Lovington, New Mexico and, according to Mobil, contains a pipeline that was part of Mobil's Vacuum Gathering System. At all relevant times, the pipeline on the State ZZ Lease transported crude oil.
3. Subsequent to July 18, 2003, and in or about February 2004, Mobil sold the pipeline to Trojan Pipeline; Trojan Pipeline later changed its name to Centurion Pipeline.
4. An unauthorized release ("release") allegedly occurred on July 18, 2003 from the pipeline on the State ZZ Lease. The location of the release is at or about Latitude N 32.85060, Longitude W 103.50082. The surface estate owner is Eidson Ranch, Inc.
5. After being made aware of the release by Eidson Ranch personnel, the OCD Hobbs District I Office Inspector Larry Johnson visited the site.

6. At the site inspection, Johnson saw an excavated area of approximately 60 feet by 90 feet by 5.5 feet in depth, that smelled strongly of hydrocarbons. Based on these factors, Johnson estimated the spill to be significantly in excess of fifty barrels.
7. The release was only about 40 feet west of a dry surface drainage course and 350 feet from a water well. Due to the spill's volume, and proximity to the water well and dry watercourse, Johnson determined that the spill may, with reasonable probability be detrimental to water, and classified it as a major spill. See OCD Rule 19.15.3.116 NMAC.
8. On January 11, 2005, Mobil contacted Inspector Johnson regarding its release site assessment plans. That same day, Johnson granted permission to Mobil to proceed with its scheduled delineation process; he also requested that, as soon as possible, Mobil submit to the OCD a C-141, Release Notification and Corrective Action Form. Once site delineation was complete and before beginning any additional work, Johnson required Mobil to submit a remediation work plan addressing the release.
9. On C-141 dated January 28, 2005, Mobil reported the spill as a four-barrel, sweet crude oil release at the subject site, occurring on July 18, 2003. In spite of the spill's proximity to a dry water course and water well and the 60 foot x 90 foot x 5.5 foot excavation at the site, the C-141 stated Mobil was submitting the report as a "courtesy," as the July 18, 2003 spill was not greater than 5 barrels in volume. The C-141 also stated that, as to the July 18, 2003 spill, Mobil had recovered one barrel of the oil, that the affected area was 33 feet by 33 feet by 1 foot in depth, and that Mobil had done on-site remediation by blending contaminated topsoil with ambient soil.
10. Due to the reported volume, Johnson denied Mobil's C-141 on April 1, 2005.
11. Johnson advised Mobil the C-141 was denied as the information was incomplete or needed reviewing for accuracy, and requested Mobil provide additional specified information. The additional requested information was the line operating pressure, gravity of the fluid, and the average daily volume transported at the time of the release. Johnson did not specifically notify Mobil he disagreed with the July 18, 2003 spill volume Mobil had reported on the C-141.
12. On April 5, 2005, Mobil resubmitted the C-141. It provided the additional specified information, but left the spill volume as four barrels and the impacted ground area as 33 feet by 33 feet by 1 foot.
13. On April 8, 2005, OCD Inspector Johnson again denied the C-141, stating that the information was incomplete or needed reviewing for accuracy. He required that Mobil revise the C-141 and re-submit no later than April 13, 2005.
14. Mobil requested clarification as to Inspector Johnson's concerns. Johnson advised that the C-141 listed an incorrect landowner, that it failed to properly locate a water well and that the reported spill volume appeared inaccurate.

