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

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APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION, THROUGH THE ENFORCEMENT AND COMPLIANCE MANAGER, FOR A COMPLIANCE ORDER AGAINST PETRO-MEX, LLC. FINDING THAT OPERATOR KNOWINGLY AND WILLFULLY VIOLATED RULES 116.D(2) [19.15.2.116(D) NMAC], 50.B(3)(B) [19.15.2.50(B)(3)(B) NMAC], 13.B(2) [19.15.2.13(B) NMAC], 202.B(2) [19.15.2.202.B.(2) NMAC] AND 202.B(3) [19.15.2.202.(B)(3) NMAC] AS TO SIX WELLS, ASSESSING MONETARY PENALTIES FOR THOSE VIOLATIONS PURSUANT TO NMSA §70-2-14(B), ORDERING OPERATOR TO BRING ALL SUCH WELLS INTO FULL COMPLIANCE WITH OCD RULES BY A DATE CERTAIN, AND IN THE EVENT PETRO-MEX FAILS TO COMPLY WITH THE DIVISION'S ORDER, AUTHORIZING THE DIVISION TO PLUG THE SUBJECT WELLS & FORFEIT ANY APPLICABLE SECURITY.

CASE NO. 14109

APPLICATION FOR COMPLIANCE ORDER & ASSESSMENT
OF MONETARY PENALTY

1) Petro Mex, LLC ("Operator") is a domestic limited liability Corporation doing business in New Mexico, registered with the New Mexico Public Regulatory Commission under SCC number 2402519. Jesus Villalobos is the registered agent. Petro Mex's OGRID is #236452, and its address of record as registered with the New Mexico Oil Conservation Division ("OCD") is P.O. Box 6724, Farmington, NM 87499.

- 2) Petro Mex is the Operator of Record for the following wells;
- TRS-EVI #1, API #30-045-24448, UL H, S11, T29N R15W
 - Kirtland 14 #1, API #30-045-25922, UL A, S14 T28N R15W;
 - Kirtland 18 #1, API #30-045-26203, UL A, S18 T29N R14W;

- Kirtland 18 #3, API #30-045-23736, UL B, S18 T29N R14W;
- Fruitland #1, API #30-045-24972, UL I, S03 T29N R15W; and
- Kirtland #11, API #30-045-25306, UL C, S18 T29N R14W

3) Operator has posted a \$51,904.19 cash blanket plugging bond (Bond No. OCD818) to secure its obligation to plug and abandon wells, pursuant to 19.15.3.101.A NMAC. The bond has been deposited with the First Federal Bank, Farmington (1501 San Juan Blvd., Farmington, NM 87401).

4) On May 22, 2006, New Mexico OCD Deputy Oil and Gas Inspectors Brandon Powell and Denny Foust inspected multiple Petro Mex, LLC well sites. The well sites listed above were found to have multiple and various violations. Some of these wells are active, and others were plugged but still in need of final cleanup.

5) On May 30, 2006, during an administrative conference conducted to address a different series of violations for which the OCD had issued a separate Notice of Violation ("NOV"), Petro Mex representative Steve Martinedale was provided with a list including the above-identified wells, and was advised of the violations now being addressed by this Application. At that time, Mr. Martindale advised the OCD that all of the referenced violations would be corrected by June 16, 2006.

6) On June 19, 2006 Inspector Powell performed a follow-up inspection and found that there were still violations with regard to multiple

wells that had been included on the list provided to Mr. Martindale at the May 30, 2006 conference.

7) On June 20, 2006, Inspector Powell faxed a spread sheet to Petro Mex that listed the wells and continuing violations. He then spoke with Mr. Martindale, who stated that the work necessary to address all issues identified on the spread sheet would be completed by June 23, 2006.

8) On June 26, 2006, Inspector Powell performed another follow-up inspection on the subject well sites, at which time he discovered the violations persisted and had not, in fact, been corrected as promised.

