STATE OF COLORADO

Bill Ritter, Jr., Governor
James B. Martin, Executive Director

Dedicated to protecting and improving the health and environment of the people of Colorado

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Colorado Department
of Public Health
and Environment

June 9, 2008

Ms. Laurie A. Cocharo
EHS & Regulatory Affairs Manager
Petrogulf Corporation
518 17th Street, Suite 1455
Denver, CO 80202

RE: Compliance Order on Consent, Number: SC-080609-1

Dear Ms. Cocharo:

Enclosed for the Petrogulf Corporation's records you will find your copy, with original signatures, of the recently executed Compliance Order on Consent.

Please remember that this agreement is subject to a thirty-day public comment period *(paragraph 24)*. Upon initiation, if the Division receives any comments during this period we will contact your office to discuss. Also, please be advised that the first page of the Order was changed in order to place the assigned Order Number on the final document.

If you have any questions, please don't hesitate to contact Mike Harris at (303) 692-3598 or by electronic mail at michael.harris@state.co.us.

Sincerely,

Scott Klarich, Unit Manager
Enforcement & Clean Water Compliance Assurance Unit
Compliance Assurance and Data Management Section
WATER QUALITY CONTROL DIVISION

cc: Garfield County Public Health Nursing Service

ec: Aaron Urdiales, EPA Region VIII
Mark Kadnuck, Engineering Section, CDPHE
Kathy Dolan, Permits Section, CDPHE
Dick Parachini, Outreach and Assistance Unit, CDPHE
Garry Beers, Permits Section, CDPHE

Enclosure(s)

COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

WATER QUALITY CONTROL DIVISION

COMPLIANCE ORDER ON CONSENT **NUMBER: SC-080609-1**

IN THE MATTER OF: **PETROGULF CORPORATION**
CDPS PERMIT NO. COR-030000
CERTIFICATION NO. COR-038944
GARFIELD COUNTY, COLORADO

The Colorado Department of Public Health and Environment ("Department"), through the Water Quality Control Division ("Division"), issues this Compliance Order on Consent ("Consent Order"), pursuant to the Division's authority under §25-8-605, C.R.S. of the Colorado Water Quality Control Act ("the Act") §§ 25-8-101 to 703, C.R.S., and its implementing regulations, with the express consent of Petrogulf Corporation ("Petrogulf"). The Division and Petrogulf may be referred to collectively as "the Parties."

STATEMENT OF PURPOSE

1. The mutual objectives of the Parties in entering into this Consent Order are to resolve, without litigation, the civil penalties associated with the alleged violations identified in the Notice of Violation / Cease and Desist Order / Clean-up Order (Number: SO-070427-1) that the Division issued to Petrogulf on April 27, 2007.

DIVISION'S FINDINGS OF FACT AND DETERMINATION OF VIOLATIONS

2. Based upon the Division's investigation into and review of the compliance issues identified herein, and in accordance with §25-8-602 and 605, C.R.S., the Division has made the following determinations regarding Petrogulf and Petrogulf's compliance with the Act and its stormwater permit for construction activity.

3. At all times relevant to the alleged violations identified herein, Petrogulf was a Colorado corporation in good standing and registered to conduct business in the State of Colorado.

4. Petrogulf is a "person" as defined under the Water Quality Control Act, §25-8-103(13), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2(73).

5. Petrogulf was involved in construction activities to build drilling pads, natural gas wells, access roads and other facilities on property located approximately one and half miles southwest of the Town of Rifle, in Garfield County, Colorado, for the drilling and recovery of oil and/or natural gas resources (the "Project").

6. On September 19, 2005, the Division received an application from Petrogulf for Project coverage under the Colorado Discharge Permit System ("CDPS") General Permit, Number COR-030000, for Stormwater Discharges Associated with Construction Activity (the "Permit").

7. On September 20, 2005, the Division provided Petrogulf Certification Number COR-038944 authorizing Petrogulf to discharge stormwater from the construction activities associated with the Project to Helmer Gulch and the Colorado River under the terms and conditions of the Permit. Certification Number COR-038944 became effective September 20, 2005 and covered Petrogulf's activities until Petrogulf transferred its permit coverage on August 27, 2007.