15. Mobil revised the C-141 and resubmitted it on April 22, 2005. It stated that additional impacted soils had been identified, but left the spill volume as four barrels and the contaminated area as described above. Inspector Johnson marked the C-141 as denied.
16. At no time has Mobil submitted to the OCD photographs of the spill site or results of any samples taken to show that soil at the alleged 33 foot by 33 foot by 1 foot remediation site was at acceptable standards.
17. Mobil submitted a Soil Assessment Report to the OCD on March 3, 2005.
18. Mobil submitted a remediation plan to the OCD in November 2005, for what Mobil alleges was a historical spill. The OCD conditionally approved the plan on January 18, 2006, effective for ninety days.
19. On August 18, 2006, Inspector Johnson visited the site with OCD Environmental Engineer Carl Chavez. They found the excavation site remains open. There were stained soils beneath the pipeline and large mounds of excavated soil, stained and with a strong hydrocarbon odor, stockpiled directly on the ground without a protective lining and cover.
20. Surface soil samples taken from beneath the pipeline at issue were collected during the August 18, 2006 site visit. These samples revealed the soil to be contaminated with petroleum hydrocarbons. Concentrations of diesel and motor oil range organics were as high as 33,000 and 16,000 mg/kg, respectively.
21. By letter dated August 9, 2006, Mobil advised the OCD it had not completed remediation due to inability to obtain site access from the landowner, and requested an extension of the OCD's approval of the remediation plan; it also requested the OCD's assistance in obtaining site access. By letter dated September 28, 2006, Mobil resubmitted its August 9, 2006 correspondence. The OCD did not grant the extension. Because it is Mobil's sole responsibility to gain access from the landowner, the OCD did not grant Mobil's request that the OCD aid it in gaining access from the landowner.
22. Three and one-half years after the July 18, 2003 spill and a year after the OCD approved Mobil's remediation plan, the site has not been cleaned in accordance with an OCD approved remediation plan.
23. At the administrative conference held on December 14, 2006 and in a follow-up written response dated January 16, 2007, Mobil presented the following:
 - a. Mobil alleges the July 18, 2003 release was four-barrels. The release volume is based on a visual inspection by Robert Day, Mobil field supervisor, and other employees. Day has approximately twenty (20) years of oilfield experience.
 - b. Upon discovery of the release, Mobil excavated and repaired the pipeline, removed the soils impacted by the four-barrel release and remediated impacted soils by on-site mixing and blending with ambient soils. Mobil states it

removed all impacted soils until clean soils were encountered on the bottom and sides of the excavation.

- c. In its written submission, Mobil maintained that the excavation site attributable to the four barrel spill was 33 feet x 33 feet x 1 inch to 1 foot, and that any remainder is due to historical contamination, not attributable to the July 18, 2003 release.
- d. The reason Mobil states it did not initially report the spill to the OCD is that Mobil believed the spill to be less than five barrels; it was not required to make a report under OCD rules and did not violate any OCD rule by not doing so.
- e. Mobil denies that it falsely reported any information on the submitted C-141s (submitted as a courtesy to the OCD), stating that the July 18, 2003 release was only four barrels, that this release site was remediated, that any additional contamination is historical, and that the additional impacted soils would be remediated in accordance with applicable OCD requirements.
- f. Any delay in providing additional information or correcting information on the submitted C-141 was due to the delay in the OCD returning Mobil's calls and other communications.
- g. Mobil maintains that the OCD had actual knowledge of the spill as early as January 2004.
- h. As the OCD did not advise Mobil that the third submitted C-141 on this incident had been rejected, Mobil believed that the revised C-141 submitted to the OCD on April 22, 2005 had been accepted by the OCD.
- i. Mobil stated that it remains committed to cleaning up what it alleges is historical contamination.
- j. Mobil explained it hasn't completed remediation at the site because when it sold the Vacuum Gathering System pipeline it lost legal right of access onto the site. It states it has worked diligently with the landowner to gain right of access to complete cleanup, always believing it was close to resolution of this issue. Mobil believed that at any time it would have a written agreement with the landowner in place to allow it to remediate the site in accordance with an OCD approved clean up plan. At no time did Mobil seek access through the court or other legal action. Since the December 2006 administrative conference, Mobil has obtained a written agreement with the landowner enabling it to access the property; Mobil will complete remediation in accordance with an OCD approved remediation plan.
- k. Mobil stated the OCD's description that the stained soils at the site exhibit a strong hydrocarbon odor is not consistent with January 2005 site observations by Mobil's consultant. Mobil alleges that only three of twenty-eight soil samples collected by Mobil's environmental consultant in January 2005 exceed OCD regulatory action levels. Mobil alleges that the OCD failed to provide definitive

descriptions of where or how the samples it took during its August 2006 site visit were obtained.

1. Mobil contests liability in this matter, raises defenses to the administrative action and denies it knowingly and/or willfully violated OCD Rule 116.B and D and 1978 NMSA, Section 70-2-31(B)(2)(a), as alleged by the OCD in NOV (1-06-19).

B. OCD Rules and Applicable State Statutes:

24. OCD Rule 116.A [19.15.3.116 NMAC] requires that the operator notify the OCD of any unauthorized release “occurring during the drilling, producing, storing, disposing, injecting, transporting, servicing or processing of crude oil, natural gases ... or other oil field related chemicals, contaminants or mixture thereof.”
25. Pursuant to OCD Rule 116.B, a major release is defined to be an unauthorized release greater than 25 barrels, or any volume which results in a fire, or will reach a water course, or may, with reasonable probability, endanger public health, or result in substantial damage to property or the environment. A major release must be reported to the OCD by giving both immediate (within 24 hours) verbal notification and timely (within 15 days) written notice to the OCD.
26. OCD Rule 116.D requires that the operator “complete division approved corrective action of releases which endanger public health or the environment ... in accordance with a remediation plan submitted to and approved” by the OCD.
27. 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” in relevant part as “any individual estate, trust receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate or other entity....”
28. NMSA 1978, Section 70-2-31(B) provides that it is unlawful to knowingly and willfully make any false entry or statement in a report, record or account required by the OCD, or to omit or cause to be omitted from any such record, account or memorandum a full, true and correct entry for the purpose of evading or violating the Oil and Gas Act or any rule, regulation or order of the commission or the division issued pursuant to that act.