9) On June 27, 2006, Inspector Powell sent Mr. Martindale an updated spreadsheet detailing the continuing violations and the statuses of the Petro Mex sites. Upon discussing the matter with Inspector Powell, Mr. Martindale then committed to remedying the violations referenced on the updated spreadsheet by July 7, 2006.

10) On July 7, 2006, Inspector Powell spoke with Mr. Martindale to confirm that Petro Mex had fulfilled its commitment and corrected the violations by the deadline that Petro Mex had specified. However, at that time, Mr. Martindale stated that due to the holiday, Petro Mex was not able to get all of the violations corrected. Mr. Martindale indicated that all work would instead be completed by July 14, 2006.

11) On July 12, 2006, two days prior to the new deadline, Mr. Martindale advised the District Office by facsimile that the backhoe being used to perform some of the work had broken down, and Petro Mex would therefore, once again, not be able to meet their deadline and complete the work as scheduled by July 14, 2006.

12) On July 14, 2006, Inspector Powell informed Mr. Martindale that if the violations were not corrected by July 24, 2006, the OCD would issue a Notice of Violation.

13) On July 24, 2006, Inspector Powell performed an inspection to determine the status of Petro Mex's compliance, at which time he documented the following well violations:

a. TRS-EVI #1

The TRS-EVI #1 is contaminated around the pump jack and the tanks. Between June 19 and June 26, 2006, some, but not all, of the contamination was removed. Approximately two (2) inches of uncontaminated soil was then placed **on top of** the contamination. Due to the covering up of the contamination, the OCD required that Petro Mex provide a remediation plan to address the remaining contamination at the site (pursuant to 19.15.3.116(D) NMAC). This request was made on multiple occasions: June 27, 2006, July 7, 2006, and again on July 14, 2006. At no time prior to the issuance of the NOV did Petro Mex submit a remediation plan regarding this site as was repeatedly requested by the OCD.

b. Kirtland 14 #1

The Kirtland 14 #1 location has an unregistered below grade tank without leak detection, contrary to 19.15.3.50.B(3)(b) NMAC. On June 27, 2006, Inspector Powell brought the tank, and its unregistered status, to the attention of Petro Mex. Petro Mex assured Inspector Powell it was going to remove the below grade tank and install an above-ground pit tank in its place, at which time Inspector Powell instructed Petro Mex to submit a request in writing outlining its

planned course of action. At no time prior to the issuance of the NOV was either such a request received by the Division from Petro Mex, nor did Petro Mex ever register the below-grade tank as required by Rule 50.B(3).

c. **Kirtland 18 #1**

Inspector Powell first discovered that the Kirtland 18 #1 location was leaking gas from the wellhead on June 19, 2006. Inspector Powell was able to hear the leaking wellhead from a distance of approximately ten (10) feet. Inspector Powell informed Petro Mex of the leak on June 20, 2006 and returned to the site to follow up on July 24, 2006. Despite the fact that Petro Mex had been advised regarding the leak six (6) weeks previously, at the July 24, 2006 inspection, Inspector Powell discovered that not only had the leak not been repaired, but that this time he was able to hear it from approximately one-hundred (100) feet away. This observation was made under the same conditions as the previous observation made at ten (10) feet, indicating to Inspector Powell that the leak was worsening.

d. **Kirtland 18 #3**

An unknown volume of contamination was discovered on the west side of this location. On June 19, 2006, Petro Mex was instructed by OCD to clean up this contamination. However, at a subsequent inspection on June 26, 2006, it was evident that the soil had been disturbed and clean soil placed on the surface. Contamination was found approximately four (4) inches below the clean soil. Disturbingly, on June 27, 2006, Petro Mex informed Inspector Powell it had removed forty (40) cubic yards of contaminated soil from the site and that the spill clean-up had been completed. Inspector Powell informed Petro Mex that this was not the case, and that the clean-up must be completed to OCD standards and pursuant to an OCD-approved plan. In addition to the soil contamination that Petro Mex improperly and/or incompletely addressed, a piece of cable was found on the north side of the site that Petro Mex had been instructed on several occasions to remove, but had failed to do so.

e. **Fruitland #1**

The Fruitland #1 Plug and Abandonment marker does not have the correct information. The section and township information on the marker reads "TS 329N R15W." However, the correct description for the site is UL I S03 T29N R15W. This violation was initially noted and brought to the Operator's attention on June 26, 2006.

