

ACO 08-220

IN THE MATTER OF ELM RIDGE EXPLORATION, LLC.
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 (hereinafter "OCD") issues this Order to ELM RIDGE EXPLORATION LLC (hereinafter "Elm Ridge") 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) Elm Ridge is a Domestic Limited Liability corporation authorized to do business in the State of New Mexico under Public Regulation Commission ("PRC") SCC number 2215507 with a mailing address of 1223 Greenville Ave., Ste. 950, Dallas, Texas 75243-9362, with its registered agent being CT Corporation System, 123 E. Marcy St., Santa Fe, New Mexico 87501. Elm Ridge has OGRID number 149052.
- 3) Elm Ridge Operates the Harvey State #3, Unit Letter F, Section 36, Township 25 North, Range 6 West, API #30-039-82342, Rio Arriba County, New Mexico.
- 4) On July 31, 2007, New Mexico Oil Conservation (hereinafter "OCD") Deputy Oil and Gas Inspector Shelly Cowden was on location to witness plugging and abandoning at the Elm Ridge Exploration Co, LLC (hereinafter "Elm Ridge") Harvey State #3 well. Upon arrival Inspector Cowden found an open work-over/plugging pit. Inspector Cowden reviewed the well file in the field on her laptop, and was unable to locate

an associated permit for the pit. After returning to the office she conducted an office review of the well file for the pit permit and confirmed that OCD records did not reflect that a pit permit had been issued in association with the Harvey #3 site.

- 5) A C-103 Notice of Intent to plug and abandon the Harvey State #3 well was received and approved by the OCD on November 9, 2006.
- 6) Inspector Cowden witnessed plugging operations on the Harvey State #3 well on July 31, 2007.
- 7) Inspector Cowden reviewed the Harvey State #3 well file for a pit permit.
- 8) The record establishes that the OCD had not received or approved a pit permit for this location.
- 9) OCD Rule 50.A [19.15.2.50.A NMAC] provides that "[d]ischarge into, or construction of, any pit or below-grade tank is prohibited... absent possession of a permit issued by the division..."
- 10) Elm Ridge was recently issued a Notice of Violation (NOV 3-06-27) and entered into an Agreed Compliance Order (ACO 06-119) for the same violation at another Elm Ridge well, and was therefore aware of its obligations under Rule 50.A and the process for properly obtaining a pit permit.
- 11) Elm Ridge knowingly and willfully violated OCD Rule 50.A [19.15.2.50.A NMAC] by failing to obtain a permit for a pit prior to commencing work at this site, as required by Rule 50.A [19.15.2.50.A NMAC].
- 12) NMSA 1978 Section 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."
- 13) 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..."

- 14) As a result of its investigation, on September 28, 2007, the OCD issued Notice of Violation (3-07-25) to Elm Ridge.

II. STATEMENTS & ADDITIONAL INFORMATION PROVIDED BY THE OPERATOR, ELM RIDGE

Elm Ridge provided the following statements during the October 24, 2007 Administrative Conference:

- 15) The well was inherited.
- 16) A better tracking system has now been incorporated,
- 17) Before any future digging of a pit, the permit will be verified.
- 18) This was an oversight, and Elm Ridge did not violate the OCD's rules in a knowing and willful manner.

III. CONCLUSIONS OF THE OCD

- 19) The OCD has jurisdiction over the parties and subject matter in this proceeding.
- 20) Elm Ridge 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).
- 21) Elm Ridge is subject to civil penalties under NMSA 1978, § 70-2-31(A) at the Harvey State #3 for two violations of OCD Rule 50.A (constructing a pit and discharging into a pit absent an approved pit permit).

IV. ORDER & CIVIL PENALTY ASSESSMENT

- 22) Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty against Elm Ridge totaling **Two Thousand Dollars (\$2,000.00)** for the violations of the OCD's Rules.
- 23) The civil penalty shall be paid at the time Elm Ridge 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.

- 24) By signing this Order, Elm Ridge 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;
- 25) Nothing in this Order relieves Elm Ridge 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 Elm Ridge 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 February 2008.

By: 

Mark Fesmire, P.E.

Director, Oil Conservation Division

ACCEPTANCE

ELM RIDGE EXPLORATION, LLC. (OGRID No. 149052), Operator of the Harvey State #3, Unit Letter F, Section 36, Township 25 North, Range 6 West, API #30-039-82342, 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.

ELM RIDGE EXPLORATION, LLC.

By: TJ Zenden

Title: Dist Superintendent

Date: 1-31-08