

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

ACO 08- 242

IN THE MATTER OF DUGAN PRODUCTION CORP.,

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 **Dugan Production Corp.**, OGRID 6515, (hereinafter "Dugan") 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) Dugan is a corporation authorized to do business in the State of New Mexico under Public Regulation Commission ("PRC") SCC number 0444224 with a mailing address of P.O. Box 420, Farmington, New Mexico 87499. Its registered agent is Thomas A. Dugan, 709 E Murray Dr., Farmington, New Mexico 87401. Dugan's OGRID is 6515 and its address of record with the OCD is P.O. Box 420 Farmington NM, 87499.
- 3) Dugan is the Operator of Record of the Navajo 10-22-7 #1, Unit letter N, Section 10, Township 22 North, Range 7 West, API # 30-043-20346, Sandoval County New Mexico.
- 4) On March 7, 2008, OCD Deputy Oil and Gas Inspector Monica Kuehling performed a routine inspection on the Dugan Navajo 10-22-7 #1. Inspector Kuehling found an open workover pit on location.
- 5) Upon contacting Dugan to make further inquiry, it was discovered that the pit was a previously-permitted workover pit.

- 6) Dugan had submitted a request to the OCD to construct a workover pit on June 14, 2007, and in so doing, had certified that the pit would be constructed and closed in compliance with NMOCD guidelines.
- 7) The permit for a workover pit (C-103) was approved by the OCD on June 21, 2007.
- 8) On a sundry received by the OCD on October 17, 2007, Dugan stated that the well was returned to production on August 14, 2007.
- 9) A form C-144 was submitted by Dugan for the pit at the location, and was approved by the OCD on November 29, 2007. On the C-144, Dugan again certified that it was complying with NMOCD guidelines as to the construction and/or closure of the pit at the location.
- 10) The date a well is returned to production is the date the OCD uses to determine cessation of use for a permitted workover pit. In this case, the pit ceased to be used as a workover pit on August 14, 2007, when this well was returned to production according to the Bureau of land management sundry form 3160-S submitted by Dugan.
- 11) OCD Rule 50.F(1) [19.15.2.50.F(1) NMAC] states that “[e]xcept as otherwise specified in Section 50 of 19.15.2 NMAC, a pit or below-grade tank shall be properly closed within six months after cessation of use. As a condition of a permit, the division may require the operator to file a detailed closure plan before closure may commence. The division for good cause shown may grant a six-month extension of time to accomplish closure.”
- 12) To date, the OCD has not received or approved a request for extension to allow the pit to remain open as provided by OCD Rule 50.F(1) [19.15.2.50.F(1) NMAC]. Dugan was therefore required to close the pit at this location within six months of August 14, 2007, (no later than February 14, 2008).
- 13) Dugan violated Rule 50.F(1) by failing to close the workover pit within the allotted six month period, by February 14, 2007
- 14) NMSA 1978 Section 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.”

- 15) NMSA 1978, section 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...”
- 16) As a result of its investigation, on April 24, 2008, the OCD issued Notice of Violation (3-08-09) to Dugan.

II. STATEMENTS & ADDITIONAL INFORMATION PROVIDED BY THE OPERATOR, DUGAN

Dugan provided the following supplemental information and statements during an administrative Conference held on May 15, 2008:

- 17) Dugan had the water removed from the location two different times to prepare the pit for closure.
- 18) Dugan thought the pit had been closed by the company contracted to close the pit.
- 19) Dugan has created a checklist process to ensure that the pits are properly closed in the future.

III. CONCLUSIONS OF THE OCD

- 20) The OCD has jurisdiction over the parties and subject matter in this proceeding.
- 21) Dugan 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) Dugan is subject to civil penalties under NMSA 1978, § 70-2-31(A) at the Navajo 10-22-7 #1 for one violation of OCD Rule 50.F(1) [19 15.2.50.F(1) NMAC] (not closing the pit within the allotted six month time period).

IV. ORDER & CIVIL PENALTY ASSESSMENT

- 23) Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty against Dugan totaling **One Thousand Dollars (\$1,000.00)** for the violation of the OCD's Rules.
- 24) The civil penalty shall be paid at the time Dugan 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) By signing this Order, Dugan expressly:
- a. acknowledges the authority of the OCD to render the above "Findings & Determinations," "Conclusions" and "Order & Civil Penalty Assessment";
 - c. acknowledges that it is the responsibility of Dugan, as the Operator of Record of wells in New Mexico, to know and comply with Division Rules in the operation of those sites, and that Dugan is ultimately the entity responsible for any noncompliance with Division Rules associated with any site for which it is the Operator of Record.
 - d. agrees to comply with the Order, specifically as articulated in Section "IV," Paragraphs 23, 24, and 25;
 - e. 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;
 - f. 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;
- 26) Nothing in this Order relieves Dugan 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 Dugan of its responsibility for compliance with any other federal, state or local laws and/or regulations.

Done at Santa Fe, New Mexico this 20th day of June 2008.

By: [Signature]
2 Mark Fesmire, P.E.
Director, Oil Conservation Division

ACCEPTANCE

DUGAN PRODUCTION CORP., (OGRID No. 6515), Navajo 10-22-7 #1, Unit letter N, Section 10, Township 22 North, Range 7 West, API # 30-043-20346 Sandoval County, New Mexico, hereby accepts the foregoing Order, and agrees to all of the terms and provisions as set forth in the Order.

DUGAN PRODUCTION CORP.,

By: [Signature]

Title: Vice President

Date: 6/20/2008

