Form 3160-5 (August 2007)       UNITED STATES       Artcorrel       FORM APPROVED OMB No. 1004-0137 Expires: July 31, 2010         BUREAU OF LAND MANAGEMENT       5. Lease Serial No. NMNM 36189       5. Lease Serial No. NMNM 36189         SUNDRY NOTICES AND REPORTS ON WELLS Do not use this form for proposals to drill or to re-enter an abandoned well. Use Form 3160-3 (APD) for such proposals.       6. If Indian, Allottee or Tribe Name         SUBMIT IN TRIPLICATE – Other instructions on page 2.       7. If Unit of CA/Agreement, Name and/or No.         1. Type of Well       Gas Well       Other	٢			NM		)	
Normal 3919     SUNDRY NOTICES AND REPORTS ON WELLS     Do not use this form for proposals to difficult or to re-enter an     abandoned well. Use form 3169-3 (APD) for such proposals     SUBMIT IN TRIFLECATE - Other instructions on page 2     THUMI SCHEME - Other instruction page 3     THUMI SCHEME - OTHER - OTH	(August 2007)				. sid	O	MB No. 1004-0137
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Control of the Production of the Production of Page 2      Control of Well     Control of the Production of Page 2      Control of the Production of Page 2      Control of the Production of Page 2      Control of Page 3	Do not use t	his form for proposals to	o drill or to re	e-enter an		6. If Indian, Allottee of	Tribe Name
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300. Multisheld, Sale 500 Manue, Taxas 719751       432-685-3602       W. Pecco Slope Abo         1. Dotting of Well (Foodpace, Sec. T. R. M. or Survey Description)       11. Country of Parisb. State Chaves County, New Mexico         12. CHECK THE APPROPRIATE BOX(ES) TO INDICATE NATURE OF NOTICE, REPORT OR OTHER DATA         TYPE OF SUBMISSION       TYPE OF ACTION         Well Integrity       Chaves County, New Mexico         Mile Caling       Production (StartResume)       Well Integrity         Subsequent Report       Charge County       Well Integrity         Subsequent Report       Charge Start Treat       Production (StartResume)       Well Integrity         Subsequent Report       Charge Start Treat       Production (StartResume)       Well Integrity         Subsequent Report       Charge Start Treat       Production (StartResume)       Well Integrity         Subsequent Report       Charge Start Treat       Proposed or Completed Operation: Charly state all pertinem indentity are subsurface locations and measured and three vertice data starting data dependent work will be performed or provide the Bond No on file will BUM No. Reperformation, New Determined, and approximate duration thereof testing his board file data start field and the start of the involved operations. If the operation results in a multiple completion in a new start all pertinem markets and zones, file data details in the work of the data start of the da	2. Name of Operator Scythian, Ltd.					9. API Well No. 30-005-64082	
	300 N. Marienfeld, Suite 950				?)	1	. ,
TYPE OF SUBMISSION       TYPE OF ACTION         I Notice of Intent       Acidize       Deepen       Production (Start/Resume)       Water Shut-Off         I Notice of Intent       Acidize       Production (Start/Resume)       Water Shut-Off       Wet Integrity         I Subsequent Report       Change Plans       Plag and Abandon       Temporarily Abandon       Other Soe 13.         13. Describe Proprosed to Complete Operation Council to Injection       Plag and Abandon       Temporarily Abandon       Temporarily Abandon         13. Describe Proprosed to Complete Norizontally, give substrines locations and measured and true vertical depths of all pertinent markers and zones.       Attach the Bond mader which the work will be pertinent and regimes instable filed ones         14. Describe Proprosed of Complete Norizontalor provide the Bond Xonon off the Norizon multiple completion or recompletion in a new interval, a form 31604 multise filed ones         15. Describe Proprosed and the vertical Abandoment Notices       Inte work will be periation results in a multiple completion or recompletion in a new interval, a form 31604 multise stilled ones         16. during Scythian's tenure as Operator and Lessee.       NM OIL CONSEERVATION         Scythian's tenure as Operator and Lessee.       NM OIL CONSEERVATION         Accepted for record - NMOCD       The VP.         Segnature       Describe Proproval Warman Council Types//         Threndy sertify that the foregoing is true and correct.	4. Location of Well (Footage, Se 1,650' FNL and 400' FEL, Section 33	c., T., R., M., or Survey Description) - T5S-R21E, Lot H					
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Subsequent Report     Change Plans     Convert to Injection     Plag and Abandon     Temporarity Abandon     Temporarity Abandon     Temporarity Abandon     Temporarity Abandon     Temporarity Abandon     Water Disposal      Joserble Proposed or Completed Operation: Clearly state all performed tetals, including estimated starting date of any proposed work and approximate duration thereof.     The proposal is to deepen directionally or recomplete horizontality, give substring locations and measured and true vertical deplits of all approximate duration thereof.     The proposal is to deepen directionally or recomplete horizontality, give substring locations and measured and true vertical deplits of all approximate duration thereof.     The proposal of the work will be performed or provide the Bond No. on file with BLMBIA. Required subsequent performs must be filed within 30 days     following completion of the involved operations must be filed only after all requirements, including reclanation, have been completed and the operator has     determined that the site is received.     Scythian, Ltd., Lessee of Record (with 87.232% ownership), respectfully requests to be granted the "Operating Rights" of said Lease, and the     above described well (McKay B Federal #4); with the understanding that Scythian, Ltd. will assume future plugging and remediation "liabilities",     if applicable, during Scythian's tenure as Operator and Lessee.     MM Oil CONSERFIVATION         ARTESIA DISTRICT         FEB 2 0 7018         RECEIVED         The v.P.         signature         The organing is true and correct. Name (Printed/Typed)         The v.P.         signature         This SPACE FOR FEDERAL OR STATE OFFICE USE         Approved by         Conditions of approval, if any, are attached - propriod withs informet devise waternation or correly         This SPACE FOR FEDERAL OR STATE OFFICE USE         Approved by         Conditions of approval, if any, are attached - popriod of whis informet devise waternation correly	Notice of Intent			Treat	_	· · · · · · · · · · · · · · · · · · ·	Well Integrity
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fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

