

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

ACO No. 250

IN THE MATTER OF CHI OPERATING, INC.,

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 Chi Operating, Inc. (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 a foreign for-profit corporation authorized to do business in New Mexico under SCC 1399054.
3. Operator operates wells within New Mexico under OGRID 4378.
4. Operator's address of record with the OCD is P.O. Box 1799; Midland, Texas 79702.
5. Operator is operator of record of the following well:
 - **In Bounds Com No. 001Y 30-015-31844 K-9-22S-25E**
6. During a routine inspection of the In Bounds Com No. 001Y well on May 15, 2008, OCD Deputy Oil and Gas Inspector Richard Inge observed contamination from several hydrocarbon releases. One release was from the water tank. There were other releases which had flowed from the wellhead, down along the north side of pad and past the separator.
7. OCD Rule 19.15.3.116 NMAC ("Rule 116") requires OCD to be notified of any unauthorized release and for such release to be remediated in accord with OCD requirements and standards.

8. On May 15, 2008, Deputy Inspector Inge sent Operator a letter of violation (LOV No. 02-08-091) which informed Operator of the OCD Rule 116 violation and instructed Operator to submit a C-141 spill release and clean up report to OCD by May 30, 2008.
9. OCD received no response from Operator to the May 15, 2008 letter.
10. As a result, on June 9, 2008, OCD issued a notice of violation (NOV No. 02-08-15) to Operator which alleged that Operator knowingly and willfully violated OCD Rule 116.
11. On July 22, 2008, John Qualls, Operator's Vice-President, and several other Operator personnel, appeared for Operator at an administrative conference at the OCD's Artesia District Office. The purpose of the conference was to discuss the violations.
12. At the conference Mr. Qualls and another employee presented the following information:
 - Operator received the letter of violation on May 21, 2008;
 - They do not know when Operator responded to the letter of violation;
 - Operator did not file a C-141 although a C-141 should have been filed;
 - Operator contacted Deputy Inspector Inge about this matter on June 23;
 - Samples have been taken and Operator is awaiting the results;
 - Operator had sent a \$1,000.00 check to OCD for the civil penalty.

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 OCD Rule 116.

III. ORDER & CIVIL PENALTY ASSESSMENT

1. Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty against Operator totaling **One Thousand Dollars (\$1,000.00)**.

2. **By August 22, 2008**, Operator shall submit the analyticals to the OCD Artesia District Office;
3. Operator **must complete remediation of the site within 30 days of OCD approval of Operator's remediation report.**
4. 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;
5. For good cause shown, Operator may request an extension to complete the requirements as set out in Ordering Paragraphs 2 and 3. 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.

6. 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 13th day of August 2008.

By:


Mark-Fesmire, P.E.

Director, Oil Conservation Division

ACCEPTANCE

Chi Operating, Inc. hereby accepts the foregoing Order, and agrees to all of the terms and provisions as set forth in the Order.

CHI OPERATING, INC.

By: John W. Hall

Title: Vice-president

Date: 8-6-08