

State of New Mexico
Energy, Minerals and Natural Resources Department

Michelle Lujan Grisham
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Sarah Cottrell Propst
Cabinet Secretary

Todd E. Leahy, JD, PhD
Deputy Cabinet Secretary

Adrienne Sandoval, Division Director
Oil Conservation Division



**BY CERTIFIED MAIL – RETURN RECEIPT REQUESTED
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September 1, 2021

Jodi-Lyn Curtis
Lead Regulatory Specialist
Hilcorp Energy Company
1111 Travis Street
Houston, TX 77002
jcurtis@hilcorp.com

NOTICE OF VIOLATION

The Oil Conservation Division (“OCD”) issues this Notice of Violation (“NOV”) pursuant to 19.15.5.10 NMAC.

(1) *Alleged Violator*: Hilcorp Energy Company, OGRID # 372171 (“Hilcorp”).

(2) *Citation, Nature, and Factual and Legal Basis for Alleged Violations*:

19.15.2.7 DEFINITIONS

(O)(3) “Oil field waste” means non-domestic waste resulting from the exploration, development, production or storage of oil or gas.

(R)(6) “Responsible person” means the owner or operator who shall complete a division-approved corrective action for pollution from releases.

19.15.29.7 DEFINITIONS

A. “Major release” means an unauthorized release of a volume, excluding gases, of 25 barrels or more [...].

B. “Minor release” means an unauthorized release, which is not a major release and is a volume greater than five barrels but less than 25 barrels.

C. “Responsible party” means the operator, as defined in 19.15.2 NMAC. Notwithstanding the foregoing, the division, in its sole discretion, may also consider a person causing the release, or controlling the location of the release as the responsible party.

19.15.29.8 RELEASES

A. Requirements. For all releases regardless of volume, the responsible party shall comply with 19.15.29.8 NMAC and shall remediate the release. For major and minor releases, the responsible party shall also comply with 19.15.29.9, 19.15.29.10, 19.15.29.11, 19.15.29.12 and 19.15.29.13 NMAC.

19.15.5.11 ENFORCEABILITY OF PERMITS AND ADMINISTRATIVE ORDERS

A person who conducts an activity pursuant to a permit, administrative order or other written authorization or approval from the division shall comply with every term, condition and provision of the permit, administrative order, authorization or approval.

Findings of Fact

1. Hilcorp is the registered operator of 11,592 active wells and 36 facilities. The specific wells in Table 1, identified along with the associated OCD Incident ID numbers are, in part, the basis of this NOV.

Table 1

<u>API</u>	<u>Well Name</u>	<u>Incident ID</u>
30-045-08640	FIFIELD 5 #001	nVF1718155324
30-045-05964	O H RANDEL #005	nVF1602039091
30-045-30747	LAMBE #002C	nVF1836050592
30-045-34887	SCOTT #004M	nCE2003650476
30-039-25660	SAN JUAN 28 7 UNIT #183M	nCS1901627746
30-039-07290	SAN JUAN 28 6 UNIT #031	nVF1816655680

2. OCD conditionally approved Soil Vapor Extraction (“SVE”) remediation for each of the incidents identified in Table 1. Approval of SVE remediation was conditioned upon compliance with the parameters of the proposed remediation plans and any separate Conditions of Approval (“COA”) required by OCD.
3. Each of the SVE projects associated with the incidents in Table 1 have failed to meet the operational and reporting requirements upon which approval of the SVE project was conditioned.

FIFIELD 5 #001, Incident ID nVF1718155324

4. Prior operator discovered contamination consisting of crude oil and produced water on June 1, 2017. Hilcorp assumed operatorship of the well on August 29, 2017.
5. OCD received an SVE remediation plan on July 15, 2019. OCD approved the plan with COAs on July 18, 2019.
6. The approved plan and COAs included:
 - a. Hilcorp must start SVE remediation no later than October 18, 2019;
 - b. Hilcorp must maintain 90% run time based upon 12-hour per day run time;
 - c. Hilcorp must collect an initial gas sample at time of SVE start-up;
 - d. Hilcorp must collect annual gas samples;
 - e. Hilcorp must submit quarterly reports;
 - f. Hilcorp must submit a detailed closure plan prior to closure.
7. Hilcorp has not submitted a final closure report. OCD has not released the site from remediation.
8. Upon information and belief, Hilcorp did not begin remediation by October 18, 2019.
9. OCD conducted a site inspection on July 21, 2021. At the time of the inspection, the SVE was not running. There was no identifiable power source for the SVE. Upon information and belief, Hilcorp has not maintained the run time required by the COAs.
10. Hilcorp has not collected and submitted an initial gas sample or annual gas samples for the site.
11. Hilcorp failed to submit any quarterly report for this SVE.