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

# IN THE MATTER OF THE HEARING CALLED BY THE OIL CONSERVATION DIVISION FOR THE PURPOSE OF CONSIDERING:

CASE NO. 15589 ORDER NO. R-14296

APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION COMPLIANCE AND ENFORCEMENT BUREAU FOR A COMPLIANCE ORDER AGAINST MCKAY OIL CORPORATION, FOR WELLS OPERATED IN CHAVES AND LEA COUNTIES, NEW MEXICO.

#### **ORDER OF THE DIVISION**

#### **BY THE DIVISION:**

This case came on for hearing at 8:30 a.m. on January 5, 2017, at Santa Fe, New Mexico, before Examiner Michael A. McMillan.

NOW, on this 13<sup>th</sup> day of February, 2017, the Division Director, having considered the testimony, the record, and the recommendations of the Examiner,

## FINDS THAT:

(1) The Application of the Oil Conservation Division Compliance and Enforcement Bureau ("Applicant") asserted McKay Oil Corporation, a New Mexico Corporation, OGRID No. 14424 ("McKay" or "Operator") is in violation of Regulations 19.15.5.9 NMAC (non-compliant wells), 19.15.8.9 NMAC (financial assurance for plugging wells), and 19.15.25.8 NMAC (failure to properly plug and abandon wells).

(2) The Application complies with the requirements of 19.15.8.10 NMAC.

(3) Proper and sufficient public notice of the hearing has been provided in accordance with Regulation 19.15.4.9 NMAC.

(4) Proper and sufficient notice was given by certified mail, return receipt requested to McKay, and to Edward L. Mazel, the duly appointed and serving chapter 7 trustee for the Estate of McKay Oil Corporation, Bankruptcy No. 7-11-11678 TR, United States Bankruptcy Court, District of New Mexico.

(5) Applicant appeared through its counsel. Applicant received a return receipt indicating McKay Oil Corporation received the notice provided it, but did not appear. Trustee Mazel made arrangements to appear telephonically, but did not so appear at the appointed time. McKay Petroleum Corporation, McKay Living Trust and Schultz Oil and Gas Properties, each

Case No. 15589 Order No. R-14296 Page 2 of 7

asserting an interest in the proceedings as working interest owners of one or more of the subject wells, appeared through their counsel, Damon Richards.

