

ACOW - 8

ACO

2016

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

**IN THE MATTER OF**

**HollyFrontier Navajo Refining Company, LLC**

**No. WQA-OCD-CO-2016-001**

**AGREED COMPLIANCE ORDER**

Pursuant to the New Mexico Water Quality Act, NMSA 1978, Section 74-6-1 through 74-6-17, as amended (“Act”), and the regulations promulgated under the Act, the Oil Conservation Commission and the Oil Conservation Division of the Energy, Minerals and Natural Resources Department of the State of New Mexico (together “OCD”) issue this Agreed Compliance Order (the “Order”) to HollyFrontier Navajo Refining Company LLC (“Navajo”), directing compliance with the Act, the Water Quality Control Commission (“WQCC”) Regulations, and permits issued under the Act.

**I. FINDINGS AND DETERMINATIONS**

1. The Oil Conservation Commission is a “constituent agency” under the Act and is charged with administration and enforcement of the Act and regulations promulgated in accordance with the Act. NMSA 1978, Section 74-6-3(K). The Oil Conservation Division of the Energy, Minerals, and Natural Resources Department has concurrent authority with the Oil Conservation Commission. NMSA 1978, Section 70-2-6(B).

2. Navajo is a limited liability company doing business in New Mexico. Navajo is an active entity with a principal address of 501 East Main Street, Artesia, New Mexico 88210.

3. Navajo owns and operates a petroleum refinery located at 501 East Main Street, Artesia, New Mexico (“Facility”).

4. The WQCC has adopted regulations, pursuant to the Act, requiring permits for the discharge of fluids directly or indirectly into groundwater. Section 20.6.2.3106 NMAC. For

groundwater discharges at oil and gas operations, including refineries, the WQCC has delegated administration and enforcement of those regulations to OCD.

5. Pursuant to the Act and the WQCC Regulations, on August 22, 2012, OCD issued Discharge Permit GW-028 to Navajo for the discharge of reverse osmosis ("RO") reject fluid to the surface at two farms located at the Facility. During the course of the current permit term, there were several permit modifications including approvals of:

- a. Adjustment of the submittal date for the annual discharge permit report and the annual groundwater monitoring report from October 21st of each year to March 15th of each year.
- b. Installation of an Iron Co-precipitation ("ICP") Unit and a 100 gallon per minute ("gpm") Phillips 66 Selenium Reduction Technology ("SeRT®") Unit to reduce the concentration of selenium associated with stripped sour waters.
- c. Revising the deadline to cease land application of the RO reject fluid stream to October 21, 2016.
- d. Increasing the maximum discharge limit for the RO reject fluid stream to 15,000 barrels per day ("bpd") from 10,000 bpd due to the increased fresh water needs of the Refinery, resulting in the generation of increased RO reject fluids.
- e. Installation of a temporary RO unit to meet increased demands.
- f. Replacement of the temporary RO unit with a third permanent primary RO unit.

6. On June 23, 2016, Navajo submitted to OCD a permit renewal and modification application for Discharge Permit GW-028. That application is currently pending before OCD.

7. Consistent with the permit requirement to cease land application, Navajo is currently evaluating two alternative disposal options for the RO reject fluid stream. The first alternative disposal option would involve underground injection in a wastewater disposal well. Navajo is currently evaluating a number of technical issues regarding site location and the

technical feasibility of underground injection. The second alternative disposal option would involve the construction of evaporation ponds at the refinery site.

8. As a result of its ongoing efforts to promote water conservation and identify the best disposal options for the RO reject fluid stream, Navajo requires additional time beyond the current October 21, 2016 deadline to cease land application of the RO reject fluid stream included in Discharge Permit GW-028.

9. Navajo intends to make a decision between the two alternative disposal options for the RO reject fluid stream by October 21, 2016. At that time, Navajo intends to revise the permit renewal and modification application for Discharge Permit GW-028 to incorporate the selected disposal option.

## **II. CONCLUSIONS**

1. OCD has jurisdiction over the parties and subject matter in this proceeding.
2. Navajo is a person as defined by NMSA 1978, Section 74-6-2.I.
3. Based on the facts presented above, the commitments made herein by Navajo, the company's history of compliance with OCD permits, the importance of the RO units to the ongoing operation of the Facility, and other relevant considerations, OCD has determined that Navajo need not be ordered to cease land application of the RO reject fluid stream during the period of this Order.

## **III. ORDER**

1. Compliance Schedule.
  - a. Navajo shall take the actions and meet the schedule set forth below:
    - i. No later than October 21, 2016, Navajo will inform OCD in writing whether it has selected underground injection in a wastewater disposal

well or construction of evaporation ponds at the refinery site as an alternative disposal method for the RO reject fluid stream.

