

GW - 360

ENFORCEMENT

DATE:

2000 - 2005

STATE OF NEW MEXICO
NEW MEXICO OIL CONSERVATION DIVISION

**IN THE MATTER OF
Guardian Wellhead Protection, Inc. (GWP)**

**COMPLIANCE ORDER
NM-OCD 2006-007**

RESPONDENT.

September 16, 2005

ADMINISTRATIVE COMPLIANCE ORDER

Pursuant to the New Mexico Water Quality Act ("WQA"), NMSA 1978, §§ 74-6-1 to 74-6-17, the Director of the New Mexico Oil Conservation Division (OCD), acting through his designee, the Compliance and Enforcement Manager of the Oil Conservation Division, issues this Compliance Order ("Order") to Respondent Guardian Wellhead Protection, Inc. ("GWP"), "Respondent" or ("GWP") to enforce the WQA and the Water Quality Control Commission ("WQCC") Rules, 20.6.2 NMAC, for violations of the WQA and WQCC Regulations.

FINDINGS OF FACT

1. OCD, a division of New Mexico Energy, Minerals, and Natural Resources Department, is charged with administration and enforcement of the Oil and Gas Act, Sections 70-2-1 through 70-2-38 N.M.S.A. 1978 (OGA) and OCD Rules, including administration and enforcement of the WQA and the WQCC Rules as applied pertaining to New Mexico's oil and gas activity, which includes natural gas processing facilities and compressor stations.
2. Guardian Wellhead Protection, Inc. owns and operates the Hobbs Service Facility located at 5606 Carlsbad Highway, Lea County, Hobbs, New Mexico.
3. The OCD has authority to permit the GWP Hobbs Service Facility,

pursuant to WQCC rule 20.6.2.3104, under a discharge permit. Discharge permits issued by OCD for such facilities prohibit discharges of effluent or leachate that may move directly or indirectly into groundwater or surface water. Such permits also require certain best management practices and proper handling of waste in order to protect fresh water, addresses stormwater water runoff, and require that all spill/releases shall be reported and remediated or abated pursuant to both OCD and WQCC rules. In addition, the permit requires the company to abide by the information submitted and commitments in the discharge permit application.

4. OCD has never issued a discharge permit to GWP for the Hobbs Service Facility.

5. On May 31, 2000 the OCD conducted an on-site inspection of the GWP Hobbs Service Facility.

6. On August 7, 2000 OCD notified GWP that a discharge permit was required for the GWP Hobbs Service Facility.

7. On January 29, 2001 OCD issued a Notice of Violation , by Certified Mail, to GWP for failure to comply with the requirements set forth in OCD's letter of August 7, 2000.

8. On February 10, 2005 OCD conducted an inspection of the GWP Hobbs Service Facility.

9. On March 7, 2005 OCD notified GWP by letter that a discharge permit was required for the Hobbs Service Facility and demanded an application of a discharge permit be submitted by April 1, 2005.

10. GWP has wholly failed to submit the required application.

CONCLUSIONS OF LAW

1. OCD has jurisdiction over Guardian Wellhead Protection, Inc. and over the

subject matter of this Order pursuant to the Oil and Gas Act [Section 70-2-12.B(22) NMSA 1978, as amended] the WQA and WQCC Rules.

2. Guardian Wellhead Protection, Inc. is a "person" as defined in Section 70-2-33.A of the Oil and Gas Act, Section 74-6-2.I of the WQA and Section 20.6.2.7II NMAC.

3. Guardian Wellhead Protection, Inc. Hobbs Service Facility is a "source" for water contaminants that may be discharged directly or indirectly into surface or groundwater, as defined in New Mexico Water Quality Act section 74-6-2.M.

4. GWP has refused and failed to submit the application for discharge permit and accordingly has been out of compliance since April 1, 2005 [the date that their permit application was required to be filed] by operating the facility without an approved permit.

GWP is in violation of the New Mexico Water Quality Act ("WQA"), NMSA 1978, §§ 74-6-1 to 74-6-17. OCD has calculated that GWP has operated 167 days without a permit.

