

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

NMOCD-06-160

IN THE MATTER OF LOTHIAN OIL TEXAS I, INC.,

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 Lothian Oil Texas I, Inc. (hereinafter "Lothian") enter into this Order to resolve the violations alleged in Notice of Violation (2-06-05).

I. FINDINGS

1. The Oil Conservation Division (hereinafter "OCD") is the state division charged with administration and enforcement of the Act and OCD rules. Lothian is a foreign, for-profit corporation registered to do business in New Mexico under SCC number 2573525. Lothian's mailing address is 303 W. Main Street, Suite 305, Artesia, New Mexico 88210. Lothian's registered agent is National Registered Agents, Inc., with a principal address at 433 Paseo de Peralta, Santa Fe, New Mexico 87501. Lothian's OGRID is 236040.
2. Lothian is the operator of record for the S. Lucky Lake Queen Unit #1A, Section 16, Township 15, Range 29, API #30-005-60332, and the Square Lake 12 Unit #100, Section 6, Township 17, Range 30, API # 30-015-04092, both located in Chavez County, New Mexico.
3. On January 31, 2005, OCD Deputy Oil and Gas Inspector Gerry Guye performed a mechanical integrity test ("MIT") on the S. Lucky Lake Queen Unit #1-A and Square Lake 12 Unit #100 injection wells. Both wells failed the test. At the time of the failed MITs, Webb Oil Company was the operator of record of the wells.
4. By letter dated November 29, 2005, the OCD notified Lothian that the wells had failed the inspection and identified the nature of the failure for each well. The letter instructed Lothian to immediately shut-in the wells until they were successfully repaired, which were to be completed not later than January 31, 2006.
5. Lothian advised that repair work had been completed on the wells. On February 23, 2006 Gerry Guye again visited the well sites to do MITs. Although repair work had been done on the S. Lucky Lake Queen Unit #1-A, changing it from injection to a

production well, the well failed the MIT. Mr. Guye learned that no work had been done on the Square Lake 12 Unit #100. Lothian requested to reschedule the next MIT on the S. Lucky Lake Queen Unit #1-A to coincide with other MITs. Gerry Guye agreed.

6. On June 20, 2006, the OCD sent out a NOV citing Lothian for failing to repair the above two wells. Unbeknownst to the OCD, Lothian had repaired the S. Lucky Lake Queen Unit #1-A, although no MIT had been performed. As of June 20, 2006, Square Lake 12 Unit #100 had not yet been repaired.
7. On June 22, 2006 S. Lucky Lake Queen Unit #1-A successfully completed a MIT. As no repairs had been done to the Square Lake 12 Unit #100, it could not pass a MIT.
8. On June 23, the OCD received the paperwork from Lothian that showed the South Lucky Lake Queen Unit #1-A had successfully completed a MIT on June 22, 2006.
9. OCD Rule 703 [19.15.9.703 NMAC] requires injection wells to be “equipped, operated, monitored, and maintained to facilitate periodic testing and to assure continued mechanical integrity which will result in no significant leak in the tubular goods and packing materials used and no significant fluid movement through vertical channels adjacent to the well bore.”
10. Lothian knowingly and willfully violated Rule 703 by failing to repair the wells identified above and to perform required MITs, even after being notified of the inspection failures.
11. As a result of its investigation, the OCD issued Notice of Violation (2-06-5) to Lothian alleging two violations of OCD Rule 703.
12. 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....”
13. At the September 12, 2006 administrative conference, Lothian presented the following:
 - a. Lothian became the operator of record of the S. Lucky Lake Queen Unit #1-A and Square Lake 12 Unit #100 on May 1, 2005.
 - b. Because Lothian is a start-up company and the owner is from New York, Lothian was not knowledgeable about New Mexico rules and regulations.
 - c. When Lothian became the operator, they did not know of the failed MITs.

- d. At the time Lothian became an operator in New Mexico, they had no physical address in New Mexico; although an address was given to the OCD, which is where the November 30, 2005 letter was sent, Lothian did not occupy the office until mid-January 2006.
- e. Due to it not moving into its office until January 2006, Lothian never got the November 30, 2006 OCD letter.
- f. Lothian had completed repairs to S. Lucky Lake Queen Unit #1-A prior to the June 20, 2006 NOV; it completed repairs to the Square Lake 12 Unit #100 in July 2006.
- g. Prior to the September 12, 2006 Administrative Conference, both wells had passed the required MIT.

II. CONCLUSIONS

- 1. The OCD has jurisdiction over the parties and subject matter in this proceeding.
- 2. Lothian 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. Lothian is subject to civil penalties under NMSA 1978, § 70-2-31(A) at the Square Lake 12 Unit #100 for one knowing and willful violation of OCD Rule 703, failure to timely repair the well and complete a MIT. No penalty is being issued for violation of OCD Rule 703 on the S. Lucky Lake Queen Unit #1-A, as the repairs were completed timely and it has now successfully passed a MIT.

III. ORDER AND CIVIL PENALTY

- 1. Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty against Lothian totaling **One Thousand Dollars (\$1,000.00)** for one knowing and willful violation of Rule 703.
- 2. The civil penalty shall be paid at the time Lothian 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, Lothian 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; 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 Lothian in the amount of the penalties assessed and, in the discretion of the court, may impose additional penalties for Lothian's violation of the penalty provisions of this Order.
4. Nothing in this Order relieves Lothian 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 Lothian of its responsibility for compliance with any other federal, state or local laws and/or regulations.

Done at Santa Fe, New Mexico, this 5th day of Jan 2007.

By: _____

Mark Fesmire, Director
Oil Conservation Division

ACCEPTANCE

LOTHIAN OIL TEXAS I, INC. hereby accepts the foregoing Order, and agrees to all of the terms and provisions set forth in the order.

LOTHIAN OIL TEXAS I, INC.

By: _____

Title: _____

Date _____