

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

**ACO NO. 228**

**IN THE MATTER OF  
MARATHON OIL COMPANY,**

**Respondent.**

**AGREED ORDER 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 Marathon Oil Company ("Operator") assessing a penalty for violations of the Act and OCD rules.

**I. FINDINGS**

1. The OCD is the state division charged with administration and enforcement of the Act and OCD Rules.
2. Operator is a foreign for-profit corporation doing business within New Mexico under SCC number 1147065.
3. Operator's current address of record with OCD is P.O. Box 1324, Artesia, New Mexico 88211-1324
4. According to OCD computer records, Operator logged onto OCD on-line on February 12, 2008 and changed its address of record with OCD to its current address of record. Operator's previous address of record with OCD, as entered by Operator at OCD on-line, was P.O. Box 3497 or 5555 San Felipe Street; Houston, Texas 77056.
5. Prior to January 8, 2008, Operator's mailing address for notices from OCD to Operator was P.O. Box 2490; Hobbs, New Mexico 88240. This is Operator's Hobbs, New Mexico, office. Operator had asked OCD to use this address for the mailing of notices to Operator.
6. Operator operates wells within New Mexico under OGRID number 14021.

7. Operator is Operator of Record of the following subject wells:

MOC SWD No. 0001;	30-015-21669;	K-7-20S-25E
Indian Hills State Com No. 007;	30-015-27465;	F-36-20S-24E
Rocky Hills SWD No. 001;	30-015-30112;	O-19-21S-24E
Rocky Hills SWD No. 002;	30-015-30600;	K-20-21S-24E

8. OCD Rule 19.15.9.704(A)(3) NMAC ("Rule 704") provides that notwithstanding the test procedures outlined in subsections (A)(1) and (A)(2) of OCD Rule 704, OCD may require more comprehensive testing of injection wells when deemed advisable.
9. The OCD's Artesia, New Mexico, office generally requires injection wells to undergo Bradenhead testing on an annual basis.
10. The subject wells were due their annual Bradenhead test in September 2007.
11. On July 27, 2007, OCD Deputy Oil and Gas Inspector Richard Inge sent a courtesy letter to Operator's Hobbs, New Mexico, office which informed Operator that the subject wells were scheduled for Bradenhead tests on September 12, 2007 at 9:00 a.m., and that Operator had to have a representative on location to operate any valves or other equipment. The letter informed Operator that the meeting place for the inspection was the M O C SWD #1. The letter informed Operator that it was to call Deputy Inspector Inge if it had any questions or needed to reschedule the test. The letter was sent by regular mail to Operator's Hobbs Office.
12. On September 12, Deputy Inspector Inge attempted to conduct the Bradenhead test on the subject wells but no one from Operator's company was present to operate the valves or equipment. When no one from Operator's company appeared for the tests at the scheduled time, Deputy Inspector Inge called Winston Ballard, Operator's on-site representative when OCD Deputy Oil and Gas Inspector Gerry Guye conducted pressure tests on the wells in July 2005 and when Deputy Inspector Inge conducted Bradenhead tests on the wells in September and October 2006. Deputy Inspector Inge was unable to reach Mr. Ballard because the telephone number was no longer valid. As a result, Deputy Inspector Inge was unable to conduct the Bradenhead test and the wells were failed.
13. On October 30, 2007, after Deputy Inspector Inge did not hear from Operator, he sent Operator a Letter of Violation (LOV No. 02-07-211) to Operator's Hobbs Office. The letter informed Operator of the Bradenhead test violations for the subject wells, instructed Operator to shut-in the subject wells, and requested Operator to contact OCD to reschedule the Bradenhead test for the subject wells. Corrective action was requested by November 16, 2007. The letter was signed for by James Faught, an employee of Operator, at Operator's Hobbs Office.