8. Helmer Gulch and the Colorado River are "state waters" as defined by §25-8-103(19), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2 (101).

9. Pursuant to 5 CCR 1002-61, §61.8, a permittee must comply with all the terms and conditions of a permit and violators of the terms and conditions specified in a permit may be subject to civil and criminal liability pursuant to §§25-8-601 through 612, C.R.S.

10. On July 6, 2006, a representative from the Division (the "Inspector") conducted an on-site inspection of the Project, pursuant to the Division's authority under §25-8-306, C.R.S., to determine Petrogulf's compliance with the Water Quality Control Act and the Permit. During the inspection, the Inspector interviewed Petrogulf representatives, conducted a review of the Project's stormwater management system records, and performed a physical inspection of a portion of the Project.

11. Pursuant to Part I. B. of the Permit, Petrogulf was required to prepare a Stormwater Management Plan ("SWMP") that identified Best Management Practices ("BMPs") that, when implemented, would meet the terms and conditions of the Permit. The SWMP was required to identify potential sources of pollution, which may have been reasonably expected to affect the quality of stormwater discharges associated with construction activity from the Project. In addition, the plan was required to describe and ensure the implementation of BMPs, which would be used to reduce the pollutants in stormwater discharges associated with construction activity.

12. The Division has determined that Petrogulf failed to prepare and maintain a complete and accurate SWMP for the Project as described in paragraphs 12(a–e) below:

    a. During the July 6, 2006 inspection, the Inspector reviewed the Project's SWMP and identified that the site description did not include the total area of the site nor the location and description of potential pollutant sources.

    b. During the July 6, 2006 inspection, the Inspector reviewed the Project's SWMP and identified that the site map did not identify the construction site boundaries nor all areas of soil disturbance (i.e., access roads for the well pads).

c. During the July 6, 2006 inspection, the Inspector reviewed the Project's SWMP and identified that the site map did not contain the locations of major erosion control facilities and structures.

d. During the July 6, 2006 inspection, the Inspector reviewed the Project's SWMP and identified that the section on BMPs was very general, did not describe appropriate controls and measures that would be implemented before and during construction activities, did not describe the relationship between phases of construction and the implementation and maintenance of the controls and measures, did not describe site-specific scheduling for implementing stabilization practices, and did not describe the BMPs observed in the field.

e. During the July 6, 2006 inspection, the Inspector reviewed the Project's SWMP and identified that the SWMP did not describe BMPs for material handling and spill prevention for the Project's fueling operations.

13. Petrogulf's failure to prepare and maintain a complete and accurate SWMP for the Project constitutes violation(s) of Part I. B. of the Permit.

14. Pursuant to Part I. B. 3. a. (1) of the Permit, Petrogulf was required to minimize erosion and sediment transport from the Project. The Permit specifies that structural site management practices may include, but are not limited to: straw bales, silt fences, earth dikes, drainage swales, sediment traps, subsurface drains, inlet protection, outlet protection, gabions, and temporary or permanent sediment basins.

15. Pursuant to Part I. B. 3. a. (2) of the Permit, Petrogulf was required to implement interim and permanent stabilization practices, including site-specific scheduling of the implementation of the practices. The Permit specifies that site plans should ensure existing vegetation is preserved where possible and that disturbed areas are stabilized. The Permit specifies that non-structural practices may include, but are not limited to: temporary seeding, permanent seeding, mulching, geotextiles, sod stabilization, vegetative buffer strips, protection of trees and preservation of mature vegetation.

