

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

NMOCD-OGA-04- 49

*PSEM0500635235*

**IN THE MATTER OF BURLINGTON RESOURCES OIL & GAS COMPANY LP,**

**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 Burlington Resources Oil & Gas Company LP ("Burlington") directing compliance with the Act and OCD Rules, and assessing a penalty for violations of the Act and OCD rules.

**FINDINGS**

1. The OCD is the state division charged with administration and enforcement of the Act and OCD Rules.
2. Burlington is a foreign limited partnership doing business in New Mexico, registered with the Secretary of State under number LPF2001020702. Burlington is an active entity with a principal address at 717 Texas Ave. Suite 2100, Houston, TX 77002. Its registered agent for service of process in New Mexico is C. T. Corporation System, 123 E. Marcy, Santa Fe NM 87501. Burlington's OGRID is 14538.
3. Burlington is the operator of record of the San Juan 32-9 #291S well, API #30-045-29381, located at Unit Letter C, Section 24, Township 32 North, Range 10 West in San Juan county, New Mexico ("well").
4. On October 20, 2004, New Mexico Oil Conservation Division (OCD) Deputy Oil and Gas Inspector Enrique Villanueva was conducting inspections north of Aztec. He met a member of the public who complained to him that somebody had dumped something into a pit at the site of the San Juan 32-9 #291S well. He went to the well site to investigate the complaint and found that there was an unlined pit containing coal fines and water on the site.
5. An OCD investigation and review of relevant documents established the following facts:
  - a) OCD rule 19.15.2.50.A NMAC (Rule 50.A), effective February 13, 2004, provides, in relevant part, that "discharge into, or construction of, any pit ...

is prohibited absent possession of a permit issued by the division, unless otherwise herein provided or unless the division grants an exemption pursuant to Subsection G of 19.15.2.50 NMAC.”

- b) OCD rule 19.15.2.50.C(2)(b) NMAC (Rule 50.C(2)(b)) provides, in relevant part, that “[e]ach drilling pit or workover pit shall contain, at a minimum, a single liner appropriate for conditions at the site. The liner shall be designed, constructed, and maintained so as to prevent the contamination of fresh water, and protect public health and the environment.”
- c) On May 27, 2004 Burlington submitted a form C-103, applying for a permit for a lined workover at the referenced well. Burlington did not request an exception to Rule 50’s liner requirements under the procedures set out in 19.15.2.50.G NMAC (Rule 50.G). OCD Deputy Inspector Denny Foust approved Burlington’s permit application for a lined workover pit on May 27, 2004.
- d) From August 11, 2004 to September 2, 2004, Burlington conducted a workover on the well using an unlined pit.
- e) During the workover, produced water was put into the pit.
- f) Although free produced water was pumped from the pit for disposal during the workover, produced water that was entrained in a thicker mixture with coal fines could not be pumped out of the pit and was left in the pit. The coal and produced water mixture continued to separate. At the time of the OCD inspection coal fines were floating on an approximately six-inch deep mixture of produced water and rainwater.
- g) OCD rule 1103.A(1)(a) NMAC (Rule 1103.A(1)(a) states in relevant part, “Form C-103 shall be filed in triplicate by the operator and approval obtain from the division prior to . . . [e]ffecting a change of plans from those previously approved on form C-101 or form C-103.”
- h) Burlington did not file a form C-103 requesting approval for use of an unlined pit for this workover after receiving approval for a lined pit on a form C-103.
- i) 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.”
- j) 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...”

6. As a result of its investigation, the OCD issued Notice of Violation (3-04-19) to Burlington.
7. After OCD's investigation, Burlington:
  - a) immediately conducted an inspection of the site;
  - b) pulled all open C-103's and performed field inspections to ensure that those locations were in compliance;
  - c) conducted an EH&S on-site inspection of the San Juan 32-9 #291S;
  - d) performed reclamation of the San Juan 32-9 #291S in accordance with OCD pit closure plan and BLM requirements;
  - e) met with the OCD to discuss the San Juan 32-9 #291S and understand the difference between vent pits and working pits, and the ability of the vent pit to drain into a working pit;
  - f) met with senior rig supervisors to discuss the review of all C-103s to ensure that the description in the form matches field conditions, and instructed the supervisors that if discrepancies were found they should stop operations, contact the regulatory coordinator, clarify requirements and, if necessary, have construction install the required liner;
  - g) rewrote the pit construction plan to clarify the language on the C-103;
  - h) submitted amended C-103s on projects that did not match the new construction plan and installed liners in vent pits as required;
  - i) designed presentation for all rig supervisors, field foreman, drilling managers and production managers.
  - j) will require initial ranking and confirmation by construction supervisor before submission of a C-103, with the final check by the rig supervisors or field foreman as applicable; and
  - k) will require the senior regulatory specialist to review each C-103 for accuracy prior to submitting to the OCD.

### **CONCLUSIONS**

1. The OCD has jurisdiction over the parties and subject matter in this proceeding.
2. Burlington is a person as defined by NMSA 1978, Section 70-2-33(A).
3. Burlington is subject to civil penalties under NMSA 1978, Section 70-2-31(A) for constructing and discharging into an unlined pit without a permit for an unlined pit, in violation of OCD Rule 50.A.
4. Burlington is subject to civil penalties under NMSA 1978, Section 70-2-31(A) for failing to file a form C-103 to obtain approval for its change of plans from those previously approved on a form C-103, in violation of OCD Rule 1103.A(1)(a).

### **ORDER AND CIVIL PENALTY**

1. Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty totaling one thousand dollars (\$1,000) against Burlington.

2. The civil penalty shall be paid within sixty days of receipt of this order. Payment shall be made by certified or cashier's check made 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.
3. By signing this order, Burlington expressly:
  - a. acknowledges the correctness of the Findings and Conclusions set forth in this order;
  - b. agrees to comply with ordering paragraph 2;
  - 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;
  - e. agrees that if it fails to pay penalties assessed pursuant to this order, upon application by the OCD the district court may enter judgment against Burlington in the amount of the penalties assessed and, in the discretion of the court, may impose additional penalties for Burlington's violation of the penalty provisions of this order.

Done at Santa Fe, New Mexico, this 3<sup>rd</sup> day of January, 2004.

By: \_\_\_\_\_

Mark Fesmire, PE, Director  
Oil Conservation Division

**ACCEPTANCE**

Burlington Resources Oil & Gas Company LP, hereby accepts the foregoing order, and agrees to all of the terms and provisions set forth in the order.

Burlington Resources Oil & Gas Company LP

By: \_\_\_\_\_

JOHN F. ZENT, ATTORNEY-IN-FACT for

Title: Burlington Resources Oil & Gas Company LP  
BY BROG GP Inc., its sole General Partner

Date December 28, 2004