

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

NMOCD - OGA 05-99

FAIRVIEW PRODUCTION CO., dba, MORRIS A. RICHARDSON,

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"), the Director of the Oil Conservation Division ("OCD") issues this Order to **FAIRVIEW PRODUCTION CO., dba, MORRIS A. RICHARDSON** ("Fairview"), directing compliance with the Act and the 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. Fairview is a domestic for profit company authorized to do business in the State of New Mexico. Fairview's mailing address is P.O. Box 1995, Muldrow, Oklahoma 74948.

3. Fairview operates under OGRID # 229681.

4. OCD Rule 12 [19.15.1.12 NMAC] requires owners or operators to obtain information pertaining to the regulation of oil and gas before beginning operations.

5. OCD Rule 13 [19.15.1.13 NMAC] requires operators to, at all times, conduct their operations in a manner that will prevent waste of oil and gas, the contamination of fresh waters and shall not wastefully utilize oil or gas, or allow either to leak or escape from a natural reservoir, well, tank, container, pipe or other storage, conduit or operating equipment.

6. OCD Rule 50 [19.15.2.50 NMAC], provides, in relevant part, that the operator, for each pit or below-grade tank in existence on April 15, 2004, submit a notice no 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. Below-grade tanks are required to be "designed, constructed and operated so as to contain liquids and solids to prevent contamination of fresh water and protect public health and the environment. ... [The] operator of any below-grade tank constructed prior to April 15, 2004 shall test its integrity annually."

7. OCD Rule 114 [19.15.3.114 NMAC] requires the operator to remove any rubbish or debris that might constitute a fire hazard to a distance of at least 150 feet from the vicinity of a well.

8. OCD Rule 116 [19.15.3.116 NMAC] requires that the operator notify the division of any unauthorized release and to take corrective action. A Major Release, defined within the rule, must be reported by giving both immediate verbal notice and timely written notice. A Minor Release, also defined within the rule, shall be reported by giving timely written.

9. NMSA 1978, Section 70-2-31(A) authorizes the assessment of civil penalties of up to one thousand dollars (\$1,000.00) per day per violation against any person who knowingly or willfully violates any provision of the Oil and Gas Act or any rule adopted pursuant to the Act.

10. NMSA 1978, Section 70-2-33(A) defines "person" to include corporations.

11. Fairview is the operator of record of the following wells that are the subject of this Agreed Compliance Order. All subject wells are located in Chaves County, New Mexico.

12. On November 10, 2005, the OCD issued a Notice of Violation to Fairview for violating OCD Rules 12, 13, 50, 103, 114, 116 and 1115. All violations were concluded to have been knowing and willful.

13. An administrative conference between the OCD and Fairview was held on December 8, 2005. Fairview and the OCD agreed to the following findings.

a. Cannon ET AL # 1Y; API# 30-005-61892; location N-27-10-26

On November 3, 2005 an inspection by OCD personnel found the location to be contaminated with produced water and oil. The well had been producing and leaking from the stuffing box. In violation of OCD Rule 116, no verbal or written notices of the spills / unauthorized releases had been provided to the OCD. The condition at the site is evidence of an OCD Rule 13 violation.

b. Cannon ET AL # 2; API# 30-005-62292; location L-27-10-25

On November 3, 2005 an inspection by OCD personnel found the location to be contaminated with produced water and oil. In violation of OCD Rule 116, no verbal or written notice of the spills / unauthorized releases had been provided to the OCD. The condition at the site evidences a violation of OCD Rule 13. The inspector further noted there was no sign on the well.

c. Cannon Fee # 2Y; API# 30-005-61234; location A-17-10-25

On November 2, 2005 an inspection by OCD personnel found the area around the wellhead to be contaminated with produced water and oil. In violation of OCD Rule 116, no verbal or written notice of the spills / unauthorized releases

had been provided to the OCD. The fresh oil around the well indicated the well was in production. Tanks associated with this well are leaking. This is a violation of OCD Rule 13.

d. Cooper # 2; API# 30-005-60929; location F-29-6-26

On November 1, 2005 an inspection by OCD personnel found the location to be contaminated with produced water and oil. In violation of OCD Rule 116, no verbal or written notice of the spills / unauthorized releases had been provided to the OCD. Fresh dirt had been placed over most of the contaminated area, which was not an approved remediation. The site condition evidences a violation of OCD Rule 13.

e. Cooper # 1; API# 30-005-60928; location E-29-6-26

On November 1, 2005 an inspection by OCD personnel found the location to be contaminated with produced water and oil. In violation of OCD Rule 116, no verbal or written notice of the spills / unauthorized releases had been provided to the OCD. Fresh dirt had been placed over some of the contaminated area, which was not an approved remediation. A tank associated with this well had overflowed. No notice of the incident had been provided to the OCD, another OCD Rule 116 violation.

