

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

RECEIVED  
2007 OCT 29 PM 12 35  
ACO 07-203

IN THE MATTER OF IMPERIAL OPERATING COMPANY, LLC,  
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 Imperial Operating Company, LLC ("Imperial") directing compliance with the Act and OCD Rules, and assessing a penalty for violations of the Act and OCD rules.

**I. FINDINGS & DETERMINATIONS BY THE OCD**

1. The OCD is the state division charged with administration and enforcement of the Act and OCD Rules.
2. Imperial is a limited liability company operating wells in New Mexico under OGRID 217618.  
217168.
3. Prior to May 25, 2006, Imperial appeared in OCD records as the operator of record for three wells in New Mexico.
4. On May 25, 2006, the OCD approved a change of operator transferring two of Imperial's wells to Morexco Inc. ("Morexco"), leaving Imperial with only one well: the Fowler Hair #002.
5. The two wells transferred to Morexco were active wells. At the time of the May 25, 2006 transfer, the Fowler Hair #2 was inactive and had not reported production since May 2003.
6. Imperial had posted a \$5,000 single-well surety bond through Trinity Universal Insurance Company to secure its obligation to plug the Fowler Hair #002.
7. The OCD had initiated enforcement action against Imperial under Rule 201 [19.15.4.201 NMAC] regarding the Fowler Hair #002, based on the lack of reported production, and inspections conducted on 3/15/2005 and 2/14/2007 that found that the well shut-in with the flowline disconnected.

8. By letters dated March 22, 2005, March 29, 2005, and February 20, 2007 the OCD notified Imperial that the Fowler Hair #002 was in violation of Rule 201 due to its inactivity.
9. On February 16, 2007, Deputy Inspector Hill contacted Imperial by telephone regarding the violations at the Fowler Hair #002. Imperial informed him that the well had been transferred to Morexco a year and a half previously.
10. On March 19, 2007, Deputy Inspector Hill was in contact with Morexco, who informed him that the well was now active.
11. Deputy Inspector Hill inspected the well on August 21, 2007 and confirmed that the well was active.
12. At that time, no production reports had been filed for the Fowler Hair #002 reporting that production, and OCD records showed no transfer of operations from Imperial to Morexco.
13. On September 5, 2007, the OCD issued Notice of Violation (1-07-06) to Imperial, alleging knowing and willful violations of Rule 201 [19.15.4.201 NMAC], Rule 100.E(2) [19.15.3.100.E(2) NMAC], and Rule 1115 [19.15.13.1115 NMAC], proposing a civil penalty, and requiring Imperial to take corrective action.
14. OCD Rule 201 requires an operator to plug and abandon or temporarily abandon a well in accordance with OCD rules within 90 days after a period of one year of continuous inactivity.
15. OCD Rule 100.E(2) provides:

The operator of record with the division and the new operator shall apply for a change of operator by jointly filing a form C-145 using the division's web-based online application. If the operator of record with the division is unavailable, the new operator shall apply to the division for approval of change of operator without a joint application. The operator shall make such application in writing, and provide documentary evidence of the applicant's right to assume operations. The new operator may not commence operations until the division approves the application for change of operator.
16. Rule 1115 requires the operator to file a C-115 production report for each non-plugged well completion. Production reports are due each month on or before the 15<sup>th</sup> day of the second month following the month of production.
17. NMSA 1978, Section 70-2-31(A) authorizes penalties of up to one thousand dollars 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 that Act.

18. NMSA 1978, Section 70-3-433(A) defines “person” to include any “corporation, company, firm, partnership, joint venture, syndicate or other entity.”

**II. STATEMENTS & ADDITIONAL INFORMATION  
PROVIDED BY IMPERIAL AND MOREXCO**

19. Imperial and Morexco provided the following supplemental information and statements at the October 4, 2007 Administrative Conference on the Notice of Violation:

a. In 2006, Morexco acquired three wells from Imperial, including the Fowler Hair #002.

b. As part of the business arrangement transferring the three wells from Imperial to Morexco, the two companies agreed that Imperial would remain operator of record of the Fowler Hair #002 in OCD records until Morexco returned the well to production. That way, Morexco would avoid having to post a single well financial assurance for the inactive well, as required by Rule 101.B [19.15.3.101.B NMAC].

c. According to Morexco, it intended to file the production reports for the Fowler Hair #2 using a reporting service used by both companies, but failed to do so.

d. Imperial and Morexco did not enter into a separate agency contract; Morexco did not become Imperial’s authorized agent for filing reports for the OCD; Imperial did not enter into a separate agreement compensating Morexco for acting as its agent.

e. Imperial and Morexco initiated a change of operator for the Fowler Hair #2 in February 2007, but did not complete the transfer.

f. Imperial and Morexco believed the Fowler Hair #2 had been transferred to Morexco, but did not check their on-line well list or otherwise verify the transfer with the OCD.

g. After receiving the Notice of Violation, Imperial and Morexco filed production reports for the Fowler Hair #002.

h. Imperial and Morexco intend to complete the operator transfer, making Morexco the operator of record for the Fowler Hair #002.

**III. CONCLUSIONS OF THE OCD**

20. The OCD has jurisdiction over the parties and subject matter in this proceeding.

21. Imperial 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).

22. Imperial is subject to civil penalties under NMSA 1978, § 70-2-31(A) at the Fowler Hair #002 for knowing and willful violations of OCD Rules 201, 100.E(2) and 1115.

#### **IV. ORDER & CIVIL PENALTY ASSESSMENT**

23. Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty against Imperial totaling \$1,000 for the violations of Rules 201, 100.E(2) and 1115.

24. The civil penalty shall be paid at the time Imperial executes this Order. Payment shall be made by check 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.

25. Imperial agrees to take the steps it needs to take to complete the operator transfer, making Morexco the operator of record for the Fowler Hair #002, and agrees to file production reports for the well until the well is transferred.

26. By signing this Order, Imperial expressly:

- a. acknowledges the authority of the OCD to render the above "Findings & Determinations," "Conclusions" and "Order & Civil Penalty Assessment";
- b. 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;
- c. 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;

Done at Santa Fe, New Mexico this 30<sup>th</sup> day of October 2007.

By:   
Mark Fesmire, P.E.  
Director, Oil Conservation Division

#### **ACCEPTANCE**

**Imperial Operating Company LLC**, OGRID No. 217618, hereby accepts the foregoing Order, and agrees to all of the terms and provisions as set forth in the Order.

**Imperial Operating Company LLC**

By:  \_\_\_\_\_

Title: Member - Member

Date: 10/25/07