



NEW MEXICO ENERGY, MINERALS and NATURAL RESOURCES DEPARTMENT

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MAY 15 2007

McELVAIN OIL & GAS
PROPERTIES INC

Mark E. Fesmire, P.E.

Director

Oil Conservation Division

NOTICE OF VIOLATION (3-07-15)

May 11, 2007

Certified Mail

Return Receipt #: 7006 3450 0000 0451 8063

Mr. John Steuble
McElvain Oil and Gas Properties Inc.
1050 17th Street, Suite 1800
Denver, CO 80265

BEFORE THE OIL CONSERVATION DIVISION

Santa Fe, New Mexico

Case No. 14186 Exhibit No. 11

Submitted by:

McElvain Oil & Gas Properties, Inc.

Hearing Date: October 15, 2008

Operator: McElvain Oil and Gas Properties, Inc., OGRID 22044
Well: Amacker #1, Unit Letter L, Section 22, Township 23 North, Range 1
West, Sandoval County, New Mexico, API #30-043-21013
Violations: Rule 50.C (1) [19.15.2.50.C (1) NMAC]
Rule 50.F (1) [19.15.2.50.F (1) NMAC]
Rule 103.E [19.15.3.103.E NMAC]

Dear Mr. John Steuble,

On April 20, 2007 New Mexico Oil Conservation ("OCD") Deputy Oil and Gas Inspector Kelly Roberts performed a routine inspection at the McElvain Oil and Gas Properties Inc. ("McElvain") Amacker #1 well. Inspector Roberts found that the well sign on the location showed "Frontier Drilling" as the operator. There was an open drilling pit on location. The pit was standing full of fluid and had overtopped the liner in several locations. There was a berm constructed around the perimeter of the pit, with a constructed drainage running away from the pit in two separate locations allowing the overflowing fluids to drain into the bermed area around the pit.

An OCD investigation found the following:

1. Frontier Drilling, LLC ("Frontier") filed an Application for Permit to Drill the Amacker #1 well on February 28, 2006. The Application for Permit to Drill included an application for a pit permit and certification that the pit would be constructed according to OCD guidelines. The OCD approved the application for permit to drill and pit permit on March 1, 2006.

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2. The well was spud on May 16, 2006.
3. The production casing string was set and cemented on June 20, 2006.
4. On January 25, 2007 the OCD received a notice changing the operator of the well from Frontier to McElvain effective January 1, 2007.
5. OCD Rule 50.C (1) states in relevant part: "Pits, sumps and below-grade tanks shall be designed, constructed and operated so as to contain liquids and solids to prevent contamination of fresh water and protect public health and the environment."
6. McElvain violated OCD Rule 50.C (1) by allowing liquids to overtop the pit liner and accumulate on the ground outside the liner.
7. OCD Rule 50.F (1) states in relevant part: "Except as otherwise specified in Section 50 of 19.15.2 NMAC, a pit or below-grade tank shall be properly closed within six months after cessation of use... The division for good cause shown may grant a six-month extension of time to accomplish closure".
8. McElvain violated OCD Rule 50.F (1) by failure to close the pit within six months after cessation of use without being granted an extension.
9. OCD Rule 103.E states: "An operator will have 90 days from the effective date of an operator name change to change the operator name on the well sign unless an extension of time, for good cause shown along with a schedule for making the changes, is granted."
10. McElvain violated OCD Rule 103.E by failure to change the operator name on the well sign within 90 days without being granted an extension.

McElvain's misconduct warrants issuance of this "Notice of Violation" and assessment of civil penalties pursuant to NMSA 1978, §70-2-31(A) for violations of the OCD rules described above. **Section 70-2-31(A) authorizes penalties of up to one thousand dollars (\$1,000) 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.

The OCD believes that McElvain knowingly and willfully violated OCD Rule 50.C (1) and OCD Rule 50.F (1). McElvain became operator of record for the Amacker #1 in January 2007, and presumably would have inspected the well before acquiring it. McElvain would have been aware that fluids had overtopped the liner, and aware that constructed drainage directed the overflow into the bermed area around the pit. McElvain should also have been aware that the well was completed in June 2006, and that the six-month deadline for closing the pit had expired before McElvain acquired the

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well. Over four months have now passed since McElvain acquired the well, and it has taken no action to correct the violations.

Because the rule violations at issue are serious and occurred over a period of time, the Aztec District Office of OCD believes at this time a **two thousand dollar (\$2,000) civil penalty** and a definite commitment to future corrective action are essential. This penalty is based on one violation of OCD Rule 50.C (1) and one violation of OCD Rule 50.F (1). OCD will not issue a penalty for violation of OCD Rule 103.E (failure to change the operator name on the well sign) if McElvain changes the name on the sign within 10 days of receipt of this letter. McElvain is admonished that future violations of OCD Rule 103.E may result in penalties.

If the matter cannot be resolved administratively, the OCD may take further enforcement action, which may include an enforcement hearing before an OCD hearing examiner seeking an order requiring that the wells associated with the pits be plugged and abandoned pursuant to NMSA 1978, Section 70-2-14(B). That statute provides:

"If any of the requirements of the Oil and Gas Act or the rules promulgated pursuant to that act have not been complied with, the oil conservation division, after notice and hearing, may order any well plugged and abandoned by the operator or surety or both in accordance with division rules. If the order is not complied with in the time period set out in the order, the financial assurance shall be forfeited."

Please contact me within ten (10) days at 505-334-6178, extension 11, to schedule an administrative conference to discuss this matter. OCD legal counsel may be present by telephone for this conference and you may bring legal counsel if you wish. The purpose of the administrative conference is to discuss the facts surrounding this Notice of Violation, and to determine if the matter can be resolved administratively through an agreed compliance order.

Thank you for your assistance in this matter. If you have any questions please do not hesitate to call.

Sincerely yours,

Charlie T. Perrin

Charlie T. Perrin
District III Supervisor

cc: Daniel Sanchez, OCD Compliance Manager
Gail MacQuesten, OCD Assistant General Counsel
State Land Office, John Bemis
NOV file