

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

NMOCD-OGA-04- 76

IN THE MATTER OF MAX D. WEBB

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 ("OCD") issues this Order to **MAX D. WEBB ("WEBB")** 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. WEBB is an active entity doing business in New Mexico. WEBB's business address is P. O. Box 190, Farmington, NM 87499. WEBB has been assigned OGRID # 14273.
3. WEBB is the operator of record for the Federal 27 #6, API #30-045-23019 Unit Letter N, Section 27, Township 27 North, Range 13 West, San Juan County, New Mexico ("well").
4. On February 25, 2005, New Mexico Oil Conservation Division (OCD) Deputy Oil and Gas Inspector Darell Davis visited the Federal 27 #6 while inspecting wells in the area. Inspector Davis found where water had run forty to fifty feet across the location. Inspector Davis followed the wet stain across location to its source at the approximately 50 gallon open-topped, non-metallic aboveground flow back production tank near the wellhead.
5. An OCD investigation and review of relevant documents established the following facts:
 - a) Webb became operator of record for this Picture Cliffs well based on a C-104 approved July 23, 1991.

- b) An examination of visual and photo evidence confirmed the water source as the flow back tank. During an April 6, 2005, visit to the area by Inspector Davis, Mr. Tom Webb stated produced water was drained to the surface of the ground by removing a 2" plastic drain plug from near the bottom of the tank. The plug was replaced after draining the tank.
 - c) WEBB violated Rule 710.A.by draining produced water onto the ground.
6. 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." 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..."
 7. As a result of its investigation, the OCD issued Notice of Violation (3-05-09) to WEBB.
 8. According to information provided by WEBB during an administrative conference regarding the Notice of Violation, WEBB took the following actions after being notified of the violations:
 - a) WEBB started corrective actions the same day they were notified by OCD.
 - b) WEBB is in the process of installing above grade fiberglass pits and has completed all but two sites.

CONCLUSIONS

1. The OCD has jurisdiction over the parties and subject matter in this proceeding.
2. WEBB is a person as defined by NMSA 1978, Section 70-2-33(A) and as such is subject to the civil penalty provisions of NMSA 1978, Section 70-2-31(A).
3. WEBB violated Rule 710.A. by draining produced water from the flow back tank to the surface of the ground.

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 WEBB.

2. The civil penalty shall be paid at the time WEBB executes 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, WEBB expressly:
 - a. acknowledges the correctness of the Findings and Conclusions set forth in this order;
 - b. agrees to comply with ordering paragraphs 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.

Done at Santa Fe, New Mexico, this 14th day of July, 2005.

By: 
Mark Fesmire, PE, Director
Oil Conservation Division

ACCEPTANCE

WEBB hereby accepts the foregoing order, and agrees to all of the terms and provisions set forth in the order.

MAX D. WEBB

By: Max D Webb

Title: owner

Date 6-28-05