O H RANDEL #005, Incident ID nVF1602039091

12. Prior operator discovered release of thirty-three gallons of combined crude oil and produced water on January 18, 2016. Hilcorp assumed operatorship of the well on July 12, 2018.
13. OCD received a Summary Report on September 11, 2018, and a second SVE remediation plan from Hilcorp on April 2, 2019. OCD approved the report on October 22, 2018. OCD approved the plan with COAs on April 19, 2019.
14. The approved plan and COAs included:
 - a. Hilcorp must meet 90% available run time;
 - b. Hilcorp must install boreholes, with notification to OCD to occur 48 hours prior to confirmation samples;
 - c. Hilcorp must submit pilot testing report to OCD by July 19, 2019;

- d. Hilcorp must begin installation of additional SVE wells by August 19, 2019;
 - e. Hilcorp must collect confirmation soil sampling to determine system effectiveness and additional system operation;
 - g. Hilcorp must submit quarterly reports.
15. Hilcorp has not submitted a final closure report. OCD has not released the site from remediation.
16. Hilcorp failed to submit third quarter 2020 report, fourth quarter 2020 report, and second quarter 2021 report.
17. Hilcorp failed to collect and submit confirmation soil sampling.
18. Hilcorp submitted the first quarter 2021 report on May 12, 2021. The report indicated that Hilcorp failed to maintain required run time for the SVE.
19. OCD conducted a site inspection on July 21, 2021. At the time of the inspection, the SVE was operational.

LAMBE #002C, Incident ID nVF1836050592

20. Hilcorp discovered the release of approximately ninety-seven barrels of crude oil and condensate on December 17, 2018. Hilcorp submitted notification of release to OCD on December 24, 2018.
21. OCD received a SVE remediation plan from Hilcorp on August 30, 2019. OCD approved the plan with COAs on September 9, 2019.
22. The approved plan and COAs included:
- a. Hilcorp must begin SVE remediation no later than October 1, 2019;
 - b. Hilcorp must maintain 90% run time or better per eight hours;
 - c. Hilcorp must collect an initial gas sample and subsequent annual gas samples;
 - d. Hilcorp will collect gas samples during an initial four-week testing period and submit an updated SVE plan based on test results;
 - e. Hilcorp must submit quarterly reports.
23. Hilcorp has not submitted a final closure report. OCD has not released the site from remediation.
24. Hilcorp has not collected and submitted an initial gas sample or annual gas samples for the site.
25. Hilcorp failed to submit any quarterly report.

26. OCD conducted a site inspection on July 21, 2021. At the time of inspection, there was no active SVE system at the site. Upon information and belief, Hilcorp has not maintained the run time required by the COAs.

SCOTT #004M, Incident ID nCE2003650476

27. Hilcorp discovered the release of 42 barrels of condensate on January 15, 2020. Hilcorp submitted a notification of release to OCD on January 27, 2020.
28. OCD received an SVE remediation plan from Hilcorp on May 29, 2020. OCD approved the plan with COAs on September 16, 2020.
29. The approved plan and COAs included:
 - a. Hilcorp must maintain 90% run time for 10 hours per day during winter and 12 hours per day in summer events;
 - b. Hilcorp must collect a gas sample during the first and last week of the six-month period of SVE Operations;
 - c. Hilcorp must submit a summary report for the initial six-month period to include analytical results, effective runtime, and amended timeline for additional SVE events or confirmation sampling;
 - d. Hilcorp must install a full time SVE system if after one year the site has not showed improvement.
30. Hilcorp has not submitted a final closure report. OCD has not released the site from remediation.
31. Hilcorp failed to submit the six-month summary report.
32. Hilcorp failed to collect and submit gas samples for first and last weeks of the initial six-month period.
33. OCD conducted a site inspection on July 21, 2021. An SVE system installed on southwest side of location and system was running during inspection. The run counter on system showed 1675.8 hours at time of inspection.

SAN JUAN 28 7 UNIT #183M, Incident ID nCS1901627746

34. Hilcorp discovered the release of approximately 150 barrels of condensate on January 15, 2019. Hilcorp submitted a notification of release to OCD on January 30, 2019.
35. OCD received a SVE remediation plan on April 16, 2019. OCD approved the plan with COAs on June 24, 2019.
36. The approved plan and COAs included:
 - a. Hilcorp must maintain 90% run time or greater for 12 hours per day;
 - b. Hilcorp must collect an initial gas sample at time of SVE start-up;
 - c. Hilcorp must collect annual gas samples;

- d. Hilcorp must submit quarterly reports;
 - e. Hilcorp must submit a detailed closure plan prior to closure.
37. Hilcorp has not submitted a final closure report. OCD has not released the site from remediation.
38. Hilcorp failed to submit a report for the third quarter of 2020.
39. Hilcorp submitted reports for first, second, and fourth quarter of 2020. The reports indicated that Hilcorp failed to maintain required run time over the reported periods. Upon information and belief, Hilcorp failed to meet run time requirements for all quarters of 2020.
40. OCD conducted a site inspection on July 21, 2021. At the time of inspection, an SVE system was actively running on the site. The run counter on the system generator read 378.0 hours.

