

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

NMOCD-07- *162*

**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 ("OCD") issues this Order to MERRION OIL AND GAS CORPORATION ("Merrion") directing compliance with the Act and OCD Rules, and assessing a penalty for violations of the Act and OCD rules.

**I. FINDINGS**

- 1) The OCD is the state division charged with administration and enforcement of the Act and OCD Rules.
- 2) Merrion is a Domestic Profit Corporation doing business in New Mexico, registered with the New Mexico Public Regulatory Commission under SCC number 0816769. Merrion is an active entity; 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 operates the Pretty Lady 30-11-34 #1, Unit Letter J, Section 34, Township 30 North, Range 11 West, API #30-045-30922, located in Rio Arriba County, New Mexico.
- 4) On August 16, 2006, OCD Deputy Oil and Gas Inspector Kelly Roberts performed a routine inspection on the Merrion Pretty Lady 30-11-34 #1. Mr. Roberts found that a pit had been constructed at the well site near the wellhead. The pit contained cement cuttings and a moderate amount of water. Although located approximately 600 feet from a natural drainage area, the pit was constructed without a liner; it also was left unfenced. The well and pit are located within the boundaries of the City of Bloomfield.
- 5) OCD Rule 19.15.1.7.P(3) NMAC defines a pit to be: "[p]it shall mean any surface or sub-surface impoundment, man-made or natural depression, or diked area on the surface. Excluded from this definition are berms constructed around tanks or other facilities solely for the purpose of safety and secondary containment."

- 6) OCD Rule 50.A [19.15.2.50.A NMAC] prohibits the discharge into, or construction of, any pit or below-grade tank absent possession of a permit issued by the OCD, unless the OCD has granted an exemption from the permit.
- 7) Merrion violated Rule 50.A by constructing a pit without a permit at the Pretty Lady 30-11-34 #1.
- 8) OCD Rule 50.C(2)(b)(i) states 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.”
- 9) Merrion violated Rule 50.C(2)(b)(i) by failing to line the pit at the Pretty Lady 30-11-34 #1.
- 10) OCD Rule 50.C(2)(f) states in pertinent part, “[a]ll pits shall be fenced or enclosed to prevent access by livestock, and fences shall be maintained in good repair. Active drilling or workover pits may have a portion of the pit unfenced to facilitate operations”.
- 11) Merrion violated OCD Rule 50.C (2)(f) by failing to construct a fence around the pit at the Pretty Lady 30-11-34 #1.
- 12) NMSA 1978, §70-2-31(A) provides that “[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.”
- 13) NMSA 1978, §70-2-33(A) defines person as “any individual estate, trust receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate or other entity.”
- 14) As a result of its investigation, the OCD issued a Notice of Violation to Merrion, alleging knowingly and willfully violations of OCD Rules 50.A, 50.C(2)(b)(i) and 50.C(2)(f).
- 15) At the October 4, 2006 Administrative Conference on this matter, Merrion presented the following:
  - a. The well had never been a producing well, which was plugged with cement to the surface. The casing contained only drilling mud and cement.
  - b. The pit was drilled out with air, and misted with water; Merrion did not believe it was constructing a pit.

- c. Neither did Merrion believe the diked area used to contain the returns was a pit.
  - d. Because the well had never been producing and only fresh water used in the well and pit, there were no hydrocarbons in the pit, so Merrion didn't even think to get a permit.
  - e. As only fresh water was used, there was no reason to line the pit.
  - f. The pit was only 6-8 inches, not deep enough to strand a cow. As the owner indicated there was no livestock in the area, fencing the pit was not necessary.
- 16) Merrion does not believe it knowingly and willfully violated OCD Rules 50.A, 50.C(2)(b)(i) or 50.C(2)(f).

## II. CONCLUSION

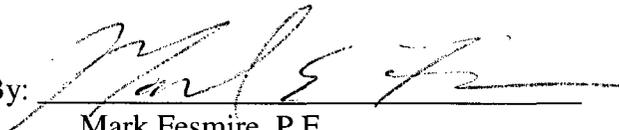
- 1) The OCD has jurisdiction over the parties and subject matter in this proceeding.
- 2) Merrion is a person as defined by NMSA 1978, § 70-2-33(A) that may be subject to civil penalties under NMSA 1978, §70-2-31(A).
- 3) Merrion is subject to civil penalties under NMSA 1978, § 70-2-31(A) at the Pretty Lady 30-11-34 #1 for one knowing and willful violation of each of OCD Rules 50.A, 50.C(2)(b)(i) and 50.C(2)(f) (constructing a pit without a permit; discharging into an un-permitted pit; and leaving a pit unfenced); Merrion disagrees that it knowingly and willfully violated these OCD Rules.

## III. ORDER AND CIVIL PENALTY

- 1) Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty against Merrion totaling **Two Thousand Dollars (\$2,000.00)** for one violation each of OCD Rule 50.A, 50.C(2)(b)(i) and 50.C(2)(f).
- 2) The civil penalty shall be paid at the time Merrion executes this Order. Payment shall be made by check 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, Merrion expressly:
  - a. acknowledges the correctness of the Findings and Conclusions set forth in this Order;
  - b. agrees to comply with Ordering paragraphs 1 and 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;
- 5) Nothing in this Order relieves Merrion of its liability should its operations fail to adequately investigate and remediate contamination that poses a threat to ground water, surface water, human health or the environment. In addition, nothing in this Order relieves Merrion of its responsibility for compliance with any other federal, state or local laws and/or regulations.

Done at Santa Fe, New Mexico this 22<sup>ND</sup> day of January 2007.

By:   
Mark Fesmire, P.E.  
Director, Oil Conservation Division

**ACCEPTANCE**

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

**MERRION OIL AND GAS CORPORATION**

By: 

Title: President

Date: 1-12-07