

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

NMOCD - OGA 04-51  
PSEM0501147787

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OFFICE OF THE ATTORNEY GENERAL

**IN THE MATTER OF MERIT ENERGY COMPANY,**

**Respondent.**

**AGREED ORDER DIRECTING COMPLIANCE  
AND ASSESSING CIVIL PENALTY**

Pursuant to the New Mexico Oil and Gas Act, NMSA 1978, §§70-2-1 through 70-2-38, as amended ("Act"), the Director of the New Mexico Oil Conservation Division (OCD) issues this Order to Merit Energy Company directing compliance with the Act and the 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. Merit Energy Company (Merit) is a foreign profit corporation doing business in New Mexico under SCC number 1489616.
3. Merit is the operator of record for the injection wells identified in this order. Merit operates these wells pursuant to permits issued by the OCD under Rule 701 [19.1.9.701 NMAC].
4. OCD Rule 704 [19.15.9.704 NMAC] authorizes the OCD to require testing of injection wells.
5. By letter dated January 20, 2004, the Artesia District Office of the OCD notified Merit that OCD would conduct mechanical integrity tests on Merit's wells on March 22, 2004, beginning at 9:00 a.m. The letter identified the specific wells to be tested, and the test to be performed on each well. Accompanying the letter was a one-page memorandum titled "Instructions for Preparation for MIT Tests." Included in those instructions was the requirement that the operator shut in the casing and Bradenhead valves 24 hours prior to a scheduled Bradenhead test.
6. When an OCD inspector arrived at the Merit facility on March 22, 2004 to conduct the tests, the Merit field supervisor informed him that Merit had forgotten to close the surface and annulus valves on all the wells scheduled for a

Bradenhead test 24 hours prior to testing, as instructed in the memorandum. The field supervisor stated that Merit would close the valves so that the wells would be ready for testing the following day.

7. The OCD inspector began testing on March 22, 2004 by inspecting those wells that that had been properly prepared for testing.

- a. The following wells failed the test on March 22 because they were injecting over permit pressure:

Hudson Federal No. 001	API 30-015-05208-00-00
Turner A No. 003	API 30-015-05211-00-00
Turner A No. 011	API 30-015-05215-00-00
CA Russell No. 006	API 30-015-05219-00-00
CA Russell No. 008	API 30-015-05221-00-00
CA Russell No. 009	API 30-015-05222-00-00
Turner A. No. 012	API 30-015-05328-00-00
Turner A No. 014	API 30-015-05239-00-00
Fren Oil Company No. 013	API 30-015-05261-00-00
Turner B. No. 054	API 30-015-05443-00-00
Turner B No. 059	API 30-015-05446-00-00
Turner B No. 048	API 30-015-05458-00-00
Max Friess MA No. 001	API 30-015-05450-00-00
Max Friess MA No. 002	API 30-015-05469-00-00
Turner B No. 053	API 30-015-05472-00-00
Turner A No. 035	API 30-015-20097-00-00
Turner A No. 036	API 30-015-20098-00-00
CA Russell No. 011	API 30-015-21258-00-00
Hudson Federal No. 006	API 30-015-26008-00-00
Hudson Federal No. 009	API 30-015-28790-00-00
Turner A No. 057	API 30-015-29000-00-00

- b. The following well failed the March 22 test because of a continuous blow on the surface casing valve: JL Keel A No. 014, API 30-015-05102-00-00.

- c. The following well failed the March 22 test because of continuous blow on internal casing valve: Turner B No. 068, API 30-015-05452-00-00

8. When the OCD inspector returned to continue testing the next day, March 23, 2004, he found that numerous wells still had open valves. On this occasion, the inspector failed those wells that had not been properly prepared for testing.

- a. The following wells failed the March 23 test because they had not been properly prepared for testing by closing the valves, or because the inspector could not access the valves:

HE West A No. 007	API 30-015-05066-00-00
HE West A No. 009	API 30-015-05067-00-00
HE West B No. 006	API 30-015-05070-00-00
HE West B. No. 019	API 30-015-05125-00-00
HE West B No. 021	API 30-015-05127-00-00
HE West B. No. 055	API 30-015-27111-00-00

b. The following wells failed the March 23 test because they were injecting at pressures exceeding the maximum pressure allowed by the applicable permit:

HE West A No. 005	API 30-015-05064-00-00
HE West B No. 012	API 30-015-05118-00-00
Turner B No. 002	API 30-015-05182-00-00
Turner B. No. 030	API 30-015-05186-00-00
Turner B. No. 042	API 30-015-05278-00-00
JL Keel B No. 040	API 30-015-25940-00-00
HE West A No. 014	API 30-015-25999-00-00
HE West A No. 017	API 30-015-26212-00-00

The Turner B No. 030 also had a continuous water flow at the surface valve.

c. The following wells failed the March 23 test because of a slight continuous water flow from the interior casing valve:

HE West B No. 003	API 30-015-05068-00-00
HE West B No. 015	API 30-015-05124-00-00
Turner B No. 004	API 30-015-05183-00-00

d. The following wells failed the March 23 test because there was a continuous blow on the surface valve:

HE West B No. 017	AI 30-015-05119-00-00
HE West B No. 030	API 30-015-10705-00-00

9. When the OCD inspector returned to continue testing on the third day, March 24, 2004, he found one well that still had open valves.

a. The following well failed the March 24 test because it had not been properly prepared for testing by closing the valves:

JL Keel B No. 025	API 30-015-05088-00-00
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b. The following wells failed the March 24 test because they were injecting at pressures exceeding the maximum pressure allowed by the applicable permit:

J L Keel B No. 013	API 30-015-05078-00-00
J L Keel B No. 023	API 30-015-05086-00-00
J L Keel B No. 026	API 30-015-05089-00-00
J L Keel B No. 006	API 30-015-05107-00-00
J L Keel B No. 010	API 30-015-05110-00-00

c. The following well failed the March 24 test because of a slight continuous water flow from the interior casing valve: J L Keel B No. 026, API 30-015-05089-00-00.

d. The following wells failed the March 24 test because there was a continuous blow on the interior casing valve:

J L Keel B No. 022	API 30-015-05082-00-00
J L Keel B No. 039	API 30-015-25920-00-00

10. When the inspector continued testing on the fourth day, March 25, 2004, two wells failed the Bradenhead test:

J L Keel B No. 031	API 30-015-25247-00-00
H E West B No. 040	API 30-015-26024-00-00

11. By letters dated March 26 and March 28, 2004, the Artesia District Office notified Merit of the wells that had failed the tests, and how each well had failed. The letters directed Merit to shut in the wells until they were successfully repaired. Copies of the letters were mailed to Merit's Dallas office, and copies were hand-delivered to Merit's field supervisor on March 29, 2004.
12. On April 7, 2004, an OCD inspector found that the JL Keel B #25 well, API 30-015-05088-00-00 was being used for injection. This well had failed testing on March 24, 2004 because Merit had not properly prepared the well for testing. The violation letters, which instructed Merit to shut in the well until it could be properly tested, had been hand-delivered to Merit's field supervisor on March 29, 2004.
13. On April 8, 2004, the Artesia District Office of the OCD notified Merit's Dallas office by phone again requesting that the wells that had failed the mechanical integrity tests be shut in.
14. On April 9, 2004, Merit's field inspector requested another copy of the letters identifying the wells to be shut-in, explaining that Merit had misplaced the letters that had been hand-delivered. The OCD provided additional copies.

15. On April 21, 2004, an OCD inspector and an inspector from the Environmental Protection Agency (EPA) conducted a random inspection on the HE West B #24 well, API 30-015-05128-00-00. The well had a leak at a union on the injection line. Merit personnel were instructed to repair the leak.
16. After performing the inspection with the representative from the EPA, the OCD inspector conducted an inspection of 7 additional Merit wells on April 21, 2004. Among other violations he discovered that the following three wells were injecting over permitted pressure:

Turner B No. 002 well	API 30-015-05182-00-00
Turner A No. 011 well	API 30-015-15215-00-00
Turner A No. 003 well	API 30-015-05211-00-00

All three wells had failed pressure tests during the March, 2004 testing, and violation letters from the Artesia District Office hand-delivered to Merit's field supervisor on March 29, 2004 had instructed Merit to shut the wells in until they would be repaired.

17. On April 23, 2004, an OCD inspector conducted random inspections of Merit wells. Among other violations he found that the Turner B No. 042 well, API 30-015-05278-00-00, which had been ordered shut in after an inspection conducted on March 23, 2004 showed that it was injecting over permit, was still injecting and still injecting over pressure. The inspector spoke to the Merit field supervisor immediately prior to this inspection, and had been assured that all wells that were supposed to be shut in were shut in.
18. On April 23, 2004, the Cabinet Secretary of the Energy, Minerals and Natural Resources Department, acting director for the OCD, issued emergency order E-35 to Merit ordering Merit to shut in all its injection wells in the Artesia district until it submitted a plan acceptable to the supervisor of the Artesia District for bringing the wells into compliance. The emergency order was faxed to Merit on Friday, April 23, 2004.
19. On Monday, April 26, 2004, Merit's production foreman met with representatives of the Artesia District Office, and presented a report on the status of all wells in violation. He assured the representatives of the Artesia District Office that the wells injecting overpressure had been brought into compliance with pressure limitations or had been shut in, and wells that had been failed due to mechanical integrity had been shut in and would remain so until repairs were made.
20. A random inspection of Merit wells conducted by an OCD inspector on May 14, 2004 found the following wells injecting over permitted pressure:

JL Keel B #6	API 30-015-05107
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Hudson Fed #9  
CA Russell #8  
CA Russell #6

API 30-015-28790  
API 30-015-05221  
API 30-015-05219

All four of these wells had been ordered shut in by letter delivered to Merit's field supervisor on March 29, 2004, after the wells failed pressure tests during the March inspections.

21. During a random inspection of Merit injection wells conducted by an OCD inspector on September 8, 2004, the following wells were found to be injecting over permit pressure:

Turner B 133  
CA Russell 011

API 30-015-29649-00-00  
API 30-015-21258-00-00

22. OCD Rule 703(A) [19.15.9.703.A NMAC] provides in relevant part, "Injection wells shall be equipped, operated, monitored, and maintained to facilitate periodic testing...."