SAN JUAN 28 6 UNIT #031, Incident ID nVF1816655680

41. Hilcorp discovered the release of 11.8 barrels of condensate and 2.1 barrels of produced water on May 25, 2018. Hilcorp submitted a notification of release to OCD on June 4, 2018.
42. OCD received a SVE remediation plan on January 8, 2019. OCD met with Hilcorp on January 30, 2019. OCD notified Hilcorp during the meeting and by email that the remediation site must be fully delineated and a full SVE plan must be submitted by April 30, 2019. OCD also notified Hilcorp that OCD would impose standard SVE conditions requiring a minimum run time, submission of quarterly reports, and collection of gas samples.
43. OCD approved the plan with COAs on January 31, 2019. The approved plan and COAs included:
- a. Hilcorp must submit a complete, updated SVE plan including the full delineation, no later than April 30, 2019;
 - b. Hilcorp must maintain 90% run time;
 - c. Hilcorp must collect an initial gas sample at time of SVE start-up;
 - d. Hilcorp must collect annual gas samples;
 - e. Hilcorp must submit quarterly reports.
44. Hilcorp has not submitted a final closure report. OCD has not released the site from remediation.
45. Hilcorp failed to submit an updated and complete SVE plan including a full delineation of the site.

46. Hilcorp emailed OCD staff on August 5, 2020, indicating that the SVE would start running on August 6, 2020.
47. Hilcorp failed to submit any quarterly reports.
48. Hilcorp failed to collect and submit initial and annual gas samples.
49. OCD conducted a site inspection on July 21, 2021. At the time of inspection, a SVE system was installed. The SVE was not operating, and the run meter located on the generator indicated a run time of 468.3 hours.
50. Upon information and belief, Hilcorp has not maintained run time requirements for this SVE.

Conclusions of Law

51. Hilcorp is the responsible party for the wells and incidents identified in Table 1, above.

FIFIELD 5 #001, Incident ID nVF1718155324

52. Hilcorp violated 19.15.5.11 NMAC when it failed to begin remediation by deadline.
53. Hilcorp violated 19.15.5.11 NMAC when it failed to maintain required run time.
54. Hilcorp violated 19.15.5.11 NMAC when it failed to collect an initial gas sample.
55. Hilcorp violated 19.15.5.11 NMAC when it failed to submit quarterly reports.
56. Hilcorp violated 19.15.29.8(A) by failing to adequately remediate the site.

O H RANDEL #005, Incident ID nVF1602039091

57. Hilcorp violated 19.15.5.11 NMAC when it failed to submit quarterly reports.
58. Hilcorp violated 19.15.5.11 NMAC when it failed to conduct and submit confirmation soil sampling.
59. Hilcorp violated 19.15.5.11 NMAC when it failed to meet run time requirements.
60. Hilcorp violated 19.15.29.8(A) by failing to adequately remediate the site.

LAMBE #002C, Incident ID nVF1836050592

61. Hilcorp violated 19.15.5.11 NMAC when it failed to submit quarterly reports.
62. Hilcorp violated 19.15.5.11 NMAC when it failed to collect and submit required gas samples.
63. Hilcorp violated 19.15.5.11 NMAC when it failed to maintain run time requirements.
64. Hilcorp violated 19.15.29.8(A) by failing to adequately remediate the site.

SCOTT #004M, Incident ID nCE2003650476

65. Hilcorp violated 19.15.5.11 NMAC when it failed to submit required summary report.
66. Hilcorp violated 19.15.5.11 NMAC when it failed to collect and submit gas samples.
67. Hilcorp violated 19.15.5.11 NMAC when it failed to maintain run time requirements.
68. Hilcorp violated 19.15.29.8(A) by failing to adequately remediate the site.

SAN JUAN 28 7 UNIT #183M, Incident ID nCS1901627746

69. Hilcorp violated 19.15.5.11 NMAC when it failed to submit quarterly report.
70. Hilcorp violated 19.15.5.11 NMAC when it failed to maintain run time requirements.
71. Hilcorp violated 19.15.29.8(A) by failing to adequately remediate the site.

SAN JUAN 28 6 UNIT #031, Incident ID nVF1816655680

72. Hilcorp violated 19.15.5.11 NMAC when it failed to submit quarterly reports.
73. Hilcorp violated 19.15.5.11 NMAC when it failed to fully delineate the remediation site.
74. Hilcorp violated 19.15.5.11 NMAC when it failed to submit an updated SVE remediation plan.
75. Hilcorp violated 19.15.5.11 NMAC when it failed to maintain run time requirements.
76. Hilcorp violated 19.15.5.11 NMAC when it failed to collect and submit gas samples.
77. Hilcorp violated 19.15.5.11 NMAC when it failed to begin remediation by the deadline.

