

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

NMOCD-OGA-04- 45

**IN THE MATTER OF NORMAN L AND LORETTA E GILBREATH,
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 Norman L and Loretta E Gilbreath ("Gilbreath") directing compliance with the Act and OCD Rules, and assessing a penalty for violations of the Act and OCD rules.

FINDINGS

1. The OCD is the state division charged with administration and enforcement of the Act and OCD Rules.
2. Gilbreath is a sole proprietorship doing business in New Mexico. Gilbreath is an active entity with a principal and mailing address at P. O. Box 208, Aztec, NM 87410. Gilbreath's OGRID is 15989.
3. On June 15, 2004, New Mexico Oil Conservation Division (OCD) Deputy Oil and Gas Inspector Denny Foust received a complaint about odorous water coming from the wellhead of the Gilbreath Wright #1 well located in Unit Letter O, Section 19, Township 30 North, Range 11 West with API # 30-045-21174. He found that the well had been releasing produced water from the stuffing box on the well into an unlined trench leading to an earthen pit, and that the wellhead valves were configured to discharge liquids from the tubing into the trench.
4. An OCD investigation and review of relevant documents established the following facts:
 - a) Gilbreath stated the discharge pit was excavated before April 15, 2004.
 - b) Rule 50.B.(3)(b), which has an effective date of February 13, 2004, states in important part, "For each pit or below grade tank in existence on April 15, 2004 that has not received an exemption . . . the operator shall submit a notice not later than April 15, 2004 indicating either that use of the pit or below grade tank will continue or that such pit or below grade tank will be closed."

- c) Gilbreath violated Rule 50.B.(3)(b) by not submitting a notice for the existing unlined pit on the Wright #1.
- d) Before Rule 50 took effect on February 13, 2004, the use of unlined pits at this location was prohibited under OCD Order R-7940.C. The use of unlined pits in this location is prohibited under Rule 50.C in order to prevent contamination of fresh water and protect public health and the environment.
- e) Gilbreath confirmed the Wright #1 well started disposing produced water to the pit on June 15, 2004.
- f) Rule 13.B states in pertinent part, "All operators . . . 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 . . ."
- g) Gilbreath cooperated fully with the OCD investigation.
- h) Gilbreath closed the pits immediately.
- i) No further remedial action is necessary.

CONCLUSIONS

1. The OCD has jurisdiction over the parties and subject matter in this proceeding.
2. Gilbreath is a person as defined by NMSA 1978, Section 70-2-33(A) subject to civil penalties under NMSA 1978, Section 70-2-31(A) for knowing and willful violations of the Oil and Gas Act or OCD Rules.
3. Gilbreath is subject to civil penalties under NMSA 1978, Section 70-2-31(A) for violating OCD Rule 13.B's prohibition against operating a well in a manner that will prevent the contamination of fresh waters.

ORDER AND CIVIL PENALTY

1. Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty totaling one thousand dollars (\$1,000) against Gilbreath.
2. The civil penalty shall be paid within sixty days of receipt 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. By signing this order, Gilbreath 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; and
- 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 (NMSA 1978, Sections 70-2-1 through 70-2-38, as amended).

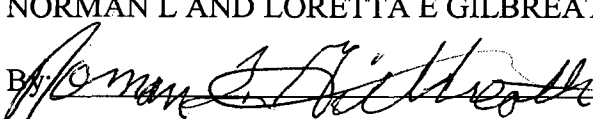
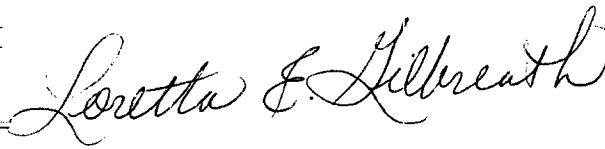
Done at Santa Fe, New Mexico, this 15th day of Dec, 2004.

By: 
Mark Fesmire, PE, Director
Oil Conservation Division

ACCEPTANCE

Norman L and Loretta E Gilbreath hereby accepts the foregoing order, and agrees to all of the terms and provisions set forth in the order.

NORMAN L AND LORETTA E GILBREATH

By:  

Title: operator

Date 12/08/04