

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

ACO No. 255

IN THE MATTER OF UNIT PETROLEUM COMPANY,

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 Unit Petroleum Company (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 corporation doing business in New Mexico.
3. Operator operates wells within New Mexico under OGRID 115970.
4. Operator's address of record with OCD is P.O. Box 702500, Tulsa, OK 74170-2500.
5. Operator is operator of record of the following well:

• **Gourley Federal 003Q      30-015-34152      H-28-22S-28E**

6. OCD Rule 19.15.2.50.F.1 NMAC states:

Except as otherwise specified in Section 50 of 19.15.2 NMAC, a pit or below grade tank shall be properly closed within six months after cessation of use.

7. On March 7, 2007, OCD District II Deputy Oil & Gas Inspector Ron Harvey observed an open drilling pit during an inspection of the Gourley Federal 003Q.
8. According to OCD records, the drilling pit should have been closed by April 2006.

9. On March 7 2007, Inspector Harvey sent Operator a Letter of Violation (LOV No. 026607) for the open drilling pit. The letter required Operator to take corrective action by April 9, 2007.
10. On March 22, 2007, Calvin Brown from Roadrunner Environmental contacted OCD District II Field Supervisor Mike Bratcher and told him that Operator had hired Roadrunner Environmental to close the pit. Mr. Brown said he would submit a C-144 pit closure plan and commence pit closure operations as soon as possible.
11. On April 23, 2007, OCD District II Office received Operator's C-144 pit closure plan. OCD District II Supervisor Tim Gum approved Operator's C-144 pit closure plan on April 24, 2007.
12. On July 3, 2007, Inspector Harvey re-inspected the Gourley Federal 003Q. A track hoe was on location. A Roadrunner Environmental employee who was on location told Inspector Harvey that he was preparing to remove the pit fence so pit closure operations could be started.
13. On October 5, 2008, Don Peterson from the Bureau of Land Management's Carlsbad Field Office called Mr. Bratcher and told him that the pit was still open and what appeared to be drill cuttings were stockpiled in the middle of the pit.
14. On October 6, 2008, Inspector Harvey re-inspected the well. The pit was still open. The bottom of the pit had been delineated in several locations and what appeared to be drill cuttings and delineated soil was stockpiled in the middle of the pit. The pit fence was up.
15. On November 17, 2008, OCD issued a Notice of Violation (NOV No. 02-08-23) to Operator for the open drilling pit.
16. On December 3, 2008, an administrative conference was held on the Notice of Violation. Operator's district engineer Matthew Doffer appeared at the conference on Operator's behalf. Mike Hagan from E-Tech Environmental & Safety Solutions, Inc., attended the conference with Mr. Doffer.
17. At the conference Mr. Doffer said Operator originally hired Sweat Construction to close the pit. Operator thought Sweat Construction had closed the pit. On October 1, 2008, Jim Amos from the Bureau of Land Management called Operator and told it the pit was still open. Operator then hired E-Tech Environmental & Safety Solutions, Inc., to close the pit. Sweat Construction did not give Operator a clear answer as to why the pit was not closed. Sweat Construction may have subcontracted with Roadrunner Environmental to close the pit.

## 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 50.

### **III. ORDER & CIVIL PENALTY ASSESSMENT**


1. Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty against Operator totaling **Fifteen Thousand Dollars (\$15,000.00)**.
2. Ten Thousand Dollars (\$10,000.00) of the civil penalty shall be waived on the following condition:
  - a. Operator shall close the pit by June 1, 2009.
3. **Five Thousand Dollars (\$5,000.00)** of the civil penalty shall be paid upon execution of this Order. 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.
4. For good cause shown, Operator may request an extension to complete the requirements as set out in Ordering Paragraph 2(A). 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.

5. 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;
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 7<sup>th</sup> day of January 2008.

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

**ACCEPTANCE**

Unit Petroleum Company hereby accepts the foregoing Order, and agrees to all of the terms and provisions as set forth in the Order.

Unit Petroleum Company

By: 

Title: Sr. V-P

Date: 1-5-09