Additionally, staining was noted around the dry hole marker, which was indicative of contamination of the soil in that area. This violation, was first discovered by OCD and brought to the attention of Petro Mex on June 19, 2006.

f. **Kirtland #11**

OCD inspection revealed the presence of contaminated soil on the southeast side of the Kirtland #11 location. This contaminated soil had initially been discovered by OCD and brought to the attention of Petro Mex on June 19, 2006.

14) Based on the violations documented by Inspector Powell on July 24, 2006, the following conclusions were reached by the OCD with regard to knowing and willful violations of OCD Rules:

- a. **TRS-EVI #1:** OCD Rule 116.D requires that “[t]he responsible person must complete division approved corrective action for releases which endanger public health or the environment. Releases will be addressed in accordance with a remediation plan submitted to and approved by the division or with an abatement plan submitted in accordance with Section 19 of 19.15.1 NMAC. Petro Mex knowingly and willfully violated OCD Rule 116.D in two different ways by both 1. failing to submit a Corrective Action Plan on TRS-EVI #1 as requested by the Division, and by 2. failing to complete remediation in accordance with an approved plan. As of the date of the filing of this Application, Petro Mex has not submitted a remediation plan as required by the Rule.

- b. **Kirtland 18 #1:** OCD Rule 116.D requires that “[t]he responsible person must complete division approved corrective action for releases which endanger public health or the environment.” OCD Rule 13.B requires that “[a]ll operators ... or other persons shall at all times conduct their operations in or related to the drilling, equipping, operating, producing, plugging and abandonment of oil, gas, injection, disposal, and storage wells or other facilities in a manner that will prevent waste of oil and gas” Petro Mex knowingly and willfully violated OCD Rule 13B by failing to operate in a manner to prevent the waste of gas, despite having been made aware that such waste was occurring with regard to

the this well, and knowingly and willfully violated OCD Rule 116.D by failing to take corrective action for the release at this site, which included the repair of the wellhead ring, despite having been informed that a release had occurred and needed to be corrected.

- c. **Kirtland 14 #1:** Rule 50.B(3)(b) requires that “[f]or each pit or below-grade tank in existence on April 15, 2004 that has not received an exemption after hearing as allowed by OCC Order R-3221 through R-3221D inclusive, the operator **shall submit a notice** not later than April 15, 2004 indicating either that use of the pit or below-grade tank will continue or that such pit or below grade tank will be closed.” (*emphasis added*). Petro Mex knowingly and willfully violated OCD Rule 50.B(3)(b) by failing to submit a below grade tank registration for the this site.

- d. **Kirtland 18 #3:** OCD Rule 116.D provides that “[t]he responsible person must complete division approved corrective action for releases which endanger public health or the environment. **Releases will be addressed in accordance with a remediation plan submitted to and approved by the division**” (*emphasis added*). OCD Rule 202.B(3) requires that “[a]s soon as practical but no later than one year after the completion of plugging operations, the operator shall (a) fill all pits; (b) level the location; (c) remove deadmen and all other junk; and (c) take such other measures as are necessary or required by the Division to restore the location to a safe and clean condition.” Petro Mex knowingly and willfully violated OCD Rules 116.D and 202.B(3)(c) by, despite repeated requests by the Division, not completing corrective action on the spill and by leaving contamination and debris on the this location.

- e. **Fruitland #1:** Rule 202.B(2) requires “[t]he operator name, lease name and well number and location, section, township and range, shall be welded, stamped or otherwise permanently engraved into the metal of the marker.” Rule 202.B(3) states that “[a]s soon as practical but no later than one year after the completion of plugging operations, the operator shall: (i) fill all pits; (ii) level the location; (iii) remove deadmen and all other junk; and (iv) take such other measures as are necessary or required by the Division to restore the location to a safe and clean condition.”

