

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

NMOCD-06-111

**IN THE MATTER OF BENSON-MONTIN –GREER
DRILLING CORPORATION,**

Respondent.

AGREED COMPLIANCE ORDER

Pursuant to the New Mexico Oil and Gas Act, NMSA 1978, §§ 70-2-1 through 70-2-38, as amended (hereinafter, “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 (hereinafter, “OCD”) and Benson-Montin-Greer Drilling Corporation (hereinafter, “BMG”) enter into this Order to resolve the violations alleged in Notice of Violation (3-06-08).

I. FINDINGS

1. The OCD is the state division charged with administration and enforcement of the Act and OCD rules.
2. BMG is a Delaware Corporation registered to do business in New Mexico under number 0293571. BMG’s local business address is 4900 College Boulevard, Farmington, New Mexico 87402. BMG’s OGRID is 2096.
3. BMG is the operator of record for the Price Federal #1, Unit Letter E, Section 34, Township 25 North, Range 02 West, API #30-039-29249, Rio Arriba County, New Mexico.
4. On December 29, 2005, OCD Deputy Oil and Gas Inspector Kelly Roberts inspected the BMG Price Federal #1 to check on the spill remediation and cleanup of an unauthorized release that occurred on November 1, 2005. The release had been properly addressed. However, Mr. Roberts found an open drilling pit with small holes in the liner and fence posts tossed into the pit penetrating the liner.
5. An OCD investigation found the following:
 - a) The well was spud October 6, 2004; there had been no pit permit issued, as required pursuant to OCD Rule 50.B(3)(a) [19.15.2.50 NMAC].
 - b) Casing on the well was run December 17, 2004. BMG filed a notice of first production from the Pictured Cliffs formation on May 1, 2005.

- c) BMG re-entered the well and established first production from the Fruitland Coal on November 22, 2005.
 - d) The OCD has no record of a pit permit request from BMG for either a drilling or workover pit, nor any request of an extension to leave the drilling pit open after December 17, 2004.
 - e) OCD Rule 50.B(3)(a) requires that after April 15, 2004, operators obtain a permit for all new pits or below grade tanks before constructing either a pit or installing a below grade tank.
 - f) OCD Rule 50.F(1) states in relevant part, "Closure. 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. ... The division for good cause shown may grant a six-month extension of time to accomplish closure."
 - g) BMG knowingly and willfully violated OCD Rule 50.B(3)(a) by failing to obtain a permit for either a drilling pit or workover pit at the Price Federal #1 well. BMG knowingly and willfully violated Rule 50.B(3)(a) by failing to close the drilling pit within 180 days of setting the last casing string, December 17, 2004.
6. NMSA 1978, §70-2-31(A) provides in relevant part, "[a]ny 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. For purposes of this subsection, in the case of a continuing violation, each day of violation shall constitute a separate violation." NMSA 1978, §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 (3-06-08) to BMG alleging two violations of OCD Rule 50.
 8. At the Administrative Conference held February 21, 2006, BMG stated they had begun the APD process for the Price Federal #1 in 2003. This APD was approved in 2004. Internal discussions within BMG were held on the Rule 50 requirements as to whether a pit permit was required at the time of drilling the well, but the staff mistakenly failed to follow through with getting a pit permit on this well.
 9. Mike Dimond has committed to being personally involved in the final review of APD's to assure all of the permits required have been obtained.

II. CONCLUSIONS

1. The OCD has jurisdiction over the parties and subject matter in this proceeding.

2. BMG is a person as defined by NMSA 1978, § 70-2-33(A) subject to civil penalties under NMSA 1978, §70-2-31(A) for knowing and willful violations of the Oil and Gas Act or OCD Rules.
3. BMG is subject to civil penalties under NMSA 1978, § 70-2-31(A) at the Price Federal #1 for two knowing and willful violations of Rule 50.

III. ORDER AND CIVIL PENALTY

1. Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty against BMG totaling **Two Thousand Dollars (\$2,000.00)** for one knowing and willful violation of OCD Rule 50.B(3)(a) (drilling a pit without a permit) and one knowing and willful violation of OCD Rule 50.F(1) (failure to timely close the pit or get an extension).
2. The civil penalty shall be paid at the time BMG executes 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. BMG is required to close the drilling pit at the Price Federal #1 under an OCD approved plan by April 1, 2006.
4. Mike Dimond will be personally involved in the final review of APDs to assure that BMG has all of the permits required by the OCD.
5. By signing this Order, BMG 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; and
 - 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 BMG in the amount of the penalties assessed and, in the discretion of the court, may impose additional penalties for BMG's violation of the penalty provisions of this Order.

6. Nothing in this Order relieves BMG 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 BMG of its responsibility for compliance with any other federal, state or local laws and/or regulations.

Done at Santa Fe, New Mexico, this 10th day of May 2006.

By: 
Mark Fesmire, Director
Oil Conservation Division

ACCEPTANCE

Benson-Montin-Greer Drilling Corporation hereby accepts the foregoing Order, and agrees to all of the terms and provisions set forth in the order.

Benson-Montin-Greer Drilling Corporation

By: 
Title: Pres.
Date: 5/8/06