f. Dekalb Federal # 1; API# 30-005-00067; location F-27-10-25

On November 3, 2005 an inspection by OCD personnel found the location to be heavily contaminated with produced water and oil. In violation of OCD Rule 116, no verbal or written notice of the spills / unauthorized releases had been provided to the OCD. The site condition evidences a violation of OCD Rule 13.

g. Elliott Federal # 1; API# 30-005-00059; location E-26-10-25

Elliott Federal # 2; API# 30-005-60445; location L-29-6-26

Inspections on November 1 and November 4, 2005 found leaks around the wellheads. The leaks have been in process for a long time. No attempt at remediation had been initiated. In violation of OCD Rule 116, no verbal or written notice of the spills / unauthorized releases had been provided to the OCD. The condition at the site is evidence of an OCD Rule 13 violation.

h. England Federal # 2; API# 30-005-10137; location H-30-6-26

On November 1, 2005 an inspection by OCD personnel found the location to be contaminated with produced water and oil. Fresh dirt had been placed over some of the contaminated area, which was not an approved method of remediation. In violation of OCD Rule 116, no verbal or written notice of the spills / unauthorized releases had been provided to the OCD. The condition at the site is evidence of an OCD Rule 13 violation.

i. England Federal # 1; API# 30-005-10033; location N-29-6-26

On October 28, 2005 an inspection by OCD personnel found a tank associated with this well had overflowed. In violation of OCD Rule 116, no verbal or written

notice of the spills / unauthorized releases had been provided to the OCD. The condition at the site is evidence of an OCD Rule 13 violation.

j. Leonard Federal # 4; API# 30-005-00076; location H-27-10-25

On November 3, 2005 an inspection by OCD personnel found the location to be heavily contaminated with produced water and oil. In violation of OCD Rule 116, no verbal or written notice of the spills / unauthorized releases had been provided to the OCD. The condition at the site is evidence of an OCD Rule 13 violation.

k. Mary Ann Cannon # 1; API# 30-005-00071; location K-27-10-25

On November 3, 2005 an inspection by OCD personnel found the area around the wellhead to be saturated with produced water and oil. Fresh dirt had been placed over some of the contaminated area, not an approved method of remediation. In violation of OCD Rule 116, no verbal or written notice of the spills / unauthorized releases had been provided to the OCD. The condition at the site is evidence of an OCD Rule 13 violation.

l. Mary Ann Cannon # 5; API# 30-005-10109; location O-27-10-25

On November 3, 2005 an inspection by OCD personnel found a liquid substance with the appearance of crude oil leaking and running from a chemical drum(s) off of location. The composition of the release is unknown. This is a violation of OCD Rule 114.

m. Tamarack QF State # 1; API# 30-005-60949; location D-32-6-26

On October 28, 2005 an inspection by OCD personnel found a battery in association with this well. At the battery, multiple releases in multiple places were found. These releases had run off of the battery pad into the pasture area. Heavy hydrocarbon and chloride staining was visible. Old and new tire tracks indicate personnel are driving through the contamination. In violation of OCD Rule 116, no verbal or written notice of the spills / unauthorized releases had been provided to the OCD. The condition at the site is evidence of an OCD Rule 13 violation.

During the October 28, 2005 inspection, an underground tank was found. No application for a permit is on file for this below-grade tank nor has the tank been registered or permitted by the OCD. The tank had also been run over. These are OCD Rule 50 violations.

On November 1, 2005 a second inspection by OCD personnel found that another spill event had occurred overnight. OCD personnel categorized this spill as major. No verbal notice was given, an OCD Rule 116 violation. This battery has had multiple violations of OCD Rules 13 and 116.

n. Mary Ann Cannon Battery; location K-27-10-25

Inspections by OCD personnel on November 3 and November 4, 2005 found contamination on the battery area. This contamination has run off of the battery pad onto the road. In violation of OCD Rule 116, no verbal or written notice of the spills / unauthorized releases had been provided to the OCD. The condition at the site is evidence of an OCD Rule 13 violation. OCD Field Supervisor Van Barton contacted

Stan Thompson, Fairview's field foreman, by telephone on November 1, 2005. Mr. Thompson was given verbal instruction to pick up all free liquids on any Morris A. Richardson operated property by the end of the day of November 2, 2005. A November 2, 2005 letter verified this conversation. Inspections on November 3 and November 4, 2005 found free liquids still on the battery pad.

