

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

NMOCD 126

**IN THE MATTER OF RICHARDSON OPERATING
COMPANY,**

Respondent.

AGREED COMPLIANCE ORDER

Pursuant to the New Mexico Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38, as amended (hereinafter, "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 (hereinafter, "OCD") issues this Order to **RICHARDSON OPERATING COMPANY** (hereinafter, "**RICHARDSON OPERATING**") directing compliance with the Act and OCD Rules, and assessing a penalty for violations of the Act and OCD rules.

I. FINDINGS

A. Facts

1. The OCD is the state division charged with administration and enforcement of the Act and OCD Rules.
2. Richardson Operating is a Colorado corporation doing business in New Mexico and registered with the Public Regulatory Commission under number 1469584. Richardson Operating is an active entity with a mailing address at 5600 South Quebec Street, Suite 130B Greenwood, Colorado 80111. Its registered agent for service of process in New Mexico is CT Corporation System, 123 East Marcy, Santa Fe, New Mexico 87501.
3. Richardson Operating is the operator of record for the Federal 31-3²~~2~~#3, Unit Letter I, Section 32, Township 28 North, Range 09 West, API #30-045-31833.
4. On February 13, 2006, New Mexico Oil Conservation Division, Deputy Oil and Gas Inspector Kelly Roberts performed a routine inspection on the Richardson Operating Federal 31-32 #3 well site. Mr. Roberts found an open drilling pit at the well site. The pit contained drill cuttings and a minor amount of water. The liner remains intact and the fencing is in good shape.

5. An OCD investigation and review of relevant documents established the following.
 - a. The well was spud July 20, 2004.
 - b. The last casing string was run on August 02, 2004.
 - c. Production was reported on the well starting on January 01, 2005.
 - d. The OCD has no record of a pit permit request from Richardson Operating for a drilling pit.
 - e. No exemption to OCD Rule 50.A has been granted on the Richardson Operating Federal 31-31 #3 well.
 - f. As of the date of the NOV the pit was not closed.

B. Relevant Law and Rules and Violations

1. OCD Rule 50.A. [19.15.2.50.A NMAC] prohibits “[d]ischarge into, or construction of any pit or below-grade tank ... absent a possession of a permit issued by the division....”
2. Richardson Operating knowingly and willfully violated OCD Rule 50.A by failing to obtain a permit for a drilling pit at the Federal 31-32 #3 well.
3. OCD Rule 50.F(1) [19.15.2.50.F(1) NMAC] requires that “[e]xcept as otherwise specified in Section 50 of 19.15.2 NMAC, a pit or below grade tank shall be properly closed within six months after cessation of use.”
4. Richardson Operating knowingly and willfully violated OCD Rule 50.F by failing to close the Federal 31-32 #3 drilling pit within six months after cessation of use.
5. NMSA 1978, §70-2-31(A) provides in relevant part, “[a]ny 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.”
6. 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....”
7. As a result of its investigation, the OCD issued Notice of Violation (3-06-11) to Richardson Operating alleging violations of Rules Rule 50.A and 50.F(1).

8. Richardson Operating has provided the following information to the OCD before, during or after the Administrative Conference:
 - a. Richardson Operating was in contact with Sherri Landen, Bureau of Land Management (hereinafter, "BLM"). The BLM gave Richardson Operating verbal approval to extend the deadline to close the pit.
 - b. Pursuant to BLM's instruction, Richardson Operating believes it did all that was necessary on the matter.
 - c. David Richardson, Richardson Operating, feels that the OCD is treating him differently because he is an out of state operator.
 - d. David Richardson does not feel the penalty is deserved.
9. Richardson has advised the OCD the pit has been closed.

II. CONCLUSIONS

1. The OCD has jurisdiction over the parties and subject matter in this proceeding.
2. Richardson Operating is a person as defined by NMSA 1978, Section 70-2-33(A) and is 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. Richardson Operating is the operator of the Federal 31-31 #3.
4. Richardson Operating is subject to civil penalties under NMSA 1978, Section 70-2-31(A) for knowingly and willfully:
 - a. failing to obtain a permit for a drilling pit at the Federal 31-32 #3;
 - b. failing to close the Federal 31-32 #3 drilling pit within six months after cessation of use.

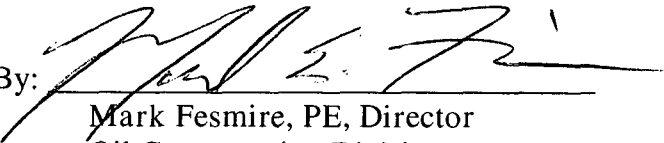
III. ORDER AND CIVIL PENALTY

1. Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty totaling **Two Thousand Dollars (\$2,000.00)** against Richardson Operating for one violation of OCD Rule 50A and one violation of 50.F(1).
2. The civil penalty shall be paid at the time Richardson Operating 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.

3. By signing this Order, Richardson Operating expressly:
- a. acknowledges the correctness of the Findings and Conclusions set forth in this Order;
 - b. agrees to comply with Ordering paragraphs 1 and 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 Richardson Operating in the amount of the penalties assessed and, in the discretion of the court, may impose additional penalties for Richardson Operating's violation of the penalty provisions of this Order.

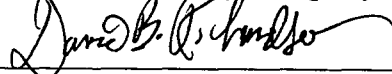
Done at Santa Fe, New Mexico this 3rd day of July ~~May~~ 2006.

By: 
Mark Fesmire, PE, Director
Oil Conservation Division

ACCEPTANCE

Richardson Operating Company hereby accepts the foregoing Order, and agrees to all of the terms and provisions set forth in the Order.

Richardson Operating Company

By: 

Title: President

Date 5-23-06