5. Section 74-6-10(C) of the WQA authorizes the assessment of a civil penalty of up to \$15,000 per day for non-compliance with any provision of NMSA 1978, § 74-6-5, including any regulation adopted or a permit issued pursuant to that section. Section 74-6-10(C) also authorizes the assessment of civil penalty of up to \$10,000 per day for each violation of a provision of the WQA other than the provisions in Section 74-6-5, or of a regulation or water quality standard adopted pursuant to the WQA.

Now, therefore OCD hereby orders:

COMPLIANCE ORDER

1. Guardian Wellhead Protection, Inc. shall comply with the following schedule of compliance. Within 30 days of the date of this Order, Guardian Wellhead Protection, Inc. shall submit for OCD approval a complete and accurate discharge plan application as required by 20.6.2.3104 NMAC.

CIVIL PENALTY

2. OCD hereby assesses a civil penalty against the Respondent in this Order of \$83,500.00 Dollars. This penalty amount is derived as shown under Conclusion of Law items 4, 5 and 6 and has taken into account mitigating circumstances. This penalty shall be due within 30 days of the date of this Order.

3. If Guardian Wellhead Protection, Inc. fails to comply with the Schedule of Compliance set forth above, the Director of OCD may assess an additional civil penalty of up to \$25,000 for each day of noncompliance with the Order. NMSA 1978, § 74-6-10(F)(1).

RIGHT TO ANSWER AND REQUEST A HEARING

4. Pursuant to Section 74-6-10.G of the WQA, Respondent has the right to answer this Order and to request a hearing. If the Respondent (a) contests any material or legal matter upon which the Order is based, (b) contends that the Respondent is entitled to prevail as a matter of law, or (c) otherwise contests the appropriateness of the Order, the Respondent may request a hearing by mailing or delivering within 30 days of receipt of this Order, a written Request for Hearing and Answer to the Order to:

Water Quality Control Commission Hearing Clerk
C/o New Mexico Oil Conservation Division
Harold Runnels Building, Rm. 2050 South
1190 Saint Francis Drive
P.O. Box 26110
Santa Fe, New Mexico 87502-6110

The Respondent must attach a copy of this Order to the Request for Hearing.

5. The Respondent's Answer shall clearly and directly admit, deny or explain each of the factual allegations contained in the Order with regard to which the Respondent has any knowledge. Where the Respondent has no knowledge of a particular factual allegation the Respondent shall so state, and the Respondent may deny the allegation on that basis. Any allegation of the Order not specifically denied shall be deemed admitted.

6. The Respondent's Answer shall also include any affirmative defense upon which the Respondent intends to rely. Any affirmative defense not asserted in the Answer, except a defense asserting lack of subject matter jurisdiction, shall be deemed waived.

FINALITY OF ORDER

7. This Order shall become final unless the Respondent files a Request for Hearing and Answer with the WQCC within 30 days of receipt of this Order. Failure to file an Answer constitutes an admission of all facts alleged in the Order and a waiver of the right to a hearing under Section 74-6-10(G) of WQA concerning this Order unless the Respondent requests a hearing and files an Answer, the Schedule of Compliance set forth in this Order shall become final.

SETTLEMENT CONFERENCE

8. Respondent may confer with OCD concerning settlement. OCD encourages settlement consistent with the provisions and objectives of the WQA and applicable WQCC rules. Settlement discussions do not extend the 30-day deadline for filing the Respondent's Answer and a request for hearing, or alter the deadlines for compliance with this Order. Settlement discussions may be pursued as an alternative to and simultaneously with the hearing proceedings. The Respondent may appear at the settlement conference itself and/or be represented by legal counsel.

9. Any settlement reached by the parties shall be finalized by written, stipulated final order. A stipulated final order must resolve all issues raised in the Order, must be approved by the Director of OCD, shall be final and binding on all parties to the Order, and shall not be appealable.