Petro Mex knowingly and willfully violated OCD Rule 202.B(2) by, having incorrect information on the dryhole marker for this site, and knowingly and willfully violated OCD Rule 202.B(3) by leaving contaminated soil around the dry hole marker for this site, despite having been informed of the violations and the need for remediation.

- f. **Kirtland #11:** Rule 202.B(3) reads as stated above in Paragraph 10.e(3). Petro Mex knowingly and willfully violated Rule 202.B(3)(d) by not timely cleaning up the soil contamination at this location, despite having been made aware of the presence of the contamination and the need for clean-up on prior occasions.

15) As a result of its investigation, the OCD issued Notice of Violation (3-06-39) to Petro Mex, alleging the above-described knowing and willful violations of OCD Rules; 116.D(2) 50.B(3)(b), 13.B(2), 202.B(2), and 202.B(3), and an administrative conference was conducted on August 15, 2007 to address these violations.

16) In the course of the August 15, 2007 administrative conference, attended by both the Operator and the OCD, Operator agreed to enter into an Agreed Compliance Order (“ACO”) with the OCD whereby it would remit payment of a penalty assessment by a date certain.

17) Pursuant to the discussion of August 15, 2007, the OCD prepared and presented a draft ACO for Operator’s review and execution on August 24, 2007.

18) Subsequently, the OCD has communicated numerous times with Operator regarding the status of Operator’s review and execution of the ACO,

and of the remittance of the penalty assessment payment, and Operator has repeatedly informed the OCD that it intends to execute the ACO and forward both it and the payment promptly to the Division.

19) On January 18, 2008, the OCD contacted Operator via certified mail and advised that if the OCD did not receive the executed ACO and penalty assessment payment from Operator by January 31, 2008, the OCD would be withdrawing its offer of an ACO and would be filing an Application with the Division. This notification was sent to the address of record as registered with the OCD by Petro Mex, which is the same address to which all previous correspondence, including the above-referenced NOV, has been sent and certified as received. However, Petro Mex refused to claim the January 18, 2008 letter, and said letter was returned to the OCD on March 4, 2008.

20) On March 11, 2008, Inspector Powell re-inspected the Fruitland #1 and TRS-EVI #1 wells, and discovered that each was in the same condition as it had been at the time they were last inspected in August of 2007.

- a. Contrary to representations made by Petro Mex at the August 15, 2007 administrative conference that the dryhole marker had been corrected and replaced, **the dryhole marker at the Fruitland #1 has not been replaced.**
- b. The TRS-EVI#1 site is still **contaminated and in need of cleanup and remediation.**

21) To date, Operator has failed and refused to either follow through with the commitments it made at the time of the administrative conference and in later conversations with the OCD, or, conversely, to advise the Division that it no longer wishes to participate in the Agreed Compliance Order as previously negotiated at the administrative conference. Moreover, independent from the NOV/ACO negotiations, the Operator has failed to bring all of the subject wells back into compliance and, most significantly, to remedy all persisting environmental issues at the sites. The Division has therefore filed the present Application seeking an Order of compliance and appropriate penalties based upon the referenced violations and pursuant to NMSA 1978, §70-2-31(A).

22) NMSA 1978, §70-2-31(A) provides that “[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.”

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

WHEREFORE, the Enforcement and Compliance Manager of the Division hereby applies to the Director to enter an order:

