

**STATE OF NEW MEXICO
NEW MEXICO OIL CONSERVATION DIVISION**

**IN THE MATTER OF
Guardian Wellhead Protection, Inc.**

**COMPLIANCE ORDER
NM-OCD 2006-007**

ACO-93

Respondent.

November 14, 2005

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

Pursuant to the New Mexico Water Quality Act (hereinafter, "WQA"), NMSA 1978, Sections 74-6-1 to 74-6-17, as amended, the Director of the New Mexico Oil Conservation Division (hereinafter, "OCD"), acting through his designee, the Compliance and Enforcement Manager of the Oil Conservation Division, issues this Order to **GUARDIAN WELLHEAD PROTECTION, INC.** (hereinafter, "Guardian Wellhead"), directing compliance with the WQA and the Water Quality Control Commission (hereinafter, "WQCC") Rules, and assessing a penalty for violations of the WQA and WQCC Rules.

FINDINGS of FACTS

1. The OCD, a division of the New Mexico Energy, Minerals and Natural Resources Department, is the state division charged with administration and enforcement of the Oil and Gas Act (hereinafter, "Act"), NMSA 1978, Section 70-2-12B(22), as amended, and OCD Rules, including the administration and enforcement of the WQA and the WQCC Rules as pertaining to New Mexico's oil and gas activity, which includes natural gas processing facilities and compressor stations.
2. Guardian Wellhead owns and operates the Hobbs Service Facility located at 5606 Carlsbad Highway, Hobbs, Lea County, New Mexico.
3. Pursuant to WQCC Rule 20.6.2.3104 NMAC, the OCD has authority to permit the Guardian Wellhead's Hobbs Service Facility under a discharge permit.
4. Discharge permits issued by the OCD for facilities such as Guardian Wellhead prohibit discharges of effluent or leachate that may move directly or indirectly into groundwater or surface water. Such permits also require certain best management practices, proper handling of waste in order to protect fresh water, address storm water runoff, and require that all spill/releases be reported and remediated or abated pursuant to OCD and WQCC rules. The permit also requires the company to abide by the information submitted and commitments in the discharge permit application.

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5. The OCD has never issued a discharge permit to Guardian Wellhead for its Hobbs Service Facility.
 6. On May 31, 2000, the OCD conducted an on-site inspection of the Guardian Wellhead Hobbs Service Facility. Violations were found.
 7. By letter dated June 14, 2000, the OCD informed Guardian Wellhead of the violations found from the May 31, 2000 inspection. These included violations of 20.6.2.1201 NMAC (failure to file a notice of intent to discharge contaminants); 20.6.2.1202 NMAC (failure to file plans and specifications relating to sewerage systems); and 20.6.2.1203 NMAC (failure to notify of a discharge that may be detrimental to human health, animal or plant life, or property or use of property).
 8. By letter dated July 28, 2000, the OCD again notified Guardian Wellhead of the May 31, 2000 inspection. It then set out the violations and suggested corrective action.
 9. On August 7, 2000, the OCD notified Guardian Wellhead that a discharge permit was required for its Hobbs Service Facility.
 10. Guardian Wellhead alleges that it did submit such an application, but received no discharge permit from the OCD or acknowledgement that the OCD received such application. Guardian Wellhead did not take any measures to enquire of the OCD why it did not provide any acknowledgment of the application.
 11. On January 29, 2001, the OCD issued a Notice of Violation, sent by certified mail, to Guardian Wellhead for failure to comply with the requirements set forth in the OCD's August 7, 2000 letter.
 12. On February 10, 2005, the OCD notified Guardian Wellhead, by letter, that a discharge permit was required for its Hobbs Service Facility. Pursuant to the requirements of WQCC Rule 20.6.2.3104 NMAC, the OCD demanded that Guardian Wellhead submit an application of a discharge permit to the OCD by April 1, 2005.
 13. Guardian Wellhead failed to submit the required application.
 14. Due to failure to submit the required application for a discharge permit, as well as operating without an approved permit, Guardian Wellhead is in violation of WQCC Rule 20.6.2.3104 NMAC and NMSA 1978, Sections 74-6-1 to 74-6-17. Guardian Wellhead has been operating without the required permit at least since April 1, 2005, the date the permit application was required to be filed with the OCD, and therefore had been out of compliance for One Hundred Sixty-seven (167) days as of the date the Administrative Compliance Order was issued to Guardian Wellhead by the OCD.

