



NEW MEXICO ENERGY, MINERALS and NATURAL RESOURCES DEPARTMENT

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JAN 29 2008

MCELVAIN OIL & GAS
PROPERTIES INC

Mark E. Fesmire, P.E.

Director

Oil Conservation Division

NOTICE OF VIOLATION

NOV (3-08-02)

January 25, 2008

Certified Mail

Return Receipt #:7006 3450 0000 0451 8223

Mr. John Steuble
McElvain Oil and Gas Properties Inc.
1050 17th Street, Suite 1800
Denver, CO 80265

Operator: McElvain Oil and Gas Properties, Inc., OGRID 22044

Wells: Wiedemer #7, Unit letter F, Section 34, Township 27 North, Range 10
West, API # 30-045-34056 and Wiedemer #6, Unit letter N, Section 34,
Township 27 North, Range 10 West, API # 30-045-34059

Re: Violation of Oil Conservation Division Rule 50.F(1). [19 15.2.50.F(1) NMAC]

Dear Mr. Steuble:

On September 11, 2007, New Mexico Oil Conservation Division (hereinafter "OCD") Deputy Oil and Gas Inspector Kelly Roberts performed a routine inspection at the McElvain Oil and Gas Properties, Inc (hereinafter "McElvain") Wiedemer #7 and the Wiedemer #6 wells. Inspector Roberts observed open drilling pits at both locations.

An OCD investigation found the following.

- 1) The pit permits for the Wiedemer #7 and the Wiedemer #6 were approved on
January 12, 2006.

BEFORE THE OIL CONSERVATION DIVISION
Santa Fe, New Mexico
Case No. 14186 Exhibit No. 3
Submitted by:
McElvain Oil & Gas Properties, Inc.
Hearing Date: October 15, 2008

- 2) For the Wiedemer #7 well, the OCD received a sundry reporting that the production casing string was set and cemented (indicating that the drilling process had been completed) on January 27, 2006. At the time of the inspection the pit had been open more than seven months beyond the date of the completion of the drilling process.
- 3) For the Wiedemer #6 well, the OCD received a sundry reporting that the production casing string was set and cemented (indicating that the drilling process had been completed) on February 5, 2007. At the time of the inspection the pit had been open more than seven months beyond the date of the completion of the drilling process.
- 4) OCD has neither received nor approved a pit closure extension regarding either of these sites as provided for by OCD Rule 50.F (1) [19.15.2.50.F (1) NMAC].
- 5) OCD Rule 50.F (1) [19.15.2.50.F (1) NMAC] requires that "a pit or below grade tank ... be properly closed within six months after cessation of use."
- 6) McElvain knowingly and willfully violated OCD Rule 50.F (1) [19.15.2.50.F (1) NMAC] by failing to close these two pits within the required time period.
- 7) McElvain was issued Notice of Violation (3-07-15) on May 11, 2007, with regard to their Amacker #1, Unit Letter L, Section 22, Township 23 North, Range 1 West, Sandoval County, New Mexico, API #30-043-21013 for the same violation.
- 8) McElvain's misconduct warrants issuance of this Notice of Violation and assessment of civil penalties pursuant to NMSA 1978, §70-2-31(A) for violations of the OCD rule described above. NMSA 1978, Section 70-2-31(A) authorizes penalties of up to one thousand dollars (\$1,000.00) per day per violation for any knowing and willful violation of any provision of the Oil and Gas Act or any rule adopted pursuant to the Act.

Because the rule violations at issue are serious and occurred over a period of time, the OCD Aztec District Office believes at this time a **Two Thousand Dollar (\$2,000.00)** civil penalty and a definite commitment to future corrective action are essential. This penalty is based on one violation of OCD Rule 50.F (1) [19.15.2.50.F (1) NMAC] (failure to close the pits within the allotted time period) at each of the two sites.

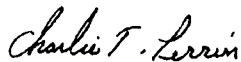
If the matter cannot be resolved administratively, the OCD may take further enforcement action, which may include an enforcement hearing before an OCD hearing examiner seeking an order requiring that the wells associated with the pits be plugged and abandoned pursuant to NMSA 1978, section 70-2-14(B). That statute provides:

"If any of the requirements of the Oil and Gas Act or the rules promulgated pursuant to that act have not been complied with, the oil conservation division, after notice and hearing, may order any well plugged and abandoned by the operator or surety or both in accordance with division rules. If the order is not complied with in the time period set out in the order, the financial assurance shall be forfeited."

Please contact me within ten (10) days at 505-334-6178, extension 11, to schedule an administrative conference to discuss this matter. OCD legal counsel may be present by telephone for this conference and you may bring legal counsel if you wish. The purpose of the administrative conference is to discuss the facts surrounding this notice of violation, and to determine if the matter can be resolved administratively through an agreed compliance order.

Thank you for your assistance in this matter. If you have any questions please do not hesitate to call.

Sincerely,



Charlie T. Perrin
District III Supervisor
charlie.perrin@state.nm.us

pc: Bureau of Land Management

ec: Daniel Sanchez, OCD Compliance Manager
Gail MacQuesten, OCD Assistant General Counsel
Mikal Altomare, OCD Assistant General Counsel
NOV file