

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

**ACO No. 257**

**IN THE MATTER OF TOPAT OIL CORPORATION,**

**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 Topat Oil Corporation (hereinafter, "Operator") directing compliance with the Act and OCD Rules, and assessing a penalty for violations of the Act and OCD rules.

**I. FINDINGS**

1. The OCD is the state division charged with administration and enforcement of the Act and OCD Rules.
2. Operator is an active for-profit foreign corporation doing business in New Mexico (SCC No. 1679216).
3. Operator operates wells within New Mexico under OGRID 23312.
4. Operator's address of record with OCD is 505 North Big Springs, Suite 405, Midland, Texas 79701.
5. Operator is operator of record of the following wells:
  - Jackie Federal No. 001; 30-005-62365; J-20-11S-27E
  - Patricia Federal No. 001; 30-005-62903; K-20-11S-27E
  - Patricia Federal No. 002; 30-005-62948; L-20-11S-27E
  - Patricia Federal No. 003; 30-005-63041; N-20-11S-27E
6. On July 17, 2008, OCD Deputy Oil and Gas Inspector Richard Inge inspected the wells identified in Findings Paragraph 5.
7. At the Jackie Federal No. 001 Deputy Inspector Inge observed fresh oil around the wellhead. Oil had leaked onto pad site and into the pit north of the wellhead.

8. At the Patricia Federal No. 001 Deputy Inspector Inge observed oil leaking from the wellhead and air leaking from the stuffing box. There was recent, heavy contamination around the tank battery, and west into the pasture.
9. At the Patricia Federal No. 002 Deputy Inspector Inge observed contaminated soil around the wellhead and across the location. There appeared to be a repair to the flowline.
10. At the Patricia Federal No. 003 Deputy Inspector Inge observed an unpermitted unlined temporary pit that was filled with water.
11. OCD Rule 19.15.29.8 NMAC requires the person or persons operating or controlling either a release or the location of the release to notify OCD of the release.
12. OCD Rule 19.15.29.11 NMAC requires the responsible person to remediate the release in accordance with OCD-approved standards.
13. OCD Rule 19.15.17.8.A NMAC states, "A person shall not construct or use a pit or below-grade tank except in accordance with a division-issued permit."
14. OCD Rule 19.15.17.13.A.3 NMAC requires an operator to close an existing unlined temporary pit within three months after June 16, 2008.
15. On August 18, 2008, Deputy Inspector Inge issued a Letter of Violation (LOV No. 02-08-147) to Operator. The letter notified Operator of the violations. The letter instructed Operator to make all necessary repairs and submit the necessary forms (a C-141 Spill Report for the releases, a C-103 for the Patricia Federal No. 001 repairs, and a C-144 with a pit closure plan for the Patricia Federal No. 003) to OCD by September 5, 2008. The letter further instructed Operator to close the pit by September 16, 2008. Patricia Schneider signed for the certified letter (7007 2680 0001 6451 0939) on August 22, 2008.
16. On January 7, 2009, Deputy Inspector Inge re-inspected the wells. It appeared that some leaks had been repaired and some contamination had been cleaned up somewhat. The pit was still on location and none of the forms that Deputy Inspector Inge had asked for had been received by OCD.
17. On February 3, 2009, OCD issued Operator a Notice of Violation (NOV No. 02-09-01) which alleged that Operator knowingly and willfully violated OCD rules 19.15.29 NMAC and 19.15.17 NMAC.
18. On February 17, 2009, an administrative conference was held on the violations. Thomas Schneider appeared for Operator.
19. The following facts were presented at the conference:
  - Mr. Schneider said he received the Letter of Violation on August 22, 2008.

- Mr. Schneider said he filled out a C-103 and 4 C-141's. He did not fill out a C-144.
- Mr. Schneider said he mailed the forms around September 3, 2008. He said he did not know if he had sent them to the right address. He said he did not follow-up with OCD.
- Artesia OCD has not received any of the forms that it asked Operator to submit.
- Mr. Schneider said he has started cleanup procedures for everything except the pit.

## II. CONCLUSIONS

1. The OCD has jurisdiction over the parties and subject matter in this proceeding.
2. Operator 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. NMSA 1978, Section 70-2-31(A) states, "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 for each violation. For purposes of this subsection, in the case of a continuing violation, each day of violation shall constitute a separate offense."
4. Operator is subject to civil penalties under NMSA 1978, § 70-2-31(A) for knowing and willful violations of Rule 19.15.29 NMAC and Rule 19.15.17 NMAC.

## III. ORDER & CIVIL PENALTY ASSESSMENT

1. Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty against Operator totaling **Two Thousand Dollars (\$2,000.00)**.
2. Operator shall pay the **Two Thousand Dollars (\$2,000.00)** civil penalty upon its 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.
3. **By April 1, 2009**, Operator **shall complete remediation** at the following three wells:
  - Jackie Federal No. 001
  - Patricia Federal No. 001
  - Patricia Federal No. 002

Operator must obtain OCD approval on remediation actions.

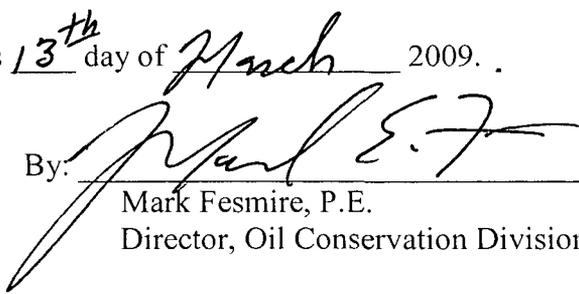
All contaminated material must go to an OCD-approved disposal facility.

4. **By April 1, 2009**, Operator **shall close the pit** at the Patricia Federal No. 003.
5. By signing this Order, Operator expressly:
  - a. acknowledges the correctness of the Findings and Conclusions set forth in this Order;
  - b. agrees to comply with the Order;
  - c. 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;
  - 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;
6. For good cause shown, Operator may request an extension to complete the requirements as set out in Ordering Paragraphs 3 and 4. Such notification ("notice") shall reasonably describe the circumstances encountered by Operator that prohibits it from meeting the deadlines set out herein.

Within ten (10) days of receipt of this notice, the OCD shall either approve the extended time requested by Operator by executing a written amendment to this Order, or notify Operator that it will not extend the deadline. The OCD's approval of a time extension shall not be unreasonably withheld.

7. Nothing in this Order relieves Operator 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 Operator of its responsibility for compliance with any other federal, state or local laws and/or regulations.

Done at Santa Fe, New Mexico this 13<sup>th</sup> day of March 2009.

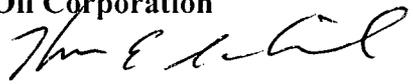
By: 

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

**ACCEPTANCE**

Topat Oil Corporation hereby accepts the foregoing Order, and agrees to all of the terms and provisions as set forth in the Order.

**Topat Oil Corporation**

By: 

Title: THOMAS E. SCHNEIDER

VICE-PRESIDENT,  
Date: March 11, 2009