

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

ACO 08-249

IN THE MATTER OF CONOCOPHILLIPS 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 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 **ConocoPhillips Company**, OGRID 217817, (hereinafter "Conoco") 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) Conoco is a corporation authorized to do business in the State of New Mexico under Public Regulation Commission ("PRC") SCC number 0126987 with a mailing address of 600 N Dairy Ashford Rd Houston , Texas 77079. Its registered agent is Corporation Service Company 125 Lincoln Ave Ste 223 Santa Fe New Mexico 87501 and its address of record with the OCD is 3401 East 30<sup>th</sup> Street Farmington, NM 87402.
- 3) Conoco is the Operator of Record of the **State Com C #5**, Unit Letter D, Section 32, Township 29 North, Range 9 West, API #.30-045-33899, San Juan County New Mexico.
- 4) On April 22, 2008, OCD Deputy Oil and Gas Inspector Jesse Isaac Chohamin conducted an inspection on the Conoco State Com C #5 well. During the inspection, Inspector Chohamin found an earthen pit on location. Inspector Chohamin could not, however, find any submitted notification for the pit, and therefore referred the issue to OCD Deputy Oil and Gas Inspector Brandon Powell for further investigation.

- 5) Inspector Powell was likewise unable to find submitted notification for the earthen pit. On April 28, 2008, Inspector Powell e-mailed Conoco stating the OCD could not locate any record of the pit being permitted or registered as required by OCD Rule 50.B(3)(b).
- 6) On May 12, 2008, Conoco e-mailed Inspector Powell and informed him that they were unable to find any closure records for the pit onsite.
- 7) OCD Rule 50.B(3)(b) [19.15.2.50.B(3)(b) NMAC] provides:

Existing pits or new below-grade tanks. For each pit or below-grade tank in existence on April 15, 2004, that has not received an exemption after hearing as allowed by OCC Order R-3221 through R-3221D inclusive, the operator shall submit a notice not later than April 15, 2004, indicating either that use of the pit or below-grade tank will continue or that such pit or below grade tank will be closed.
- 8) Conoco violated OCD Rule 50.B(3)(b) [19.15.2.50.B(3)(b) NMAC] by not submitting a notice to the OCD of the existence of the pit as required.
- 9) Conoco operates numerous wells in New Mexico, and has submitted notification to the OCD for earthen pits on other locations, indicating that Conoco was well aware of the requirements and obligations imposed by OCD Rule 50.B(3)(b) [19.15.2.50.B(3)(b) NMAC] prior to the OCD discovering the earthen pit at the State Com C #5 site.
- 10) 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."
- 11) 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...."
- 12) As a result of its investigation, on June 04, 2008, the OCD issued Notice of Violation (03-08-10) to Conoco.

## II. STATEMENTS & ADDITIONAL INFORMATION PROVIDED BY THE OPERATOR, CONOCO

Conoco provided the following supplemental information and statements during an administrative Conference held on July 10, 2008:

- 13) Conoco has been very active at ensuring all of their earthen pits are registered. This pit was identified through their process; however it was not registered with the OCD after it was identified.
- 14) Conoco conducted training for the foreman and field operators expressing the importance of the issue.

## III. CONCLUSIONS OF THE OCD

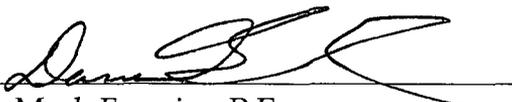
- 15) The OCD has jurisdiction over the parties and subject matter in this proceeding.
- 16) Conoco is a person as defined by NMSA 1978, § 70-2-33(A) that may be subject to civil penalties under NMSA 1978, §70-2-31(A).
- 17) Conoco is subject to civil penalties under NMSA 1978, § 70-2-31(A) at the Navajo 10-22-7 #1 for one violation of OCD Rule 50.B(3)(b) [19.15.2.50.B(3)(b) NMAC] (not submitting notification for the earthen pit).

## IV. ORDER & CIVIL PENALTY ASSESSMENT

- 18) Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty against Conoco totaling **One Thousand Dollars (\$1,000.00)** for the violation of the OCD's Rules.
- 19) The civil penalty shall be paid at the time Conoco 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.
- 20) By signing this Order, Conoco expressly:

- a. acknowledges the authority of the OCD to render the above "Findings & Determinations," "Conclusions" and "Order & Civil Penalty Assessment";
  - c. acknowledges that it is the responsibility of Conoco, as the Operator of Record of wells in New Mexico, to know and comply with Division Rules in the operation of those sites, and that Conoco is ultimately the entity responsible for any noncompliance with Division Rules associated with any site for which it is the Operator of Record.
  - d. agrees to comply with the Order, specifically as articulated in Section "IV," Paragraphs 18, and 19;
  - e. 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;
  - f. 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;
- 21) Nothing in this Order relieves Conoco 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 Conoco of its responsibility for compliance with any other federal, state or local laws and/or regulations.

Done at Santa Fe, New Mexico this 5<sup>th</sup> day of August 2008.

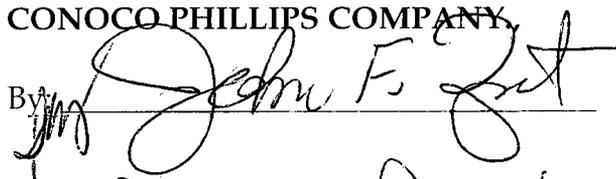
By:   
Mark Fesmire, P.E.  
Director, Oil Conservation Division

ACCEPTANCE

CONOCO PHILLIPS COMPANY., (OGRID No. 217817), State Com C #5, Unit Letter D, Section 32, Township 29 North, Range 9 West, API # 30-045-33899 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.

CONOCO PHILLIPS COMPANY.

By



Title: Manager, Projects Development

Date: July 30, 2008