(6) The Oil Conservation Division ("Division") has jurisdiction over this case and the subject matter pursuant to NMSA 1978, § 70-2-12.

(7) Applicant is seeking to enforce its police and regulatory powers, and pursuant to 11 U.S.C. \$362(b)(4), this case is not subject to the automatic stay imposed by 11 U.S.C. \$362(a).

(8) The wells which are the subject of this case are:

Well Name	Well No.	API No.	County
Antelope Federal	1	30-005-61661	Chaves
Antelope Federal	2	30-005-61766	Chaves
Antelope Federal	3	30-005-61774	Chaves
Bonnie	1	30-005-62551	Chaves
Camp State	I	30-005-61446	Chaves
Five Mile Tank Federal	2	30-005-61403	Chaves
Husky-McKay	1	30-005-61616	Chaves
Inexco Federal	2	30-005-62389	Chaves
Inexco Federal	4	30-005-62382	Chaves
Inexco Federal	5	30-005-63601	Chaves
Inexco Federal	6	30-005-63740	Chaves
Jerry Don Federal	1	30-005-62221	Chaves
McKay B Federal	4	30-005-64082	Chaves
McKay Berrendo	1Y	30-005-62161	Chaves
Pronghorn Federal	1	30-005-62204	Chaves
Rugged Federal	I	30-005-62851	Chaves
West Fork Unit	1	30-005-62625	Chaves
West Fork Unit	2	30-005-62482	Chaves
West Fork Unit	4	30-005-62821	Chaves

Case No. 15589	
Order No. R-14296	
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West McKay Harvey Federal A	1	30-005-62189	Chaves
Woolworth Ranch Unit	1	30-025-26180	Lea

(9) McKay is the operator of each of the wells.

- (10) The Application requested issuance of an order from the Division:
  - a. Determining that McKay is in violation of Regulations 19.15.8, 19.15.5.9 and 19.15.25.8 NMAC;
  - b. Requiring McKay to provide the Oil Conservation Division with acceptable financial assurance within thirty (30) days of issuance of any order;
  - c. Requiring McKay to return to compliance with Regulations 19.15.5.9(A)(4) and 19.15.25.8 NMAC within sixty (60) days of the issuance of any order by returning the wells to production, plugging the wells in accordance with Regulation 19.15.25 NMAC, or transferring the wells to an operator who is in compliance with the requirements of Regulation 19.15.5.9 NMAC.
  - d. Determining that in the event McKay does not comply with the actions required within the time permitted, the Division should find that McKay is in violation of a Division Order, that the wells that are not in compliance should be declared abandoned, that the Oil Conservation Division should then plug the abandoned wells in accordance with a Division-approved plugging program and restore and remediate the location, recover its costs from McKay's financial assurance as required by Regulation 19.15.8.13 NMAC, and seek indemnification under NMSA 1978 § 70-2-14(E).
  - e. requiring Operator to return to compliance with 19.15.5.9 and 19.15.25.8 NMAC within sixty (60) days of the date of the order;
  - f. in the event of noncompliance, finding the Operator in violation of a Division order for each day after the deadline established in the sought order, declaring the wells abandoned, authorizing the Division to plug the violating wells in accordance with a Division approved plugging procedure and restore and remediate the location, recover costs from the posted financial assurance as permitted by 19.15.8.13 NMAC, and seek indemnification as permitted by NMSA 1978, § 70-2-14 (E).

(11) Applicant presented as its witness Daniel Sanchez, the Oil Conservation Division's Compliance and Enforcement Manager. After being gualified as a witness, Mr. Sanchez testified:

- a. That he was knowledgeable of the Oil Conservation Division's records regarding McKay.
- b. That the Oil Conservation Division's records regarding McKay were kept in the ordinary course of the Division's business.

