

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

ACO 07- 208

**IN THE MATTER OF ENERGEN RESOURCES CORPORATION,
Respondent.**

**AGREED ORDER DIRECTING COMPLIANCE
AND ASSESSING CIVIL PENALTY**

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

I. FINDINGS & DETERMINATIONS BY THE OCD

- 1) The OCD is the state division charged with administration and enforcement of the Act and OCD Rules.
- 2) Energen is a corporation doing business in New Mexico, registered with Secretary of State as a foreign corporation under number SCC 1850304. ERC is an active entity, with a principal and mailing address at 605 Richard Arrington Jr. Blvd. N., Birmingham, Alabama 35203-2707. Its registered agent for service of process in New Mexico is Gary Don Reagan, Esq., 1819 North Turner, Suite G, Hobbs, New Mexico 88240. Energen's New Mexico contact is Gary Brink. Energen's principal business address is 2198 Bloomfield Highway, Farmington, New Mexico 87401. Energen has been assigned OGRID # 162928.
- 3) Energen Operates the Carracas 29B #9 API #30-039-30139, Unit Letter K, Section 29, Township 32 North, Range 04 West, Rio Arriba County, New Mexico.
- 4) On August 28, 2007, New Mexico OCD Deputy Oil and Gas Inspector Monica Kuehling arrived on the Energen Carracas 29B #9 well site. The drilling rig was rigging up on location. Inspector Kuehling reviewed the posted APD and determined that the BLM had approved the application; however, it had not been approved by the OCD. While reviewing the APD, she also noticed that the pit permit had not been approved.
- 5) OCD Inspector Kuehling's investigation found;

- a. The swivel was lying on the rig floor, and no pipe was in the hole. The well had not been spud.
 - b. The pit had been constructed, fenced and contained fluid.
 - c. Using the API number posted on the well sign, Inspector Kuehling checked her laptop to determine whether the OCD had issued an approval of the APD and/or a pit permit for the site.
 - d. Inspector Kuehling's review determined that there was no data in RBDMS for the well.
 - e. Inspector Kuehling called the office and requested that a check be performed in ONGARD for well data.
 - f. No information for the well was found in ONGARD.
 - g. Inspector Kuehling informed Jim Weatherford, Energen rig supervisor, that Energen did not have permission to drill, and advised him to contact his supervisor about the drilling permit.
 - h. Inspector Kuehling left the location to contact Don Graham with Energen but was unable to get through to him as it was lunch-time. During that time, OCD Geologist Steve Hayden called and informed Inspector Kuehling that the permit application for the site was on his desk but had not yet been approved.
 - i. According to the date stamp, OCD received the APD with the pit permit on August 21, 2007.
 - j. Inspector Kuehling went back to location and confirmed with Mr. Weatherford that the APD had not been approved by OCD and took photos of the pit.
- 6) OCD Rule 50.A prohibits the discharge into or construction of any pit or below-grade tank absent possession of a permit issued by the OCD, unless otherwise provided by OCD rules or unless the OCD grants an exemption pursuant to OCD Rule 50.G.
 - 7) Energen has drilled other wells in New Mexico, knew of its obligations under Rule 50.A as an operator in New Mexico, and proceeded to construct and discharge into a drilling pit at this site without a permit despite this knowledge. Energen thus knowingly and willfully violated OCD Rule 50.A by constructing and discharging into a drilling pit without first obtaining a permit.
 - 8) NMSA 1978 Section 70-2-31(A) provides in relevant part, "Any 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.”

- 9) 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...”
- 10) As a result of its investigation, on August 30, 2007, the OCD issued Notice of Violation (3-07-18) to Energen.

II. STATEMENTS & ADDITIONAL INFORMATION PROVIDED BY THE OPERATOR, ENERGEN

Energen provided the following supplemental information and statements during the September 26, 2007 Administrative Conference, and in a supplemental letter dated September 27, 2007:

- 22) Energen had a BLM approved Application to Drill Permit.
- 23) Energen put fresh water in the pit to protect the liner and to use for drilling,
- 24) No drilling fluid had been discharged from the well into the lined pit.
- 25) This was a simple oversight and does not qualify for knowingly and willfully performing a prohibited act.
- 26) Once notified, Energen reacted immediately in resolving the administrative deficiency.
- 27) Energen personnel have been made aware of the deficiency and will continue to operate in an environmentally responsible and safe manner.

III. CONCLUSIONS OF THE OCD

- 28) The OCD has jurisdiction over the parties and subject matter in this proceeding.
- 29) Energen 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).
- 30) Energen is subject to civil penalties under NMSA 1978, § 70-2-31(A) at the Carracas 29B #9 for one violation of OCD Rule 50.A (Constructing a pit absent an approved pit permit).

IV. ORDER & CIVIL PENALTY ASSESSMENT

- 31) Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty against Energen totaling **One Thousand Dollars (\$1,000.00)** for the violations of the OCD's Rules.
- 32) The civil penalty shall be paid at the time Energen 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.
- 33) By signing this Order, Energen expressly:
- a. acknowledges the authority of the OCD to render the above "Findings & Determinations," "Conclusions" and "Order & Civil Penalty Assessment";
 - b. agrees to comply with the Order, specifically as articulated in the preceding Paragraphs of Section "IV," 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;
- 34) Nothing in this Order relieves Energen 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 Energen of its responsibility for compliance with any other federal, state or local laws and/or regulations.

Done at Santa Fe, New Mexico this 13th day of November 2007.

By: _____

Mark Fesmire, P.E.

Director, Oil Conservation Division

ACCEPTANCE

ENERGEN RESOURCES CORPORATION. (OGRID No. 162928), Operator of the Carracas 29B #9 API #30-039-30139, Unit Letter K, Section 29, Township 32 North, Range 04 Rio Arriba County, New Mexico, hereby accepts the foregoing Order, and agrees to all of the terms and provisions as set forth in the Order.

ENERGEN RESOURCES CORPORATION.

By: _____

Title: _____

Date: _____