23. Merit failed to close the valves of the wells to allow the OCD to conduct Bradenhead tests, after being instructed to do so by letter prior to the testing date, and after being verbally instructed to do so on the first day of testing. In particular,

- a. As of the second day of testing, Merit had not closed the valves on the following wells, or the valves were inaccessible to the OCD inspector for testing:

HE West A No. 007  
HE West A No. 009  
HE West B No. 006  
HE West B. No. 019  
HE West B No. 021  
HE West B. No. 055

API 30-015-05066-00-00  
API 30-015-05067-00-00  
API 30-015-05070-00-00  
API 30-015-05125-00-00  
API 30-015-05127-00-00  
API 30-015-27111-00-00

- b. As of the third day of testing, Merit had not closed the valves on the JL Keel B No. 025, API 30-015-05088-00-00.

- c. Merit was still injecting into the JL Keel B NO. 025 on April 7, 2004, after the violation letter hand-delivered to Merit's field supervisor on March 29, 2004 instructed Merit to shut in the well until it could be properly tested.

24. OCD Rule 701 requires injection wells to be permitted. Each permit sets an injection pressure limit.

25. The discovery of 36 wells injecting over permit pressure during inspections conducted from March 22 through March 25, 2004 demonstrates Merit's pattern and practice of disregarding permit pressure conditions. In addition,
- a. Merit continued to inject into the following wells until April 21, 2004, after receiving actual notice at least as early as March 29, 2004 that the wells were injecting over permit pressure:  
  
Turner B No. 002  
Turner A No. 011  
Turner A No. 003
  - b. Merit continued to inject into the Turner B No. 042 until April 23, 2004, after receiving actual notice at least as early as March 29, 2004 that the well was injecting over permit pressure.
  - c. Merit continued to inject into the following wells until May 14, 2004, after receiving actual notice at least as early as March 29, 2004 that the wells were injecting over permit pressure:  
  
JL Keel B #6  
Hudson Fed #9  
CA Russell #8  
CA Russell #6
  - d. Merit was injecting into the CA Russell 011 on September 8, 2004 after receiving actual notice that the well was injecting over permit pressure on March 29, 2004, and after receiving an emergency order on April 23, 2004 requiring Merit to shut in all injection wells until they were in compliance.
  - e. Merit was injecting into the Turner B 133 on September 8, 2004 after receiving an emergency order requiring Merit to shut in all injection wells until they were in compliance.
26. The Oil and Gas Act authorizes penalties of up to one thousand dollars (\$1,000) per day for a knowing and willful violation of any provision of the Act or any rule or order issued pursuant to the Act. NMSA 1978, § 70-2-31(A).
27. The Oil and Gas Act defines "person" as "any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate or other entity..." NMSA 1978, § 70-2-33(A)(1).
28. On October 4, 2004, OCD mailed a "Notice of Violation" to Merit, stating that Merit was in violation of OCD Rule 703, OCD Rule 701 and conditions of permits issued pursuant to Rule 701.

29. On October 26, 2004, Merit representatives David Hurtle and Gene Brookshire met with OCD representatives at an administrative conference to discuss the Notice of Violation. Mr. Hurtle and Mr. Brookshire were very cooperative during the discussion.

### **CONCLUSIONS**

1. The OCD has jurisdiction over the parties and subject matter in this proceeding.
2. Merit is a "person" as defined by NMSA 1978, §70-2-33(A) subject to civil penalties under NMSA 1978 §70-2-31(A) for knowing and willful violations of the Act or any rule or order issued pursuant to that Act.
3. Merit is subject to civil penalties under NMSA 1978, §70-2-31(A) for violating Rule 703(A)'s requirement that injection wells be equipped, operated, monitored, and maintained to facilitate periodic testing. This violation occurred on multiple wells and on multiple occasions.
4. Merit is subject to civil penalties under NMSA 1978, §70-2-31(A) for violating the injection pressure limits set by injection well permits issued pursuant to Rule 701. This violation occurred on multiple wells and on multiple occasions.

### **ORDER AND CIVIL PENALTY**

1. Taking into consideration both aggravating and mitigating factors, the OCD hereby assesses a civil penalty totaling eighteen thousand dollars (\$18,000) against Merit.
2. The civil penalty shall be paid within sixty days (60 days) of receipt of the Order. Payment shall be made by 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 St. Francis Drive, Santa Fe, NM 87505.
3. By signing this Order, Merit 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; 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 (NMSA 1978, §§70-2-1 through 70-2-38, as amended.

Done at Santa Fe, New Mexico this 8<sup>th</sup> day of Dec, 2004

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

Mark Fesmire, P.E.

Director, Oil Conservation Division

**ACCEPTANCE**

Merit Energy Company hereby accepts the foregoing Order, and agrees to all of the terms and provisions set forth in that Order.

Merit Energy Company

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

Blaine Strubling

Title: \_\_\_\_\_

Region MANAGER

Date: \_\_\_\_\_

11-8-04