

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

2008 MAR 10 PM 1 57

ACO No. 223

IN THE MATTER OF MERIT ENERGY COMPANY,

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 Merit Energy Company (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 an active foreign for-profit corporation registered to do business in New Mexico under SCC Number 1489616.
3. Operator operates wells within New Mexico under OGRID 14591.
4. Operator's address of record is 13727 Noel Road, Suite 500, Dallas, TX 75240.
5. Operator is operator of record of the following well:
 - Turner B No. 067; 30-015-05300; L-20-17S-31E
6. On April 5, 2007, OCD Deputy Oil and Gas Inspector Richard Inge attempted to perform a Bradenhead test on the Turner B No. 067. The well was shut-in because there was no injection line connected. A company representative for Operator who was present for the test told Deputy Inspector Inge that the flow line was under repair for this group of wells. Consequently, Deputy Inspector Inge was unable to test the well. During his inspection Deputy Inspector Inge observed a continuous flow of oil from the casing valve. Deputy Inspector Inge told the company representative that the well had to remain shut-in, and that it had to be repaired and tested before it could be injected into again.

7. On April 16, 2007, Deputy Inspector Inge sent Operator a Letter of Violation (LOV NO. 0210207) which advised Operator of the Bradenhead test failure and violation, and instructed Operator to repair the well by July 9, 2007.
8. On July 2, 2007, OCD received a Form C-103 from Operator requesting "an additional 180 days to repair the well." In the Form C-103 Operator stated, "Due to rig availability it will be necessary to delay the repair of the possible casing leak." Deputy Inspector Inge approved Operator's 180 days extension request, giving Operator until January 9, 2008 to repair the well.
9. Operator reported injection into the well (396 bbl in 24 days) for the month of September 2007.
10. On January 24, 2008, after OCD did not hear anything further from Operator, OCD issued Notice of Violation No. 02-08-02.
11. Notice of Violation No. 02-08-02 alleged that Operator knowingly and willfully violated Subsection A and E of OCD Rule 19.15.9.703 NMAC ("Rule 703").
12. Subsection A of OCD 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.
13. Subsection E of OCD Rule 703 states:

Injection wells or projects which have exhibited failure to confine injected fluids to the authorized injection zone or zones may be subject to restriction of injection volume and pressure, or shut-in, until the failure has been identified and corrected.
14. On February 25, 2008, an administrative conference was held by telephone with Justin Findley, Operator's Operations Engineer. Mr. Findley participated in the conference on behalf of Operator.
15. Mr. Findley said several issues resulted in them not responding to the notice of violation in a more timely manner. There has been a change in personnel. He said Dan Zilmer was a past manager and that Mr. Zilmer was transferred to Michigan in March 2007. Mr. Findley said they never injected into the well. They were waiting for the well to stop flowing back so they could repair it. During this time they were having problems with rigs. Operator is planning on plugging the well within the next 2 to 4 weeks.

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.

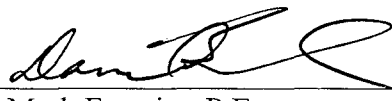
IV. ORDER & CIVIL PENALTY ASSESSMENT

1. Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty against Operator totaling **One Thousand Dollars (\$1,000.00)**.
2. The **One Thousand Dollars (\$1,000.00)** civil penalty shall be paid upon execution 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. **Operator shall plug the Turner B No. 067 by March 26, 2008.**
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 Paragraphs 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.

6. Nothing in this Order relieves Operator 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 Operator of its responsibility for compliance with any other federal, state or local laws and/or regulations.

Done at Santa Fe, New Mexico this 12th day of March 2008.

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

ACCEPTANCE

Merit Energy Company hereby accepts the foregoing Order, and agrees to all of the terms and provisions as set forth in the Order.

Merit Energy Company

By: 

Title: 3/1/08

Date: _____