

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

NMOCD-06-159

IN THE MATTER OF YATES PETROLEUM CORPORATION,

Respondent.

AGREED COMPLIANCE ORDER

Pursuant to the New Mexico Oil and Gas Act, NMSA 1978, §§ 70-2-1 through 70-2-38, as amended, (hereinafter "Act") and the rules 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 and **Yates Petroleum Corporation** (hereinafter "Yates") enter into this Order to resolve the violations alleged in Notice of Violation (2-06-26).

I. FINDINGS

1. The Oil Conservation Division (hereinafter "OCD") is the state division charged with administration and enforcement of the Act and OCD rules. Yates is a domestic, for-profit corporation registered to do business in New Mexico under SCC number 0425736. Yates' mailing address is 105 So. 4th Street, Artesia, New Mexico 88210; its registered agent is Randy G. Patterson, at the same address. Yates' OGRID is 025575.
2. Yates is the operator of record for the Pay SWD No. 2Q, S11-T8S-R26E (Unit M, SWSW), API No. 30-005-63706, located in Chaves County, New Mexico.
3. Pursuant to OCD Administrative Order SWD-975, Yates was authorized to utilize the Pay SWD No. 2Q as a produced water disposal, provided it met certain conditions. Those conditions included that, prior to Yates injecting into the well, Yates:
 - a) supply the OCD with a copy of the mud log report covering the Silurian formation;
 - b) supply the OCD with a water analysis of the Silurian formation in this or a nearby well;
 - c) estimate the initial reservoir pressure of the injection interval and send this estimate by letter to the OCD (referencing SWD-975); and
 - d) notify the OCD Artesia District Office Supervisor of the date and time of installation of the disposal equipment and mechanical integrity test, "so that the same may be inspected and witnessed."

3. OCD Rule 704.A(1) [19.15.9.704 NMAC] requires that before commencement of injection, the well “shall be tested to assure the integrity of the casing and the tubing and packer, if used, including pressure testing of the casing-tubing annulus to a minimum of 300 psi for 30 minutes or such other pressure and/or time as may be approved by the appropriate district supervisor. A pressure recorder shall be used and copies of the chart shall be submitted to the appropriate division district office within 30 days following the test date.”
4. OCD Rule 704.A(3) provides that “[n]otwithstanding the test procedures outlined above, the division may require more comprehensive testing of the injection wells when deemed advisable, including the use of tracer surveys, noise logs, temperature logs, or other test procedures or devices.”
5. OCD Rule 704.A(5) requires that the operator advise the OCD “of the date and time any initial, five-year, or special tests are to be commenced in order that such tests may be witnessed [by the OCD].”
6. While on field inspection, OCD Field Inspector Phil Hawkins identified Yates as operating the Pay SWD No. 2Q without having completed OCD required tests and/or paperwork.
7. On October 25, 2006, OCD Deputy Oil and Gas Inspector Gerry Guye performed a file and compliance review on the Pay SWD No. 2Q. Inspector Guye found that the file contained:
 - (a) no documentation that the OCD had been notified of the date and time of the initial mechanical integrity test, as required by OCD Rule 704.A(5);
 - (b) no documentation that Yates had submitted a copy of the pressure recorder chart to the OCD Artesia District Office within thirty days following the test, as required by OCD Rule 704.A(1); and
 - (c) no documentation that Yates had submitted a copy of the mud log report, water analysis of the Silurian formation, and an estimate of the initial reservoir pressure as required by Administrative Order SWD-975.
8. By Letter of Violation (“LOV”) dated October 26, 2006, the OCD notified Yates that the well was out of compliance for failing to run a MIT and/or failing to notify the OCD Artesia District Office of the date and time of the installation of disposal equipment and of the MIT. It instructed Yates to immediately shut-in the well and bring it into compliance by November 6, 2006.
9. After sending the LOV, Inspector Guye spoke by telephone with Michelle Taylor, Yates Regulatory Department, regarding the violations. Ms. Taylor told Inspector Guye that Yates had sent the OCD required documentation to the Bureau of Land Management (“BLM”), but agreed to turn all information over to her field personnel.

