

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

NMOCD - ACOI- 139

IN THE MATTER OF CHI OPERATING INC.,

Respondent.

AGREED COMPLIANCE ORDER

The Director of the Oil Conservation Division ("OCD") and Chi Operating Inc. ("Chi") enter into this agreed order ("Order") to resolve alleged violations of OCD Rules issued pursuant to the New Mexico Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38, as amended ("Act").

FINDINGS

1. The OCD is the state division charged with administration and enforcement of the Act, and rules and orders adopted pursuant to the Act.
2. Operator is a corporation doing business in the state of New Mexico.
3. Operator is the operator of record under OGRID 4378 for the following wells in New Mexico:

Hagerman #1	30-015-29007	P-30-22-27
Allen #3	30-015-33788	B-31-22-27

4. The OCD received a complaint from a royalty owner who holds a part interest in the Hagerman #1, but no interest in the Allen #3. The royalty interest owner complained that Chi was surface commingling production from the two wells without OCD approval. The royalty owner provided the OCD with a copy of an application by Chi dated January 16, 2005 seeking authorization to surface commingle production from the wells, and a copy of an objection from the royalty owner.
5. Rule 303.A(2) [19.15.5.303.A.(2) NMAC] provides, in relevant part, that "[o]il, gas, or oil and gas shall not be transported from a lease until it has been accurately measured or determined by other methods acceptable to the division. The production from each lease shall at all times be segregated, and the combination or commingling of production, before marketing, with production from any other lease without division approval is prohibited."

6. Rule 303.B [19.15.5.303.B NMAC] defines a "lease" as

"a contiguous geographical area of identical ownership overlying a pool or portion of a pool. An area pooled, unitized or communitized, either by agreement or by division order, or a participating area shall constitute a lease. If there is any diversity of ownership between different pools, or between different zones or strata, then each such pool, zone or stratum having such diverse ownership shall be considered a separate lease."
7. OCD records show no approval for surface commingling of the two wells identified above.
8. A site inspection conducted on May 22, 2006 indicates that Chi is surface commingling the two wells identified above, based on the following:
 - a. No permanent storage facilities are in place on the Hagerman # 1 lease.
 - b. A flow line connects the Hagerman # 1 to the Allen # 3 production facilities.
 - c. At the Allen # 3 the flow line connected to the fill line on the separator utilized by the Allen # 3.
 - d. No testing equipment or metering devices were found on either well or flow line.
9. A review of OCD production data shows continuous production from the Hagerman # 1 starting in September 2005 and for the Allen # 3 during the same time period.
10. 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 or willfully violates any provision of the Oil and Gas Act or any rule or order adopted pursuant to the Act.
11. NMSA 1978, Section 70-2-3(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..."
12. On June 5, 2006, the OCD issued a notice of violation to Chi alleging a violation of Rule 303, proposing a civil penalty, and notifying Chi that if it continued surface commingling of production from the two wells without OCD approval, it will be subject to additional penalties.
13. At a compliance conference conducted on June 27, 2006, Chi representatives:

- a. acknowledged that Chi had commingled production from the two wells without OCD approval;
- b. stated that production for the two wells had been reported using allocations based on well production tests;
- c. stated that Chi had been in contact with the attorney for the mineral interest owner who initiated the complaint, and was working to resolve outstanding issues;
- d. represented that after receipt of the notice of violation, Chi only produced from one well; and
- e. represented that Chi will provide separate tanks for the two wells and not commingle the production.

CONCLUSIONS

1. The OCD has jurisdiction over the parties and subject matter in this proceeding.
2. Chi knowingly and willfully violated Rule 303.A(2) by commingling production from the Hagerman #1 and the Allen #3 without OCD approval.
3. Chi is a "person" as defined by NMSA 1978, Section 70-2-3(A) and may be subject to civil penalties for knowing and willful violations of the Oil and Gas Act or rules or orders adopted pursuant to the Act.

ORDER

1. Chi agrees to pay a penalty of \$1,000 for its knowing and willful violation of Rule 303.A(2). Chi shall pay the \$1,000 penalty at the time this order is executed. 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 St. Francis Drive, Santa Fe, NM 87505.
2. Chi shall cease commingling production from the Hagerman #1 and Allen #3 without OCD approval.
3. Chi shall work with the OCD to ensure that past reporting for the Hagerman #1 and Allen #3 is correct. If the OCD deems it necessary, Chi shall conduct production tests on the two wells to determine the appropriate allocation measure, and shall notify the OCD 48 hours prior to the tests so that an OCD representative may be present to observe the tests. If the tests indicate that past reporting for the Hagerman #1 and Allen #3 is incorrect, Chi will file corrected reports within 30 days of testing.
4. By signing this Order, Operator expressly:

- (a) acknowledges the correctness of the Findings and Conclusions set forth in this Order;
- (b) agrees to pay a \$1,000 penalty as set out in Ordering Paragraph 1;
- (c) agrees to cease commingling production from the Hagerman #1 and Allen #3 without OCD approval;
- (d) agrees to evaluate and if necessary correct past reporting for the Hagerman #1 and Allen #3, as described in Ordering Paragraph 3;
- (e) waives any right, pursuant to the Oil and Gas Act or otherwise, to a hearing either prior to or subsequent to the entry of this Order or to an appeal from this Order; and
- (f) agrees that the Order may be enforced by OCD or Oil Conservation Commission Order, by suit or otherwise to the same extent and with the same effect as a final Order of the OCD or Oil Conservation Commission entered after notice and hearing in accordance with all terms and provisions of the Oil and Gas Act.

Done at Santa Fe, New Mexico this 16th day of July, 2006

By: Mark Fesmire

Mark Fesmire, P.E.

Director, Oil Conservation Division

ACCEPTANCE

Chi Operating Inc. hereby accepts the foregoing Order, and agrees to all of the terms and provisions set forth in that Order.

Chi Operating Inc.

By: John W. Qualls

(Please print name): John W. Qualls

Title: vice-president

Date: 7-11-06