

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

NMOCD 173

**IN THE MATTER OF DUGAN PRODUCTION 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 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 (hereinafter, "OCD") issues this Order to **DUGAN PRODUCTION CORPORATION** (hereinafter, "Dugan") 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. Dugan is a corporation authorized to do business in the State of New Mexico under Public Regulation Commission ("PRC") SCC number 0444224 with a mailing address of P.O. Box 420, Farmington, New Mexico 87499. Its registered agent is Thomas A. Dugan, 709 E Murray Dr., Farmington, New Mexico 87401.
3. Dugan operates the Sage Creek #1 well, Unit Letter I, Section 3, Township 22 North, Range 8 West, API #30-045-26757, San Juan County, New Mexico.
4. On February 5, 2007, Oil Conservation Division (hereinafter "OCD") Deputy Oil and Gas Inspector Monica Kuehling performed a routine inspection on the Dugan Sage Creek #1 well. Inspector Kuehling found a workover rig on location and an open workover pit that contained fluid. There was no well sign on location at the time of inspection. The two pits that were on location during previous inspections were closed.
5. An OCD investigation and review of relevant documents established the following facts:
 - a. On October 16, 2006, Inspector Kuehling inspected the Sage Creek #1 well. At that time, she found the site had no well sign and two earthen pits with the fencing down. Inspector Kuehling called John Alexander with Dugan to notify Dugan of the violations.
 - b. A follow up inspection was conducted on December 7, 2006. Inspector Kuehling found that the sign and the pits on the location had not been addressed.

- c. Making another attempt to have Dugan address the pit issue, on December 8, 2006, Deputy Oil and Gas Inspector Brandon Powell called John Alexander to again discuss the issue.
 - d. On December 22, 2006, the OCD received a sundry notice of intent to complete the well to the Fruitland coal interval.
 - e. No request for a workover pit permit was received by the OCD from Dugan.
 - f. OCD Rule 50.A provides that “[d]ischarge into, or construction of any pit or below-grade tank is prohibited absent possession of a permit issued by the division”
 - g. Dugan violated Rule 50.A by failing to obtain a permit to construct a workover pit at the Sage Creek #1 well.
 - h. Dugan violated Rule 50.A a second time by discharging into a workover pit without a pit permit.
 - i. OCD Rule 103.A provides that “[a]ll wells and related facilities regulated by the division shall be identified by a sign, which sign shall remain in place until the well is plugged and abandoned and the related facilities are closed.”
 - j. There was no sign on location at the time of the October 16, 2006, December 7, 2006 or February 5, 2007 inspections.
 - k. Dugan violated Rule 103.A by not having a sign on the location.
6. Dugan knowing and willfully violated Rule 50.A twice, once by failing to obtain a pit permit for a workover pit, and once for discharging into the pit without a permit.
 7. Dugan knowing and willfully violated Rule 103.A by not having a sign on location.
 8. 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.”
 9. Dugan 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 any OCD rule or order issued pursuant to that Act.
 10. As a result of its investigation, on February 27, 2007, OCD issued Notice of Violation (3-07-07) to Dugan alleging knowing and willful violations of OCD Rules 50.A and 103.A.

11. At the Administrative Conference on March 8, 2007 Dugan presented the following:
- a. Dugan has a program in place for earthen pit closure.
 - b. Dugan has closed 138 earthen pits at a cost of approximately \$250,000
 - c. Dugan prepared the appropriate permit request but failed to file it.
 - d. The oversight may have been due to employees being very busy.
 - e. Dugan requested not to be fined because of the administrative oversight.
 - f. Dugan has instituted a "check web site for approved permit" policy to prevent this from happening in the future.
 - g. There are now two signs on location.

II. CONCLUSIONS

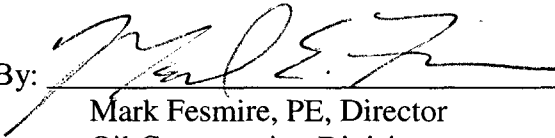
1. The OCD has jurisdiction over the parties and subject matter in this proceeding.
2. Dugan is a person as defined by NMSA 1978, § 70-2-33(A) that may be subject to civil penalties under NMSA 1978, §70-2-31(A).
3. Dugan is subject to civil penalties under NMSA 1978, § 70-2-31(A) at the Sage Creek #1 for two violations of OCD Rule 50.A (constructing and discharging into a pit without a permit). Dugan is admonished that future violations of OCD Rule 103.A may result in penalties.

III. ORDER AND CIVIL PENALTY

1. Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty totaling **Two Thousand Dollars (\$2,000.00)** against Dugan, for two violations of OCD Rule 50.A (constructing and discharging into a pit without a permit).
2. 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.
3. Dugan shall permit the pit and close the pit in compliance with OCD Rule 50.
4. By signing this Order, Dugan 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; 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).
5. Nothing in this Order relieves Dugan 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 Dugan of its responsibility for compliance with any other federal, state or local laws and/or regulations.

Done at Santa Fe, New Mexico, this 5th day of April ~~March~~ 2007.

By: 
Mark Fesmire, PE, Director
Oil Conservation Division

ACCEPTANCE

Dugan Production Corporation hereby accepts the foregoing Order, and agrees to all of the terms and provisions set forth in the order.

DUGAN PRODUCTION CORPORATION

By: 

Title: Vice President

Date 4/3/2007

05921 11-24
Office AU # 1210(8)

CASHIER'S CHECK

SERIAL #: 0592105443
ACCOUNT#: 4861-505659

Purchaser: DUGAN PRODUCTION CORP
Purchaser Account: 9892010194
Operator I.D.: albu0955 albu1580

April 03, 2007

PAY TO THE ORDER OF ***NEW MEXICO OIL CONSERVATION DIVISION***

Two thousand dollars and no cents

\$2,000.00

WELLS FARGO BANK, N.A.
100 E BROADWAY
FARMINGTON, NM 87401
FOR INQUIRIES CALL (480) 394-3122

NOTICE TO PURCHASER - IF THIS INSTRUMENT IS LOST,
STOLEN OR DESTROYED, YOU MAY REQUEST CANCELLATION
AND REISSUANCE. AS A CONDITION TO CANCELLATION AND
REISSUANCE, WELLS FARGO BANK MAY IMPOSE A FEE AND
REQUIRE AN INDEMNITY AGREEMENT AND BOND.

VOID IF OVER US \$ 2,000.00

NON-NEGOTIABLE

Purchaser Copy

FB004 M4203

05921 11-24
Office AU # 1210(8)

CASHIER'S CHECK

0592105443

Operator I.D.: albu0955 albu1580

April 03, 2007

PAY TO THE ORDER OF ***NEW MEXICO OIL CONSERVATION DIVISION***

Two thousand dollars and no cents

\$2,000.00

WELLS FARGO BANK, N.A.
100 E BROADWAY
FARMINGTON, NM 87401
FOR INQUIRIES CALL (480) 394-3122

VOID IF OVER US \$ 2,000.00

Danielle J. Whitehouse
AUTHORIZED SIGNATURE

⑈0592105443⑈ ⑆121000248⑆4861 505659⑈

Dugan Production Corporation, 06R10 6515
ACO 173