

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

ACO 188

IN THE MATTER OF GREAT WESTERN DRILLING COMPANY.

Respondent.

**AGREED ORDER DIRECTING COMPLIANCE
AND ASSESSING CIVIL PENALTY**

Pursuant to the New Mexico Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38, as amended ("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 (hereinafter "OCD") issues this Order to **GREAT WESTERN DRILLING COMPANY** (hereinafter "GWD") directing compliance with the Act and OCD Rules, and assessing a penalty for violations of the Act and OCD Rules.

I. FINDINGS & DETERMINATIONS BY THE OCD

1. The OCD is the state division charged with administration and enforcement of the Act and OCD Rules.
2. GWD is a corporation doing business in New Mexico, registered with Secretary of State as a foreign corporation under number SCC 0208777. GWD's New Mexico mailing address is 7415 East Main, Farmington New Mexico 87401. GWD has been assigned OGRID # 9338.
3. GWD is the operator of record of the Pubco State Com #1-B, API Number 30-045-29500 Unit Letter O, Section 36 Township 31N, Range 11W, San Juan County, New Mexico.
4. On Monday, March 12, 2007, OCD Deputy Oil and Gas Inspector Keliy Roberts received a phone call from the Bureau of Land Management (hereinafter "BLM") who had received a report from a concerned citizen about a release at the GWD Pubco State Com #1-B well.
5. Upon conducting further investigation it was determined:
 - a. On March 12, 2007 OCD Inspector Roberts arrived on site and found two condensate tanks within a berm. Tank # 7349 had a leak on the east side of the tank near the bottom. A stick had been pushed into the hole to stop, or at least minimize, the amount of fluid that leaked from the tank. A prior leak in the tank at the same area had been repaired using a plug.

- b. In the immediate area of the plugged hole, i.e., on the east side, there was staining on the gravel measuring approximately 3 feet by 3 feet. On the south side of the tank, there was a stained area of approximately 8 feet by 20 feet; the soil was still damp. There was standing condensate at the tank's drain valve, measuring approximately 8 inches by 2 feet.
 - c. On Tuesday March 13, 2007, OCD Inspector Brandon Powell contacted Cullan Keller, GWD. Mr. Keller stated that he had received a phone call on Saturday, March 10, 2007 from Dave Bixler, with Conoco Phillips, who had informed him that there was a leak in the tank and that condensate was standing in the berm. During the March 13th conversation, Mr. Keller also advised Inspector Powell that he (Keller) had contacted a vacuum truck and sent it to the location to remove the standing fluid from the berm and to transfer the remaining fluid from leaking tank # 7349 into tank # 7340.
 - d. Mr. Keller indicated that he had made no attempt to report the release because he wanted to have an accurate volume to report, but he did estimate the release to be 25 to 30 barrels of fluid.
 - e. OCD Rule 116.B(1) [19.15.3.116.B(1) NMAC] requires that a major release be reported to the OCD by giving "both immediate verbal notice and timely written notice." A major release is defined by the Rule to be an unauthorized release in excess of twenty (25) barrels, or any volume that will reach a watercourse, or that may, with reasonable probability, endanger public health or results in substantial damage to property or the environment. *Id.*
 - f. GWD violated OCD Rule 116.B(1) by failing to give immediate verbal notification of the release as required.
 - g. On April 19, 2007, GWD filed a form C-141 (Release Notification and Corrective Action) regarding the March 10, 2007 release. The C-141 Form outlined GWD's planned cleanup action with regard to the release, including taking down the firewall, removing the stairway and tanks, removing the gravel and digging up the contaminated soil.
 - h. NMSA 1978 Section 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."
 - i. 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..."
6. On March 20, 2007 OCD issued NOV (03-07-12) to GWD.

II. STATEMENTS & ADDITIONAL INFORMATION PROVIDED BY THE OPERATOR, GREAT WESTERN DRILLING CO.

During the administrative conference on April 11, 2007, Operator GWD provided the following supplemental information and assertions:

7. The spill was mostly water with some condensate on top and was contained within the berm.
8. There was some question as to the volume involved and whether it exceeded 25 barrels, which would qualify it as a major release.
9. The pumper's vehicle was out of commission, which hampered his efforts to determine the volumes involved.
10. The problem was addressed immediately by transferring water out of the tank.
11. The spill was not reported immediately but it had nothing to do with trying to conceal anything.

III. CONCLUSIONS OF THE OCD

12. The OCD has jurisdiction over the parties and subject matter in this proceeding.
13. GWD 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).
14. GWD is subject to civil penalties under NMSA 1978, § 70-2-31(A) at the Pubco State Com #1-B for one violation of Rule 116.B(1).

IV. ORDER & CIVIL PENALTY ASSESSMENT

15. Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty totaling **one thousand dollars** (\$1,000) against GWD.
16. The civil penalty shall be paid upon execution of this order. Payment shall be made by certified or cashier's check made 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.
17. GWD must remediate the spill to state standards as required by OCD rules, and have the contaminated soil excavated by July 30, 2007.

V. ACKNOWLEDGEMENT BY OPERATOR

By signing this order, GWD expressly:

- 18. acknowledges the correctness of the Findings and Conclusions set forth in this order;
- 19. agrees to comply with the specific Orders contained in Paragraphs 14, 15 and 16, above;
- 20. waives any right, pursuant to the Oil and Gas Act or otherwise, to a hearing either prior or subsequent to the entry of this Order or to an appeal from this Order; and
- 21. 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 (NMSA 1978, Sections 70-2-1 through 70-2-38, as amended).

Done at Santa Fe, New Mexico, this 22nd Aug day of ~~June~~ 2007.

By: [Signature]
Mark Fesmire, PE, Director
Oil Conservation Division

ACCEPTANCE

GREAT WESTERN DRILLING COMPANY, OGRID No. 9338, Operator of Record for the facility known as Pubco State Com #1-B, API 30-045-29500, hereby accepts the foregoing order, and agrees to all of the terms and provisions set forth in the order.

GREAT WESTERN DRILLING COMPANY

By: [Signature]
Dennis L. Hendrix
Title: VP - Mgr. of Operations

Date July 23, 2007

