

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

NMOCD-OGA-04- 88

**IN THE MATTER OF ENERGEN RESOURCES CORPORATION,**

Respondent.

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

Pursuant to the New Mexico Oil and Gas Act, NMSA 1978, §§ 70-2-1 through 70-2-38, as amended ("Act"), and the rules 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 **ENERGEN RESOURCES CORPORATION ("ERC")** 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. ERC is a corporation doing business in New Mexico, registered with Secretary of State as a foreign corporation under number SCC 1850304. ERC is an active entity with a principal and mailing address at 605 Richard Arrington Jr. Blvd. N., Birmingham, AL 35203-2707. Its registered agent for service of process in New Mexico is Gary Don Reagan, 1819 North Turner, Suite G, Hobbs, NM 88240. ERC's New Mexico contact and principal business address is Gary Brink, 2198 Bloomfield Highway, Farmington, NM 87401. ERC has been assigned OGRID # 162928.
3. ERC is the operator of record for the Santa Rosa 5 #3, API #30-045-31856, Unit Letter O, Section 31, Township 30 North, Range 09 West, San Juan County, New Mexico ("well").
4. On March 1, 2005, New Mexico Oil Conservation (OCD) Deputy Oil and Gas Inspector Darell Davis stopped at the well while doing well inspections in the area. Deputy Inspector Davis discovered an open drilling pit with approximately forty percent of the surface covered by paraffin-like hydrocarbon. Fluid in the drilling pit was standing above the liner in the portion of the drilling pit next to the wellhead.
5. An OCD investigation and review of relevant documents established the following:

- a. OCD originally approved a permit for a lined drilling pit at the well on September 24, 2004. ERC submitted an additional request for a lined drilling pit dated January 26, 2005, in an effort to comply with OCD Rule 50. Energen was already in compliance for a permit but the additional application was approved January 28, 2005 for the same pit at the Santa Rosa 5 #3.
  - b. The last casing string was set October 14, 2004.
  - c. OCD approved a C-104 request for an allowable on November 24, 2004.
  - d. Rule 50.C.(2)(b)(i) states, "Each drilling pit or workover pit shall contain, at a minimum, a single liner appropriate for conditions at the site. The liner shall be designed, constructed, and maintained so as to prevent the contamination of fresh water, and protect public health and the environment."
  - e. Rule 50.C.(2)(f) states in pertinent part, "All pits shall be fenced or enclosed to prevent access by livestock, and fences shall be maintained in good repair. Active drilling or workover pits may have a portion of the pit unfenced to facilitate operations....Immediately after cessation of these operations such pits shall have any visible or measurable layer of oil removed from the surface." (Emphasis added.)
  - f. NMSA 1978, §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. For purposes of this subsection, in the case of a continuing violation each day of violation shall constitute a separate violation."
  - g. NMSA 1978, § 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 (3-05-07) to ERC alleging violations of Rules 50.C.(2)(b)(i) and 50.C.(2)(f).
  7. According to information provided by ERC during an administrative conference regarding the Notice of Violation, ERC took the following actions after being notified of the violations:
    - a. ERC closed the drilling pit at the Santa Rosa 5 #3 under an OCD approved closure plan.

- b. ERC established a monitoring system with the objective of keeping free board at a minimum of two feet. Rig supervisors and construction foreman will make additional inspections to assure compliance with regulations.
- c. ERC presented a training session to employees on the issues and problems of compliance with OCD Rule 50.
- d. ERC modified some completion practices to better comply with OCD Rule 50 requirements.
- e. ERC implemented an improved internal reporting/tracking event management system to help identify practices contributing to potential violations.

### **CONCLUSIONS**

1. The OCD has jurisdiction over the parties and subject matter in this proceeding.
2. ERC is a person as defined by NMSA 1978, Section 70-2-33(A) and as such may be subject to the civil penalty provisions of NMSA 1978, Section 70-2-31(A).
3. ERC is subject to civil penalties under NMSA 1978, Section 70-2-31(A) for failing to maintain the liner in a manner that would not permit fluids in the drilling pit to overtop the liner, in violation of Rule 50.C.(2)(b)(1).
4. ERC is subject to civil penalties under NMSA 1978, Section 70-2-31(A) for failing to remove paraffin-like hydrocarbon from the drilling pit when completion operations ceased, in violation of Rule 50.C.(2)(f).

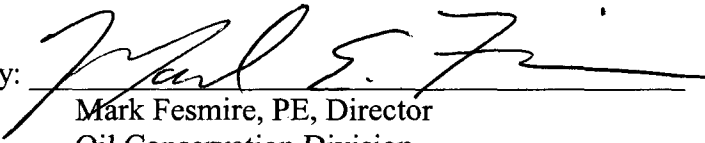
### **ORDER AND CIVIL PENALTY**

1. Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty totaling two thousand dollars (\$2,000) against ERC.
2. The civil penalty shall be paid at the time ERC 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.
5. By signing this Order, ERC 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.

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

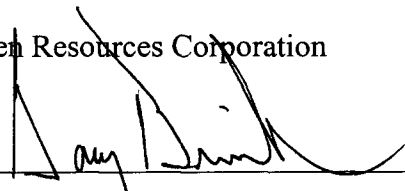
Done at Santa Fe, New Mexico, this 5<sup>th</sup> day of October, 2005.

By:   
Mark Fesmire, PE, Director  
Oil Conservation Division

**ACCEPTANCE**

Energen Resources Corporation hereby accepts the foregoing order, and agrees to all of the terms and provisions set forth in the order.

Energen Resources Corporation

By: 

Title: GENERAL L. MARIA GIER - SAN JUAN

Date: 9/27/05