

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

NMOCD-06 125

IN THE MATTER OF TRUCKING, INCORPORATED
Respondent.

AGREED COMPLIANCE ORDER

Pursuant to the New Mexico Oil and Gas Act, NMSA 1978, §§ 70-2-1 through 70-2-38, as amended (hereinafter, "Act"), and the rules promulgated under the Act, the Director of the Oil Conservation Division of the Energy Minerals and Natural Resources Department of the State of New Mexico and TR Trucking, Incorporated enter into this Order to resolve the violations alleged in Notice of Violation (3-06-04).

FINDINGS

1. The Oil Conservation Division (hereinafter "OCD") is the state division charged with administration and enforcement of the Act and OCD rules.
2. TR Trucking, Incorporated (hereinafter "TRT") is a domestic profit company doing business in New Mexico, registered with the Secretary of State under number 06844800000. TRT is an active entity with a principal address at 712 Ford Street Aztec, New Mexico 87410. Its registered agent for service of process in New Mexico is Vickie L. Shorter, 712 Ford Street Aztec, New Mexico 87410. TRT holds a C-33 Authorization, approved July 11, 2001, to move produced water.
3. TRT is the operator of a yard located at the intersection of Nevada Street and Highway 550 in Bloomfield, New Mexico.
4. On September 12, 2005, OCD Deputy Oil and Gas Inspector Denny Foust received a telephone complaint from Janie Canuto, 2756 Nevada Street, Bloomfield, New Mexico of diesel running down the road and into the West Fork arroyo. The diesel was identified by its odor. Ms. Canuto stated the diesel was apparently coming from a Roughneck Drilling rig along the street.
5. An OCD investigation found the following:
 - a) OCD Inspector Denny Foust visited the site of the complaint on September 12, 2005 at 10:30 a.m. Nevada Street passes through a TRT yard, a Roughneck Drilling, LLC (hereinafter, "Roughneck") rig had been in the yard undergoing repairs. Numerous minor releases of diesel fuel were obvious in the equipment yard. Some releases appeared to be associated with portable fuel tanks. Diesel odor was readily recognizable.

- b) Diesel had been carried from the yard and down the roadway a short distance to the north side of a culvert in West Fork arroyo and had flowed through the culvert and down the arroyo approximately seventy-five feet. Evidence shows diesel was carried to the arroyo during a major precipitation event on September 8, 2005.
 - c) Deputy Inspector Foust contacted Rick Shorter and Vance Chatley, TRT, at their office. After all three had toured the site, Messers. Shorter and Chatley agreed that a clean up was necessary and that they or Gene Gustin, Roughneck, would start as soon as possible. Mr. Gustin called with notification he would clean up the site.
 - d) TRT does not have a WQCC discharge permit.
 - e) Deputy Inspector Foust returned to the site September 13, 2005, finding an unsatisfactory attempt at remediation by Roughneck. Immediate notification was given to Jeff Heuser of TRT. TRT agreed to take charge of the remediation.
 - f) OCD Rule 116.B(1) states "A Major Release shall be reported by giving both immediate and verbal notice pursuant to Paragraphs C(1) and C(2) of this Rule. "A Major Release is ... an unauthorized release of any volume which ... will reach a watercourse ... [or] may with reasonable probability endanger public health."
 - g) Roughneck had personnel working in the yard and knew or should have known the release had reached the roadway and the arroyo. However, TRT had control of the yard. TRT violated Rule 116.B(1)(b)(ii) and (iii) by not giving immediate verbal notice to the OCD of the release.
6. NMSA 1978, §70-2-31(A) provides in relevant part, "[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." NMSA 1978, §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...."
7. As a result of its investigation, the OCD issued Notice of Violation (3-06-04) to TRT alleging two violations of Rule 116.B.
8. At the Administrative Conference February 17, 2006, TRT confirmed there had been no lease/rental agreement between Roughneck Drilling and TRT.
9. TRT has remediated the spill under an OCD approved plan.
10. In the future TRT will have a liability agreement before another operator sets up in their yard.

11. A TRT employee who lives at the Nevada Street yard is responsible for daily inspections of the yard.

CONCLUSIONS

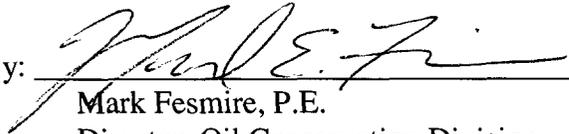
1. The OCD has jurisdiction over the parties and subject matter in this proceeding.
2. TRT is a person as defined by NMSA 1978, § 70-2-33(A) that may be subject to civil penalties under NMSA 1978, §70-2-31(A).
3. TRT is subject to civil penalties under NMSA 1978, § 70-2-31(A) at the Nevada Street yard for two violations of OCD rule 116B.

ORDER AND CIVIL PENALTY

1. Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty against TRT totaling **Two Thousand Dollars (\$2,000.00)** for two violations of OCD Rule 116.
2. The civil penalty shall be paid at the time TRT executes this Order. Payment shall be made by check payable to the "New Mexico Oil Conservation Division," and mailed or hand-delivered to the New Mexico Oil Conservation Division, Attention: Director, 1220 South Saint Francis Drive, Santa Fe, New Mexico 87505.
3. By signing this Order, TRT expressly:
 - a. acknowledges the correctness of the Findings and Conclusions set forth in this Order;
 - b. agrees to comply with Ordering paragraphs 2;
 - 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;
 - 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 of the Division entered after notice and hearing in accordance with all terms and provisions of the Oil and Gas Act; and
 - e. agrees that if it fails to pay penalties assessed pursuant to this Order, upon application by the OCD, the district court may enter judgment against TRT in the amount of the penalties assessed and, in the discretion of the court, may impose additional penalties for TRT's violation of the penalty provisions of this Order.
4. Nothing in this Order relieves TRT 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 Burlington of its responsibility for compliance with any other federal, state or local laws and/or regulations.

Done at Santa Fe, New Mexico, this 2nd day of Feb ~~March~~ 2006.

By: 
Mark Fesmire, P.E.
Director, Oil Conservation Division

ACCEPTANCE

TR Trucking, Incorporated hereby accepts the foregoing Order, and agrees to all of the terms and provisions set forth in the order.

TR Trucking, Incorporated

By: 
Title: Office Manager
Date 06-02-06