14. On November 28, 2007, Deputy Inspector Inge inspected the subject wells and found that two of the subject wells, the MOC SWD No. 001 and the Rocky Hills SWD No 001, were injecting counter to OCD's instruction in OCD's October 30 letter to Operator that the subject wells had to be shut-in until the Bradenhead tests had been reschedule.
15. Subsection (A)(5) of Rule 704 states, "The injection well operator shall advise the division of the date and time any initial, five-year or special tests are to be commenced in order that such tests may be witnessed."
16. On December 7, 2007, after Operator failed to contact OCD to reschedule the Bradenhead tests for the subject wells, OCD issued Notice of Violation No. 02-07-30, which alleged that Operator knowingly and willfully violated OCD Rule 704 for its failure to contact OCD to reschedule Bradenhead tests for the subject wells.
17. OCD sent the notice of violation by certified mail to:
  1. P.O. 3497; Houston, Texas 77056 (Operator's then current address of record with OCD);
  2. 5555 San Felipe Street; Houston, Texas 77056 (Operator's then current address of record with OCD);
  3. P.O. Box 2490; Hobbs, New Mexico 88240 (Operator's then current mailing address for OCD to use for the mailing of notices to Operator);
  4. 1819 North Turner Street; Hobbs, NM 88240 (Operator's registered agent);
18. After Notice of Violation No. 02-07-30 was issued, Operator contacted OCD to schedule the Bradenhead test for each subject well. On December 19, 2007, all subject wells were tested. Each subject well passed the Bradenhead test.
19. On January 8, 2008, an administrative conference was held on the notice of violation. Appearing on behalf of Operator were Tom Breninger, Operations Superintendent, Jerry Harrison, Production Supervisor, and Winston Ballard, Engineer Technician.
20. OCD asserts that Operator knowingly and willfully violated OCD rules by not contacting OCD to re-schedule the Bradenhead tests for the subject wells. OCD basis its assertion on the following facts: 1) the subject wells were due for Bradenhead tests in September 2007; 2) on July 27, 2007, OCD sent a courtesy letter to Operator which informed it that the subject wells were due for Bradenhead tests, that Bradenhead tests were scheduled for the subject wells on

September 12, 2007 at 9:00 a.m., and that Operator needed to contact OCD if it needed to reschedule; 3) the letter was sent to Operator's Hobbs Office; 4) Operator's Hobbs Office is the address that Operator had requested OCD use for the mailing of notices to Operator; 5) Operator did not respond to the July 27 letter; 6) Operator had no issues with its notices being sent to its Hobbs Office before, including when OCD sent a courtesy letter to Operator in July 2005 for a Bradenhead test involving the subject wells; 7) on October 30, 2007, OCD sent a letter of violation to Operator which informed it of the Bradenhead test violations for the subject wells; 8) the October 30 letter also informed Operator that it needed to contact OCD to reschedule the Bradenhead tests for the subject wells; 9) the letter was sent to Operator's Hobbs Office, which was the address that Operator had requested OCD use for the mailing of notices to Operator; 10) Operator's employee signed for the letter; 11) Operator did not respond to the October 30 letter; 12) OCD Rule 704(A)(5) requires operators to advise OCD of the date and time any tests are to be commenced; 13) Operator did not contact OCD to reschedule the Bradenhead tests for the subject wells until after it received the notice of violation from Operator's registered agent; and 14) Operator did not inform OCD to use Operator's Artesia Office for the mailing of notices to Operator until the January 8 administrative conference.

21. Marathon asserts that (1) the OCD has never issued an order to Marathon that the subject wells are to undergo Bradenhead tests on an annual basis; (2) to the extent the July 27, 2007, "courtesy" letter is the basis for OCD finding a violation by Marathon, that letter contains no language which could reasonably lead Marathon to believe it is an order; (3) there is no factual basis for finding that Marathon "knowing and willfully" violated any law of the State of New Mexico or regulation of the OCD; and (4) Marathon's Hobbs, New Mexico, office was not Operator's address of record with OCD at the time the July and October letters were sent.
22. Operator has agreed to pay civil penalties under NMSA 1978, § 70-2-31(A) for alleged violations of OCD Rule 704 occurring at each subject well asserted by OCD.

## **II. CONCLUSIONS**

1. The OCD has jurisdiction over the parties and subject matter in this proceeding.
2. Operator 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. NMSA 1978, Section 70-2-31(A) states, "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 for each violation. For purposes of this subsection, in the case of a continuing violation, each day of violation shall

constitute a separate offense."

### **III. ORDER & CIVIL PENALTY ASSESSMENT**

1. Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty against Operator totaling **Twelve Thousand Dollars** (\$12,000.00).
2. Operator shall pay the Twelve Thousand Dollars (\$12,000.00) civil penalty within thirty (30) days of the date on which Operator executes this Order. Payment shall be made by certified or cashier's 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.

Done at Santa Fe, New Mexico this 9<sup>th</sup> day of April 2008.

By: 

Mark Fesmire, P.E.

Director, Oil Conservation Division

### **ACCEPTANCE**

Marathon Oil Company hereby accepts the provisions of Section III of the foregoing Order, and agrees to comply therewith. By signing this Order, Operator expressly:

- a. does not admit it has violated any OCD rule;
- b. 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;
- c. 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;

#### **Marathon Oil Company**

By: Thomas L. Breninger  
Thomas L. Breninger

Title: Operations Superintendent

Date: April 2, 2008