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**Cibola Energy Corporation**  
**PO Box 1668, Albuquerque, NM 87103**  
phone: (505) 242-2050; facsimile: (505) 242-8501

February 7, 2002  
**SENT CERTIFIED**

OIL CONSERVATION DIV.

FEB 11 PM 12:57

David K. Brooks  
Assistant General Counsel  
Oil Conservation Division  
1220 South St. Francis Drive  
Santa Fe, New Mexico 87505

Tim Gum  
District II Supervisor  
Oil Conservation Division  
1301 W. Grand Ave.  
Artesia, NM 88210

Gentlemen:

On January 23rd, this company received from the OCD a notice that a hearing has been scheduled for February 22, 2002 in which the OCD will seek assessment of civil penalties for this company's failure to bring into compliance four wells listed on an attachment to the OCD's letter. Those wells are: Duncan Federal # 4Y, JP White # 1, Whitney # 2, and Ysletano Canyon Fed # 1. Below, I review the history of our compliance related to the four cited wells. In view of that history, I sit here trying to ascertain whether the OCD has simply made a mistake in alleging that Cibola is non compliant, whether there is an actual compliance issue which is not clear to me, or whether we are simply being harassed?

**HISTORY:**

**1. DUNCAN FEDERAL # 4Y:**

Because this well is located on a BLM lease (NM-12557), it, like other wells located on the same lease, was drilled by this company under a permit issued by the Federal government. This company sold its interest in the lease and all wells located thereon to Jalapeno Corporation. Because of this sale, a change of operator notice was submitted to the BLM in November 1999. The notice covered not only the Duncan 4Y but two other Duncan wells located on the same lease.

*draft*

The change of operator was approved by the BLM on January 27, 2000, approximately two years ago. (A copy of the approved notice is enclosed.) The OCD changed its records to show that Jalapeno had become the Operator of the two other Duncan wells listed on the Notice, but it did not change its records in regard to the Duncan 4Y, even though that error was pointed out to the Artesia OCD office several times. See, for instance, this company's letter to Mr. Gum of August 3, 2001, and Jalapeno Corporation's letters to Tim Gum of April 26, 2000, and of August 7, 2001.

In its August 2001 letter to Mr. Gum, Jalapeno reported that the BLM had approved a Duncan 4Y plugging application. Additionally, it gave Mr. Gum the name of the plugging company and the approximate scheduled date for the plugging. In a follow-up letter (enclosed) dated October 19, 2001, to Mr. Gum (and to Stan Mayo of the Roswell BLM office) Jalapeno gave an exact date for the plugging and inquired of Mr. Gum whether the OCD needed a phone call from the plugging company when the exact expected time for the plugging became known. No response was heard from Mr. Gum to the letter which had been faxed to him.

Pursuant to the various and repeated communications to the OCD (and the BLM) the well was plugged by Jalapeno Corporation in October of last year. The BLM's Mr. Mayo witnessed the plugging. The OCD chose not to witness the plugging. Numerous copies of the plugging report were filed with the BLM by Jalapeno Corporation. (It is our understanding that one of those copies is furnished to the BLM so that it may forward the copy to the OCD.) That plugging report was approved by the BLM on November 19, 2001, a good two months before the date of the OCD's recent letter threatening to assess civil penalties against Cibola Energy Corporation for failure to comply with OCD rules related to this well, the operations for which had been transferred to Jalapeno two years earlier. Further, in its Operators Monthly Report (form C-115) for the month of October, Jalapeno reported to the OCD that the Duncan 4Y had been plugged and abandoned. (A copy of the approved plugging report, as well as the C-115, are enclosed.)

On January 22, 2002, Cibola received an undated letter from the State of New Mexico Taxation and Revenue Department to which was attached an ONGARD form dated 01/16/02. (A copy of the form is enclosed.) That form, which was either input or printed days before the OCD's threatening letter to us, indicates that Cibola Energy Corporation plugged and abandoned the Duncan Federal 4Y on 10/24/02. (This, of course, is erroneous, in part, in that it was Jalapeno which had plugged and abandoned the well.)

In summary the history related to this well is as follows:

1. On the Federal (BLM) records, Jalapeno Corporation is the Operator of Duncan 4Y. However, on the State (OCD) records, Cibola Energy is shown as the Operator of the Duncan 4Y because the OCD refused to recognize the BLM approved change of operator of November 1999, even though the OCD recognized the change of operator as to other wells listed on the same form, and even though OCD received repeated requests thereafter to correct its records.

