

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

ACO No. 226

**IN THE MATTER OF ASHER ENTERPRISES LTD. CO.,**

**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 Asher Enterprises Ltd. Co. (hereinafter "Operator") directing compliance with the Act and OCD Rules, and assessing a penalty for violations of the Act and OCD rules.

**I. FINDINGS**

1. The OCD is the state division charged with administration and enforcement of the Act and OCD Rules.
2. Operator is a domestic limited liability company registered to do business in New Mexico under SCC Number 1731306. Operator's address of record with the New Mexico Public Regulation Commission is 701 East Main Street, Artesia, New Mexico 88210.
3. Operator operates wells within New Mexico under OGRID 149538.
4. Operator's current address of record with the OCD is 12808 Lorien Way, Oklahoma City, OK 73170.
5. Operator is operator of record of the following well:
  - **Grayburg Jackson Unit No. 004Z; 30-015-28833; A-27-17S-30E**
6. On December 14, 2007, OCD Deputy Oil and Gas Inspector Kimberly Wilson inspected the Grayburg Jackson Unit No. 004Z well. During her inspection Deputy Inspector Wilson observed a flowline leak, oil and produced water was flowing west and north from well head, and there was a hole in the flowline.
7. Later that day, Deputy Inspector Wilson sent Operator a Letter of Violation (LOV NO. 0207236) which alleged Operator violated OCD Rule 19.15.1.13 NMAC ("Rule 13") and OCD Rule 19.15.3.116 NMAC ("Rule 116"). Deputy Inspector

Wilson asked Operator to submit a C-141 and remediation plan to the OCD Artesia District Office by January 5, 2008.

8. OCD Rule 13 states:

A. The production or handling of crude petroleum oil or natural gas of any type or in any form, or the handling of products thereof, in such a manner or under such conditions or in such amount as to constitute or result in waste is hereby prohibited.

B. All operators, contractors, drillers, carriers, gas distributors, service companies, pipe pulling and salvaging contractors, treating plant operators or other persons shall at all times conduct their operations in or related to the drilling, equipping, operating, producing, plugging and abandonment of oil, gas, injection, disposal and storage wells or other facilities in a manner that will prevent waste of oil and gas, the contamination of fresh waters and shall not wastefully utilize oil or gas, or allow either to leak or escape from a natural reservoir, or from wells, tanks, containers, pipe or other storage, conduit or operating equipment.

9. OCD Rule 116 requires OCD to be notified of any unauthorized release and for such release to be remediated in accord with OCD requirements and standards.

10. On January 25, 2008, after OCD failed to receive a response from Operator, OCD issued Notice of Violation No. 02-08-04, which alleged that Operator knowingly and willfully violated OCD Rule 13 and OCD Rule 116.

11. On February 26, 2008, an administrative conference was held by telephone with Kelly Jones, who had authority to act and appear on behalf of Operator.

12. Ms. Jones said she first heard about the leak when Deputy Inspector Wilson called her on December 14, 2007. Ms. Jones said her pumper told her he discovered the leak on December 13, 2007, he estimated the leak to be 5 barrels, and that he cleaned up the leak on December 14. Ms. Jones "left it at that."

Ms. Jones said she did not notify OCD about the release because she assumed that OCD knew about the release because of Deputy Inspector Wilson. Ms. Jones said she does not know the OCD rules for release remediation although she has skimmed over OCD Rule 116.

Ms. Jones said the leak was not knowing and willful because the leak was the result of a hole in the flow line.

Ms. Jones said she did not receive the Letter of Violation. She said she received the Notice of Violation after it was forwarded to their new address in Oklahoma City. She said they just completed their move to Oklahoma City on Tuesday, and that OCD now has their correct address.

13. OCD officials told Ms. Jones that the release needed to be remediated in accordance with OCD Rule 116 and OCD guidelines for remediation. OCD officials told Ms. Jones that the leak appeared to be a common reoccurrence at the hole in the flowline. OCD officials said it appeared that there had been prior attempts to repair the hole. There was also evidence of earlier leaks at the hole. OCD officials said they believed the leak was more than 5 barrels based on the extent of the contamination appearing in Deputy Inspector Wilson's pictures. OCD officials told Ms. Jones that they had a signed receipt showing that she had signed for the Letter of Violation on December 20, 2007. OCD officials did admit receiving a C-141 on February 25, 2008.

### III. CONCLUSIONS

1. The OCD has jurisdiction over the parties and subject matter in this proceeding.
2. Operator 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. NMSA 1978, Section 70-2-31(A) states, "Any 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 for each violation. For purposes of this subsection, in the case of a continuing violation, each day of violation shall constitute a separate offense."
4. Operator is subject to civil penalties under NMSA 1978, § 70-2-31(A) for knowing and willful violations of OCD Rule 13 and OCD Rule 116.

### IV. ORDER & CIVIL PENALTY ASSESSMENT

1. Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty against Operator totaling **Two Thousand Dollars (\$2,000.00)**.
2. The **Two Thousand Dollars (\$2,000.00)** civil penalty shall be paid upon execution 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. Operator shall remediate the release in accord with OCD Rule 116 and OCD guidelines. Operator shall obtain samples, have the samples analyzed by an OCD-approved lab, and submit the analyses to OCD by March 21, 2008. If the samples analyses indicate contamination to be present above OCD acceptable levels, Operator shall submit a remediation plan to OCD by March 28, 2008. Operator shall complete remediation activities and submit final confirmation samples analyses to OCD within 30 days of OCD approval of the final remediation plan.

4. By signing this Order, Operator expressly:
- a. acknowledges the correctness of the Findings and Conclusions set forth in this Order;
  - b. agrees to comply with the Order;
  - 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;
5. For good cause shown, Operator may request an extension to complete the requirements as set out in Ordering Paragraphs 3. Such notification ("notice") shall reasonably describe the circumstances encountered by Operator that prohibits it from meeting the deadlines set out herein.

Within ten (10) days of receipt of this notice, the OCD shall either approve the extended time requested by Operator by executing a written amendment to this Order, or notify Operator that it will not extend the deadline. The OCD's approval of a time extension shall not be unreasonably withheld.

6. Nothing in this Order relieves Operator 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 Operator of its responsibility for compliance with any other federal, state or local laws and/or regulations.

Done at Santa Fe, New Mexico this 17<sup>th</sup> day of March 2008.

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

ACCEPTANCE

Asher Enterprises Ltd. Co. hereby accepts the foregoing Order, and agrees to all of the terms and provisions as set forth in the Order.

**Asher Enterprises Ltd. Co.**

By: Kelly Jones

Title: agent

Date: 3-10-08