

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

NMOCD - OGA 04-91

IN THE MATTER OF M&R TRUCKING, INC.,

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"), the Director of the Oil Conservation Division ("OCD") issues this Order to M&R TRUCKING, INC. ("M&R") to enforce the Act and the OCD Rules.

FINDINGS

1. The OCD is the state division charged with administration and enforcement of the Act and OCD Rules.
2. M&R is a corporation incorporated in the State of New Mexico under Public Regulation Commission ("PRC") SCC number 1249259, with a mailing address of P.O. Box 600, Farmington, New Mexico 87499, and a principal address at 281 CR 3500, Farmington, New Mexico 87401.
3. M&R holds a valid C-133 (Authorization to Move Produced Water) issued by the OCD.
4. On May 19, 2003, OCD Deputy Oil and Gas Inspector, W. Bruce Martin, was inspecting the Merrion Oil & Gas Corporation Flush No. 1 SWD Well, located in

Unit F, Section 2, Township 26 North, Range 13 West. Deputy Inspector Martin observed M&R Water Truck No. 333 (hereinafter referred to as Unit No. 333) unloading at the facility. Produced water was running down the side of the truck from under a taped patch in the tank, and water was squirting from a crack in the truck's tank. The produced water was collecting in pools on the ground. Deputy Inspector Martin directed the driver to cease hauling produced water in Unit No. 333 and take the unit to the yard for leak repairs before returning it to service.

5. An OCD investigation determined the following facts:
 - a. M&R Unit No. 333 is assigned to Marion Maness.
 - b. Truck tank leaks were reported on Mr. Maness' Driver's Vehicle Inspection Report for Unit No. 333, erroneously dated February 2, 2003, but apparently actually for May 9, 2003 based on the mileage recorded on the report. Subsequently leaks were also reported on May 14, 2003 and May 16, 2003.
 - c. According to daily trip reports, which are available for May 10, 12, 13, 14, 15, 16, 17, and 19, the truck was in operation for a total of eight days after the original report that it was leaking, and prior to the leak being observed by Inspector Martin.
 - d. Unit No. 333 visited a minimum of thirty-nine (39) wells and facilities from May 10, 2003 through May 19, 2003.
 - e. Initially, five separate leaks were reported. After cleaning, a total of seven leaks were repaired.

f. Repairs on Unit No. 333 were completed by May 22, 2003, and the unit was inspected by OCD Deputy Oil and Gas Inspector Denny Foust before being returned to service.

6. OCD Rule 710.A [19.15.9.710.A NMAC] states:

No person, including any transporter, may dispose of produced water on the surface of the ground, or in any pit, pond, lake, depression, draw, streambed, or arroyo, or in any watercourse, or in any other place or in any manner that will constitute a hazard to fresh water supplies.

10. OCD Rule 710.D [19.15.9.710.D NMAC] states:

Vehicular movement or disposition of produced water in any manner contrary to these rules shall be considered cause, after notice and hearing, for cancellation of Form C-133.

11. The conduct of M&R described above constituted knowing and willful violations of OCD Rules 710.A and 710.D.

12. M&R has contested liability in this matter, raised defenses to this administrative action, and contended that there was no knowing or willful violation of OCD regulations by M&R.

CONCLUSIONS

1. The OCD has jurisdiction over the parties and subject matter in this proceeding.
2. M&R is a "person" as defined by OCD Rule 7.P [19.15.1.7.P NMAC].
3. NMSA 1978, Section 70-2-31.A. authorizes the assessment of civil penalties of up to one thousand dollars (\$1,000) per day per violation for any knowing or willful violation of any provision of the Act or of any rule adopted pursuant to the Act.

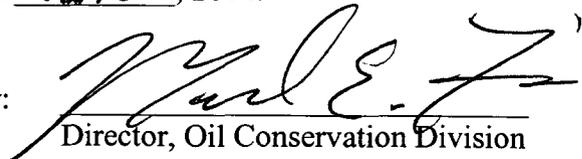
4. M&R's conduct warrants the assessment of civil penalties pursuant to NMSA 70-2-31.A. for the violations of OCD Rules described above.

CIVIL PENALTY

Having considered the nature of the above-described violations, the response of M&R and extenuating circumstances deemed relevant, the Division hereby assesses a civil penalty against M&R in the amount of One Thousand Dollars (\$1,000). M&R shall pay this penalty by remittance to "Director - Oil Conservation Division - Energy, Minerals and Natural Resources Department of the State of New Mexico." Payment shall be due not later than thirty (30) days after service upon M&R of a fully executed copy of this Order.

Done at Santa Fe, New Mexico this 15th day of June, 2004.

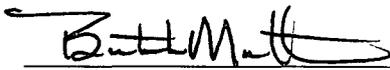
By:


Director, Oil Conservation Division

ACCEPTANCE

M&R Trucking, Inc. hereby accepts the above and foregoing Order No. NMOCD-OGA 04-__, and agrees to all of the terms and provisions therein set forth.

M&R TRUCKING, INC.

By: 

Title: President

Date: 5/12/04