

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

NMOCD-OGA-04-54

RECEIVED

JAN 26 2005

**IN THE MATTER OF ELM RIDGE RESOURCES, INCORPORATED,
Respondent.**

**AGREED ORDER DIRECTING COMPLIANCE OIL CONSERVATION
AND ASSESSING CIVIL PENALTY DIVISION**

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 ELM RIDGE RESOURCES, INCORPORATED, ("Elm Ridge") directing compliance with the Act and OCD Rules, and assessing a penalty for violations of the Act and OCD rules.

FINDINGS

1. The OCD is the state division charged with administration and enforcement of the Act and OCD Rules.
2. Elm Ridge is a Texas corporation authorized to do business in the State of New Mexico under Public Regulation Commission ("PRC") SCC number 1721604 with a mailing address of 12225 Greenville Ave., Ste 950 Dallas, Texas 75243-9362, a principal address of PO Box 156, Bloomfield, New Mexico 87413 and its registering agent being Ct Corporation System 123 E. Marcy St., Santa Fe, New Mexico 87501.
3. On August 23, 2004, OCD Deputy Oil and Gas Inspector Bruce Martin was inspecting the Elm Ridge South Bisti SWD #1 and discovered the well was apparently plugged and abandoned. No steel plugged and abandoned marker was visible. Three tanks were still in place with oil standing in shallow pools within the tank berm. Within the berm were two small lined earthen pits containing oil.
4. An OCD investigation established the following facts:
 - a. The well plugging operations were completed on April 17, 2003.
 - b. An August 24, 2004, subsequent inspection of the site by Deputy Oil and Gas Inspector Denny Foust confirmed that no steel marker was visible and that junk from well operations was exposed in the old drilling pit.
 - c. Three tanks containing sediment oil remained at the injection well site along with other equipment.
 - d. Two small lined pits (5'x 5'x 2' and 5'x 7'x 2') containing oil were within the tank berm.
 - e. This oil had been drained from two other tanks that had been removed from the site.

- f. Rule 202.B.(3) states in pertinent part, “As soon as practical but no later than one year after 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.”.
 - g. Elm Ridge violated Rule 202.B(3) by not restoring the location to a safe and clean condition by April 17, 2004.
 - h. Rule 202.B.(5) states in pertinent part “Below-ground plugged and abandonment markers can be used only with written permission of the OCD.....”
 - i. Elm Ridge violated Rule 202.B.(5) by not requesting written permission for a below grade marker from the OCD.
 - j. Rule 50.B.(3)(b) states in pertinent part, “For each pit or below-grade tank in existence on April 15, 2004...the operator shall submit a notice not later than April 15, 2004, indicating either the use of the pit or below-grade tank will continue or such pit or below grade tank will be closed.”.
 - k. Elm Ridge violated Rule 50.B. by not submitting a notice of the pits indicating either the use of the pit or below-grade tank will continue or such pit or below grade tank will be closed.
 - l. Rule 50.C.(2)(e) states in pertinent part, “No measurable or visible layer of oil may be allowed to accumulate or remain anywhere on the surface of any pit.”
 - m. Elm Ridge violated Rule 50.C by allowing oil to accumulate and remain in lined earthen pits next to the tank battery within the firewalls.
5. Elm Ridge fully cooperated with the OCD in this investigation.
 6. Elm Ridge has closed the pits in accordance with an OCD approved program.
 7. No further action will be required at this time.

CONCLUSIONS

1. The OCD has jurisdiction over the parties and subject matter in this proceeding.
2. Elm Ridge is a person as defined by NMSA 1978, Section 70-2-33(A) subject to civil penalties under NMSA 1978, Section 70-2-31(A) for knowing and willful violations of the Oil and Gas Act or OCD Rules.
3. Elm Ridge is subject to civil penalties under NMSA 1978, Section 70-2-31(A) for violating Rule 202.B.(3) [19.15.4.202.B.(3)NMAC], Rule 202.B.(5) [19.15.4.202.B.(5) NMAC], Rule 50.B.(3)(b) [19.15.2.50.B.(3)(b) NMAC], and 50.C.(2)(e) [19.15.2.50.C.(2)(e) NMAC].

ORDER AND CIVIL PENALTY

1. Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty totaling three thousand dollars (\$2,000) against Elm Ridge. This is based on a one day violation of Rule 202.B.(3) [19.15.4.202.B.(3)NMAC], and a one day violation of Rule 202.B.(5) [19.15.4.202.B.(5) NMAC].
2. A penalty will not be assessed at this time for the violations of Rule 50.B.(3)(b) [19.15.2.50.B.(3)(b) NMAC] and Rule 50.C.(2)(e) [19.15.2.50.C.(2)(e) NMAC], but Elm Ridge is admonished that full compliance with Rule 50 is necessary in order to avoid future enforcement actions.
3. The civil penalty shall be paid within sixty days of receipt 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. By signing this order, Elm Ridge expressly:
 - a. acknowledges the correctness of the Findings and Conclusions set forth in this order;
 - b. agrees to comply with ordering paragraph 2;
 - 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 27th day of January 2005 ~~October 2004~~

By: 
Mark Fesmire, PE, Director
Oil Conservation Division

ACCEPTANCE

Elm Ridge Resources, Inc. hereby accepts the foregoing order, and agrees to all of the terms and provisions set forth in the order.

ELM RIDGE RESOURCES, INC.

By: J. D. [Signature]

Title: Dist. Superintendent

Date 1/21/05