o. Elliott Federal Lease Battery; location E-26-10-25

Inspections by OCD personnel on November 3 and November 4, 2005 found contamination on the battery area. In violation of OCD Rule 116, no verbal or written notice of the spills / unauthorized releases had been provided to the OCD. The condition at the site is evidence of an OCD Rule 13 violation. OCD Field Supervisor Van Barton contacted Stan Thompson by telephone on November 1, 2005. Mr. Thompson was given verbal instruction to pick up all free liquids on any Morris A. Richardson operated property by the end of the day of November 2, 2005. A letter dated November 2, 2005 verified this conversation. Inspections on November 3 and November 4, 2005 found free liquids still on the battery pad.

p. DeKalb Federal Battery; location F-27-10-25

Inspections by OCD personnel on November 3 and November 4, 2005 found contamination on battery area. In violation of OCD Rule 116, no verbal or written notice of the spills / unauthorized releases had been provided to the OCD. The condition at the site is evidence of an OCD Rule 13 violation. OCD Field Supervisor Van Barton contacted Stan Thompson by telephone on November 1, 2005. Mr. Thompson was given verbal instruction to pick up all free liquids on any Morris A. Richardson operated property by the end of the day of November 2, 2005. A letter dated November 2, 2005 verified this conversation. Inspections on November 3 and November 4, 2005 found free liquids still on the battery pad. This is particularly serious as the battery pad is situated 1,056 feet from a Federal Wildlife Refuge and 1,584 feet from the Pecos River Bed.

14. During the administrative conference, the OCD concluded that all OCD Rule violations by Fairview were knowing and willful.

II. CONCLUSIONS

1. The OCD has jurisdiction over the parties and subject matter in this proceeding.
2. Fairview is a "person" subject to civil penalties for knowing and willful violations of the Oil and Gas Act or OCD Rules.
3. Fairview knowingly and willfully violated:
 - a. OCD Rule 50 by failing to submit a registration to the OCD for the underground tank at the Tamarack QF State #1.

- b. OCD Rules 13 and 116 on all sites, except the Mary Ann Cannon #5, by failing to notify the OCD of unauthorized releases and/or failing to take OCD approved corrective action on all the above subject sites.
- c. OCD Rule 114 by failing to remove debris that may constitute a fire hazard on the Mary Ann Cannon # 5 to a distance of at least 150 feet from the site.

III. ORDER and CIVIL PENALTY

1. Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty of **Thirty Thousand Dollars (\$30,000.00)** against Fairview for thirty (30) knowing and willful violations of OCD Rule 116 (failure to notify the OCD of unauthorized discharges and failure to take OCD approved corrective action); two (2) knowing and willful violations of OCD Rule 50 (failure to apply for a permit for a below-grade tank and having a below grade tank that has not been registered or permitted by the OCD); and one (1) violation of OCD Rule 114 (failing to remove debris that may constitute a fire hazard). No assessment is made for OCD Rule 13 violations.

2. **Nine Thousand Dollars (\$9,000.00)** of the penalty will be waived, reducing the total assessed civil penalty to **Twenty-one Thousand Dollars (\$21,000.00)**, provided that:

- (a) Fairview shall pay the civil penalty assessed in this Agreed Compliance Order in the following manner: it shall make a first partial payment of **Eleven Thousand Dollars (\$11,000.00) by December 31, 2005** and a second final payment of **Ten Thousand Dollars (\$10,000.00) by January 31, 2006**; 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 St. Francis Drive, Santa Fe, New Mexico 87505; and
- (b) By January 15, 2006, Fairview shall submit a non-compliance list and remediation plan to the OCD identifying each and every instance of non-compliance with OCD Rules on all Fairview owned or operated sites. The plan shall propose remediation and/or corrective action for each issue of non-compliance and shall contain a reasonable schedule for Fairview to accomplish the recommendations of the plan. Both the plan and schedule are subject to OCD review and mandated conditions.

3. By signing this Order, Fairview expressly

- (a) acknowledges the correctness of the Findings and Conclusions set forth in this Order;
- (b) agrees to comply with Ordering Paragraph 2 and its subparts;

- (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).

Done at Santa Fe, New Mexico this 9th January 2006 day of ~~December 2005~~.

By: 

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

ACCEPTANCE

Fairview Production Co., dba, Morris A. Richardson, hereby accepts the foregoing Order, and agrees to all of the terms and provisions set forth in the Order.

FAIRVIEW PRODUCTION CO.,
dba, MORRIS A. RICHARDSON

By: 

Morris A. Richardson

Title: OWNER

Date: 12-29-05