- ii. After an alternative disposal method for the RO reject fluid stream has been selected, Navajo will promptly revise the permit renewal application for Discharge Permit GW-028 to incorporate a description of the alternative disposal method for the RO reject fluid stream, including a schedule for the installation and commencement of operation of the alternative disposal method.
- iii. Navajo is authorized to continue land application of the RO reject fluid stream in accordance with the current terms of Discharge Permit GW-028 until such time as OCD approves a permit renewal application for Discharge Permit GW-028 that incorporates an alternative disposal method for the RO reject fluid stream. The parties intend that a permit renewal, which incorporates an alternative disposal method, will provide for the continuation of the current land application of the RO reject fluid until the alternative disposal method is operationally capable of accepting the waste stream.

b. Except where otherwise modified or extended pursuant to Section IV, Paragraph 1, Navajo's obligation to comply with this Order shall be deferred only to the extent and only for the duration that the failure in compliance is caused by "force majeure." For purposes of this Order, "force majeure" is defined as an event or set of circumstances which are beyond Navajo's control and could not have been prevented by Navajo's reasonable action or due diligence, including any delay in required approvals, issuance of any necessary permits or

similar items. "Force majeure" shall not apply to any failure in compliance due to increased costs or Navajo's financial inability to carry out this Order. Navajo shall promptly notify OCD of any force majeure event that has resulted in or will result in the inability of Navajo to comply with any obligation under this Order and shall provide OCD with a schedule for completing the obligations.

c. All reports, notifications and other submittals required under this Order shall be sent to OCD at the following address:

Oil Conservation Division  
New Mexico Energy, Minerals & Natural Resources Department  
1220 South St. Francis Drive  
Santa Fe, NM 87505  
Re: WQA-OCD-CO-2016-001  
email: jim.griswold@state.nm.us  
carlj.chavez@state.nm.us

All such submittals shall be made electronically. Written amendment to this Order is not required for a change in the e-mail addresses specified above, and any such change in addresses may be made by e-mail.

2. Civil Penalties

a. Navajo shall pay stipulated penalties in the amount of \$1,000 per day if Navajo fails to timely submit any report or notification as required in Section III, Paragraph 1, unless the deadline is extended under Section IV, Paragraph 1.

b. Stipulated penalties shall be due thirty (30) days after the OCD makes a written demand for payment of stipulated penalties. Payments shall be by corporate check, certified check, or other guaranteed negotiable instrument made payable to the "State of New Mexico – General Fund", and shall be sent to the following address:

Director, Oil Conservation Division  
New Mexico Energy, Minerals & Natural Resources Department  
1220 South St. Francis Drive

**IV. OTHER TERMS AND CONDITIONS**

1. Termination, Modification and Extension

a. Navajo and OCD have the right to modify or terminate this Order by written instrument signed by both parties.

b. This Order will terminate when OCD takes final action to approve a renewal application for Discharge Permit GW-028.

c. OCD may grant an extension of any deadline to perform any activity required pursuant to this Order. Navajo shall submit all requests for an extension of a deadline in writing to OCD. The request shall propose a new deadline for the activity and shall include the basis for the request. OCD shall respond in writing by approving, approving in part or denying the request as soon as possible, but no later than fifteen (15) days after receipt. If OCD approves in part or denies the request, the response shall specify the reasons for OCD's actions.

2. By signing this Order, Navajo expressly:

a. acknowledges the authority of OCD to render the above Findings and Determinations, Conclusions, and Order;

b. agrees to comply with the Order;

c. waives any right, pursuant to the Act or otherwise, to a hearing either prior or subsequent to the entry of this Order or to an appeal from this Order; and

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 entered after notice and hearing in accordance with all terms of the Act.

3. Nothing in this Order relieves Navajo 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 Navajo of its responsibility for compliance with any federal, state, or local laws and/or regulations, including all other obligations under the Permit.

4. This Order may be executed in any number of counterparts (whether by facsimile, PDF, or original), each of which will be deemed to be an original and all of which together will constitute the same instrument.

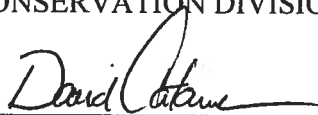
5. This Order shall become effective on the date it is approved and signed by the Chair of the Oil Conservation Commission and the Director of the Oil Conservation Division.



*Done at Santa Fe, New Mexico this <sup>23<sup>rd</sup></sup> ~~th~~ day of September, 2016.*

ENERGY, MINERALS AND NATURAL  
RESOURCES DEPARTMENT  
OIL CONSERVATION COMMISSION  
OIL CONSERVATION DIVISION

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



Name: David Catanach

Title: Chair, Oil Conservation Commission  
Director, Oil Conservation Division

**ACCEPTANCE**

***HollyFrontier Navajo Refining Company, LLC hereby accepts the foregoing Amendment, and agrees to all of the terms and provisions as set forth in the Amendment,***

***HollyFrontier Navajo Refining Company, LLC***

**By:** Robert K. O'Brien  
**Name:** ROBERT K. O'BRIEN

**Title:** Vice President and Refinery Manager

**Date:** 9/23/16