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- c. That McKay is the operator of record of the twenty (20) wells in Chaves County and one (1) well in Lea County which are the subject of this action.
- d. That the subject wells each have an "active" status;
- e. That monthly production reports on OCD Form C-115 for active wells are required 45 days after each month has ended;
- f. That the last form C-115 supplied to the Division by McKay for any of subject wells was for August 2016;
- g. That the August 2016 report showed only one well, the Woolworth Ranch Unit No. 1 (API No. 30-025-26180), had reported oil and gas production;
- h. That twenty (20) of McKay's twenty-one (21) wells have been inactive with no production for more than one (1) year plus ninety (90) days;
- i. That apart from the Woolworth Ranch Unit Well No. 1, the most recent production from any of the subject wells was in February of 2015;
- j. That the Bonnie No. 1 last produced in January of 1994;
- k. That Regulation 19.15.25.8 NMAC requires all the subject wells be properly plugged and abandoned, returned to production, or placed in approved temporary abandonment status
- 1. That the Woolworth Ranch Unit No. 1 is the only well operated by McKay that is not currently in violation of 19.15.25.8 NMAC;
- m. That McKay is in violation of 19.15.5.9(A)(4) NMAC, which requires an operator to have a maximum of two (2) inactive wells if operator has less than one hundred (100) wells;
- n. That three (3) of the Operator's twenty-one (21) wells have inadequate financial assurance in violation of 19.15.8.9 NMAC: the Camp State No. 1 requires Eight Thousand Six Hundred-Fifty Dollars (\$8,650) in single well financial assurance; the McKay Berrendo No. 1Y requires Nine Thousand Ten Dollars (\$9,010) in single well financial assurance; and the West Fork Unit No. 4 requires Eight Thousand Four Hundred Dollars (\$8,400) in single well financial assurance.
- o. That the financial assurance deficiency for the three (3) wells totals twenty six thousand sixty dollars (\$26,060);
- p. That McKay has one (1) Fifty Thousand Dollar (\$50,000) blanket bond and two
   (2) single well bonds on file with the Division in the amount of Nine Thousand Two Hundred Ninety-Two Dollars (\$9,292) and Nine Thousand Five Hundred Seventy-Eight Dollars (\$9,578);

Case No. 15589 Order No. R-14296 Page 5 of 7

- q. All financial assurances for McKay are from RLI Insurance Company ("RLI") 2925 Richmond Ave, Suite 1600, Houston, TX 77098.
- (12) Trustee Mazel provided no pre-hearing statement, or testimony.

(13) Interested parties McKay Petroleum Corporation, McKay Living Trust, and Schultz Oil and Gas Properties, did not present witnesses, but adduced in cross-examination of Daniel Sanchez:

- a. That McKay Oil Corporation has filed for Chapter 7 Bankruptcy protections;
- b. That authority to operate the properties in the bankruptcy estate lies with Trustee Mazel;

(14) Through their counsel, the interested working interest owners stated they would like to see the Woolworth Ranch Unit Well No. I transferred to another operator.

(15) The Division, through its counsel, stated the Division would not oppose a transfer of the Woolworth Ranch Unit Well No. 1 to another operator, registered and in good standing in New Mexico, so long as the transfer was authorized in accordance with applicable statutes and regulations.

#### THE DIVISION CONCLUDES AS FOLLOWS:

(16) Oil Conservation Commission Order No. R-9210 in Finding Paragraph (5), states that well abandonment rules are in place to prevent migration of fluids, prevent waste, protect correlative rights, and protect fresh waters.

(17) NMSA 1978, Section 70-2-14(B) provides, in relevant part, "If any of the requirements of the Oil and Gas Act [70-2-1 NMSA 1978] or the rules promulgated pursuant to that act have not been complied with, the Oil Conservation Division, after notice and hearing, may order any well plugged and abandoned by the operator or surety or both in accordance with Division rules."

(18) Regulation 19.15.5.10(B) NMAC authorizes the Division to commence compliance proceedings for violation of a provision of the Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38, or a provision of a rule or order issued pursuant to the act.

(19) McKay is the operator of record for the subject wells and is responsible for compliance with the Oil and Gas Act and Oil Conservation Rules.

(20) Chapter 7 Trustee for McKay is the person authorized by the Bankruptcy Code to Control McKay's acts.

(21) The testimony provided by Applicant and the representations of counsel at the hearing clearly established that McKay is in violation of Regulations 19.15.5.9, 19.15.8.9, and 19.15.25 NMAC.

