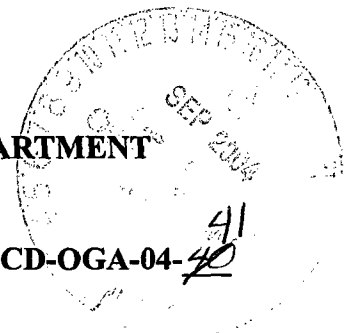


**STATE OF NEW MEXICO  
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION DIVISION**

NMOCD-OGA-04-~~40~~<sup>41</sup>



**IN THE MATTER OF MERRION OIL AND GAS CORPORATION, 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 **MERRION OIL AND GAS CORPORATION** ("Merrion") 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. Merrion is a Domestic Profit Corporation doing business in New Mexico, registered with the New Mexico Public Regulatory Commission under SCC number 0816769. Merrion is an active entity; T Gregory Merrion is the registered agent with a mailing address at 610 Reilly Avenue Farmington, New Mexico 87401-2634.
3. On May 5, 2004, New Mexico Oil Conservation Division (OCD) Deputy Oil and Gas Inspector Bruce Martin observed a release of water from a produced water tank on the site of Merrion Oil and Gas Corporation, U-DA-Well #2, B-02-31N-08W, API# 30-045-31280.
4. An OCD investigation revealed the following:
  - a) According to a statement by a Merrion contract employee, he had noticed moisture at the tank on May 1, 2004.
  - b) Merrion's employee returned to the location to check the well on May 4, 2004
  - c) The overflow was not corrected until after Deputy Inspector Martin notified Carl Merilatt of Merrion on May 5, 2004. Moss Excavation employees shut off the valve bypass with a bull plug.
  - d) Rule 710.A states in relevant part "No person, including any transporter, may dispose of produced water on the surface of the ground..."

- e) Knowingly allowing produced water from the overflowing tank to run onto the surface of the ground is a violation of Rule 710.A. This violation continued over a four-day period.
  - f) The drilling pit at the site of the U-DA-Well #2 was in existence prior to April 15, 2004 and had not received an exemption after hearing as allowed by OCC Order R-32221 through R-3221-D.
  - g) Merrion had not notified the OCD about the existence of the drilling pit at the U-DA-Well #2.
  - h) Rule 50.B(3)(b) states in pertinent part, "For each pit or below-grade tank in existence on April 15, 2004 that has not received an exemption after hearing as allowed by OCC Order R-3221 through R-3221D inclusive, 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."
  - i) Merrion's failure to notify the OCD about the existence of the drilling pit at the U-DA-Well #2 by April 15, 2004 constitutes a violation of Rule 50.B(3)(b).
  - j) Moss Excavation started closing the drilling pit on May 4, 2004.
  - k) Merrion did not submit a closure plan for the drilling pit to the OCD for approval prior to closing the pit.
  - l) Rule 50.E states in pertinent part, "Drilling fluids and drill cuttings shall ....be disposed of as approved by the division.... The operator shall describe the disposal method in the ...sundry notices and reports on wells."
  - m) Disposal of drilling fluids and drill cuttings without OCD approval is a violation of Rule 50.E.
5. Merrion has addressed the produced water release by back dragging the affected area; the excess water from the drilling pit was hauled to their disposal system with one load going to Basin Disposal. The remaining materials were mixed with dirt (stiffened) and buried in compliance with Rule 50. No additional remediation is required.
  6. NMSA 1978, Section 70-2-31(A) authorizes the assessment of civil penalties of up to one thousand dollars per day per violation against any person who knowingly and willfully violates any provision of the Act or any rule adopted pursuant to that Act.

### CONCLUSIONS

1. The OCD has jurisdiction over the parties and subject matter in this proceeding.

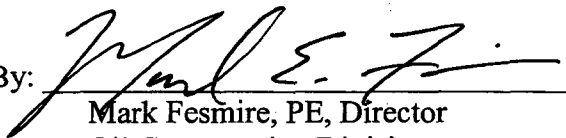
2. Merrion is a person as defined by NMSA 1978, Section 70-2-33(A) subject to civil penalties under NMSA 1978, Section 70-2-31(A) for knowing and willful violations of the Oil and Gas Act or OCD Rules.
3. Merrion is subject to civil penalties under NMSA 1978, Section 70-2-31(A) for violating OCD Rule 710.A's prohibition against the disposal of produced water on the surface of the ground because Merrion allowed produced water to reach the ground over a period of four days.
4. Merrion is subject to civil penalties under NMSA 1978, Section 70-2-31(A) for violating OCD Rule 50.(E)'s requirement that drilling fluids and drill cuttings be disposed of in a manner approved by the OCD. These violations occurred for several days.
5. Merrion is subject to civil penalties under NMSA 1978, Section 70-2-31(A) for violating OCD Rule 50.(B)'s requirement to notify the OCD of the existence of the pit at the well site.

#### **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 Merrion. This penalty is based on violation of Rule 710.A. OCD is not assessing a penalty for violations of Rule 50, although Merrion is admonished that future violations of Rule 50 will result in civil penalties.
2. Merrion is to create a best management practices document addressing internal reporting requirements and procedures and a defined internal hierarchy. Merrion will review this plan with their employees within sixty days. Merrion will furnish the Oil Conservation Division Aztec District office with a copy of said plan.
3. 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.
4. By signing this order, Merrion expressly:
  - a. acknowledges the correctness of the Findings and Conclusions set forth in this order;
  - b. agrees to comply with ordering paragraphs one through three;
  - 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).

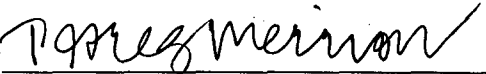
Done at Santa Fe, New Mexico, this 22<sup>nd</sup> day of September 2004.

By:   
Mark Fesmire, PE, Director  
Oil Conservation Division

**ACCEPTANCE**

**MERRION OIL AND GAS CORPORATION** hereby accepts the foregoing order, and agrees to all of the terms and provisions set forth in the order.

**MERRION OIL AND GAS CORPORATION**

By: 

Title: President

Date 9-15-04