16. The Division has determined that Petrogulf failed to implement and/or maintain functional BMPs at the Project as described in paragraphs 16(a–f) below:

a. During the July 6, 2006 inspection, the Inspector observed a silt fence in place at the toe of the west and north fill slopes of the Hooker Pad and Mead A Pad at the Project. The silt fence was not acting as a functional BMP, however, as the silt fence was not trenched and gaps were observed between the fence and the ground. No other BMPs were observed in place to stabilize the disturbed areas or to prevent sediment from discharging during storm events.

b. During the July 6, 2006 inspection, the Inspector observed a soil stockpile located at the southeast corner of the Hooker Pad at the Project. No BMPs were observed in place to prevent the discharges of sediment from the stockpile area during storm events.

c. During the July 6, 2006 inspection, the Inspector observed a disturbed area west of the Mead A Pad at the Project. No BMPs were observed in place to stabilize the disturbed area or to prevent sediment from discharging from the area during storm events.

d. During the July 6, 2006 inspection, the Inspector observed disturbed slopes on the south and west sides of the Mead A Pad at the Project. No BMPs were observed in place to stabilize the disturbed slopes or to prevent sediment from discharging from the area during storm events.

e. During the July 6, 2006 inspection, the Inspector observed an access road that traveled down to Helmer Gulch from the Hooker Pad at the Project. No BMPs were observed in place to stabilize the disturbed areas adjacent to the road or to prevent sediment discharges toward Helmer Gulch. Additionally, no BMPs were observed in place to control concentrated stormwater flow that travels down the disturbed roadside ditch. Consequently, erosion of the roadside ditch was observed.

f. During the July 6, 2006 inspection, the Inspector observed that sediment from the disturbed areas of the Project had discharged into Helmer Gulch south of County Road 317 at the Project. Rip rap was in place surrounding the culvert that traveled under the Hooker Pad access road in this area, however, no other BMPs were observed in place to stabilize the disturbed areas or to prevent discharges of sediment to Helmer Gulch.

17. Petrogulf's failure to implement and maintain functional BMPs to protect stormwater quality during construction activities at the Project constitutes violations of Part I. B. 3. a. of the Permit.

18. The Division acknowledges that Petrogulf corrected all violations in a timely fashion and fully complied with all requirements of the Notice of Violation / Cease and Desist Order / Clean-up Order (Number: SO-070427-1) that the Division issued to Petrogulf on April 27, 2007.

ORDER AND AGREEMENT

19. Based on the foregoing factual and legal determinations, pursuant to its authority under §§25-8-602 and 605 C.R.S., and in satisfaction of the civil penalties associated with the alleged violations cited herein and in the Notice of Violation / Cease and Desist Order / Clean-up Order (Number: SO-070427-1), the Division orders Petrogulf to comply with all provisions of this Consent Order, including all requirements set forth below.

20. Petrogulf agrees to the terms and conditions of this Consent Order. Petrogulf agrees that this Consent Order constitutes a notice of alleged violation and an order issued pursuant to §§25-8-602 and 605, C.R.S., and is an enforceable requirement of the Act. Petrogulf also agrees not to challenge directly or collaterally, in any judicial or administrative proceeding brought by the Division or by Petrogulf against the Division:

    a. The issuance of this Consent Order;
    b. The factual and legal determinations made by the Division herein; and
    c. The Division's authority to bring, or the court's jurisdiction to hear, any action to enforce the terms of this Consent Order under the Act.

21. Notwithstanding the above, Petrogulf does not admit to any of the factual or legal determinations made by the Division herein and any action undertaken by Petrogulf pursuant to this Consent Order shall not constitute evidence of fault or liability by Petrogulf with respect to the conditions of the Project.

CIVIL PENALTY

22. Based upon the application of the Division's Stormwater Civil Penalty Policy (January 25, 2007), and consistent with Departmental policies for violations of the Act, Petrogulf shall pay Twenty Nine Thousand One Hundred Seventy Nine Dollars ($29,179.00) in civil penalties. The Division intends to petition the Executive Director, or his designee, to impose the Twenty Nine Thousand One Hundred Seventy Nine Dollar ($29,179.00) civil penalty for the above violation(s) and Petrogulf agrees to make the payment within thirty (30) calendar days of the issuance of a Penalty Order by the Executive Director or his designee. Method of payment shall be by certified or cashier's check drawn to the order of the "Colorado Department of Public Health and Environment," and delivered to:

    Michael Harris
    Colorado Department of Public Health and Environment
    Water Quality Control Division
    Mail Code: WQCD-CADM-B2
    4300 Cherry Creek Drive South
    Denver, Colorado 80246-1530

SCOPE AND EFFECT OF CONSENT ORDER

23. The Parties agree and acknowledge that this Consent Order constitutes a full and final settlement of the civil penalties associated with the violations alleged herein and in the April 27, 2007 Notice of Violation / Cease and Desist Order / Clean-up Order (Number: SO-070427-1).

