



NEW MEXICO ENERGY, MINERALS and NATURAL RESOURCES DEPARTMENT

BILL RICHARDSON
Governor
Joanna Prukop
Cabinet Secretary

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

NOTICE OF VIOLATION (xxxxx)

May 11, 2005

CERTIFIED MAIL
RETURN RECEIPT NO:

XXXXX
XXXXX
XXXXX
XXXXX

RE: XXXXX, API #XXXXXXXX

Violation of Oil Conservation Division Rule 710.A. [19 15.9.710A NMAC]

Dear Ms. Jenkins:

On February 25, 2005, New Mexico Oil Conservation Division (OCD) Deputy Oil and Gas Inspector Darell Davis visited the XXXX while inspecting wells in the area. Inspector Davis found where water had run forty to fifty feet across the location. Inspector Davis followed the wet stain across location to its source at the approximately 50 gallon open-topped, non-metallic aboveground flow back production tank near the wellhead.

An OCD investigation found the following:

- 1) Rule 710.A states in pertinent part, "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 which will constitute a hazard to any fresh water supplies."
- 2) XXXX became operator of record for this XXX well based on a C-104 approved July 23, 1991.
- 3) An examination of visual and photo evidence confirmed the water source as the flow back tank. During an April 6, 2005, visit to the area by Inspector Davis, Mr. XXXX stated produced water was drained to the surface of the ground by removing a 2" plastic drain plug from near the bottom of the tank. The plug was replaced after draining the tank.
- 4) XXXXX violated Rule 710.A. by draining produced water from the flow back tank to the surface of the ground by removing the drain plug.

XXXX's misconduct warrants issuance of this "Notice of Violation" and assessment of civil penalties pursuant to NMSA 70-2-31.A. for violations of the OCD Rule described above. NMSA, Section 70-2-31.A. authorizes penalties of up to one thousand dollars (\$1,000) per day per violation for any knowing or willful violation of any provision of the "Oil and Gas Act" or any Rule adopted pursuant to the Act.

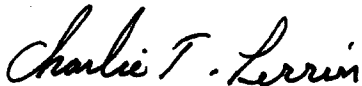
Because the rule violation at issue is serious and occurred over a period of time, the Aztec District Office of OCD believes at this time a one thousand dollar (\$1,000) civil penalty and a definite commitment to future corrective action are essential. This penalty is based on one violation of Rule 710.A. XXX is admonished that future violations may result in more severe penalties.

Please contact me within ten (10) days at 505-334-6178, extension 16, to schedule an administrative conference to discuss this matter. OCD legal counsel may be present by telephone for this conference and you may bring legal counsel if you wish. The purpose of the administrative conference is discuss the facts surrounding this notice of violation, and to determine if the matter can be resolved administratively through an agreed compliance order.

If the matter cannot be resolved administratively the OCD may take further enforcement action, which may include an enforcement hearing before an OCD hearing examiner seeking an order requiring that the well associated with the pit be plugged and abandoned pursuant to NMSA 1978, section 70-2-14(B). That statute provides:

“If any of the requirements of the Oil and Gas Act or the rules promulgated pursuant to that act have not been complied with, the oil conservation division, after notice and hearing, may order any well plugged and abandoned by the operator or surety or both in accordance with division rules. If the order is not complied with in the time period set out in the order, the financial assurance shall be forfeited.”

Sincerely yours,



Charlie T. Perrin
District III Supervisor
cperrin@state.nm.us

CTP/mk

E-mail copy to: Daniel Sanchez, OCD Santa Fe
Gail MacQuesten, OCD Santa Fe

Cc: Bureau of Land Management
NOV File