

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

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ACO 08-229

IN THE MATTER OF PETRO MEX LLC,
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 Petro Mex, LLC (hereinafter "Petro Mex") 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) Petro Mex is a domestic limited liability Corporation doing business in New Mexico, registered with the New Mexico Public Regulatory Commission under SCC number 2402519. Petro Mex is an active entity with a mailing address of 5490 County Road #11 Farmington, New Mexico 87401 with a Principal address of 5490 County Road #11 Farmington, New Mexico 87401; Jesus Villalobos is the registered agent. Petro Mex's OGRID is #236452.
- 3) Petro Mex is the Operator of Record for the following wells;
 - TRS-EVI #1, API #30-045-244⁶³³~~48~~, UL H, S11, T29N R15W
 - Kirtland 14 #1, API #30-045-25922, UL A, S14 T28N R15W;
 - Kirtland 18 #1, API #30-045-26203, UL A, S18 T29N R14W;
 - Kirtland 18 #3, API #30-045-23736, UL B, S18 T29N R14W;
 - Fruitland #1, API #30-045-24972, UL I, S03 T29N R15W; and
 - Kirtland #11, API #30-045-25306, UL C, S18 T29N R14W
- 4) On May 22, 2006, New Mexico Oil Conservation Division (hereafter "OCD") Deputy Oil and Gas Inspectors Brandon Powell and Denny Foust inspected

multiple Petro Mex, LLC well sites. The well sites listed above were found to have multiple and various violations; some of the wells are active and others are plugged and in need of final cleanup.

- 5) On May 30, 2006, during an administrative conference regarding a separate Notice of Violation (hereinafter, "NOV"), a list of the wells and violations now being addressed by this ACO were given to Petro Mex's representative Steve Martindale. Mr. Martindale advised that all of the referenced violations would be corrected by June 16, 2006.
- 6) On June 19, 2006 Inspector Powell performed a follow-up inspection and found that there were still violations with regard to multiple wells that had been included on the list provided to Mr. Martindale at the May 30, 2006 conference.
- 7) On June 20, 2006, Inspector Powell faxed a spread sheet to Petro Mex that listed the wells and continuing violations. He then spoke with Mr. Martindale, who stated that all of the work on the spread sheet would be completed by June 23, 2006.
- 8) On June 26, 2006, Inspector Powell performed another follow-up inspection on the subject well sites, at which time he discovered the violations persisted and had not, in fact, been corrected.
- 9) On June 27, 2006, Inspector Powell sent Mr. Martindale an updated spreadsheet detailing the ongoing violations of the Petro Mex sites. Mr. Martindale then committed to remedying the violations by July 7, 2006.
- 10) On July 7, 2006, Inspector Powell spoke with Mr. Martindale to confirm that Petro Mex had corrected the violations by the deadline to which Petro Mex had committed. However, at that time, Mr. Martindale stated that due to the holiday they were not able to get all of the violations corrected. Mr. Martindale indicated that all work would instead be completed by July 14, 2006.
- 11) On July 12, 2006, two days prior to the new deadline, Mr. Martindale advised the District Office by facsimile that the backhoe being used to perform some of the work had broken down, and they would therefore not be able to complete the work on schedule by the July 14, 2006 deadline.
- 12) On July 14, 2006, Inspector Powell informed Mr. Martindale that if the violations were not corrected by July 24, 2006 the OCD would issue a NOV.

- 13) On July 24, 2006, Inspector Powell did an inspection and found the following well violations:

a. TRS-EVI #1

The TRS-EVI #1 is contaminated around the pump jack and the tanks. Between June 19 and June 26, 2006, some, but not all, of the contamination was removed. Approximately two (2) inches of uncontaminated soil was then placed **on top of** the contamination. Due to the covering up of the contamination, the OCD required that Petro Mex provide a remediation plan to address the remaining contamination at the site (pursuant to 19.15.3.116(D) NMAC). This request was made on multiple occasions on June 27, 2006, July 7, 2006, and again on July 14, 2006. At no time prior to the issuance of the NOV did Petro Mex submit a remediation plan regarding this site as requested by the OCD.

- (1) OCD Rule 116.D requires that “[t]he responsible person must complete division approved corrective action for releases which endanger public health or the environment. Releases will be addressed in accordance with a remediation plan submitted to and approved by the division or with an abatement plan submitted in accordance with Section 19 of 19.15.1 NMAC.
- (2) Petro Mex knowingly and willfully violated OCD Rule 116.D in two different ways by both failing to submit a Corrective Action Plan on TRS-EVI #1 as requested by the Division, and by failing to complete remediation in accordance with an approved plan.

b. Kirtland 14 #1

The Kirtland 14 #1 location has an unregistered below grade tank without leak detection, contrary to 19.15.3.50.B(3)(b) NMAC. On June 27, 2006, Inspector Powell brought the tank, and its unregistered status, to the attention of Petro Mex. Petro Mex assured Inspector Powell it was going to remove the below grade tank and install an above-ground pit tank in its place, at which time Inspector Powell instructed Petro Mex to submit a request in writing outlining its planned course of action. At no time prior to the issuance of the NOV was either such a request received by the Division from Petro Mex or did Petro Mex register the below-grade tank.

