

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

ACO 07-205

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2007

IN THE MATTER OF RODDY PRODUCTION COMPANY INC,
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 regulations 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 ("OCD") issues this Order to Roddy Production Company, Inc (hereinafter "Roddy") 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) Roddy is a domestic limited liability Corporation doing business in New Mexico, registered with the New Mexico Public Regulatory Commission under SCC number 1404409. Roddy is an active entity with a mailing address of 2600 Farmington Ave Farmington, New Mexico 87401 with a Principal address of 2600 Farmington Ave Farmington, New Mexico 87401; Alan Castetter is the registered agent. Roddy's OGRID is #36845.
- 3) Roddy Operates the Yockey #7 well, Unit Letter N, Section 20, Township 27 North, Range 11 West, API 30-045-34149, San Juan County, New Mexico.
- 4) The OCD approved the APD on March 22, 2006, but imposed the additional condition for the approval that Roddy "[s]ubmit an application for pit permit to the OCD prior to constructing location." (*Emphasis added*).
- 5) The records indicate that Roddy did not submit an application for pit permit to the OCD prior to beginning work at the site, and to date, Roddy has still not submitted an application for a permit for a drilling pit at this location.
- 6) Roddy reported that the well was spud on June 14, 2007.

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- 7) Casing was run and cemented on June 22, 2007, according to reports submitted to the OCD by Roddy.
- 8) OCD Rule 102.A [19.15.3.102 NMAC] provides that “[t]he operator shall obtain a permit prior to commencing drilling, deepening or re-entry operations, or before plugging a well back to a different pool or completing or re-completing a well in an additional pool.”
- 9) OCD Rule 102.D [19.15.3.102 NMAC] provides that “[t]he division may impose conditions on an approved permit to drill, deepen or plug back.”
- 10) OCD Rule 50.A [19.15.2.50.A NMAC] prohibits the discharge into, or construction of, any pit or below-grade tank absent possession of a permit issued by the OCD, unless the OCD has granted an exemption for the permit.
- 11) Roddy knowingly and willfully violated OCD Rules 50.A and 102.A by failing to obtain a permit for a drilling pit prior to commencing work at this site, as required by Rule 50, and as was expressly made a condition of the approval of Roddy’s application for permit to drill. Roddy was specifically informed that it was required to submit this application for pit permit prior to beginning work on the well at the time that it received its approval of its application to drill, and in fact, was informed that the approval was conditioned upon the submission of the application for pit permit. Roddy’s failure to submit the pit permit application was therefore done knowingly and willfully.
- 12) On July 24, 2007, OCD Deputy Oil and Gas Inspector Brandon Powell performed a routine inspection on the Roddy Yockey #7. Inspector Powell found an open drilling pit at the well site, and there was not a sign on location. The pit was observed by Inspector Powell to contain drill cuttings, drilling fluids, and was observed to have a rip in the liner which extended below the fluid level. Onsite, Inspector Powell met Jeremy Divine, a production manager for Roddy. Inspector Powell explained to Mr. Divine that the rip in the liner was a violation of OCD rules and that he needed to remove the fluids that extended above the rip in the liner.
- 13) 50.C(2)(b)(i) [19.15.2.50.C(2)(b)(i) NMAC] states “Each drilling pit or workover pit shall contain, at a minimum, a single liner appropriate for conditions at the site. The liner shall be designed, constructed and maintained so as to prevent the contamination of fresh water, and protect public health and the environment.”
- 14) OCD Rule 103 [19.15.3.103 NMAC] provides that “[a]ll wells and related facilities regulated by the division shall be identified by a sign, which sign shall remain in place until the well is plugged and abandoned and the related facilities are closed.”
- 15) Roddy violated OCD 50.C (2)(b)(i) by failing to maintain or repair the pit liner where it was torn and below the level of fluid inside the pit.

- 16) Roddy violated OCD Rule 103 by failing to maintain a posted well sign.
- 17) NMSA 1978 Section 70-2-31(A) provides in relevant part, "Any 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."
- 18) 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..."
- 19) As a result of its investigation, on August 30, 2007, the OCD issued Notice of Violation (3-07-18) to Roddy.

II. STATEMENTS & ADDITIONAL INFORMATION PROVIDED BY THE OPERATOR, RODDY

Roddy provided the following supplemental information and statements during the September 24, 2007 Administrative Conference:

- 22) Roddy was in the process of permitting 4 wells at the same time.
- 23) Roddy had been working with the BIA, BLM, and NAPI since July of 2005.
- 24) Not filing the pit permit was not knowing and willful but an oversight contributed.

III. CONCLUSIONS OF THE OCD

- 25) The OCD has jurisdiction over the parties and subject matter in this proceeding.
- 26) Roddy 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).
- 27) Roddy is subject to civil penalties under NMSA 1978, § 70-2-31(A) at the Yockey #7 for one violation of OCD Rule 50.A (Constructing and discharging into a pit absent an approved pit permit), in conjunction with a violation of Rule 102.A (Noncompliance with terms of approval of application for permit to drill), and one violation of OCD Rule 50.C(2)(b)(i) (Not properly maintaining the pit liner.) Regarding the violation of Rule 103 for the sign Roddy is admonished that future violations may result in penalties).

IV. ORDER & CIVIL PENALTY ASSESSMENT

- 28) Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty against Roddy totaling **Two Thousand Dollars (\$2,000.00)** for the violations of the OCD's Rules.
- 29) The civil penalty shall be paid at the time Roddy 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.
- 30) Roddy will post a sign on location before **October 24, 2007.**
- 31) Roddy will close the pit to meet OCD standards before **December 22, 2007.**
- 32) Roddy will submit a C-144 **within 60 days** after completion of closure.
- 33) By signing this Order, Roddy expressly:
- acknowledges the authority of the OCD to render the above "Findings & Determinations," "Conclusions" and "Order & Civil Penalty Assessment";
 - agrees to comply with the Order, specifically as articulated in the preceding Paragraphs of Section "IV," above;
 - 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;
 - 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;
- 34) Nothing in this Order relieves Roddy 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 Roddy of its responsibility for compliance with any other federal, state or local laws and/or regulations.

Done at Santa Fe, New Mexico this 8th day of November 2007.

By: _____


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

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ACCEPTANCE

RODDY PRODUCTION COMPANY INC. (OGRID No. 36845), Operator of the Yockey #7 well, Unit Letter N, Section 20, Township 27 North, Range 11 West, API 30-045-34149, San Juan County, New Mexico, hereby accepts the foregoing Order, and agrees to all of the terms and provisions as set forth in the Order.

RODDY PRODUCTION COMPANY INC.

By: Rowen C. Coy

Title: Operations Manager

Date: 10/22/07