78. Hilcorp violated 19.15.29.8(A) by failing to adequately remediate the site.

(3) *Compliance*: No later than thirty (30) days after receipt of this NOV, Hilcorp shall:

- (a) submit, via the OCD EPermitting System, any and all delinquent reports, as well as a complete and accurate updated report for all SVEs listed in Table 1;
- (b) submit, via the OCD EPermitting System, a plan for each site detailing required actions to bring current SVE systems into compliance with their approved plans and run time requirements;
- (c) submit, via the OCD EPermitting System, full and updated delineation for the SAN JUAN 28 6 UNIT #031;
- (d) submit, via the OCD EPermitting System, updated remediation plans for the LAMBE #002C, SCOTT #004M, and the SAN JUAN 28 6 UNIT #031 sites. Updated remediation plans should meet the requirements of 19.15.29.11 & 19.15.29.12 NMAC and include:
 - updated SVE or alternative remediation start dates;
 - as-built SVE diagrams detailing SVE zones, pipelines, etc.;
 - detailed explanation of site-specific radius of influence and effect;
 - detailed description of future run time calculation and verification;
 - description of Operations and Maintenance Plans detailing operator's schedule for inspecting each SVE site;
 - detailed plan and timelines detailing operator's review of SVE effectiveness prior to closure;
 - updated anticipated closure dates;
- (e) submit, via the OCD EPermitting System, an updated proposed soil confirmation sampling plan for the O H RANDEL #005 site to determine system effectiveness.

(4) *Sanctions*: OCD may impose one or more of the following sanctions:

- civil penalty;
- modification, suspension, cancellation, or termination of a permit or authorization;
- remediation and restoration of a well location and associated facilities, including as necessary, the removal of surface and subsurface equipment and other materials;
- remediation and restoration of a location affected by a spill or release;
- forfeiture of financial assurance;
- shutting in a well or wells;
- any other remedy authorized by law.

For the alleged violations described above, OCD proposes the following sanctions:

- (a) Termination of Authorization conduct SVE remediation: OCD may request an order terminating Hilcorp's approval to conduct SVE remediation at the wells identified in Table 1.
- (b) Civil Penalties: OCD proposes to assess civil penalties as specified below. The civil penalty calculations are attached. OCD has taken into consideration the alleged violator's good faith effort to comply with the applicable requirements. Copies of the civil penalty calculations are attached.

Civil Penalties:

FIFIELD 5 #001, Incident ID nVF1718155324

19.15.5.11 NMAC:	\$ 162,000.00
19.15.29.8 NMAC:	\$ 162,000.00

LAMBE #002C, Incident ID nVF1836050592

19.15.5.11 NMAC:	\$162,000.00
19.15.29.8 NMAC:	\$162,000.00

SCOTT #004M, Incident ID nCE2003650476

19.15.5.11 NMAC:	\$162,000.00
19.15.29.8 NMAC:	\$162,000.00

SAN JUAN 28 7 UNIT #183M, Incident ID nCS1901627746

19.15.5.11 NMAC:	\$162,000.00
19.15.29.8 NMAC:	\$162,000.00

SAN JUAN 28 6 UNIT #031, Incident ID nVF1816655680

19.15.5.11 NMAC:	\$162,000.00
19.15.29.8 NMAC:	\$162,000.00

Total Proposed Civil Penalty:	\$1,620,000.00
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(5) *Informal Review and Resolution:* A process is available for the informal review and resolution of the alleged violation(s) in the NOV. To initiate the informal review process, contact the OCD employee identified at the end of this letter. If OCD and the alleged violator agree to resolve the alleged violations in the NOV, the agreement will be incorporated into a stipulated final order signed by both parties and stating that the alleged violator admits OCD's jurisdiction to file the NOV, consents to the specified relief, including the civil penalty, if any, and waives the right of review by the Oil Conservation Commission.

(6) *Hearing*: If this NOV is not resolved within thirty (30) days of receipt of service by certified mail, OCD will hold a hearing on November 10, 2021. Please see 19.15.5.10 NMAC for more information regarding the hearing. Please note that the hearing does not prohibit OCD from negotiating with the alleged violator at any time to settle the NOV.

For more information regarding this NOV, contact Emily Hernandez, Environmental Bureau Chief, at (505) 490-5472 or emily.hernandez@state.nm.us.

Regards,

A handwritten signature in black ink, appearing to read 'Adrienne'.

Adrienne Sandoval
Director

cc: OGC-EMNRD