- A. Determining that, as to **TRS-EVI #1**, Operator Petro Mex's actions, first in failing to "complete division approved corrective action for releases which endanger public health or the environment," and then in failing to complete remediation in accordance with an approved plan, constituted knowing and willful violations of Rule 116.D [19.15.3.116.D NMAC].
- B. Determining that, as to **Kirtland 14 #1**, Operator Petro Mex's actions in failing to submit a below-grade tank registration, despite the fact that Petro Mex was specifically instructed that such a registration was required by the OCD, constituted a knowing and willful violation of OCD Rule 50.B(3)(b) [19.15.2.50(B)(3)(b) NMAC].
- C. Determining that, as to **Kirtland 18 #1**, Operator Petro Mex's actions in failing to "complete division approved corrective action for releases which endanger public health or the environment," despite having been informed that a release had occurred and needed to be corrected, and failing to operate in a manner to prevent the waste of gas, despite having been made aware that such waste was occurring constituted knowing and willful violations of Rules 116.D [19.15.3.116.D NMAC] and 13.B [19.15.2.13.B NMAC].
- D. Determining that with regard to **Kirtland 18 #3**, Petro Mex knowingly and willfully violated OCD Rules 116.D and 202.B(3) [19.15.2.202.(B)(3) NMAC] by not completing corrective action to address the spill at the location and by leaving contamination and debris on location, despite the fact that the Division had repeatedly requested that it address the contamination and comply with the Rules.
- E. Determining that as to **Fruitland #1**, Petro Mex knowingly and willfully violated OCD Rules 202.B(2) and 202.B(3) by having incorrect information on the dryhole marker and failing to remove contaminated soil from around the dryhole marker even after having been notified by the OCD.
- F. Determining that as to **Kirtland #11**, Petro Mex knowingly and willfully violated OCD Rule 202.B(3)(d) by not timely cleaning up

the soil contamination at the location, despite having been made aware of the presence of the contamination and the need for clean-up on prior occasions.

- G. Assessing penalties pursuant to NMSA 1978, Section 70-2-31(A) for the Operator's knowing and willful violations of as to the subject six (6) wells in an amount consistent with the degree of Operator Petro Mex's violations and disregard for the Division's Rules and Regulations;
- H. Designating a date certain by which the assessed penalties shall be paid by Operator;
- I. Ordering Operator Petro Mex to submit a full and complete remediation plan, pursuant to Rule 116.D [19.15.3.116.D NMAC] to address the contamination at the TRS-EVI #1 site by a date certain, and require that Petro Mex meet all deadlines established by that remediation plan, once reviewed and approved by the OCD.
- J. Ordering Operator Petro Mex to file any required supplemental and/or corrected documentation necessary by a date certain to render the OCD records for the subject wells accurate and up to date.
- K. Ordering that if Petro Mex fails to comply with the deadlines established by this Order:
 - 1. A penalty against Petro Mex of not less than \$1,000.00 for each full week of non-compliance with the Order shall be assessed;
 - 2. The Division is authorized to plug the subject wells in accordance with a Division-approved plugging program; and
 - 3. The Division is authorized to forfeit any applicable security posted in relation to the subject wells.
- L. For such other and further relief as the Director deems just and proper under the circumstances.

RESPECTFULLY SUBMITTED, this
13th day of March, 2008 by



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CASE NO. 14109. Application of The New Mexico Oil Conservation Division, through the Enforcement and Compliance Manager, for a Compliance Order against Petro-Mex, LLC. finding that Operator knowingly and willfully violated Rules 116.D(2) [19.15.2.116(D) NMAC], 50.B(3)(B) [19.15.2.50(B)(3)(B) NMAC], 13.B(2) [19.15.2.13(B) NMAC], 202.B(2) [19.15.2.202.B.(2) NMAC] and 202.B(3) [19.15.2.202.(B)(3) NMAC] as to Six Wells, assessing monetary penalties for those Violations Pursuant to NMSA §70-2-14(B), Ordering Operator to bring all such wells into full compliance with OCD Rules by a date certain, and in the event Petro-Mex fails to comply with the Division's Order, Authorizing the Division to plug the subject wells & forfeit any applicable security. With the exception of the Kirtland #11, the subject wells are all located approximately 12-15 miles West of Farmington, New Mexico, South of State Route 64. Kirtland is located slightly further West than the others, and is located just North of State Route 64. The affected wells are specifically identified as follows:

- TRS-EVI #1, API #30-045-24448
- Kirtland 14 #1, API #30-045-25922
- Kirtland 18 #1, API #30-045-26203
- Kirtland 18 #3, API #30-045-23736
- Fruitland #1, API #30-045-24972
- Kirtland #11, API #30-045-25306