2. The Duncan 4Y was plugged three months prior to the OCD's threatening letter of January 22, 2002. As is evidenced by the letters dispatched to Mr. Gum, the C-115 covering October production filed by Jalapeno, as well as the ONGARD form sent Cibola by the New Mexico Taxation and Revenue Department, the OCD was aware that this well had been plugged well before the OCD sent its recent threatening letter.

Heretofore we have politely requested that the OCD change its records as to the Duncan 4Y to bring them into accord with the BLM records -- that is to show that Jalapeno Corporation, rather than Cibola Energy Corporation, is the Operator of the well. You have not responded to these repeated requests, nor have you made the appropriate change in your records. That former Operator should be shown to have been Jalapeno Corporation, not Cibola Energy Corporation. Please change your records. Please also explain to us why, in view of the history recited above, you are presently threatening us related to the Duncan 4Y?

## 2. JP WHITE # 1 and WHITNEY # 2:

Cibola is not the Operator of either of these wells. These wells were assigned to Paloma Blanca Well Service effective July 1, 2001. The transaction was to have taken place earlier, but was delayed when Mr. Gum informed Jack Gustamantes, the owner of Paloma Blanca, that, in order to assume operations of the wells, Paloma Blanca would have to post an additional bond of \$5,000 for each well which had not been producing within the last year -- this in addition to Gustamantes continuing his \$50,000 statewide plugging bond. Mr. Gustamantes furnished the additional required bonds, as well as the change of operator forms which had been executed both by him and by me.

On August 8, 2001, Mr. Gum wrote a letter to me, a copy of which is attached. In the letter Mr. Gum states, "The three wells J.P. White no.1, Whitney wells no. 1 & 2 are being processed for change of operator." We heard nothing more about these wells after Mr. Gum's letter of August 2001 until we received the OCD's threatening letter of January 22, 2002.

Please explain to us why, in view of the history recited above, you are presently threatening us related to the JP White # 1 and the Whitney # 2?

## 3. YSLETANO CANYON FEDERAL # 1:

This, like the Duncan 4Y, is also a well drilled on a Federal lease. It is shut in because there is presently no market for the gas close enough to justify building a pipeline. Consequently, this company, each year, pays the Mineral Management Service a minimum royalty, as is evidenced by the enclosed Mineral Management bills which we pay annually.

Several years ago we were advised by the Artesia OCD office that we could retain this well in this manner by placing a bridge plug in the well and periodically pressure testing the well's casing. As is evidenced by the enclosed Rotary Wire Line Service bill # 6509, we placed

a bridge plug in the well in August of 1995. Periodically thereafter, we have received notice from the Santa Fe office of the OCD that we need to pressure test the casing in the well. The last notice required that the casing test be reported by October 15, 2001. That test was performed by Jim's Water Service and the results of that test were timely reported to the Santa Fe office of the OCD via the Internet. Additionally, because we could not send the pressure graph over the Internet, we also sent the Santa Fe OCD office a Subsequent Report (form C-103) together with a copy of the pressure test log on the well.

Further, this well has been reported monthly to the Federal government on the Mineral Management Services' Monthly Report of Operations. It is also being reported to the OCD on Cibola's C-115. See enclosed copies of both reports.

In a letter of August 3, 2001, to Mr. Gum, a copy of which is enclosed, I gave the history I have given above save that related to the most recent pressure test, which had not yet been performed. On August 8, 2001, Mr. Gum responded to my letter thanking me for my timely response to his request of July 25th. I enclose a copy of his response. You will note that he did not address the Yslatano Canyon Federal # 1 in his response, though he did address other wells. If there is a problem related to our handling of the Yslatano, we should have been advised of the problem.

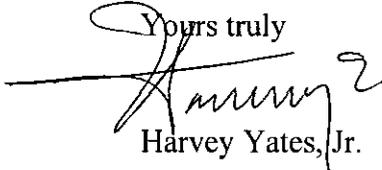
We are mystified as to why the OCD has classified Cibola as "non-compliant" related to the subject well. We are non-compliant about what?

We diligently have attempted to work with the Artesia OCD office related to compliance issues. Consequently, Cibola has plugged many, many wells over the last several years, and it has sold to other operators both the producing and non producing wells in fields earlier developed by Cibola. (Thus, it sold to Pueblo Petroleum its Race Track Field; it sold to Jalapeno Corporation its Wolfe Lake Field; and it sold to Paloma Blanca its Whitney portion of the Diablo Field.) Further, we have attempted to work with the Artesia OCD office in good humor, even when we have been accused of failing to plug wells which had been plugged and approved months or years prior to the accusation. In these cases, we have furnished the OCD Artesia office with copies of the approved plugging reports which evidently had been misplaced in that office. Examples of such wells are the Plains Radio # 1 (plugged and approved 20 years prior to the accusation), Rox # 3 (plugged and approved six years prior to the accusation), and the Miller # 1 (plugged and approved several months prior to the accusation). To this list we can add the Duncan Federal 4Y discussed at 1., above.

