

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

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08-217

IN THE MATTER OF MELROSE OPERATING COMPANY,
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 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 ("OCD") issues this Order to Melrose Operating Company ("Melrose") 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. Melrose is a corporation operating wells in New Mexico under OGRID 184860.
3. Melrose is the operator of record of the Jalmat Field Yates Sand Unit (JFYSU) wells #226, #228, #227, #220, #223, #224 and #219.
4. Melrose filed a C-101 Application for Permit to Drill the JFYSU #226, #227, and #228 on October 5, 2005, and applied for a permit for a drilling pit at the site to be constructed according to OCD guidelines. The OCD approved the application and pit permit on October 12, 2005.
5. Melrose filed a C-101 Application for Permit to Drill the JFYSU #224 on October 11, 2005, and applied for a permit for a drilling pit at the site to be constructed according to OCD guidelines. The OCD approved the application and pit permit on October 12, 2005.
6. Melrose filed a C-101 Application for Permit to Drill the JFYSU # 219 on September 29, 2005, and applied for a permit for a drilling pit at the site to be constructed according to OCD guidelines. The OCD approved the application and pit permit on October 3, 2005.

7. Melrose filed a C-101 Application for Permit to Drill the JFYSU # 223 on August 7, 2005, and applied for a permit for a drilling pit at the site to be constructed according to OCD guidelines. The OCD approved the application and pit permit on August 11, 2005.
8. Melrose filed a C-101 Application for Permit to Drill the JFYSU #220 on August 6, 2005, and applied for a permit for a drilling pit at the site to be constructed according to OCD guidelines. The OCD approved the application and pit permit on August 8, 2005.
9. Melrose reported that the JFYSU #224 was completed on February 1, 2006; reported that the JFYSU #219 was completed on October 4, 2005; reported that the JFYSU #223 was completed on January 22, 2006; and reported that the JFYSU #220 was completed on October 19, 2005.
10. Melrose constructed drill pits on site for wells JFYSU #226, #227, and #228, but never drilled these wells. Pits were never lined or fenced.
11. As of November 19, 2007, Melrose had not filed C-144 for an extension of time in which to close the pits, and had not filed plans for approved pit closures.
12. OCD Rule 50.F provides, in relevant part, that "a pit ... shall be properly closed within six months after cessation of use."
13. OCD Pit Guidelines provide a procedure for closure of pits.
14. Deputy Inspector Hill inspected the sites on August 15, 2007 and found the drilling pits at each of the identified well sites open and full of fluids and solids.
15. Deputy Inspector Hill issued a Letter of Violation to Melrose on August 17, 2007 notifying Melrose that the pits were in violation of Rule 50's requirement that pits be closed within six months of cessation of activity, and directed Melrose to take corrective action by September 12, 2007.
16. On November 7, 2007, Deputy Inspector Harvey re-inspected the sites for enforcement action follow-up and found all pits still open and full of solids.
17. NMSA 1978, §70-2-33(A) defines "person" for purposes of the Act to include corporations.
18. NMSA 1978, §70-2-31(A) authorizes penalties of up to **one thousand dollars (\$1,000.00)** per day per violation for any knowing and willful violation of any provision of the Oil and Gas Act or any rule adopted pursuant to the Act.

19. On November 19, 2007, the OCD issued a Notice of Violation to Melrose, alleging the knowing and willful violation of OCD Rule 50.F as to the JFYSU wells #226, #228, #227, #220, #223, #224 and #219.

II. CONCLUSIONS OF THE OCD

1. The OCD has jurisdiction over the parties and subject matter in this proceeding.
2. Melrose 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. Melrose is subject to civil penalties under NMSA 1978, §70-2-31(A) for the violation of OCD Rule 50.F at the Jalmat Field Yates Sand Unit wells #226, #228, #227, #220, #223, #224 and #219.


III. ORDER & CIVIL PENALTY ASSESSMENT

1. Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty against Melrose totaling \$7,000 for the violation of OCD Rule 50.F at the Jalmat Field Yates Sand Unit wells #226, #228, #227, #220, #223, #224 and #219.
2. In addition, if it has not already done so, Melrose is instructed to submit C-144 closure plans for the pits at the seven identified wells, and complete OCD-approved closure of the pits by January 31, 2008.
3. The civil penalty shall be paid at the time Melrose 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.
4. By signing this Order, Melrose expressly:
 - a. acknowledges the accuracy of the above "Findings & Determinations" and "Conclusions" and recognizes the authority of the OCD to issue the "Order & Civil Penalty Assessment";
 - b. agrees to comply with the Order, specifically as articulated in Section "III" Paragraphs 2 and 3, 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; and
 - 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.

5. Nothing in this Order relieves Melrose 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 Melrose of its responsibility for compliance with any other federal, state or local laws and/or regulations.

Done at Santa Fe, New Mexico this 2nd day of January 2008.

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

ACCEPTANCE

Melrose Operating Company (OGRID No. 184860) hereby accepts the foregoing Order, and agrees to all of the terms and provisions as set forth in the Order.

MELROSE OPERATING COMPANY

By: 
MICHAEL J. GORSKI

Title: VICE PRESIDENT

Date: 12-26-07