- (1) Rule 50.B(3)(b) requires that “[f]or 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.” (*emphasis added*).

- (2) Petro Mex knowingly and willfully violated OCD Rule 50.B(3)(b) by failing to submit a below grade tank registration.

c. Kirtland 18 #1

It was discovered that the Kirtland 18 #1 location was leaking gas from the wellhead. The leak was discovered on June 19, 2006 and could be heard by Inspector Powell approximately ten (10) feet from the wellhead. Inspector Powell informed Petro Mex of the leak on June 20, 2006. Despite the fact that Petro Mex had been advised regarding the leak six (6) week previously, at the July 24, 2006 inspection, Inspector Powell discovered that not only had the leak not been repaired, but that this time he was able to hear it from approximately one-hundred (100) feet away. This observation was made under the same conditions as the previous observation made at ten (10) feet, indicating to Inspector Powell that the leak was worsening.

- (1) OCD Rule 116.D requires that “[t]he responsible person must complete division approved corrective action for releases which endanger public health or the environment.”
- (2) OCD Rule 13.B requires that “[a]ll operators ... or other persons shall at all times conduct their operations in or related to the drilling, equipping, operating, producing, plugging and abandonment of oil, gas, injection, disposal, and storage wells or other facilities in a manner that will prevent waste of oil and gas”
- (3) Petro Mex knowingly and willfully violated OCD Rule 13B by failing to operate in a manner to prevent the waste of gas, despite having been made aware that such waste was occurring.
- (4) Petro Mex knowingly and willfully violated OCD Rule 116.D by failing to take corrective action for the release, which included the repair of the wellhead ring, despite having been informed that a release had occurred and needed to be corrected.

d. Kirtland 18 #3

An unknown volume of contamination was discovered on the west side of this location. On June 19, 2006, Petro Mex was instructed by OCD to clean up this contamination. However, at a subsequent inspection on June 26, 2006, it was evident that the soil had been disturbed and clean soil placed on the surface. Contamination was found approximately four (4) inches below the clean soil. Disturbingly, on June 27, 2006, Petro Mex informed Inspector Powell it had removed forty (40) cubic yards of contaminated soil from the site and that the spill clean-up had been completed. Inspector Powell informed Petro Mex that this was not the case, and that the clean-up must be completed to OCD

standards and pursuant to an OCD-approved plan. In addition to the soil contamination that Petro Mex improperly and/or incompletely addressed, a piece of cable was found on the north side of the site that Petro Mex had been instructed on several occasions to remove, but had failed to do so.

- (1) OCD Rule 116.D provides that “[t]he responsible person must complete division approved corrective action for releases which endanger public health or the environment. Releases will be addressed in accordance with a remediation plan submitted to and approved by the division” (*emphasis added*).
- (2) OCD Rule 202.B(3) requires that “[a]s soon as practical but no later than one year after the completion of plugging operations, the operator shall:
 - (a) fill all pits;
 - (b) level the location;
 - (c) remove deadmen and all other junk; and
 - (d) take such other measures as are necessary or required by the Division to restore the location to a safe and clean condition.”
- (3) Petro Mex knowingly and willfully violated OCD Rules 116.D and 202.B(3)(c) by, despite repeated requests by the Division, not completing corrective action on the spill and by leaving contamination and debris on location.

e. **Fruitland #1**

- (1) The Fruitland #1 Plug and Abandonment marker does not have the correct information. The section and township information on the marker reads “TS 329N R15W.” However, the correct description for the site is UL I S03 T29N R15W. This violation was initially noted and brought to the Operator’s attention on June 26, 2006.
- (2) Additionally, staining was noted around the dry hole marker, which was indicative of contamination of the soil in that area. This violation, was first discovered by OCD and brought to the attention of Petro Mex on June 19, 2006.
- (3) Rule 202.B(2) requires “[t]he operator name, lease name and well number and location, section, township and range, shall be welded, stamped or otherwise permanently engraved into the metal of the marker.”

- (4) Rule 202.B(3) states that “[a]s soon as practical but no later than one year after the completion of plugging operations, the operator shall:
 - (e) fill all pits;
 - (f) level the location;
 - (g) remove deadmen and all other junk; and
 - (h) take such other measures as are necessary or required by the Division to restore the location to a safe and clean condition.”
- (5) Petro Mex knowingly and willfully violated OCD Rule 202.B(2) by, having incorrect information on the dryhole marker for Fruitland #1.
- (6) Petro Mex knowingly and willfully violated OCD Rule 202.B(3) by leaving contaminated soil around the dry hole marker for Fruitland #1.

f. Kirtland #11

OCD inspection revealed the presence of contaminated soil on the southeast side of the Kirtland #11 location. This contaminated soil had initially been discovered by OCD and brought to the attention of Petro Mex on June 19, 2007.

