

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

NMOCD - ACO 186

IN THE MATTER OF C W TRAINER,

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 ("Act") and OCD Rule 1227.E [19.15.14.1227(E) NMAC], the Director of the Oil Conservation Division ("OCD") and C W Trainer ("Operator" or "CWT") enter into this Agreed Compliance Order ("Order") under which Operator acknowledges the violations described below, agrees to a penalty of \$5,000.00, and agrees to take the corrective action required.

**FINDINGS**

1. The OCD is the state division charged with administration and enforcement of the Act, and rules and orders adopted pursuant to the Act.
2. Operator is a sole proprietor operating wells in New Mexico under OGRID 3474.
3. CWT is the operator of record for the Harris Federal #1 well, API 30-025-28551, located in Lea County, New Mexico.
4. On February 23, 2007, OCD Deputy Oil and Gas Inspector Hill inspected the Harris Federal #1 well in response to a complaint received regarding the blow down of the well into a pit and onto the surrounding area during current ongoing operations.
5. Inspector Hill found the well had a pit containing crude oil on location. The pit was unlined and was not fenced. At the time of the inspection, a CWT employee was on location operating a backhoe to cover oil-soaked soils with clean soil. Inspector Hill advised the CWT employee to place the contaminated soils and materials on plastic and have the fluids removed from the unlined pit. A vacuum truck driver on location stated to Inspector Hill that he had removed 30 barrels of oil from the pit earlier that day.
6. A review of OCD records showed that CWT did not have a permit for a pit at the Harris Federal #1.
7. By letter of violation dated February 27, 2007, the OCD notified CWT that the surface spill was in violation of OCD rules and that CWT needed to contact OCD Environmental Engineer Larry Johnson in regard to reporting the unauthorized release and how CWT intended to address the unlined, unfenced, un-permitted pit.

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***OCD Exhibit No. 18***

8. On March 19, 2007, the OCD conducted a follow-up investigation. By letter dated March 26, 2007, the OCD notified CWT that additional contamination had occurred on the location with an oil spray from the wellhead area and fluids leaking from a produced water tank were escaping the location.
9. On March 30, 2007 representatives of CWT met with the OCD to discuss the alleged violations, and the OCD provided CWT's representatives with a draft Notice of Violation.
10. On April 10, 2007, the OCD issued Notice of Violation (1-07-04) to CWT, alleging violations of the following rules: Rule 50.A [19.15.2.50.A NMAC]; Rule 50.C.2(b)(f) and (g) [19.15.2.50.C.2(b)(f) and (g) NMAC]; Rule 116.A [19.15.9.116.A NMAC]; Rule 116.D [19.15.9.116.D NMAC]; and Rule 52.A [19.15.2.52.A NMAC].

A. OCD Rule 50.A prohibits discharge into, or construction of, any pit absent possession of a permit issued by the OCD, unless the pit is exempted from that requirement under the rule or the OCD has granted an exemption pursuant to Rule 50.G [19.15.2.50.G NMAC]. CWT does not have a permit for the pit at the Harris Federal #1. The pit is not exempt from the permitting requirement under the rule and the OCD has not granted CWT an exemption from the rule's requirements.

B. OCD Rule 50.C(2) sets out special requirements for pits:

(1) Rule 50.C(2)(b)(1) states that drilling and workover pits must have a single liner appropriate for conditions at the site. The liner must be designed, constructed and maintained so as to prevent the contamination of fresh water, and protect public health and the environment. The pit at the Harris Federal #001 had no liner.

(2) Rule 50.C(2)(f) requires all pits to be fenced or enclosed to prevent access by livestock, and requires fences to be maintained in good repair. Active drilling or workover pits may have a portion of the pit unfenced to facilitate operations. The pit at the Harris Federal #001 had no fencing.

(3) Rule 50.C(2)(g) prohibits the construction or use of any unlined pit unless the unlined pit is exempted by previous order or is in an area specified by the rule. The unlined pit at the Harris Federal #001 is not covered by an exemption.

C. Rule 116.A(1) states in relevant part, "The Division shall be notified of any unauthorized release occurring during the drilling... servicing or processing of...natural gases, produced water...in the State of New Mexico in accordance with the requirements of Section 116 of 19.15.3 NMAC." A minor release (greater than 5 barrels but not more than 25 barrels) requires written notification to the district office within 15 days. A major release (which includes an unauthorized release of a volume in excess of 25 barrels)

requires verbal notification within twenty-four hours of discovery and written notification.

D. Rule 116.D provides, "The 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 an approved by the division or with an abatement plan submitted in accordance with Section 19 of 19.15.1 NMAC."

E. Rule 52.A provides, "Except as authorized by 19.15.1.19 NMAC, 19.15.2.50 NMAC, 19.15.2.53 NMAC, 19.15.3.116 NMAC or 19.15.9.701 NMAC, no person, including a transporter, shall dispose of produced water or other oil field waste: (1) on or below the surface of the ground; in a pit; or in a pond, lake, depression or watercourse."

