

STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION DIVISION
2008 APR 10 PM 1 37

APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION, THROUGH THE SUPERVISOR OF DISTRICT I, FOR AN ORDER PURSUANT TO 19.15.3.100 NMAC REQUIRING XERIC OIL AND GAS CORPORATION TO COMPLY WITH OCD RULE 19.15.2.50 NMAC AND WITH THE CONDITIONS OF APD PERMIT NO. 1237; AUTHORIZING THE DIVISION TO PLUG THE SUBJECT WELL AND FORFEIT ANY APPLICABLE/AVAILABLE SECURITY IN THE EVENT XERIC OIL AND GAS CORPORATION FAILS TO COMPLY; AND ASSESSING AN APPROPRIATE CIVIL PENALTY; LEA COUNTY, NEW MEXICO.

ORIGINAL
See Revised

CASE NO. 14107

PRE-HEARING STATEMENT

The Oil Conservation Division submits this pre-hearing statement pursuant to OCD Rule 1211 [19.15.14.1211 NMAC].

APPEARANCES

APPLICANT

OIL CONSERVATION DIVISION

APPLICANT'S ATTORNEY

MIKAL ALTOMARE

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RESPONDENT

XERIC OIL & GAS CORP.

RESPONDENT

XERIC OIL & GAS CORP.

Attn: Walter King & Joe Cook
P.O. Box 7288
Odessa, TX 79760
(432) 682-3130 or (432) 557-1989

STATEMENT OF THE CASE

The Oil Conservation Division (OCD) seeks a compliance order and penalties against Xeric Oil & Gas Corporation ("Xeric"). Xeric is the Operator of Record for the well identified and referenced by the Application as the West Pearl Queen Unit #301. In August of 2004, when reviewing Xeric's application to drill at the subject site, OCD approved the application with the specific condition that Xeric satisfy all requirements of Rule 19.50.2.15 NMAC, as well as the standards imposed by the OCD's "Pit and Below-Grade Tank Guidelines."

Despite the fact that Xeric was informed that the approval was contingent upon this condition, Xeric failed to comply and neither sought an extension of time for closure of the pit nor sought approval for deviation from its originally-submitted pit-closure plan for this site. Xeric allowed the site to deteriorate, and OCD began taking steps to attempt to obtain compliance from Xeric. Xeric continued to allow the site to deteriorate further, until ultimately in August of 2007 it was observed by OCD personnel that the liner of the pit was torn, and the pit at the location had been permitted to drain through a large rod that had penetrated the liner at the bottom of the pit.

Through its actions in continuing to fail and refuse to bring the pit at this site into compliance, Xeric violated both the conditions of its permit and OCD Rule 50. It is the Division's position that all alleged violations by Xeric at issue in this action were knowing and willful and thus justify the imposition of penalties pursuant to NMSA 1978, Section 70-2-31 (A).

The OCD seeks an Order stating the following in this case:

1. Requiring Xeric to submit a Closure Plan per OCD Pit and Below-Grade Tank Guidelines by a date certain.
2. Requiring that, by a date certain, Xeric perform an assessment to evaluate the extent to which soils and/or ground water may have been impacted and perform any necessary remediation indicated by the assessment and pursuant to OCD "Pit and Below-Grade Tank Guidelines" and OCD "Guidelines for Remediation of Leaks, Spills and Releases."
3. Requiring that any remaining waste materials in or related to the pit be excavated and hauled away from the site to an appropriate disposal facility by a date certain.
4. Requiring that Xeric file a C-144 or other acceptable Closure Report in accordance with OCD Rules and the Guidelines by a date certain.
5. Ordering that Xeric properly (per OCD Rules, the Guidelines, and any other applicable state or federal law or regulation) close the deep trench that has been excavated on the site, and re-contour the surface of the area to return it to the contour that existed prior to the excavation being performed.

6. Requiring that Xeric complete surface restoration in compliance with Rule 19.15.2.50.F, the Guidelines and the Conditions of Permit No. 1237, including reseeded of the site with a mixture that is approved or authorized by the surface owner.
7. Requiring that Xeric pay a monetary penalty assessment in an amount consistent with the severity and duration of its ongoing, willful violations, pursuant to NMSA 1978, Section 70-2-31(A), specifically for its knowing and willful violations of Rules 19.15.2.50.F(1) and 50.F(2) NMAC (independent of and in addition to any other penalty assessment(s) Ordered in this matter for other violations of the OCD Rules and/or the New Mexico Oil and Gas Act).
8. Further, if the subject well is not brought into compliance with 19.15.2.50 NMAC, the terms of Permit No. 1237, the standards imposed by the Guidelines and/or Xeric fails to meet any of the deadlines set by the Order:
 - i. Assessing a penalty against Xeric of not less than \$1,000.00 for each full week of non-compliance with the Order;
 - ii. Authorizing the Division to plug the subject well in accordance with a Division-approved plugging program;
 - iii. Authorizing the Division to forfeit any applicable security posted in relation to the subject well; and
 - iv. For such other and further relief as the Director deems just and proper under the circumstances.

APPLICANT'S PROPOSED EVIDENCE

WITNESS:

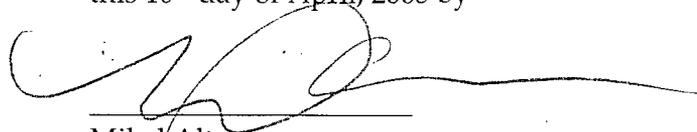
ESTIMATED TIME:

Larry "Buddy" Hill, Compliance Officer	45 minutes
Daniel Sanchez, Enforcement & Compliance Manager	20 minutes
Jane Prouty, Automation and Records Bureau	10 minutes
Dorothy Phillips, Financial Assurance Administrator	Affidavit

PROCEDURAL MATTERS

None.

Respectfully submitted
this 10th day of April, 2008 by

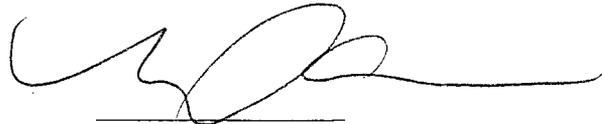


Mikal Altomare
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Energy, Minerals and Natural
Resources Department
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Attorney for the Oil Conservation Division

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was mailed via First Class U.S. Mail to the address of record for Xeric Oil & Gas Corporation, as provided by Xeric Oil and Gas. Corp. to the OCD, this 10th day of April, 2008.



Mikal Altomare