

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

ACO No. 219

IN THE MATTER OF C F M OIL COMPANY D/B/A LOUIS AND JUDY FULTON,

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 C F M Oil Company d/b/a Louis and Judy Fulton (hereinafter "Operator") 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. Operator is a sole proprietorship which operates wells in New Mexico under OGRID number 3322. Operator's mailing address is P.O. Box 1176, Artesia, New Mexico 88210.
3. Operator is Operator of Record of the following subject wells:

Leonard No. 002;	30-015-02821;	N-36-16S-29E
Leonard No. 006;	30-015-02828;	P-36-16S-29E
Leonard No. 008;	30-015-02830;	H-36-16S-29E
Dekalb Federal No. 003;	30-015-03952;	J-31-16S-30E

4. On June 19, 2007, OCD Deputy Oil and Gas Inspector Richard Inge attempted to perform the mandatory five-year pressure test on the above identified subject wells. Operator's owner Louis Fulton was present for the tests. Deputy Inspector Inge was unable to test the Leonard No. 002 well because Mr. Fulton said there was a hole in the tubing. Deputy Inspector Inge attempted to test the Leonard No. 006 well, Leonard No. 008 well, and the Dekalb Federal No. 003 well, but the casing for the wells would not pressure up. Mr. Fulton told Deputy Inspector Inge that the Leonard No. 008 well had a hole in its flow line. As a result, the wells failed the pressure test. Deputy Inspector Inge told Mr. Fulton that the wells had to be shut-in and repaired within 90 days.

5. On June 20, 2007, Deputy Inspector Inge sent Operator a Letter of Violation (LOV No. 02-16-307) which advised Operator of the mechanical integrity test failure and violation, and instructed Operator to repair the wells by September 22, 2007.
6. On September 9, 2007, Mr. Fulton called OCD to request a 30-day extension to repair the four wells. Mr. Fulton said the rig broke down. Deputy Inspector Inge granted Mr. Fulton's request for a 30-day extension.
7. On October 22, 2007, Mr. Fulton requested another 30-day extension. Mr. Fulton said he could not get a crew hired, but he would do the best he could. Deputy Inspector granted Mr. Fulton's request for a 30-day extension. Deputy Inspector Inge told Mr. Fulton to keep him informed on his progress. Deputy Inspector Inge did not hear from Mr. Fulton again.
8. OCD Rule 19.15.9.703(A) NMAC ("Rule 703") states:

Injection wells shall be equipped, operated, monitored, and maintained to facilitate periodic testing and to assure continued mechanical integrity which will result in no significant leak in the tubular goods and packing materials used and no significant fluid movement through vertical channels adjacent to the well bore.
9. On December 20, 2007, OCD issued Notice of Violation No. 02-07-31, which alleged that Operator was in knowing and willful violation of OCD Rule 703 for his failure to repair the subject wells after he had been told to do so.
10. On January 8, 2008, an administrative conference was held on the notice of violation. Mr. Fulton attended the conference.
11. At the administrative conference Mr. Fulton said he had misunderstood the situation. He thought this enforcement action was for his wells that are under an inactive well agreed compliance order.

III. CONCLUSIONS

1. The OCD has jurisdiction over the parties and subject matter in this proceeding.
2. Operator 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. NMSA 1978, Section 70-2-31(A) states, "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 for each violation. For purposes of this subsection, in the case of a continuing violation, each day of violation shall constitute a separate offense."
4. Operator is subject to civil penalties under NMSA 1978, § 70-2-31(A) for knowing and willful violations of OCD Rule 703.

IV. ORDER & CIVIL PENALTY ASSESSMENT

1. Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty against Operator totaling **Four Thousand Dollars (\$4,000.00)**. The amount is based on one violation of OCD Rule 703 occurring at each subject well.
2. Operator shall pay the Four Thousand Dollars civil penalty at the time it executes this Order. Payment shall be made by **certified or cashier's 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. Operator shall bring the subject wells into compliance with OCD Rule 703 by no later than **Monday, March 24, 2008**. If Operator fails to bring the subject wells into compliance with OCD Rule 703 by March 24, 2008, then Operator shall be subject to additional enforcement action, including additional civil penalties.
4. By signing this Order, Operator expressly:
 - a. acknowledges the correctness of the Findings and Conclusions set forth in this Order;
 - b. agrees to comply with the Order;
 - 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. For good cause shown, Operator may request an extension to complete the requirements as set out in Ordering Paragraph 3. Such notification ("notice") shall reasonably describe the circumstances encountered by Operator that prohibits it from meeting the deadlines set out herein.

Within ten (10) days of receipt of this notice, the OCD shall either approve the extended time requested by Operator by executing a written amendment to this Order, or notify Operator that it will not extend the deadline. The OCD's approval of a time extension shall not be unreasonably withheld.

Done at Santa Fe, New Mexico this 7th day of February 2008.

By: 

Mark Fesmire, P.E.

Director, Oil Conservation Division

ACCEPTANCE

C F M Oil Company d/b/a Louis and Judy Fulton hereby accepts the foregoing Order, and agrees to all of the terms and provisions as set forth in the Order.

C F M Oil Company d/b/a Louis and Judy Fulton

By: 

Title: co-owner

Date: 2-2-08

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