II. OCD’S CONCLUSIONS

1. The OCD has jurisdiction over the parties and subject matter in this proceeding.
2. Mobil 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. The OCD concludes that Mobil knowingly and willfully violated OCD Rule 116.B by failing to verbally notify the OCD of a major release that occurred on or about July 18, 2003, which release was greater than twenty-five barrels.
4. The OCD concludes that Mobil knowingly and willfully violated OCD Rule 116.B by failing to give timely written notification to the OCD of the major release occurring on or about July 18, 2003.
5. The OCD concludes that Mobil knowingly and willfully violated OCD Rule 116.D by failing to timely submit a remediation plan and to complete remediation in accordance with an OCD approved plan.
6. In violation of 1978 NMSA, Section 70-2-31(B)(2)(a), the OCD concludes that Mobil knowingly and willfully reported false information on the January 28, 2005 C-141 by reporting a release of four barrels when the release was greater than twenty-five barrels and by under-reporting the size of the contaminated area. It twice again reported this false information to the OCD in two subsequent C-141s.
7. The OCD acknowledges that Mobil does not admit it knowingly and/or willfully violated the above cited rules, and that Mobil disagrees with the OCD to the extent that its facts and conclusions differ from that presented by Mobil in Section I, paragraph 23.

III. ORDER AND CIVIL PENALTY

1. Taking into account both aggravating and mitigating factors, the OCD hereby assesses a total civil penalty of **Twenty-two Thousand Dollars (\$22,000.00)** against Mobil for knowing and willful violations of OCD Rules 116.B and D, and 1978 NMSA, Section 70-2-31(B)(2)(a).

The specific penalty for each rule and statute violation is as follows: One Thousand Dollars (\$1,000.00) for failing to give immediate verbal notification of a major release, a violation of OCD Rule 116.B; One Thousand Dollars (\$1,000.00) for failing to give timely written notification of a major release, a violation of OCD Rule 116.B; Three Thousand Dollars (\$3,000.00) (one thousand for each six-month period following the release) for failing to timely submit a remediation plan to the OCD, a violation of OCD Rule 116.D; Seven Thousand Dollars (\$7,000.00) (one thousand for each six-month period following the release) that Mobil failed to complete a cleanup of the site, a violation of OCD Rule OCD Rule 116.D; and a Ten Thousand Dollars (\$10,000.00) penalty for false reporting (incorrect release volume and contaminated area), violation of NMSA 1978, Section 70-2-31(B)(2)(a).

2. The civil penalty shall be paid no later than April 6, 2007. 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 Saint Francis Drive, Santa Fe, New Mexico 87505.
3. On March 1, 2007, the OCD received Mobil's revised remediation plan of the site that addresses, in addition to the issues identified in the previously submitted remediation

plan for the ZZ Lease, an investigation to determine existing and potential surface water, ground water, soil and sediment contamination from the release, paying special attention to the east side of the excavation.

4. Mobil shall revise the remediation plan as required by the OCD. Once the plan is approved, Mobil shall work diligently to complete remediation of the site in accordance with the OCD approved remediation plan, which remediation shall be completed within a reasonable time.
5. By signing this Order, Mobil expressly:
 - a. agrees to comply with Ordering paragraphs 2 and 4;
 - b. 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;
 - c. 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.
6. Nothing in this Order relieves Mobil 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 Mobil of its responsibility for compliance with any other federal, state or local laws and/or regulations.

Done at Santa Fe, New Mexico, this 23rd day of March 2007.

By: _____

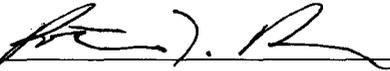
Mark Fesmire, Director
Oil Conservation Division

Signatures continued on page 8

ACCEPTANCE

MOBIL PIPE LINE COMPANY hereby accepts the foregoing Order, and agrees to comply with the terms and provisions set forth in the Order.

MOBIL PIPE LINE COMPANY

By: 

Title: Vice President

Date 3/19/07