10. To explore the possibility of settlement in this matter, contact David K. Brooks, Assistant General Counsel, Office of General Counsel, New Mexico Oil Conservation Division, 1220 St. Francis Drive, Santa Fe, New Mexico 87505, 505-476-3450.

11. Compliance with the requirements of this Order does not relieve Respondent of the obligation to comply with all other applicable laws and regulations.

TERMINATION

This Order shall terminate when Respondent certifies that all requirements of this Order have been met, and OCD has approved such certification, or when the Director of OCD approves a stipulated final order.

J. Daniel Sanchez
Manager- Compliance and Enforcement



NEW MEXICO ENERGY, MINERALS and NATURAL RESOURCES DEPARTMENT

BILL RICHARDSON

Governor

Joanna Prukop

Cabinet Secretary

Mark E. Fesmire, P.E.

Director

Oil Conservation Division

September 16, 2005

CERTIFIED MAIL

RETURN RECEIPT NO. 7000 1670 0012 5357 6983

Mr. Murray A. Erickson, President
Guardian Wellhead Protection, Inc.
P.O. Box 13188
Odessa, Texas 79768

Subject Matter: Compliance Order

Dear Mr. Erickson:

Please find enclosed Compliance Order NM-OCD 2006-007 for the following facility:

Hobbs Service Facility, 5606 Carlsbad Highway, Hobbs, New Mexico

Sincerely,

A handwritten signature in black ink, appearing to read "J. Daniel Sanchez".

J. Daniel Sanchez
Compliance and Enforcement Manager
Oil Conservation Division

STATE OF NEW MEXICO
NEW MEXICO OIL CONSERVATION DIVISION

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2. Guardian Wellhead Protection, Inc. owns and operates the Hobbs Service Facility located at 5606 Carlsbad Highway, Lea County, Hobbs, New Mexico.
3. The OCD has authority to permit the GWP Hobbs Service Facility,

pursuant to WQCC rule 20.6.2.3104, under a discharge permit. Discharge permits issued by OCD for such facilities prohibit discharges of effluent or leachate that may move directly or indirectly into groundwater or surface water. Such permits also require certain best management practices and proper handling of waste in order to protect fresh water, addresses stormwater water runoff, and require that all spill/releases shall be reported and remediated or abated pursuant to both OCD and WQCC rules. In addition, the permit requires the company to abide by the information submitted and commitments in the discharge permit application.

4. OCD has never issued a discharge permit to GWP for the Hobbs Service Facility.
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7. On January 29, 2001 OCD issued a Notice of Violation , by Certified Mail, to GWP for failure to comply with the requirements set forth in OCD's letter of August 7, 2000.
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5. Section **74-6-10(C)** of the WQA authorizes the assessment of a civil penalty of up to \$15,000 per day for non-compliance with any provision of NMSA 1978, § 74-6-5, including any regulation adopted or a permit issued pursuant to that section. Section 74-6-10(C) also authorizes the assessment of civil penalty of up to \$10,000 per day for each violation of a provision of the WQA other than the provisions in Section 74-6-5, or of a regulation or water quality standard adopted pursuant to the WQA.

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2. OCD hereby assesses a civil penalty against the Respondent in this Order of \$83,500.00 Dollars. This penalty amount is derived as shown under Conclusion of Law items 4, 5 and 6 and has taken into account mitigating circumstances. This penalty shall be due within 30 days of the date of this Order.

3. If Guardian Wellhead Protection, Inc. fails to comply with the Schedule of Compliance set forth above, the Director of OCD may assess an additional civil penalty of up to \$25,000 for each day of noncompliance with the Order. NMSA 1978, § 74-6-10(F)(1).

