

Dwight A. Tipton  
OGRID: 6550

*Compliance Closed: 8/14/08*  
*NOV 2-08-11*

BEFORE THE OIL CONSERVATION DIVISION  
Santa Fe, New Mexico  
Case No. 14186 Exhibit No. 17  
Submitted by:  
McElvain Oil & Gas Properties, Inc.  
Hearing Date: October 15, 2008



# NEW MEXICO ENERGY, MINERALS and NATURAL RESOURCES DEPARTMENT

**BILL RICHARDSON**

Governor

**Joanna Prukop**

Cabinet Secretary

**Mark E. Fesmire, P.E.**

Director

Oil Conservation Division

**\*Response Required - Deadline Enclosed\***

11-Mar-08

LOV NO. 02-08-042

**DWIGHT A TIPTON**

PO BOX 1025

LOVINGTON NM 88260

## LETTER OF VIOLATION - Inspection

Dear Operator:

The following inspection(s) indicate that the well, equipment, location or operational status of the well(s) failed to meet standards of the New Mexico Oil Conservation Division as described in the detail section below. To comply with standards imposed by Rules and Regulations of the Division, corrective action must be taken immediately and the situation brought into compliance. The detail section indicates preliminary findings and/or probable nature of the violation. This determination is based on an inspection of your well or facility by an inspector employed by the Oil Conservation Division on the date(s) indicated.

Please notify the proper district office of the Division, in writing, of the date corrective actions are scheduled to be made so that arrangements can be made to reinspect the well and/or facility.

### INSPECTION DETAIL SECTION

**SANTA NINA A FEDERAL No.002X**

1-7-19S-30E

30-015-33225-00-00

Inspection Date	Type Inspection	Inspector	Violation?	*Significant Non-Compliance?	Corrective Action Due By:	Inspection No.
03/10/2008	Routine/Periodic	Richard Inge	Yes	No	4/13/2008	iREI0807040902
<b>Comments on Inspection:</b> Unauthorized pit is on location. Two pit sections contain fluids. Liner is down some on South side of front pit area. Please submit a C-144 pit closure plan by Action Due date. Since the liner is down on one corner of the pit, sample must be taken and the sampling witnessed by and OCD inspector.						

In the event that a satisfactory response is not received to this letter of direction by the "Corrective Action Due By:" date shown above, further enforcement will occur. Such enforcement may include this office applying to the Division for an order summoning you to a hearing before a Division Examiner in Santa Fe to show cause why you should not be ordered to permanently plug and abandon this well. Such a hearing may result in imposition of CIVIL PENALTIES for your violation of OCD rules.

Sincerely,

*RICHARD INGE*

Artesia OCD District Office

Note: Information in Detail Section comes directly from field inspector data entries - not all blanks will contain data.

\*Significant Non-Compliance events are reported directly to the EPA, Region VI, Dallas, Texas

# New Mexico Energy, Minerals and Natural Resources Department

**Bill Richardson**  
Governor

Joanna Prukop  
Cabinet Secretary  
Reese Fullerton  
Deputy Cabinet Secretary

Mark Fesmire  
Division Director  
Oil Conservation Division



## NOTICE OF VIOLATION

NOV No. 02-08-11

### **\*Response Required-Deadline Enclosed\***

May 15, 2008

Dwight A. Tipton  
P.O. Box 1025  
Lovington, NM 88260

CERTIFIED MAIL: 7099 3220 0009 7873 2152

**Re: Operator: Dwight A. Tipton**  
**OGRID: 6550**  
**Facility: Santa Nina A Federal No. 002X; 30-015-33225; 1-7-19S-30E**  
**Violation: OCD Rule 19.15.2.50.F NMAC**

Dear Operator:

On March 10, 2008, Oil Conservation Division ("OCD") Deputy Oil and Gas Inspector Richard Inge inspected the above identified well. OCD records show Dwight A. Tipton ("Tipton") as the well's operator of record. During his inspection Deputy Inspector Inge observed an unauthorized pit. Two of the pit areas contained fluid. The liner was down on the south side of the front pit area.

OCD Rule 19.15.2.50.F.1 NMAC ("Rule 50") states:

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. As a condition of a permit, the division may require the operator to file a detailed closure plan before closure may commence. The division for good cause shown may grant a six-month extension of time to accomplish closure. Upon completion of closure a closure report (form C- 144), or sundry notices and reports on wells shall be submitted to the division. Where the pit's contents will likely migrate and cause ground water or surface water to exceed water quality control commission standards, the pit's contents and the liner shall be removed and disposed of in a manner approved by the division.

The pit is in violation of Rule 50.F.1.

Dwight A. Tipton  
May 15, 2008  
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On March 11, 2008, Deputy Inspector Inge sent a letter of violation (LOV No. 02-08-042) to Tipton by certified mail (7007 3020 0000 3029 0621). The letter informed Tipton of the rule violation and instructed Tipton to submit a C-144 pit closure plan by corrective action due date of April 13, 2008. Dwight Tipton signed for the letter on March 14, 2008.

As of this date, OCD has not received a C-144 pit closure plan from Tipton for closure of the pit. The pit remains in violation of Rule 50.F.1.

Tipton knowingly and willfully violated OCD Rule 50.F.1 by not closing the pit and submitting a C-144 pit closure plan, even after OCD informed Tipton that it had to do so by April 13, 2008.

Tipton'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 rules described above. 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 believes at this time a One Thousand Dollar (\$1,000.00) civil penalty and a definite commitment to future corrective action are essential. The \$1,000.00 civil penalty is based on one violation of OCD Rule 50.F NMAC.**

Please contact me within ten (10) days of the date of this letter at (505) 476-3493, 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.

If this 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 be plugged and abandoned pursuant to NMSA 1978, § 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.**

Thank you for your prompt attention to this matter.

Sincerely yours,



Daniel Sanchez  
OCD Enforcement and Compliance Manager.

Dwight A. Lipton

May 15, 2008

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cc: Tim Gum, OCD District II Supervisor  
Richard Inge, OCD District II Supervisor  
Gerry Guye, OCD District II Inspector  
Sonny Swazo, Assistant General Counsel  
John Bramhall, BLM

12-May-08

## Well Inspection History

API Number: 30-015-33225-00-00

Well Name & No.: SANTA NINA A FEDERAL

Operator: DWIGHT A TIPTON,

District: ARTESIA

County Name: EDDY

Field: SANTA NINA A FEDERAL

Legal: S: 7 T: 19S R: 30E

Well Type: OIL (PRODUCING)

Insp. Dt.	Insp. Type	Insp. Purpose	Insp. No.	RmdyRqDt	Insp. By	Viol. SNC	Failed Codes
3/10/2008	Routine/Periodic	Normal Routine Activity	IREI08070409		213	Y	
Unauthorized pit is on location. Two pit sections contain fluids. Liner is down some on South side of front pit area. Please submit a C-144 pit closure plan by Action Due date. Since the liner is down on one corner of the pit, sample must be taken and the sampling witnessed by and OCD inspector.							
6/13/2007	Routine/Periodic	Normal Routine Activity	IREH0716452		214		
OK. All Equipment and Location in Good Shape.							
8/4/2005	Routine/Periodic	Normal Routine Activity	iCLB05216510		212		
OK. All Equipment and Location in Good Shape. Reserve pit open, liner intact, fluids present.							

Total Inspections Performed: 3