CONCLUSIONS of LAW

1. The OCD has jurisdiction over Guardian Wellhead and over the subject matter in this Order pursuant to the Act (NMSA 1978, Section 70-2-12B(22), as amended), the WQA and WQCC Rules.
2. Guardian Wellhead is a person as defined in the Act (NMSA 1978, Section 70-2-33A), the WQA and WQA Rule 20.6.2.7II NMAC.
3. Guardian Wellhead's Hobbs Service Facility is a source for water contaminants that are being discharged directly or indirectly into surface or groundwater, as defined in the WQA (NMSA 1978, Section 74-6-2M).
4. Due to having no discharge permit as required by 20.6.2.3104 NMAC, Guardian Wellhead is in violation of the WQA, NMSA 1978, Sections 74-6-1 to 74-6-17.
5. Pursuant to NMSA 1978, Section 74-6-10(C), Guardian Wellhead is subject to civil penalties for non-compliance with any provision of the WQA, including any regulation adopted or a permit issued pursuant to that section.
6. NMSA 1978, Section 74-6-10(C) of the WQA also authorizes the assessment of civil penalties of up to \$10,000.00 per day for each violation of a provision of the WQA, other than the provision in NMSA 1978, Section 74-6-5, or of a regulation or water quality standard adopted pursuant to the WQA.

ORDER AND CIVIL PENALTY

1. As required by 20.6.2.3.3104 NMAC, Guardian Wellhead has now submitted to the OCD a discharge permit for its Hobbs Service Facility, which has been received by the OCD.
2. No later than January 1, 2006 Guardian Wellhead shall present engineered drawings as part of its discharge permit application to the OCD. The plan shall be subject to OCD approval. Included in the drawings shall be a curb to be constructed around the concrete pad of Guardian Wellhead's Hobbs Service Facility, which construction shall be subject to OCD approval. Guardian Wellhead shall not discharge on the property until construction of an OCD approved discharge permit facility is constructed. Construction of the permitted discharge facility shall be completed within sixty (60) days of issuance of the discharge permit.
3. The OCD hereby assesses a civil penalty of **Eighteen Thousand Dollars (\$18,000.00)** against Guardian Wellhead for knowingly and willfully failing to timely submit a permit application as required by WQCC Rule 20.6.2.3104 NMAC for its Hobbs Service Facility and knowingly and willfully operating at least 167 days without the permit.
4. Guardian Wellhead shall pay the **Eighteen Thousand Dollars (\$18,000.00)** civil penalty by November 30, 2005. 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.

5. By signing this Order, Guardian Wellhead expressly:

- a) acknowledges the correctness of the Findings and Conclusions set forth in this Order;
- b) agrees to comply with Ordering Paragraphs (2) through (4);
- 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; and
- 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 (NMSA 1978, Sections 70-2-1 through 70-2-38, as amended).

It is specifically understood and agreed that this document address violations by Guardian Wellhead Protection Inc. only at 5606 Carlsbad Highway, Hobbs, Lea County, New Mexico; it is not intended to and does not address or resolve violations that may have occurred at any other address or property occupied by Guardian Wellhead Protection, Inc.

Done at Santa Fe, New Mexico this 30 day of November 2005.

By: 

MARK FESMIRE, P.E., Director
Oil Conservation Division

ACCEPTANCE

GUARDIAN WELLHEAD PROTECTION, INC. hereby accepts the foregoing Order, and agrees to all of the terms and provisions set forth in the Order.

GUARDIAN WELLHEAD PROTECTION, INC.

By: 

MURRAY ERICKSON

Title: CEO

Date: Nov 30 2005