11. On April 19, 2007, CWT representatives met with the OCD for an administrative conference to discuss the violations alleged in the Notice of Violation. After the administrative conference, CWT took the following corrective actions:
  - a. On April 24, 2007, CWT representatives submitted a Preliminary Delineation Work Plan, a C-141 "Release Notification and Corrective Action" form, and a C-144 "Pit or Below-Grade Tank Registration or Closure" form. The OCD approved the C-141 on May 1, 2007.
  - b. On April 26, 2007, CWT representatives excavated visually contaminated soils at the site.
  - c. On May 10, 2007, CWT representatives filed a "Proposed Sample Location Site Plan" and a "Soil Investigation Risk Assessment and Sampling Plan."
  - d. On June 6, 2007, CWT representatives conducted an analytical delineation at the site.
12. NMSA 1978, Section 70-2-31(A) authorizes the assessment of civil penalties of up to one thousand dollars per day per violation against any person who knowingly and willfully violates any provision of the Oil and Gas Act or any rule or order adopted pursuant to the Act.
13. NMSA 1978, Section 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..."

### CONCLUSIONS

1. The OCD has jurisdiction over the parties and subject matter in this proceeding.

2. CWT violated Rule 50.A by constructing and discharging into a pit at the Harris Federal #1 without a permit. The violation was knowing and willful: CWT did not take steps to register and close the pit after being informed of the pit permit requirements until the OCD issued the Notice of Violation.
3. CWT violated Rule 50.C(2) by constructing an unlined and unfenced pit. The violation was knowing and willful: CWT took no steps to close the pit or remedy these deficiencies after being informed of the pit permit requirements until the OCD issued the Notice of Violation.
4. CWT violated Rule 116.A as to the unauthorized release of over 25 barrels of oil into an un-permitted pit by failing to provide immediate verbal notification and written notification of this major release. The violation was knowing and willful: CWT failed to provide notice of this release even after being made aware of the need for notification until the OCD issued the Notice of Violation..
5. CWT violated Rule 116.A as to the unauthorized release of produced water from the leaking water tank by failing to give timely written notification of this minor release. The violation was willful: CWT failed to provide notice of this release even after being made aware of the need for notification until the OCD issued the Notice of Violation.
6. CWT violated Rule 116.D by failing to complete division-approved corrective action for the releases of oil and produced water. The violation was knowing and willful: After being told twice that such corrective action was necessary, CWT did not begin division-approved corrective action for the releases until the OCD issued the Notice of Violation.
7. CWT violated Rule 52.A by disposing of oil in an unlined pit, and its release of oil and produced water onto the ground. The violation was knowing and willful: CWT attempted to cover its releases with a back-hoe, and did not clean up the oil and produced water after being informed of the violations until the OCD issued the Notice of Violation.
8. Operator is a "person" as defined by NMSA 1978, Section 70-2-33(A) and may be subject to civil penalties for knowing and willful violations of the Oil and Gas Act or rules or orders adopted pursuant to the Act.

### **ORDER**

1. The OCD assesses, and CWT agrees to pay, a penalty of \$5,000 for the knowing and willful violation of Rules 50.A, 50.C.2, 116.A, 116.D and 52.A. The assessment is based on one violation of each rule.
2. The \$5,000 penalty shall be paid at the time CWT executes this Order. Payment shall be made by check payable to the "New Mexico Oil Conservation Division,"

mailed or hand-delivered to the EMNRD-OCD, Attn: Director, 1220 South St. Francis Drive, Santa Fe, NM 87505.

3. Within 60 days of the execution of this Order, CWT shall complete cleanup of the releases at the Harris Federal #1 in accordance with an OCD-approved cleanup plan.
4. By signing this Order, Operator expressly:
  - (a) acknowledges the correctness of the Findings and Conclusions set forth in this Order;
  - (b) agrees to pay the \$5,000.00 penalty assessed in the Order at the time the ~~Order~~ <sup>penalty</sup> is executed;
  - (c) agrees that within ~~60 days~~ <sup>proceeding now</sup> of the execution of this Order, CWT shall complete ~~cleanup~~ of the releases at the Harris Federal #1 in accordance with an OCD-approved cleanup plan.
  - (d) waives any right, pursuant to the Oil and Gas Act or otherwise, to a hearing either prior to or subsequent to the entry of this Order or to an appeal from this Order; and
  - (e) agrees that the Order may be enforced by OCD or Oil Conservation Commission Order, by suit or otherwise to the same extent and with the same effect as a final Order of the OCD or Oil Conservation Commission entered after notice and hearing in accordance with all terms and provisions of the Oil and Gas Act.

Done at Santa Fe, New Mexico this 20<sup>th</sup> day of August 2007

By: Mark Fesmire

Mark Fesmire, P.E.

Director, Oil Conservation Division

#### ACCEPTANCE

C W Trainer hereby accepts the foregoing Order, and agrees to all of the terms and provisions set forth in that Order.

C W Trainer

By: C W Trainer

(Please print name) C.W. Trainer

Title: Owner

Date: August 17, 2007

ACO

C W Trainer

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