

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

NMOCD- 95

**IN THE MATTER OF CONOCOPHILLIPS COMPANY**

**Respondent.**

**AGREED COMPLIANCE ORDER**

Pursuant to the New Mexico Oil and Gas Act, NMSA 1978, §§ 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 and ConocoPhillips Company ("ConocoPhillips") enter into this Order to resolve the violations alleged in Notice of Violation (3-05-08).

**FINDINGS**

1. The Oil Conservation Division ("OCD") is the state division charged with administration and enforcement of the Act and OCD rules.
2. ConocoPhillips is a foreign profit corporation doing business in New Mexico, registered with the Public Regulatory Commission under number 0126987. ConocoPhillips' OGRID is 217817
3. ConocoPhillips is the operator of record of the following wells, located in San Juan County, New Mexico:

San Juan 29-5 Unit #45M, API#30-039-27869, UL G, S25, T29N, R5W; and  
San Juan 32-8 Unit #247A, API#30-045-32467, UL C, S19, T32N, R8W.

4. On March 7, 2005, OCD Deputy Oil and Gas Inspector Darell Davis stopped at the San Juan 29-5 Unit #45M ("Well 1") while doing well inspections in the area. Deputy Inspector Davis found an unlined vent/flare portion of the drilling pit that contained standing water. The OCD immediately notified ConocoPhillips of conditions at "Well 1."
5. An OCD investigation and review of relevant documents established the following:
  - a) OCD approved a permit for a drilling pit at "Well 1" on August 10, 2004.
  - b) The last casing string was set at "Well 1" on February 20, 2005.
  - c) Kasey Kolb of ConocoPhillips confirmed that no operations took place on "Well 1" after the bond log was run March 4, 2005. The cavitation rig was scheduled for "Well 1" on April 22, 2005.

- d) An April 6, 2005 inspection found "Well 1" with a dry vent/flare section of the drilling pit with dark black oil floating on a large portion of the lined drilling pit.
6. On March 9, 2005, Deputy Inspector Davis stopped at the San Juan 32-8 Unit #247A ("Well 2"). Deputy Inspector Davis found water standing in the unlined vent/flare portion of the drilling pit. The liquids in the lined section of the drilling pit were overtopping the liner allowing liquids to saturate the ground. The OCD immediately notified ConocoPhillips of conditions at "Well 2".
  7. An OCD investigation and review of relevant documents established the following:
    - a) OCD approved a permit for a drilling pit at "Well 2" on October 7, 2004.
    - b) The last casing string for "Well 2" was set on November 24, 2004 by a cavitation rig.
    - c) An April 6, 2005 inspection found "Well 2" in compliance with Rule 50. The liquid level in the lined portion of the drilling pit had been lowered sufficiently to allow the vent/flare portion of the pit to drain into the lined portion of the pit.
  8. Rule 50.C.(2)(b)(i) 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. Pits used to vent or flare gas during drilling or workover operations that are designed to allow liquids to drain to a separate pit do not require a liner."
  9. Rule 50.C.(2)(f) provides that immediately after cessation of drilling or workover operations, drilling and workover pits "shall have any visible or measurable layer of oil removed from the surface."
  10. NMSA 1978, §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. For purposes of this subsection, in the case of a continuing violation, each day of violation shall constitute a separate violation."
  11. 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...."
  12. As a result of its investigation, the OCD issued Notice of Violation (3-05-08) to ConocoPhillips alleging violations of Rule 50.C(2)(b)(i) at "Well 1" and "Well 2," and a violation of Rule 50.C(2)(f) at "Well 1."

13. After OCD's investigation, ConocoPhillips pulled water from the pits at "Well 1" and "Well 2", cleaned oil from the pit at "Well 1," and submitted information that a third party put oil into the pit at "Well 1."
14. ConocoPhillips contends that it did not knowingly and willfully violate any OCD rules.

### **CONCLUSIONS**

1. The OCD has jurisdiction over the parties and subject matter in this proceeding.
2. ConocoPhillips 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. ConocoPhillips, although it disagrees that it knowingly and willfully violated Rule 50.C(2)(b)(i), acknowledges that if this case went to hearing, the examiner or commission may find that ConocoPhillips is subject to civil penalties under NMSA 1978, § 70-2-31(A) at "Well #1" and at "Well 2" for using an unlined vent/flare pit that was not designed to allow liquids to drain to a separate, lined pit.
4. ConocoPhillips, although it disagrees that it knowingly and willfully violated Rule 50.C(2)(b)(i), acknowledges that if this case went to hearing, the examiner or commission may find that ConocoPhillips is subject to civil penalties under NMSA 1978, § 70-2-31(A) at "Well 2" for allowing liquids to overtop the lined portion of the pit.
5. ConocoPhillips will not be assessed civil penalties under NMSA 1978, § 70-2-31(A) for failing to remove oil from the surface of a pit after cessation of drilling or workover operations in violation of 50.C(2)(f) because ConocoPhillips presented evidence that a third party had placed the oil in the pit and ConocoPhillips took immediate action to remove the oil once it was discovered.

### **ORDER AND CIVIL PENALTY**

1. Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty against ConocoPhillips totaling two thousand dollars (\$2,000) for two violations of Rule 50.C.(2)(b)(i).
2. The civil penalty shall be paid at the time ConocoPhillips 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, ConocoPhillips Company expressly:
  - a) acknowledges the correctness of the Findings and Conclusions set forth in this order;

- b) agrees to comply with ordering paragraph 2;
  - 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; 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 ConocoPhillips in the amount of the penalties assessed and, in the discretion of the court, may impose additional penalties for ConocoPhillips' violation of the penalty provisions of this Order.
4. Nothing in this Order relieves ConocoPhillips Company of 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 ConocoPhillips of its responsibility for compliance with any other federal, state or local laws and/or regulations.

Done at Santa Fe, New Mexico, this 29<sup>th</sup> day of Nov., 2005.

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

**ACCEPTANCE**

ConocoPhillips Company hereby accepts the foregoing order, and agrees to all of the terms and provisions set forth in the order.

ConocoPhillips Company

By: William W. Felt  
Title: General Manager  
Date: 11/17/05