(22) The Application should be approved.

Case No. 15589 Order No. R-14296 Page 6 of 7

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#### IT IS THEREFORE ORDERED THAT:

(1) The Application of Oil Conservation Division Compliance and Enforcement Bureau for a compliance order against McKay finding same in violation of Regulations 19.15.5, 19.15.8,9, and 19.15.25.8 NMAC, for the twenty (20) subject wells, all located in Chaves County, New Mexico, is hereby approved.

(2) McKay shall post adequate financial assurance as required by Regulation 19.15.8.9 NMAC and the Division for all wells for which the Division has determined bonding is insufficient within thirty (30) days of the issuance of this Order. At this time the wells are: the Camp State Well No. I for which the amount of single well financial assurance is Eight Thousand Six Hundred Fifty dollars (\$8,650); the McKay Berrendo Well No. 1Y, for which the single well financial assurance in the amount of Nine Thousand Ten dollars (\$9,010); and the West Fork Unit Well No. 4, for which the single well financial assurance is Eight Thousand Four Hundred dollars (\$8,400).

(3) The following twenty (20) wells are in violation of 19.15.25.8 NMAC. 19.15.5.9 NMAC which requires an operator of fewer than one hundred (100) wells to have no more than two (2) wells out of compliance with 19.15.25.8: NMAC:

Well Name	Well No.	API No.	County
Antelope Federal	1	30-005-61661	Chaves
Antelope Federal	2	30-005-61766	Chaves
Antelope Federal	3	30-005-61774	Chaves
Bonnie	1	30-005-62551	Chaves
Camp State	1	30-005-61446	Chaves
Five Mile Tank Federal	2	30-005-61403	Chaves
Husky-McKay	1	30-005-61616	Chaves
Inexco Federal	2	30-005-62389	Chaves
Inexco Federal	4	30-005-62382	Chaves
Inexco Federal	5	30-005-63601	Chaves
Inexco Federal	6	30-005-63740	Chaves
Jerry Don Federal	1	30-005-62221	Chaves
McKay B Federal	4	30-005-64082	Chaves
McKay Berrendo	1Y	30-005-62161	Chaves
Pronghorn Federal	1	30-005-62204	Chaves
Rugged Federal	1	30-005-62851	Chaves
West Fork Unit	1	30-005-62625	Chaves
West Fork Unit	2	30-005-62482	Chaves
West Fork Unit	4	30-005-62821	Chaves
West McKay Harvey Federal A	1	30-005-62189	Chaves

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(4) The Operator shall bring the twenty (20) wells out of compliance with 19.15.25.8 NMAC into compliance with 19.15.25.8 NMAC within sixty (60) days of the issuance date of this order by accomplishing one of the following with respect to each well:

- a. causing the well to be plugged and abandoned in accordance with 19.15.25.8 NMAC and in accordance with a Division approved plugging program;
- b. restoring the well to production if the well is an oil and gas well; or
- c. causing the well to be temporarily abandoned with Division approval in accordance with 19.15.25.13 NMAC.

(5) If the Operator has not completed the ordering requirements within the prescribed period, the Operator shall be in violation of this order, and the Division shall be authorized:

- a. Subject to the applicable provisions of Title 11, United States Code, to plug and abandon the subject wells that are out of compliance with Division rules; and
- b. to recover costs from either the Operator or the United States Bureau of Land Management in accordance with 19.15.8.13 NMAC; and NMSA 1978, Section 70-2-14 (E) if funds available from applicable financial assurance are not sufficient to cover all costs which the Division incurs in plugging and abandoning the wells.

(6) If McKay cannot reasonably complete the work described above within the specified time, McKay may file, prior to the expiration of the deadlines set forth above, an application for hearing to request an extension. At hearing, McKay shall provide evidence of its good faith efforts at complying with this Order, the work completed to date, and why good cause exists for the extension. McKay shall also propose a revised schedule for completion of the required work.

(7) Jurisdiction of this case is retained for the entry of such further orders as the Division may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.



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STATE OF NEW MEXICO OIL CONSERVATION DIVISION

atru

DAVID R. CATANACH Director