

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

**NMOCD-ACO-104**  
*133*

**IN THE MATTER OF M.R. SCHALK, L.L.C., MANAGING  
PARTNER OF SCHALK DEVELOPMENT COMPANY**

**Respondent.**

**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 M.R. Schalk, L.L.C., Managing Partner of Schalk Development Company, enter into this Order to resolve the violations alleged in Notice of Violation (3-06-07).

**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. M.R. Schalk, L.L.C., Managing Partner of Schalk Development Company, (hereinafter "Schalk") is a for profit company doing business in New Mexico. Schalk has been assigned OGRID # 20389.
3. Schalk is the operator of record for the Schalk 54 200S, Unit Letter I, Section 02, Township 30 North, Range 05 West, API #30-039-27622, in Rio Arriba, New Mexico.
4. On October 13, 2005, New Mexico Oil Conservation Division Deputy Oil and Gas Inspector Steve Hayden received an electric log for the referenced well and could not find an OCD record for the well.
5. Schalk Development Company commenced operations on the referenced well on September 16, 2005.
6. The OCD had no record showing that, as of the commencement of operations date, that it had received or approved an application from Schalk for a permit to drill the well.
7. Deputy Inspector Steve Hayden contacted Steve Schalk and requested a copy of the application for a permit to drill the well. On December 19, 2005 the OCD received Schalk's application.

8. OCD Rule 102.A [19.15.3.102.A NMAC] requires that an operator obtain a permit to drill a well prior to the commencement of operations.
9. 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 for a well location and acreage dedication plat, as well as other enumerated requirements.
10. The Schalk 54 200S is located on Federal land. OCD Rule 1128 [19.15.3.1128 NMAC] provides that “[f]ederal forms shall be used in lieu of state forms when filing [an] application for [a] permit to drill ....”
11. OCD Rule 102.A [19 15.3.102.A NMAC] requires that an operator obtain a permit to drill a well prior to the commencement of operations.
12. NMSA 1978, §70-2-31(A) provides, in relevant part, that “[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.”
13. 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....”
14. As a result of its investigation, the OCD issued Notice of Violation (3-06-07) on February 14, 2006 to Schalk, alleging one violation of Rule 102.A.
15. Schalk responded by letter dated February 24, 2006 stating.
  - a) Schalk submitted the APD (i.e., application for permit to drill) to BLM.
  - b) BLM did not send the OCD a copy, or
  - c) The APD was lost in transit, or
  - d) The OCD received the APD and misplaced it.
  - e) A warning or notice is appropriate before civil penalties are assessed.
  - f) Schalk will hand deliver future APD’s to the OCD and request a signed receipt.
  - g) Schalk will check the OCD website for an approved APD before drilling operations begin.

## **II. CONCLUSIONS**

1. The OCD has jurisdiction over the parties and subject matter in this proceeding.
2. Schalk is a person as defined by NMSA 1978, § 70-2-33(A) and if this matter went to hearing, may be subject to civil penalties under NMSA 1978, §70-2-31(A).

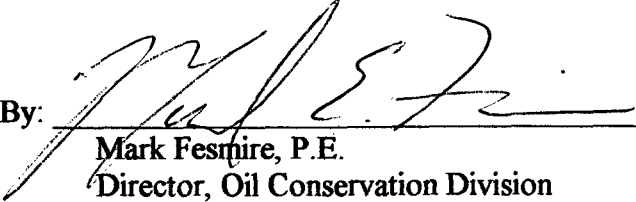
3. Schalk is subject to civil penalties under NMSA 1978, § 70-2-31(A) at the Schalk 54 200S for violation of Rule 102.A.

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

1. Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty against Schalk totaling **One Thousand Dollars (\$1,000.00)** for one violation of Rule 102.A, drilling without a permit.
2. The One Thousand Dollar civil penalty shall be paid at the time Schalk 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, Schalk 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; 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 Schalk in the amount of the penalties assessed and, in the discretion of the court, may impose additional penalties for Schalk violation of the penalty provisions of this Order.
4. Nothing in this Order relieves Schalk 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 Schalk of its responsibility for compliance with any other federal, state or local laws and/or regulations.

Signatures on following page


Done at Santa Fe, New Mexico, this 5<sup>th</sup> day of ~~June~~ <sup>July</sup> 2006.

By:   
Mark Fesquire, P.E.  
Director, Oil Conservation Division

**ACCEPTANCE**

**M.R. Schalk, L.L.C., Managing Partner of Schalk Development Company,**  
hereby accepts the foregoing Order, and agrees to all of the terms and provisions set forth  
in the order.

M.R. Schalk, L.L.C, Managing Partner of  
Schalk Development Company

By:   
Title: Manager  
Date 06/12/06