

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

NMOCD-OGA-04-~~52~~73

IN THE MATTER OF MERRION OIL AND GAS CORPORATION

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 rules 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 **MERRION OIL AND GAS CORPORATION** ("MERRION") 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. Merrion is a Domestic Profit Corporation doing business in New Mexico, registered with the New Mexico Public Regulatory Commission under SCC number 0816769. Merrion is an active entity; T Gregory Merrion is the registered agent with a mailing address at 610 Reilly Avenue Farmington, New Mexico 87401-2634. Merrion has been assigned OGRID #14634
3. Merrion is the operator of record for the Moncrief #1R, API #30-045-32213, Unit Letter O, Section 16, Township 26 North, Range 11 West, San Juan county New Mexico ("well").
4. On February 9, 2005, New Mexico Oil Conservation (OCD) Deputy Oil and Gas Inspector Darell Davis stopped at the Merrion Moncrief #1R while doing well inspections in the area. Deputy Inspector Davis discovered a partially closed unlined vent/flare portion of the drilling pit that contained oil. The woven wire fence around the vent portion of the pit was not present on the location side and was down on the bank side. Oil covered most of the drilling pit. Fluid in the drilling pit was standing above the liner on the west end of the drilling pit. A plume of hydrocarbons was blown off the location approximately 175 feet. A residual plume of rust, resin coated sand and frac gel extended beyond the hydrocarbon plume. A diesel spill was present at the northeast corner of the drilling pit.

5. An OCD investigation and review of relevant documents established the following facts:
 - a) OCD approved a permit for a lined drilling pit on June 4, 2004 for the Moncrief #1R. The last casing string was set September 29, 2004.
 - b) Deputy Oil and Gas Inspector Henry Villanueva found fluids in the drilling pit overtopping the liner on October 27, 2004. Deputy Oil and Gas Inspector Denny Foust notified Merrion's Carl Merilatt of the problem. Water was hauled from the pit to bring it into compliance by lowering the water level below the liner.
 - c) Merrion personnel verbally confirmed that the completion rig left the location on February 8, 2005.
 - d) Merrion personnel confirmed that all drilling and completion operations were done with fresh water.
 - e) Rule 50.C.(2)(b)(i) states, "Each drilling pit or workover pit shall contain, at a minimum, a single liner appropriate for conditions at the site. The liner shall be designed, constructed, and maintained so as to prevent the contamination of fresh water, and protect public health and the environment. Pits used to vent or flare gas during drilling or workover operations that are designed to allow liquids to drain to a separate pit do not require a liner.
 - f) Rule 50.C.(2)(e) states, "No measurable or visible layer of oil may be allowed to accumulate or remain anywhere on the surface of any pit."
 - g) Rule 50.C.(2)(f) states in pertinent part, "All pits shall be fenced or enclosed to prevent access by livestock, and fences shall be maintained in good repair. Active drilling or workover pits may have a portion of the pit unfenced to facilitate operations."
6. NMSA 1978, Section 70-2-31(A) provides in relevant part, "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 (\$1,000) for each violation." NMSA 1978, section 70-2-33(A) defines "person" in relevant part as "any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate or other entity..."
7. As a result of its investigation, the OCD issued Notice of Violation (3-05-05) to Merrion citing Merrion for violating Rule 50.C.(2)(b)(1), Rule 50.C.(2)(e) and Rule 50.C.(2)(f).
8. During the Administrative Conference on March 1, 2005 Merrion presented the following information:

- a) Work tickets showing active oil removal activities from the drilling pit by M&R Trucking, Inc. for February 7, 2005 and February 10, 2005.
 - b) Verbal and written statements that Merrion was in close contact with the surface owner who had removed all livestock from the pasture where the well is located until the well was completed.
 - c) The vent/flare pit has been closed and sampled as approved by OCD Inspector Denny Foust.
 - d) Verbal and written statements showing Merrion to be a responsible operator.
9. Merrion takes the position that it did not knowingly and willfully violate Rule 50.C.(2)(b)(1), Rule 50.C.(2)(e) or Rule 50.C.(2)(f).

CONCLUSIONS

1. The OCD has jurisdiction over the parties and subject matter in this proceeding.
2. Merrion 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. Merrion, although it disagrees that it knowingly and willfully violated OCD Rule 50.C.(2)(b)(i), acknowledges that if this case went to hearing, the examiner or commission could find that Merrion is subject to civil penalties under NMSA 1978, Section 70-2-31(A) for allowing drilling fluids and hydrocarbons to stand in the unlined vent/flare portion of the drilling pit.
4. Merrion and the OCD agree that Merrion did not violate OCD Rule 50.C.(2)(e) because Merrion was actively removing hydrocarbons from the lined portion of the drilling pit February 7, 2005 and February 10, 2005.
5. Merrion disagrees that it knowingly and willfully violated OCD Rule 50.C.(2)(f) by failing to fence the drilling pit because Merrion was in close contact with the surface owner who removed all livestock from the well location until the well was completed. Although Rule 50.C.(2)(f) requires fencing, and Merrion did not request an exception to that rule, the OCD will not assess a penalty for this violation.

ORDER AND CIVIL PENALTY

1. Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty totaling one thousand dollars (\$1,000) against Merrion.

2. 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.
3. Merrion is directed in future operations to keep a livestock-proof fence in place around the drilling pit until the pit is closed under an OCD-approved plan, or obtain an exception to the fencing requirement under the provisions set out in OCD Rule 19.15.2.50.G.
4. By signing this order, Merrion expressly:
 - a. acknowledges the correctness of the Findings and Conclusions set forth in this order;
 - b. agrees to comply with ordering paragraphs 2 and 3;
 - 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;
 - e. agrees that if it fails to pay penalties assessed pursuant to this order, upon application by the OCD the district court may enter judgment against Merrion in the amount of the penalties assessed and, in the discretion of the court, may impose additional penalties for Merrion's violation of the penalty provisions of this order.

Done at Santa Fe, New Mexico, this 3rd day of June, 2005.

By: _____

Mark Fesmire, PE, Director
Oil Conservation Division

ACCEPTANCE

Merrion Oil and Gas Corporation hereby accepts the foregoing order, and agrees to all of

Merrion Oil and Gas Corporation
Agreed Compliance Order

the terms and provisions set forth in the order.

Merrion Oil and Gas Corporation

By: T. Greg Merrion

Title: President

Date 6-1-05