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4. Pursuant to Section 74-6-10.G of the WQA, Respondent has the right to answer this Order and to request a hearing. If the Respondent (a) contests any material or legal matter upon which the Order is based, (b) contends that the Respondent is entitled to prevail as a matter of law, or (c) otherwise contests the appropriateness of the Order, the Respondent may request a hearing by mailing or delivering within 30 days of receipt of this Order, a written Request for Hearing and Answer to the Order to:

Water Quality Control Commission Hearing Clerk
C/o New Mexico Oil Conservation Division
Harold Runnels Building, Rm. 2050 South
1190 Saint Francis Drive
P.O. Box 26110
Santa Fe, New Mexico 87502-6110

The Respondent must attach a copy of this Order to the Request for Hearing.

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TERMINATION

This Order shall terminate when Respondent certifies that all requirements of this Order have been met, and OCD has approved such certification, or when the Director of OCD approves a stipulated final order.

A handwritten signature in black ink, appearing to read "J. Daniel Sanchez", with a long horizontal flourish extending to the right.

J. Daniel Sanchez
Manager- Compliance and Enforcement



4-26-96 1058

1304 W. Broadway

GUARDIAN

WELLHEAD PROTECTION CO.

04-26-96

brought in by Rick & Penny McCart

03-13-00



4-26-96

1306 W. Broadway

GUARDIAN

WELLHEAD PROTECTION CO.

04-26-96

brought in by Rick & Penny McCart

03-13-00



After Pumped

After grates cleaned

3/4/2000

1306 W Broadway

GUARDIAN WELLHEAD PROTECTION CO.
pictures taken on 03-02-2000
by Rick & Penny McCart
brought into office on 03-13-00



Wash Bay Grates before
removed And Pumped

on 3/2/2000

At 1306 W Broadway

GUARDIAN WELLHEAD PROTECTION CO.
pictures taken on 03-02-2000
by Rick & Penny McCart
brought into office on 03-13-00



3-2-2000

before Pumped

1306 W Broadway

Pipe shown in picture
goes into septic system

**GUARDIAN WELLHEAD PROTECTION CO.
pictures taken on 03-02-2000
by Rick & Penny McCart
brought into office on 03-13-00**



3-2-2000

before Pumped

Pipe shown in picture
goes into Septic system
1306 W Broadway

GUARDIAN WELLHEAD PROTECTION CO.
pictures taken on 03-02-2000
by Rick & Penny McCart
brought into office on 03-13-00



NEW MEXICO ENERGY, MINERALS and NATURAL RESOURCES DEPARTMENT

GARY E. JOHNSON

Governor

Jennifer A. Salisbury

Cabinet Secretary

Lori Wrotenbery

Director

Oil Conservation Division

January 29, 2001

CERTIFIED MAIL

RETURN RECEIPT NO. 5051 0067

Mr. Murray A. Erickson, President
Guardian Wellhead Protection, Inc.
P. O. Box 13188
Odessa, Texas 79768

RE: NOTICE OF VIOLATION
Guardian Wellhead Protection, Inc.
5606 Carlsbad Highway Facility
Lea County, New Mexico

Dear Mr. Erickson:

On August 11, 2000 Guardian Wellhead Protection, Inc. received notification from the New Mexico Oil Conservation Division (OCD) that a discharge plan was required for the facility located at 5606 Carlsbad Highway, Hobbs, Lea County, New Mexico. An application form was included in the notification letter, dated July 28, 2000, and the subject application was to be submitted pursuant to WQCC Regulations 3106 within 120 days of the date received by Guardian Wellhead Protection, Inc. The 120-day application period for continued operation of the facility has expired. No application for the required discharge plan has been received by the Oil Conservation Division.

Guardian Wellhead Protection, Inc.'s failure to comply with the requirements set forth in the notification is a violation of WQCC rules and regulations, specifically Sections 3106.B and 3106.C. Guardian Wellhead Protection, Inc. may be subject to civil penalties not to exceed fifteen thousand (\$15,000.00) per day of noncompliance with the provisions of Section 74-6-5 NMSA 1978 as provided by Section 74-6-10.1 NMSA 1978 of the New Mexico Water Quality Act for failure to comply.

