

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

NMOCD-06-117

**IN THE MATTER OF DUGAN PRODUCTION CORPORATION,  
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 (hereinafter, "OCD") issues this Order to DUGAN PRODUCTION CORPORATION (hereinafter, "Dugan") 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. Dugan is a corporation authorized to do business in the State of New Mexico under Public Regulation Commission ("PRC") SCC number 0444224 with a mailing address of P.O. Box 420, Farmington, New Mexico 87499. Its registered agent is Thomas A. Dugan, 709 E Murray Dr., Farmington, New Mexico 87401.
3. On March 21, 2006, OCD Deputy Oil and Gas Inspector Kelly Roberts performed a routine inspection on the Dugan Herry Monster #90. Mr. Roberts found an open drilling pit at the well site. The pit contained drill cuttings and a moderate amount of water. The liner was torn in several places and had fallen down into the pit below the level of the fluid. The fence around the pit was in place and in good shape.
4. An OCD investigation established the following facts:
  - a. The well was spud May 4, 2005.
  - b. The last casing string on the well was run May 11, 2005.
  - c. Dugan filed a notice of completion on December 19, 2005.
  - d. The OCD has no record of a request for a drilling pit permit from Dugan, nor did it receive or approve a request for an extension of the 180-day closure requirement.

- e. OCD Rule 50.A [19.15.2.50.A NMAC] prohibits the “[d]ischarge into, or construction of any pit or below-grade tank ... absent possession of a permit issued by the division....”
5. OCD Rule 50.C(2)(b)(i) [19.15.2.50.C(2)(b)(i) NMAC] requires 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. Pits used to vent or flare gas during drilling or workover operations that are designed to allow liquids to drain to a separate pit do not require a liner.”
6. OCD Rule 50.F(1) [19.15.2.50.F(1) NMAC] requires that “[e]xcept 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.”
7. Dugan knowing and willfully violated Rule 50.A by failing to obtain a pit permit for a drilling pit at the Herry Monster #90 well.
8. Dugan knowing and willfully violated Rule 50.C(2)(b)(i) by failing to maintain a pit liner in a manner to prevent over-topping.
9. Dugan knowing and willfully violated Rule 50.F(1) by failing to close the pit within six months from cementing the last casing string.
10. NMSA 1978, §70-2-31(A) provides in relevant part, “[a]ny 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. For purposes of this subsection, in the case of a continuing violation, each day of violation shall constitute a separate violation.”
11. Dugan is a person as defined by NMSA 1978, Section 70-2-33(A) subject to civil penalties under NMSA 1978, Section 70-2-31(A) for knowing and willful violations of the Oil and Gas Act or any OCD rule or order issued pursuant to that Act.
12. As a result of its investigation OCD issued Notice of Violation (3-06-16) to Dugan alleging knowing and willful violations of OCD Rules 50.A, C(2)(b)(i), and F(1).
13. At the Administrative Conference on this matter Dugan offered the following:
  - a. All copies of APD materials shall receive an extra review to insure the pit application is included.
  - b. New and improved methods of pit construction and maintenance have been implemented to insure liner integrity.
  - c. One employee has been appointed for all pit closure responsibilities.

- d. Communication between pit closure personnel and records keepers has been improved to insure timely notification of closure deadlines and filing of closure forms.
- e. Staff training has been held to stress existing pit regulations with discussions on the best methods for insuring compliance.

## II. CONCLUSIONS

1. The OCD has jurisdiction over the parties and subject matter in this proceeding.
2. Dugan 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. Dugan is subject to civil penalties under NMSA 1978, § 70-2-31(A) at the Herry Monster #90 for one violation of OCD Rule 50.A, one violation of OCD Rule 50.C, and one violation of OCD Rule 50.F.

## III. ORDER AND CIVIL PENALTY

1. Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty totaling **Three Thousand Dollars (\$3,000.00)** against Dugan.
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. Dugan shall **close the drilling pit** at the Herry Monster #90 under an OCD approved procedure by **May 15, 2006**.
4. By signing this Order, Dugan expressly:
  - a. acknowledges the correctness of the Findings and Conclusions set forth in this Order;
  - b. agrees to comply with Ordering paragraphs 2 and 3;
  - 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, Sections 70-2-1 through 70-2-38, as amended).

Done at Santa Fe, New Mexico, this 3<sup>rd</sup> day of ~~May~~ July 2006.

By: 

Mark Fesmire, PE, Director  
Oil Conservation Division

**ACCEPTANCE**

**Dugan Production Corporation** hereby accepts the foregoing Order, and agrees to all of the terms and provisions set forth in the Order.

DUGAN PRODUCTION CORPORATION

By: 

Title: Vice President - Exploration

Date June, 1, 2006

dugan production corp.

P.O. BOX 420 • FARMINGTON, N.M. 87499-0420 • (505) 325-1821

New Mexico Oil Conservation D

Check Date : 06/06/06 Check # 100494

CS

<u>Inv No</u>	<u>Date</u>	<u>Description</u>	<u>G/L Account</u>	<u>Amount</u>
	6/6/2006	Civil Penalties under NMSA 1978, 70-2-31(a) for violations at the Herry Monster # 90 well location per attached "Agreed Order Directing Compliance and Assessing Civil Penalty" NMOCD-06-_____		\$ 3,000.00

VENDOR CODE:

Check Total: \$ 3,000.00

DUG 102 (5/02)

VERIFY THE AUTHENTICITY OF THIS MULTI-TONE SECURITY DOCUMENT. ■ CHECK BACKGROUND AREA CHANGES COLOR GRADUALLY FROM TOP TO BOTTOM.



dugan production corp.

P.O. BOX 420 • FARMINGTON, N.M. 87499-0420 • (505) 325-1821

WELLS FARGO  
Farmington, New Mexico 87401

95-219  
1070

100494

6/6/2006

PAY \*\*\*\*\* Three Thousand and no/100 Dollars \*\*\*\*\*

\$ 3,000.00

TO  
THE  
ORDER  
OF

New Mexico Oil Conservation Division  
Attn: Mark Fesmire, Director  
1220 South Saint Francis Drive  
Santa Fe, NM 87505

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