

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

ACO 09- 262

IN THE MATTER OF BURLINGTON RESOURCES OIL & GAS COMPANY LP,

**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 **Burlington Resources Oil & Gas Company LP**, OGRID No. 14538, (hereinafter "Burlington") directing compliance with the Act and OCD Rules, and assessing a penalty for violations of the Act and OCD rules.

**I. FINDINGS & DETERMINATIONS BY THE OCD**

- 1) The OCD is the state division charged with administration and enforcement of the Act and OCD Rules.
- 2) Burlington is a foreign limited partnership doing business in New Mexico, registered with the Secretary of State under number LPF2001020702. Burlington is an active entity with a principal address at 5051 Westheimer Rd., Ste. 1400, Houston, Texas 77056. Its registered agent for service of process in New Mexico is C. T. Corporation System, 123 E. Marcy, Santa Fe, New Mexico 87501. Burlington's local business address is P.O. Box 4289, Farmington, New Mexico 87499-4289. Burlington's OGRID is 14538.
- 3) Burlington is the Operator of Record of the **Federal A #2F**, Unit Letter C, Section 25, Township 30 North, Range 13 West, API #30-045-34630, San Juan County, New Mexico.
- 4) On January 7, 2009, New Mexico Oil Conservation (hereinafter "OCD") Deputy Oil and Gas Inspectors Monica Kuehling and Rachael Duncan performed a routine inspection at the Burlington Resources Oil and Gas Company LP, (hereinafter "Burlington") Federal A #2F. Inspectors Kuehling

and Duncan viewed a lined drilling pit. The unlined, vent portion of the pit was observed by the inspectors to include an area with standing water.

- 5) On January 8, 2009, OCD Environmental Specialist Brandon Powell inspected the site. Specialist Powell discovered that an area of the vent portion of the pit had been designed to hold water for what appeared to be evaporation. Specialist Powell observed water being pumped out of the lined portion of the pit to sprayers which then sprayed the water over the flare. Because there was an earthen berm between the lined and unlined portion of the pit and drain pipes were positioned midway up the berm, it appears the berm was designed to hold water in the unlined portion of the pit for additional evaporation.
- 6) OCD rule 19.15.17.11.F(11) [19.15.17.11.F(11) NMAC] requires "[t]he part of a temporary pit used to vent or flare gas during a drilling or workover operation that is designed to allow liquids to drain to a separate temporary pit does not require a liner, unless the appropriate division district office requires an alternative design in order to protect surface water, ground water and the environment. **The operator shall not allow freestanding liquids to remain on the unlined portion of a temporary pit used to vent or flare gas.**"
- 7) Burlington violated OCD Rule 19.15.17.11.F(11) by designing the vent portion of the pit to hold fluids and by allowing freestanding liquids to remain on the unlined portion of a temporary pit used to vent or flare gas.
- 8) The OCD has required the unlined vent portion of the pit be designed to drain since February of 2004. It was first required in Rule 50C(2)(b)(i) [19.15.2.50C(2)(b)(i) NMAC] which has since been replaced with Rule 19.15.17.11.F(11) [19.15.17.11.F(11) NMAC]. **Burlington was formally notified of this requirement on two prior occasions in Agreed Compliance Orders it entered into with the OCD: ACO-127 and ACO-192.**
- 9) NMSA 1978 Section 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."
- 10) NMSA 1978, section 70-2-33(A) defines "person" in relevant part as "any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate or other entity...."

- 11) As a result of its investigation, on February 04, 2009, the OCD issued Notice of Violation (03-09-01) to Burlington.

## **II. STATEMENTS & ADDITIONAL INFORMATION PROVIDED BY THE OPERATOR, BURLINGTON**

Burlington provided the following supplemental information and statements during an administrative Conference held on February 23, 2009:

- 12) While flaring, the well began to produce higher quantities of hydrocarbons than expected. To protect the pit liner Burlington constructed a berm to contain the hydrocarbons until they had finished burning.
- 13) Burlington designed the bermed area to continuously drain; with water only settling in low-lying areas.
- 14) Burlington will contact the OCD in the future to request permission for this type of operation.

## **III. CONCLUSIONS OF THE OCD**

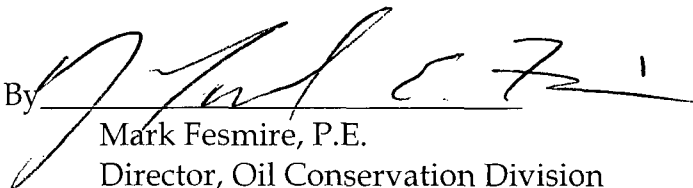
- 15) The OCD has jurisdiction over the parties and subject matter in this proceeding.
- 16) Burlington is a person as defined by NMSA 1978, § 70-2-33(A) that may be subject to civil penalties under NMSA 1978, §70-2-31(A).
- 17) Burlington is subject to civil penalties under NMSA 1978, § 70-2-31(A) at the Federal A #2F for one violation of OCD Rule 19.15.17.11.F(11) [19.15.17.11.F(11) NMAC] (by designing the vent portion of the pit to hold fluids and by allowing freestanding liquids to remain in the unlined portion of a temporary pit used to vent or flare gas).

## **IV. ORDER & CIVIL PENALTY ASSESSMENT**

- 18) Taking into account both aggravating and mitigating factors, Burlington is hereby assessed a penalty in the amount of **One Thousand Dollars (\$1,000.00)** for the violation of the OCD's Rules.

- 19) The civil penalty shall be paid at the time Burlington 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.
- 20) By signing this Order, Burlington expressly:
- a. acknowledges the authority of the OCD to render the above "Findings & Determinations," "Conclusions" and "Order & Civil Penalty Assessment";
  - b. acknowledges that it is the responsibility of Burlington, as the Operator of Record of wells in New Mexico, to know and comply with Division Rules in the operation of those sites, and that Burlington is ultimately the entity responsible for any noncompliance with Division Rules associated with any site for which it is the Operator of Record.
  - c. agrees to comply with the Order, specifically as articulated in Section "IV," Paragraphs 18, and 19;
  - d. 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;
  - e. 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;
- 21) Nothing in this Order relieves Burlington 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 Burlington of its responsibility for compliance with any other federal, state or local laws and/or regulations.

Done at Santa Fe, New Mexico this 18<sup>th</sup> day of Sept 2009.

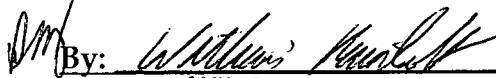
By   
Mark Fesmire, P.E.  
Director, Oil Conservation Division

ACCEPTANCE

BURLINGTON RESOURCES OIL & GAS COMPANY LP, (OGRID No. 14538), Federal A #2F, Unit Letter C, Section 25, Township 30 North, Range 13 West, API #30-045-34630, San Juan County, New Mexico, hereby accepts the foregoing Order, and agrees to all of the terms and provisions as set forth in the Order.

Burlington Resources Oil & Gas Company LP

By: BROG GP Inc., its sole General Partner

 By: William Rainbolt

Its: WILLIAM RAINBOLT ATTORNEY-IN-FACT

Date: 9-3-19