

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

NMOCD-OGA-05 90

IN THE MATTER OF BP AMERICA PRODUCTION COMPANY,

Respondent.

AGREED ORDER DIRECTING COMPLIANCE

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 pursuant to that 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 BP America Production Company ("BP") 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. BP is a corporation doing business in New Mexico, registered with the Secretary of State under number SCC 0176503 and operating wells under OGRID #778.
3. BP is the operator of record for the Holmberg Gas Com C#1S, API #300-045-32478, Unit Letter E, Section 28, Township 32 North, Range 10 West, in San Juan County, New Mexico ("well").
4. On January 27, 2005, OCD Deputy Oil and Gas Inspector Darrell Davis stopped by the well while doing inspections in the area. Deputy Inspector Davis discovered an unlined vent/flare portion of the drilling pit that contained standing water. The woven wire fence around the pit appeared to have been cut at the point where fracture sand was vented.
5. An OCD investigation and review of relevant documents established the following:

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- a. The OCD approved an electronic C-101 on August 6, 2004, authorizing a lined drilling pit at the well site.
 - b. The last casing string was set on September 18, 2004.
 - c. The drilling pit fence at the well had been cut; it appeared that repairs had been attempted with heavy-duty plastic ties at some time. The ties were on the ground and a section of the pit fence was down on the ground.
 - 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. Pits used to vent or flare gas during drilling or workover operations that are designed to allow liquids to drain to a separate pit do not require a liner."
 - 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."
 - 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 (3-05-03) to BP alleging violations of Rules 50.C(2)(b)(i) and 50.C(2)(f).
7. During an administrative conference conducted on February 16, 2005, BP informed the OCD that it had taken the following actions after being informed of the conditions at the well:
- a. clarified the language on pit requirements in internal documents and in its training for Rule 50 requirements;
 - b. developed an investigation procedure for rig supervisors to determine proper pit design before moving a rig on location;

- c. established a reporting procedure for drilling and production personnel when pit problems are noted in the field; and
- d. designated an employee to inspect all open drilling and workover pits weekly, keeping records on file.

CONCLUSIONS

- 1. The OCD has jurisdiction over the parties and subject matter of this proceeding.
- 2. BP 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).
- 3. BP is subject to civil penalties for using an unlined vent/flare pit that was not designed to allow liquids to drain into a separate pit, in violation of Rule 50.C(2)(b)(i).
- 4. BP is subject to civil penalties for failing to maintain the drilling pit fence in good repair sufficient to prevent access by livestock, 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 BP.
- 2. The civil penalty shall be paid at the time this order is executed. Payment shall be made by 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 St. Francis Drive, Santa Fe, New Mexico, 87505
- 4. By signing this order, BP 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;
 - 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 BP in the amount of the penalties assessed and, in the discretion of the court, may impose additional penalties for BP's violation of the penalty provisions of this order.

Done at Santa Fe, New Mexico, this 15th day of Sept, 2005.

By:

Mark E. Fesmire
Mark Fesmire, P.E.

Director, Oil Conservation Division

ACCEPTANCE

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

BP America Production Company

By:

RICARDO TAPIA

Title:

SAN JUAN SOUTH ASSET MGR

Date:

9/6/05

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