

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

NMOCD-OGA-04-68

IN THE MATTER OF WILLIAMS PRODUCTION COMPANY, LLC,

Respondent.

RECEIVED

MAY 9 - 2005

**AGREED ORDER DIRECTING COMPLIANCE
AND ASSESSING CIVIL PENALTY**

OIL CONSERVATION
DIVISION

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 **WILLIAMS PRODUCTION COMPANY, LLC ("WILLIAMS")** 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. Williams is a foreign limited liability company and is authorized to do business in the State of New Mexico under Public Regulation Commission ("PRC") SCC number 2152643. According to Public Regulation Commission records, Williams has a principal and mailing address at One Williams Center, Tulsa, Oklahoma 74172. Its registered agent for service of process in New Mexico is CT Corporation System, 123 East Marcy, Santa Fe, NM 87505. Williams OGRID #120782
3. Williams is the operator of record of the Rosa Unit SWD #1 well, API 30-039-27055, located at Unit Letter I, Section 23, Township 31 North, Range 06 West in Rio Arriba county, New Mexico ("well").
4. On November 9, 2004, New Mexico Oil Conservation Division (OCD) Deputy Oil and Gas Inspector Bruce Martin, while witnessing a test at the Rosa SWD #1, API#30-039-27055, observed that the drilling pit liner on this recently completed well was damaged and allowing the fluid in the pit to come in contact with the ground.
5. An OCD investigation established the following facts:
 - a. OCD Rule 19.15.2.50.A NMAC (Rule 50.A), effective February 13, 2004, provides, in relevant part, that "discharge into, or construction of, any pit ... is prohibited absent possession of a permit issued by the division, unless otherwise herein provided or unless the division grants an exemption pursuant to Subsection G of 19.15.2.50 NMAC."
 - b. OCD Rule 19.15.2.50.B(3)(a) NMAC (Rule 50.B(3)(a)) says in pertinent part, "... After April 15, 2004, operators shall obtain a permit before constructing a pit or below grade tank. ..."
 - c. Williams does not have a permit for the drilling pit as required by Rule 50.

- d. The well was spudded on June 28, 2004.
 - e. Williams violated Rule 50 by not obtaining a permit before constructing the drilling pit
 - f. OCD Rule 19.15.9.710.A NMAC (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."
 - g. OCD Rule 19.15.9.710.B NMAC (Rule 710.B) states in part, "... Delivery of produced water...to a drill site for use in drilling fluids will not be construed as constituting a hazard to fresh water supplies provided the produced waters are placed in tanks or other impermeable storage at such facilities. ..."
 - h. Williams hauled 6,400 barrels of produced water to the referenced well for use as drilling fluid from May 30, 2004 to October 7, 2004.
 - i. Williams did not remove any water from the drilling pit from November 3, 2004 thru November 8, 2004.
 - j. Williams allowed drilling fluids containing produced water to come into contact with the ground through damage in the liner.
 - k. Williams violated Rule 710.A. by allowing drilling fluids containing produced water to contact the ground through the damaged liner.
 - l. NMSU 1978 Section 70-2-31(A) provides in relevant part, "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 (\$1,000) for each violation."
 - m. 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..."
6. As a result of its investigation, the OCD issued Notice of Violation (3-04-24) to Williams.
7. Williams fully cooperated with the OCD in this investigation.
8. Williams has closed the pit in accordance with an OCD approved program.
9. Williams will take the following steps internally:
- a) conduct refresher training to ensure employees understand release reporting applies to drilling operations.
 - b) review all historic (pending) APDs to ensure all future drilling pits are properly permitted prior to construction.
 - c) Williams has assigned a full time Environmental Health & Safety Specialist to assist with

environmental compliance and regulatory agency communication.

10. No further corrective action will be required at this time.
11. Williams takes the position that it is not subject to penalties because the violation was not knowing and willful.
12. Although Williams does not believe it is subject to penalties for the conduct described in this order, it acknowledges that if this case went to hearing the OCD would likely prove that it is subject to penalties, and therefore has determined that it is in its economic interest to pay the penalty rather than litigate the issues.

CONCLUSIONS


1. The OCD has jurisdiction over the parties and subject matter in this proceeding.
2. Williams 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. Williams is subject to civil penalties under NMSA 1978, Section 70-2-31(A) for violating Rule 50.B.(3)(a) [19.15.4.50.B.(3)(a) NMAC] and Rule 710.B. [19.15.4.710.B.NMAC].

ORDER AND CIVIL PENALTY

1. Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty totaling two thousand dollars (\$2,000) against Williams. This is based on a one day violation of Rule 50.B.(3)(a) and a one day violation of Rule 710.A.
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, Williams 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

- e. agrees that if it fails to pay penalties assessed pursuant to this order, upon application by the OCD the district court may enter judgment against Williams in the amount of the penalties assessed and, in the discretion of the court, may impose additional penalties for Williams' violation of the penalty provisions of this order.

Done at Santa Fe, New Mexico, this 8th day of May, 2005.

By: 
Mark Fesmire, PE, Director
Oil Conservation Division

Williams Production Company, LLC. hereby accepts the foregoing order, and agrees to all of the terms and provisions set forth in the order.

WILLIAMS PRODUCTION COMPANY, LLC

By: 

Title: Manager, Production Operations

Date 5/2/05