

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

NMOCD - ACO 18-3

IN THE MATTER OF BUCKEYE DISPOSAL, LLC,

Respondent.

AGREED COMPLIANCE ORDER

Pursuant to the New Mexico Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38, as amended ("Act") and OCD Rule 1227.E [19.15.14.1227(E) NMAC], the Director of the Oil Conservation Division ("OCD") and Buckeye Disposal LLC ("Operator" or "Buckeye") enter into this Agreed Compliance Order ("Order") under which Operator acknowledges the violations described below, agrees to a penalty of \$1,000, and agrees to take the corrective action described below.

FINDINGS

1. The OCD is the state division charged with administration and enforcement of the Act, and rules and orders adopted pursuant to the Act.
2. Operator is a limited liability company doing business in the state of New Mexico.
3. Operator operates wells in New Mexico under OGRID 222759.
4. Buckeye became the operator of record for the State AF #1, API No. 30-025-20546 in November 2003.
5. OCD Rule 201 [19.15.4.201 NMAC] requires a well to be either properly plugged and abandoned or placed in approved temporary abandonment in accordance with OCD rules within 90 days after a period of one year in which a well has been continuously inactive.
6. No production or injection has been reported for the State AF #1 since December 2003. The well is neither properly plugged nor on approved temporary abandonment status.
7. By letters dated March 16, 2005, June 22, 2005 and July 5, 2006, the OCD notified Buckeye that the State AF #1 was inactive and in violation of Rule 201. The most recent letter instructed Buckeye to repair the well by July 19, 2006.

8. Buckeye did not respond to the letters.
9. On April 25, 2007, the OCD issued Notice of Violation (1-7-04) to Buckeye alleging the knowing and willful violation of Rule 201 as to the State AF #1.
10. NMSA 1978, Section 70-2-31(A) authorizes the assessment of civil penalties of up to one thousand dollars per day per violation against any person who knowingly and willfully violates any provision of the Oil and Gas Act or any rule or order adopted pursuant to the Act.
11. 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..."

CONCLUSIONS

1. The OCD has jurisdiction over the parties and subject matter in this proceeding.
2. Buckeye violated Rule 201 by failing to properly plug and abandon or place on approved temporary abandonment status the State AF #1 well within 90 days after one year of continuous activity.
3. The violation of Rule 201 was knowing and willful: Buckeye did not take corrective action on the State AF #1 well even after three letters from the OCD notifying Buckeye of the violation.
4. Operator is a "person" as defined by NMSA 1978, Section 70-2-33(A) and may be subject to civil penalties for knowing and willful violations of the Oil and Gas Act or rules or orders adopted pursuant to the Act.

ORDER

1. The OCD assesses, and Buckeye agrees to pay, a penalty of \$1,000.00 for the knowing and willful violation of Rule 201 at the State AF #1 well.
2. The \$1,000.00 penalty shall be paid at the time Buckeye executes this Order. Payment shall be made by check payable to the "New Mexico Oil Conservation Division," mailed or hand-delivered to the EMNRD-OCD, Attn: Director, 1220 South St. Francis Drive, Santa Fe, NM 87505.
3. Within 10 days of the date this order is executed, Buckeye shall file a sundry notice indicating its intent to produce, plug or temporarily abandon the State AF #1 well.

4. Within 6 months of the date this order is executed, Buckeye shall take one of the following actions to return the State AF #1 well to compliance with Rule 201:
 - a. return the well to production and file a C-115 reporting production;
 - b. plug the wellbore of the well and file a sundry notice reporting the plugging; or
 - c. place the well on approved temporary abandonment status.
5. If Buckeye fails to return the State AF #1 well to compliance with Rule 201 within 6 months of the date this order is executed, Buckeye agrees to pay an additional penalty of \$1,000 for each full week after the deadline that the well remains out of compliance with Rule 201.
6. By signing this Order, Operator expressly:
 - (a) acknowledges the correctness of the Findings and Conclusions set forth in this Order;
 - (b) agrees to pay the \$1,000 penalty assessed in the Order at the time the Order is executed;
 - (c) agrees to file a sundry notice within 10 days of the date this Order is executed stating its intent to produce, plug or temporarily abandon the State AF #1;
 - (d) agrees to return the State AF #1 to compliance with Rule 201 within 6 months of the date this Order is executed;
 - (e) agrees that if it fails to return the State AF #1 to compliance with Rule 201 within 6 months of the date this Order is executed, it will pay an additional penalty of \$1,000 for each full week after that deadline that the State AF #1 remains out of compliance with Rule 201;
 - (f) waives any right, pursuant to the Oil and Gas Act or otherwise, to a hearing either prior to or subsequent to the entry of this Order or to an appeal from this Order; and
 - (g) agrees that the Order may be enforced by OCD or Oil Conservation Commission Order, by suit or otherwise to the same extent and with the same effect as a final Order of the OCD or Oil Conservation Commission entered after notice and hearing in accordance with all terms and provisions of the Oil and Gas Act.

Done at Santa Fe, New Mexico this 1st June day of ~~May~~ 2007

By: 

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

ACCEPTANCE

Buckeye Disposal, LLC hereby accepts the foregoing Order, and agrees to all of the terms and provisions set forth in that Order.

Buckeye Disposal, LLC

By: 

(Please print name) PETER BERNSTEIN

Title: MEMBER

Date: 5/30/07