

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

NMOCD-07- 164

IN THE MATTER OF MERRION OIL AND GAS 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 **MERRION OIL AND GAS CORPORATION** (hereinafter, "**Merrion**") directing compliance with 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. Merrion is an active, domestic profit corporation doing business in New Mexico, registered with the New Mexico Public Regulatory Commission under SCC number 0816769. T. Gregory Merrion is the registered agent with a mailing address at 610 Reilly Avenue, Farmington, New Mexico 87401-2634. Merrion's OGRID is #14634.
3. Merrion is the operator of the Jazz Com #1, Unit Letter M, Section 21, Township 26 North, Range 11 West, API # 30-045-32116, and the Jazz Com #2, Unit Letter C, Section 21, Township 26 North, Range 11 West, API #30-045-32115, San Juan County, New Mexico.
4. On September 15, 2006, OCD Deputy Oil and Gas Inspector Monica Kuehling performed an inspection on the Merrion Jazz Com #1 and #2 wells. Inspector Kuehling found that the wells had been completed and the drilling pits open. The drilling pits were lined and fenced.
5. An OCD investigation found the following:
 - a) The application for permit to drill a well was approved July 5, 2006 for the Jazz Com #1 well and June 2, 2006 for the Jazz Com #2 well.
 - b) As of September 26, 2006, no application for a pit permit had been received by the OCD, nor had a pit permit been issued.
 - c) OCD Rule 50.A [19.15.2.50.A NMAC] provides, "[d]ischarge into, or construction

of, any pit or below-grade tank is prohibited absent possession of a permit issued by the division,” unless an exception is granted by the OCD.

- d) Constructing a drilling pit without an OCD approved permit is a violation of OCD Rule 50.A, as is discharging into an unpermitted pit.
 - e) Merrion had no permit to construct the pit, nor had the OCD granted an exception to the permit requirement.
6. As a result of its investigation OCD issued **Notice of Violation (3-06-42)** to Merrion alleging two knowing and willful violations of OCD Rule 50.A (one for each of the Jazz Com #1 and #2 wells), and recommending a \$2,000.00 penalty.
7. At the Administrative Conference on this matter, Merrion presented the following:
- a) These wells are located on federal (Bureau of Land Management (hereinafter, “BLM”)) property. OCD Rule 19.15.13.1128 requires applications for a permit to drill, etc. to be filed on federal, not state, forms. Therefore, Merrion believed that the cut and fill information on the Federal APD was sufficient for both the Bureau Land Management and OCD requirements for construction and use of a pit, and that this granted them approval to build and use the pit.
 - b) The above method has been used consistently by Merrion for permitting its drilling pits.
 - c) Now that Merrion is aware that the drilling pit permit process requires it to file an application on state forms with the OCD, it shall do so. In the future, Merrion shall monitor whether a permit has been approved by the OCD and shall not begin work before the permit is approved.
 - d) Taking into account the extenuating circumstances, Merion does not believe it knowingly and willfully violate OCD Rule 50.A on the Jazz Com #1 and #2 wells.

II. CONCLUSIONS

- 1. The OCD has jurisdiction over the parties and subject matter in this proceeding.
- 2. Merrion 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. Merrion is subject to civil penalties under NMSA 1978, § 70-2-31(A) at the Jazz Com #1 and #2 wells for two knowing and willfully violations of OCD Rule 50.A (constructing two drilling pits without an OCD permit).

III. ORDER

1. Taking into account the extenuating circumstances, it is the opinion of the OCD that Merrion did violate OCD Rule 50.A at the Jazz Com #1 and #2 wells by constructing drilling pits without permits, but that the violations were not knowing and willful.
2. Merrion shall conduct a record check of all wells permitted and/or drilled after OCD Rule 50 became effective, which was in February 13, 2004. Merrion shall submit the list of all wells that have been drilled without a state approved pit permit to the OCD by December 1, 2006.
3. Merrion has been advised that from this day forward, any pits constructed without a state approved permit shall be subject to a Notice of Violation and enforcement action, including, but not limited to, money penalties.
4. By signing this Order, Merrion 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).

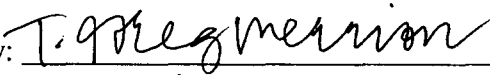
Done at Santa Fe, New Mexico, this 24th day of January 2007.

By: 
Mark Fesmire, PE, Director
Oil Conservation Division

ACCEPTANCE

MERRION OIL AND GAS CORPORATION hereby accepts the foregoing Order, and agrees to all of the terms and provisions set forth in the Order.

MERRION OIL AND GAS CORPORATION

By: 

Title: President

Date 1-12-07