

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

NMOCD-06 127

**IN THE MATTER OF BURLINGTON RESOURCES  
OIL & GAS COMPANY LP,**

**Respondent.**

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**AGREED COMPLIANCE ORDER**

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 and Burlington Resources Oil & Gas Company LP (hereinafter "Burlington") enter into this Order to resolve the violations alleged in the Notice of Violation dated February 24, 2006.

**I. FINDINGS**

1. The Oil Conservation Division (hereinafter "OCD") is the state division charged with administration and enforcement of the Act and OCD rules.
2. Burlington is a foreign limited partnership doing business in New Mexico, registered with the Secretary of State under number LPF2001020702. Burlington is an active entity with a principal address at 717 Texas Avenue, Suite 2100, Houston, Texas 77002. Its registered agent for service of process in New Mexico is C. T. Corporation System, 123 E. Marcy, Santa Fe, New Mexico 87501. Burlington's local business address is P.O. Box 4289, Farmington, New Mexico 87499-4289. Burlington's OGRID is 14538.
3. Burlington is the operator of record for the Sarah M. Hedges #2M, Unit Letter J, Section 23, Township 31 North, Range 12 West, API #30-045-32266, San Juan County, New Mexico.
4. On February 09, 2006, OCD Deputy Oil and Gas Inspector Karen Sharp stopped at the Burlington Sarah M Hedges #2M while doing well inspections in the area. Deputy Inspector Sharp found a lined drilling pit. The pit liner was torn and had collapsed into the pit below the fluid level.

5. An OCD investigation found the following:
  - a. The OCD approved Burlington's request for a lined drilling pit on June 10, 2004.
  - b. The well was spud on January 22, 2006.
  - c. Production casing was run on January 30, 2006.
  - d. The rig left location on January 31, 2006.
6. OCD Rule 50.C(2)(b)(i) [19.15.2.50.C(2)(b)(i) NMAC] requires that, "[e]ach 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."
7. Burlington knowingly and willfully violated OCD Rule 50.C(2)(b)(i) by failing to maintain the liner and fluid level in a manner to prevent overtopping the liner which was torn and collapsed into the pit below the fluid level.
8. 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." 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...."
9. As a result of its investigation, the OCD issued a Notice of Violation to Burlington alleging a knowing and willful violation of OCD Rule 50.C(2)(b)(i).
10. At the Administrative Conference held on March 14, 2006, Burlington presented the following:
  - a. The corner of the pit liner was exposed during blading between drilling and completion operations.
  - b. Burlington believes that the pit liner was lifted by the wind from the trench and fell below the fluid line during a high wind advisory period.
  - c. Burlington believes that there was no environmental contamination from the breach. The pit fluid consisted of drilling fluid and cuttings (freshwater and bentonite material).
  - d. To insure these types of violations do not occur again, Burlington has instituted the following mitigation efforts:

- (1) During installation of fence posts, pit liners were being torn. Contractors have been brought into Burlington for a training session regarding proper fencing of reserve pits. During the training session, contractors were also taught about proper ditching for insulation of pit liners. It has also instructed construction crews to use sandbags on the outside edged of pit liners to help prevent upheaval of the liner from wind or accidental pull-up.
  - (2) An open pit list has been developed. Locations are now reviewed monthly for pit liner integrity and compliance.
  - (3) The staff has received instruction on the importance of pit liner integrity and compliance. Burlington is currently in the process of training its vendors to report compliance in the field or issues they observe.
  - (4) Burlington has instituted an audit process to ensure that all pits have a sundry filed with the OCD prior to construction. These are reviewed on a quarterly basis to ensure audit mechanisms are being followed. This includes running an open pit log, reviewing it for issues, monitoring the tracking of its internal systems for open pits and pit sundry filings and continued education on the importance of pit compliance, both within Burlington and with its contractor employees.
11. Due to the manner in which the liner was torn, Burlington does not agree that it knowingly or willfully violated Rule OCD 50.C(2)(b)(i).

## **II. CONCLUSIONS**

1. The OCD has jurisdiction over the parties and subject matter in this proceeding.
2. Burlington 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. Burlington is subject to civil penalties under NMSA 1978, § 70-2-31(A) at the Sarah M. Hedges #2M for one knowing and willful violation of Rule 50.C(2)(b)(i), although Burlington does not agree that it knowingly and willfully violated the Rule.

## **III. ORDER AND CIVIL PENALTY**

1. Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty against Burlington totaling **One Thousand Dollars (\$1,000.00)** for one knowing and willful violation of Rule 50.C(2)(b)(i).
2. The civil penalty shall be paid at the time Burlington 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.

3. By signing this Order, Burlington expressly:

- a. acknowledges the correctness of the Findings and Conclusions set forth in this Order;
  - b. agrees to comply with Ordering paragraph 2 and to follow its procedures as set out in paragraph 10 of Section I, above;
  - 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; and
  - 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 Burlington in the amount of the penalties assessed and, in the discretion of the court, may impose additional penalties for Burlington's violation of the penalty provisions of this Order.
4. Nothing in this Order relieves Burlington of its 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 Burlington 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 July 2006.

By: [Signature]  
Mark Fesmire, Director  
Oil Conservation Division

**ACCEPTANCE**

**Burlington Resources Oil & Gas Company LP** hereby accepts the foregoing Order, and agrees to all of the terms and provisions set forth in the order.

**Burlington Resources Oil & Gas Company LP,  
By: BROG GP, Inc., its sole General Partner**

By: [Signature]  
Title: Attorney-in-Fact  
Date: June 13, 2006