24. This Consent Order is subject to the Division's "Public Notification of Administrative Enforcement Actions Policy", which includes a thirty-day public comment period. The Division and Petrogulf each reserve the right to withdraw consent to this Consent Order if comments received during the thirty-day period result in any proposed modification to the Consent Order.

25. This Consent Order constitutes a final agency order or action upon the date when the Executive Director or his designee imposes the civil penalty. Any violation of the provisions of this Consent Order by Petrogulf, including any false certifications, shall be a violation of a final order or action of the Division for the purpose of §25-8-608, C.R.S., and may result in the assessment of civil penalties of up to ten thousand dollars per day for each day during which such violation occurs.

26. Notwithstanding paragraph 21 above, the violations described in this Consent Order will constitute part of Petrogulf's compliance history for purposes where such history is relevant. This includes considering the violations described above in assessing a penalty for any subsequent violations against Petrogulf. Petrogulf agrees not to challenge the use of the cited violations for any such purpose.

LIMITATIONS, RELEASES AND RESERVATION OF RIGHTS AND LIABILITY

27. Upon the effective date of this Consent Order, and during its term, this Consent Order shall stand in lieu of any other enforcement action by the Division with respect to civil penalties for the specific instances of violations cited herein and in the April 27, 2007 Notice of Violation / Cease and Desist Order / Clean-up Order (Number: SO-070427-1). The Division reserves the right to bring any action to enforce this Consent Order, including actions for penalties or the collection thereof, and/or injunctive relief.

28. This Consent Order does not grant any release of liability for any violations not specifically cited herein or in the April 27, 2007 Notice of Violation / Cease and Desist Order / Clean-up Order (Number: SO-070427-1).

29. Nothing in this Consent Order shall preclude the Division from imposing additional requirements in the event that new information is discovered that indicates such requirements are necessary to protect human health or the environment.

30. Upon the effective date of this Consent Order, Petrogulf releases and covenants not to sue the State of Colorado or its employees, agents or representatives as to all common law or statutory claims or counterclaims arising from, or relating to, the violations of the Act specifically addressed herein.

NOTICES

31. Unless otherwise specified, any report, notice or other communication required under the Consent Order shall be sent to:

For the Division:

Colorado Department of Public Health and Environment
Water Quality Control Division / WQCD-CADM-B2
Attention: Michael Harris
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
Telephone: 303.692.3598
E-mail: michael.harris@state.co.us

For Petrogulf:

Laurie A. Cocharo
EHS & Regulatory Affairs Manager
Petrogulf Corporation
518 17th Street, Suite 1455
Denver, CO 80202
Office - 303-893-5400 ext. 140
E-mail: lcocharo@petrogulf.com

MODIFICATIONS

32. This Consent Order may be modified only upon mutual written agreement of the Parties.

NOTICE OF EFFECTIVE DATE

33. This Consent Order shall be fully effective, enforceable and constitute a final agency action upon the date when the Executive Director or his designee imposes the civil penalty. If the penalty as described in this Consent Order is not imposed, or an alternate penalty is imposed, this Consent Order becomes null and void.

BINDING EFFECT AND AUTHORIZATION TO SIGN

34. This Consent Order is binding upon Petrogulf and its corporate subsidiaries or parents, their officers, directors, employees, successors in interest, and assigns. The undersigned warrant that they are authorized to legally bind their respective principals to this Consent Order. In the event that a party does not sign this Consent Order within thirty (30) calendar days of the other party's signature, this Consent Order becomes null and void. This Consent Order may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same Consent Order.

FOR PETROGULF CORPORATION:

Betty Pennington Date: 5/28/08
Betty Pennington, Executive Vice President

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT:

Lori M Gerzina Date: 6/9/08
Lori M. Gerzina, Section Manager
Compliance Assurance and Data Management Section
WATER QUALITY CONTROL DIVISION