- (1) Rule 202.B(3) reads as stated above in Paragraph 10.e(3).
 - (2) Petro Mex knowingly and willfully violated Rule 202.B(3)(d) by not timely cleaning up the soil contamination at this location, despite having been made aware of the presence of the contamination and the need for clean-up on prior occasions.
- 14) NMSA 1978, §70-2-31(A) provides that “[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. For purposes of this subsection, in the case of a continuing violation, each day of violation shall constitute a separate violation.”
 - 15) NMSA 1978, §70-2-33(A) defines a “person” as “any individual estate, trust receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate or other entity.”
 - 16) As a result of its investigation, on August 16, 2006 the OCD issued Notice of Violation (3-0-39) to Petro Mex, alleging knowing and willful violations of OCD Rules; 116.D(2) 50.B(3)(b), 13.B(2), 202.B(2), and 202.B(3).

II. STATEMENTS & ADDITIONAL INFORMATION PROVIDED BY THE OPERATOR, PETRO MEX

Petro Mex provided the following supplemental information and statements during the August 15, 2007 Administrative Conference.

- 17) Petro Mex had completed all of the required work shortly after the NOV was issued
- 18) The landowner had water quality issues on the Kirtland 18 #3 and denied Petro Mex access to the site until the landowner's water testing was complete.
- 19) Petro Mex had to replace the Dry Hole Marker on the Fruitland #1.
- 20) Petro Mex worked on the Kirtland 18 #1 well and replaced the wellhead gasket.
- 21) Petro Mex was working primarily in Utah had had limited personnel in the area to conduct the work.
- 22) As of August 1, 2007 they are currently removing weeds to keep the locations clean.
- 23) They have repainted all of the pump jacks and the tanks.

III. CONCLUSIONS OF THE OCD

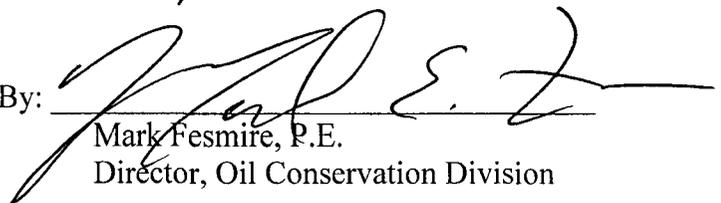
- 24) The OCD has jurisdiction over the parties and subject matter in this proceeding.
- 25) Petro Mex is a person as defined by NMSA 1978, § 70-2-33(A) that may be subject to civil penalties under NMSA 1978, §70-2-31(A).
- 26) Petro Mex is subject to civil penalties under NMSA 1978, § 70-2-31(A) at the TRS-EVI #1, Kirtland 14 #1, Kirtland 18 #1, Kirtland 18 #3, Fruitland #1, and the Kirtland #11, for four violations of OCD Rule 116.D (one failure to submit a remediation plan and three failures to remediate), one violation of Rule 50.B(3)(b) (failure to register a below grade tank); one violation of Rule 13.B(2) (waste of gas); one violation of Rule 202.B(2) (improper marker on plugged well); and three violations of Rule 202.B(3) (failure to timely clean contamination).

IV. ORDER & CIVIL PENALTY ASSESSMENT

- 27) Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty against Petro Mex totaling **Five Thousand Dollars (\$5,000.00)** for the violations of the OCD's Rules.

- 28) The civil penalty shall be paid at the time Petro Mex 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.
- 29) By signing this Order, Petro Mex expressly:
- a. acknowledges the authority of the OCD to render the above "Findings & Determinations," "Conclusions" and "Order & Civil Penalty Assessment";
 - b. agrees to comply with the Order, specifically as articulated in Section "IV," Paragraphs 26, & 27;
 - 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;
- 30) Nothing in this Order relieves Petro Mex 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 Star of its responsibility for compliance with any other federal, state or local laws and/or regulations.

Done at Santa Fe, New Mexico this 9th day of April 2008

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

ACCEPTANCE

PETRO MEX LLC. (OGRID No. 236452), Operator of the TRS-EVI #1, Kirtland 14 #1, Kirtland 18 #1, Kirtland 18 #3, Fruitland #1, and the Kirtland #11, hereby accepts the foregoing Order, and agrees to all of the terms and provisions as set forth in the Order.

PETRO MEX LLC.

By: Jesus Villalobos

Title: PRESIDENT

Date: 3-14-08