

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

NMOCD-OGA-04-42

**IN THE MATTER OF DEVON ENERGY PRODUCTION COMPANY, LP,  
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 ("OCD") issues this Order to DEVON ENERGY PRODUCTION COMPANY, LP ("Devon") 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. Devon is a limited partnership doing business in New Mexico, registered with the Secretary of State as a foreign limited partnership under number LPF2000021601. Devon is an active entity with a principal and mailing address at 1500 Mid-America Tower 10 N. Broadway, Oklahoma City, OK 73102. Its registered agent for service of process in New Mexico is Corporation Service Company, 125 Lincoln Ave - Suite 223, Santa Fe NM 87501.
3. On April 29, 2004, Mr. Bruce Martin, Deputy Oil and Gas Inspector for the OCD, noticed a heavy accumulation of white mineral-saturated soil at Devon's Northeast Blanco Unit #12M, API# 30-045-31290, and water spraying at Devon's Northeast Blanco Unit #435A, API# 30-045-32020.
4. An OCD investigation of the sites and review of relevant documents established the following facts:
  - a) Produced water was used in the drilling fluid at both the #435A well and the #12M well.
  - b) At the #435A well, drifting drilling fluid was pooling outside of the pit. Due to strong winds, the spray of drilling fluid was drifting off of the well site into the adjacent sagebrush flat for approximately 100 feet. Drilling fluid from spray nozzles on the southwest side of the drilling pit was flowing around the southern corner of the berm, pooling on the berm, and then flowing off location approximately fifty feet.

- 
- c) Tri-Star Construction was conducting the evaporation operations for Devon.
  - d) Deputy Inspector Martin contacted Robert Jordan of Devon. Mr. Jordan came to the #435A well site within a few minutes. Mr. Jordan agreed that the operation should be shut down.
  - e) Mr. Jordan directed Duane Oliver of Devon to report the incident to OCD Deputy Inspector Denny Foust.
  - f) During an interview, Robert Jordan and Duane Oliver confirmed that the operation at the #435A well had started on April 28, 2004.
  - g) Weather reports indicate that April 28, 2004 was a very windy day with gusts approaching 50 mph.
  - h) In response to inquiries about accumulations of minerals on the ground at the #12M, Robert Jordan and Duane Oliver stated a similar operation had been used to evaporate the drilling fluid at that well site.
  - i) Documents submitted by Devon confirmed that drilling fluid from the #12M was evaporated using the same spray nozzle process from April 13, 2004 through April 26, 2004. Devon records show that five of the days during this period were windy. The drifting spray caused by the winds accounted for the white mineral-saturated soil observed by Deputy Inspector Martin. A statement from Tri-Star Construction confirmed that drilling fluid was drifting out of the pit onto that location during those days.
  - j) The OCD had not been notified of the existence of the drilling pits at the #435A well and the #12M well until the date of the inspection.
  - k) Devon had not requested approval of the drilling fluid disposal method for these pits.
  - l) Rule 710.A. states in pertinent part, "No person, including any transporter may dispose of produced water on the surface of the ground.
  - m) Disposition of produced water by over spraying, drift and pooling that collected on the ground at #435A well and the #12M well violated Rule 710.A.
  - n) Rule 50.E. states in pertinent part, "Drilling fluids and drill cuttings shall either be recycled or be disposed of as approved by the division and in a manner to prevent the contamination of fresh water and protect public health and the environment. The operator shall describe the proposed disposal method in the application for permit to drill or the sundry notices and reports on wells."

- o) Devon violated Rule 50.E because it did not dispose of drilling fluid at the #435A well and the #12M well in a manner to prevent the contamination of fresh water and protect public health and the environment, and did not obtain OCD approval for its disposal methods.
  - p) Rule 50.(B).(3).(b). states in pertinent part, "For each pit or below-grade tank in existence on April 15, 2004 that has not received an exemption after hearing as allowed by OCC Order R-3221 through R-3221D inclusive, the operator shall submit a notice not later than April 15, 2004 indicating either that use of the pit or below-grade tank will continue or that such pit or below grade tank will be closed."
  - q) Failure to notify the OCD about the existence of the pits by April 15, 2004 violates Rule 50.(B).(3).(b).
5. No further remedial action is necessary for these releases.

### CONCLUSIONS

1. The OCD has jurisdiction over the parties and subject matter in this proceeding.
2. Devon 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 OCD Rules.
3. Devon is subject to civil penalties under NMSA 1978, Section 70-2-31(A) for violating OCD Rule 710.A's prohibition against the disposal of produced water on the surface of the ground because it allowed sprayed produced water to drift and accumulate outside of the pits on the two well sites. These violations occurred for several days at each site.
4. Devon is subject to civil penalties under NMSA 1978, Section 70-2-31(A) for violating OCD Rule 50.(E)'s prohibition against the disposal of drilling fluids at the two well sites in a manner approved by the OCD to prevent the contamination of fresh water and protect public health. These violations occurred for several days at each site.
5. Devon is subject to civil penalties under NMSA 1978, Section 70-2-31(A) for violating OCD Rule 50.(B)'s requirement to notify the OCD of the existence of the pits at the two well sites.

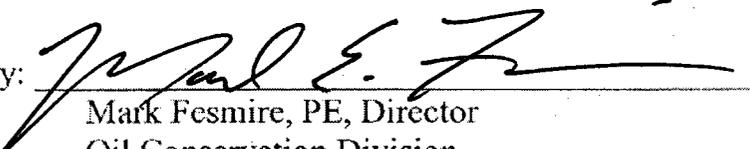
### ORDER AND CIVIL PENALTY

1. Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty totaling four thousand dollars (\$4,000) against Devon.
2. The civil penalty shall be paid within sixty days of receipt 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. By signing this order, Devon expressly:
- a. acknowledges the correctness of the Findings and Conclusions set forth in this order;
  - b. agrees to comply with ordering paragraph 2;
  - 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).

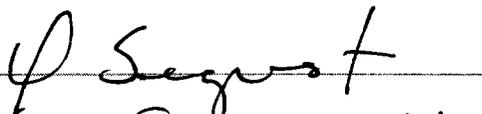
Done at Santa Fe, New Mexico, this 5<sup>th</sup> day of ~~August~~ October 2004.

By:   
Mark Fesmire, PE, Director  
Oil Conservation Division

ACCEPTANCE

Devon Energy Production Company, LP hereby accepts the foregoing order, and agrees to all of the terms and provisions set forth in the order.

DEVON ENERGY PRODUCTION COMPANY, LP

By: 

Title: OPERATION ENGINEER ADV

Date 9.17.04