10. On November 8, 2006, the OCD received from Yates Form C-103, completion operations report, and a copy of the pressure recorder chart. On Form C-103 the OCD denied authority to Yates to inject into the well. The denial was issued as the chart was not timely provided to the OCD and a recent OCD inspection of the well showed the casing-tubing annulus was over the allowable pressure.
11. On November 29, 2006, the OCD then issued Notice of Violation (2-06-26) (“NOV”) to Yates alleging two knowing and willful violations of OCD Rule 704 (failing to notify the OCD of the date and time of the MIT, and failing to submit copies of the chart to the OCD within thirty days following the test) and three knowing and willful violations of Administrative Order SWD-975 (failing to submit a mud log report, a water analysis and an estimate of the initial reservoir pressure of the injection interval before injecting into the well).
12. NMSA 1978, §70-2-31(A) provides, in relevant part, “[a]ny person who knowingly and willfully violates any provision of the Oil and Gas Act or any provision of any rule or order issued pursuant to that act shall be subject to a civil penalty of not more than one thousand dollars (\$1,000) for each violation. For purposes of this subsection, in the case of a continuing violation, each day of violation shall constitute a separate violation.” NMSA 1978, §70-2-33(A) defines “person” in relevant part as “any individual estate, trust receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate or other entity....”
13. At the January 3, 2007 administrative conference, Yates presented the following:
 - a. A copy of Yates’ employee Curtis Tolle’s August 10, 2005 diary entry documenting that he had notified Van Barton, OCD Artesia District Office, of the date and time of the scheduled MIT on the Pay SWD No. 2Q.
 - b. Written documentation verifying that on August 22, 2005, Yates had sent a copy of the chart to the OCD on BLM Form 3160-5. Use of the BLM form is allowed under OCD Rules 14 [19.15.1.14 NMAC] and 1128 [19.15.13.1128 NMAC]. As the test had been conducted on August 11, 2005, this was within the thirty day time limit set by OCD Rule 704.A(1).
 - c. A copy of an April 14, 2005 letter from Yates’ employee James W. Pringle to Tim Gum, OCD District II Supervisor, providing copies of the documents required by Administrative Order SWD-975.

II. CONCLUSIONS

1. The OCD has jurisdiction over the parties and subject matter in this proceeding.
2. Yates is a person as defined by NMSA 1978, § 70-2-33(A) that may be subject to civil penalties under NMSA 1978, §70-2-31(A).
3. Based on the evidence presented, Yates did not violate OCD Rule 704 or Administrative Order SWD-975 at the Pay SWD No. 2Q, as alleged in NOV (2-06-26).

4. However, as shown by a recent OCD site visit, the casing-tubing annulus of the well is over the allowable pressure. Therefore, the well shall be retested, as provided by OCD Rule 704.A(3) (the OCD may require addition testing when it deems it is advisable).

III. ORDER AND CIVIL PENALTY

1. Taking into account both aggravating and mitigating factors, the OCD hereby assesses **no civil penalty** against Yates for violations of OCD Rule 704 and Administrative Order SWD-975 on the Pay SWD No. 2Q, as alleged in NOV (2-06-26).
2. Notwithstanding that no civil penalty is being assessed, no later than January 22, 2007 Yates shall conduct another MIT test on the Pay SWD No. 2Q. It shall give the OCD District II Artesia Office a minimum 24 hour notice prior to conducting the test, so that OCD personnel can witness the test. This notice shall be given by contacting OCD District II Inspector Gerry Guye.
3. By signing this Order, Yates 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;
 - 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.
4. Nothing in this Order relieves Yates of its liability should its operations fail to adequately investigate and remediate contamination that poses a threat to ground water, surface water, human health or the environment. In addition, nothing in this Order relieves Yates of its responsibility for compliance with any other federal, state or local laws and/or regulations.

Done at Santa Fe, New Mexico, this 19th day of Feb ~~January~~ 2007.

By: _____

Mark Fesmire, Director
Oil Conservation Division

ACCEPTANCE

YATES PETROLEUM CORP. hereby accepts the foregoing Order, and agrees to all of the terms and provisions set forth in the order.

YATES PETROLEUM CORP.

By: 

Title: President

Date January 30, 2007