

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

NMOCD-OGA-04- *ACO-110*

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, amended (hereinafter, "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 (hereinafter, "OCD") issues this Order to **ENERGEN RESOURCES CORPORATION** (hereinafter, "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, Alabama 35203-2707. Its registered agent for service of process in New Mexico is Gary Don Reagan, Esq., 1819 North Turner, Suite G, Hobbs, New Mexico 88240. ERC's New Mexico contact is Gary Brink. ERC's principal business address is 2198 Bloomfield Highway, Farmington, New Mexico 87401. ERC has been assigned OGRID # 162928.
3. ERC is the operator of record for the C. J. Holder #100S, Unit Letter O, Section 09, Township 28 North, Range 13 West, API # 30-045-31647, San Juan County, New Mexico (hereinafter, "well").
4. On November 4, 2005, OCD Deputy Oil and Gas Inspector Monica Kuehling conducted inspections of various sites, including of ERC's C. J. Holder #100S. Deputy Inspector Kuehling checked OCD records but could find no application or permit to drill the well issued by the OCD, or any other record of the well. ERC commenced operations on the referenced well on October 29, 2005.
5. An OCD investigation and review of relevant documents established the following:

- a. On September 24, 2004, the OCD approved a permit for a lined drilling pit at the well.
 - b. At that time the OCD had not received, nor approved, an application for a permit to drill the well.
 - c. After her inspection of November 4, 2005, Ms. Kuehling contacted Vicki Donaghey, ERC, to determine if ERC had a permit and if so, requested a copy of it. In response, on November 7, 2005 the OCD received a copy of the application from ERC for a permit to drill.
 - d. OCD Rule 102.A [19 15.3.102.A NMAC] requires that “the operator shall obtain a permit prior to commencing drilling....”
 - e. OCD Rule 102.B [19 15.3.102.B NMAC] requires that an applicant for a permit to drill a well complete forms C-101 (application for a permit to drill a well) and C-102, which provides the well location and an acreage dedication plat, as well as meeting other enumerated requirements.
 - f. The referenced well is on Federal land and is, therefore, subject to OCD Rule 1128 [19 15.3.1128 NMAC].
 - g. OCD Rule 1128 provides that “[f]ederal forms shall be used in lieu of state forms when filing application for permit to drill ... and sundry notices and reports on wells and well completion or recompletion report and log for wells on federal lands in New Mexico.”
 - h. An OCD Director’s memorandum titled “Operations on Federal and Indian Lands” issued on January 2, 1985, instructs operators to provide “copies of drilling permits, sundry notices, well completion reports, and any other required information on Indian lands wells.” Operators must file “two copies of the forms and permits ... following their approval by the BLM” with the appropriate OCD district office.
 - i. Drilling a well without an OCD issued permit to drill is a Violation of Rule 102.A. Energen also violated OCD Rule 102.B by failing to submit an application for a permit to drill a well and a plat locating the well location.
6. As a result of its investigation, the OCD issued a Notice of Violation (3-06-9) to ERC alleging Violation of OCD Rule 102.A [19 15.3.102.A NMAC].
 7. According to information provided by ERC during an administrative conference regarding the Notice of Violation, ERC took the following position regarding the violation:

- a. ERC submitted the correct Federal forms requesting a drilling permit to the BLM. The BLM approved the request. It advised ERC that it had sent the forms to the OCD.
- b. ERC submitted a drilling pit permit request that was then approved by the OCD. Therefore, the OCD should have known that a well was to be drilled and should have advised ERC that no APD for the well was on file with it.
- c. The ERC did not know that the OCD did not have an APD for the well as this situation is believed to have happened during the transition time when the OCD stopped returning approved hard copies of APD's to operators; therefore, there was nothing that alerted ERC that the OCD did not have the application from the BLM.
- d. The OCD only notified the operators of the change of procedure of not returning approved APDs by posting the new procedure to the OCD web site. The OCD did not give verbal or written notification of this change of procedure.
- e. Because of overlapping authority between the OCD and federal or other regulatory agencies, operators do not know who has the final or actual jurisdiction over required processes. This allows confusion to exist, which should be resolved between agencies, and not burden operators with this confusion.

CONCLUSIONS

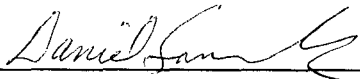

- 1. The OCD has jurisdiction over the parties and subject matter in this proceeding.
- 2. ERC is a person as defined by NMSA 1978, Section 70-2-33(A) and as such, may be subject to the civil penalty provisions of NMSA 1978, Section 70-2-31(A).
- 3. ERC is subject to civil penalties under NMSA 1978, Section 70-2-31(A) for failure to submit an application to drill a well and drilling without a permit

ORDER AND CIVIL PENALTY

- 1. Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty totaling **One Thousand Dollars (\$1,000.00)** against ERC for drilling a well without an OCD approved permit.
- 2. The civil penalty shall be paid at the time ERC executes this Order. Payment shall be made by certified 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.

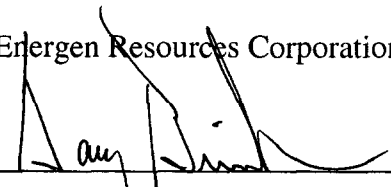
3. By signing this Order, ERC expressly:
- a. acknowledges the correctness of the Findings and Conclusions set forth in this Order;
 - b. agrees to comply with Ordering paragraph 2;
 - c. waives any right, pursuant to the Oil and Gas Act or otherwise, to a hearing either prior or subsequent to the entry 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 its responsibility for compliance with any other federal, state or local laws and/or regulations.

Done at Santa Fe, New Mexico, this 25th day of April 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 therein.

Energen Resources Corporation
By: 
Title: GENERAL MANAGER - SAN JUAN BASIN
Date 4/21/06