Mr. Murray A. Erickson
5606 Carlsbad Highway Facility
January 29, 2001
Page 2

To avoid further enforcement action, you must submit the required discharge plan application no later than February 15, 2001. If you have any questions please contact Mr. W. Jack Ford at (505) 827-7156.

Sincerely,

A handwritten signature in black ink, appearing to read "Roger C. Anderson", with a stylized, flowing script.

Roger C. Anderson
Oil Conservation Division

RCA/wjf

cc: Hobbs OCD District Office



NEW MEXICO ENERGY, MINERALS and NATURAL RESOURCES DEPARTMENT

GARY E. JOHNSON
Governor
Jennifer A. Salisbury
Cabinet Secretary

Lori Wrotenbery
Director
Oil Conservation Division

June 14, 2000

CERTIFIED MAIL
RETURN RECEIPT NO. 5050 9610

Mr. Murray A. Erickson, President
Guardian Wellhead Protection, Inc.
P. O. Box 13188
Odessa, Texas 79768

RE: NOTICE OF VIOLATION
Guardian Wellhead Protection, Inc.
1306 West Broadway Facility
Lea County, New Mexico

Dear Mr. Erickson:

On May 9, 2000 Guardian Wellhead Protection, Inc. received notification from the New Mexico Oil Conservation Division (OCD) that a workplan for the investigation of the Class V well and associated drainage field located at 1306 West Broadway, Hobbs, New Mexico was required to be submitted to the OCD by June 1, 2000 for approval. This facility was formerly occupied by Guardian Wellhead Protective, Inc. An inspection of the facility by the OCD indicated discharges into the Class V well of liquids which could impact soils and ground water above Water Quality Control Commission (WQCC) standards. No workplan for the required investigation has been received by the Oil Conservation Division.

Guardian Wellhead Protection, Inc.'s failure to comply with the requirements set forth in the notification is a violation of WQCC rules and regulations, specifically Sections 1201, 1202 and 1203.A. Guardian Wellhead Protection, Inc. may be subject to the civil penalties provided in Section 74-6-10.1 NMSA 1978 of the New Mexico Water Quality Act for failure to comply.

Mr. Murray A. Erickson
1306 West Broadway Facility
June 14, 2000
Page 2

To avoid further enforcement action, you must submit the required workplan no later than July 1, 2000. If you have any questions please contact Mr. W. Jack Ford at (505) 827-7156.

Sincerely,

Lori Wrotenberg
Lori Wrotenberg, Director
Oil Conservation Division

LW/wjf

cc: Hobbs OCD District Office

U.S. Postal Service	
CERTIFIED MAIL RECEIPT	
(Domestic Mail Only; No Insurance Coverage Provided)	
Article Sent To:	
Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$0.12
Postmark Here	
Name (Please Print Clearly) (To be completed by mailer)	
M. Erickson	
Street, Apt. No.; or PO Box No.	
City, State, ZIP+ 4	
Ocala FL 3220	
NOV	
PS Form 3800, July 1999	
See Reverse for Instructions	

☒ Telephone ☐ Personal

Time 1:30 PM

Date May 9, 2000

Originating Party

Other Parties

Murry Erickson

Jack Ford & Roger Anderson

Guardian Wellhead Protection

Subject

Certified Letter sent to Guardian requiring workplan for investigation
at 1306 W. Broadway, Hobbs, NM

Discussion

Erickson Called denying Guardian caused any discharges
at above site. He stated at one point that they cleaned
tools in shop where sump is located, he later denied that
he made that statement. He was always talking and
gave very little attention to our responses nor allowed us
to finish at statement or answer. He became very
agitated and said that he would not respond to our
required workplan. We stressed that since he was the last
Co. to occupy the site that he was responsible for any Contami-
nation found on the premises. He hung up & disconnected
while we were trying to explain our rules.

Conclusions or Agreements

P.S. - Erickson did say that they parked their trucks in the shop
at night.

P.S.2 - Erickson said that he received certified letter today - (15 days ^{time to} reply)

Distribution

Starts today! - ends
May 16, 2000)

Signed

[Signature]