As implied at the beginning of this letter, in view of the history of the matter, I am finding it difficult to convince myself that we are not being harassed by the threats contained in the OCD's letter of January 22nd. I prefer, however, simply to believe that a mistake was made by the OCD's claiming that Cibola is non-compliant in regard to the listed wells.

I request that Cibola be removed from the docket of the February 22nd hearing. Or, alternatively, please explain to us, clearly, why the OCD regards Cibola as being non compliant in regard to the four subject wells.

We have retained Mr. Michael Feldewert of the Holland & Hart firm to represent us. Please copy your response to this letter to him.

Yours truly  
  
Harvey Yates, Jr.



cc. Mr. Michael Feldewert: Holland & Hart Law Office  
P.O. Box 2208  
Santa Fe, New Mexico 87504

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

**OPERATOR'S COPY**

FORM APPROVED  
Budget Bureau No. 1004-0135  
Expires: March 31, 1993

5. Lease Designation and Serial No.  
NM-12557

6. If Indian, Allottee or Tribe Name

7. If Unit or CA, Agreement Designation

8. Well Name and No.  
Duncan Federal #4-Y

9. API Well No.  
30-005-62857

10. Field and Pool, or Exploratory Area

11. County or Parish, State  
Chaves, NM

**SUNDRY NOTICES AND REPORTS ON WELLS**

Do not use this form for proposals to drill or to deepen or reentry to a different reservoir.  
Use "APPLICATION FOR PERMIT—" for such proposals

**SUBMIT IN TRIPLICATE**

1. Type of Well  
 Oil Well     Gas Well     Other

2. Name of Operator  
 Jalapeno Corporation

3. Address and Telephone No.  
 P.O. Box 1608, Albuquerque, NM 87103    (505) 242-2050

4. Location of Well (Footage, Sec., T., R., M., or Survey Description)  
 Unit E    1650' FNL    324' FWL  
 Sec. 18    T-9-S    R-28-E

12. CHECK APPROPRIATE BOX(S) TO INDICATE NATURE OF NOTICE, REPORT, OR OTHER DATA

TYPE OF SUBMISSION	TYPE OF ACTION
<input type="checkbox"/> Notice of Intent	<input checked="" type="checkbox"/> Abandonment
<input type="checkbox"/> Subsequent Report	<input type="checkbox"/> Recompletion
<input checked="" type="checkbox"/> Final Abandonment Notice	<input type="checkbox"/> Plugging Back
	<input type="checkbox"/> Casing Repair
	<input type="checkbox"/> Altering Casing
	<input type="checkbox"/> Other
	<input type="checkbox"/> Change of Plans
	<input type="checkbox"/> New Construction
	<input type="checkbox"/> Non-Routine Fracturing
	<input type="checkbox"/> Water Shut-Off
	<input type="checkbox"/> Conversion to Injection
	<input type="checkbox"/> Dispose Water

(Note: Report results of multiple completion on Well Completion or Recompletion Report and Log form.)

13. Describe Proposed or Completed Operations (Clearly state all pertinent details, and give pertinent dates, including estimated date of starting any proposed work. If well is directionally drilled, give subsurface locations and measured and true vertical depths for all markers and zones pertinent to this work.)\*

10-22-02 Set 4-1/2" CIBP @ 2166' cap w/ dump bailer 35' cmt. on CIBP.  
 10-22-01 Mix mud & circ. hole.  
 10-23-01 Cut 4-1/2" csg. @ 1000'.  
 10-23-01 Spot 30 sx cmt. @ 1050', tag @ 983'.  
 10-23-01 Spot 10 sx cmt. @ 983'.  
 10-23-01 Spot 40 sx cmt. @ 450'.  
 10-24-01 Tag plug @ 352'.  
 10-24-01 Spot 15 sx cmt. from 50' to surface.  
 10-24-01 Install dry hole marker.

... of the well bore.  
 ...  
 surface casing is completed.

14. I hereby certify that the foregoing is true and correct

Signed [Signature] Title Agent Date 10-26-01

(This space for Federal or State office use)

Approved by Alexis C. Svoboda Date NOV 19 2001  
 Conditions of approval, if any:

PETROLEUM ENGINEER

Title 18 U.S.C. Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statement or representations as to any matter within its jurisdiction.