

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

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**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.**

CASE NO. 15589

**APPLICATION**

The New Mexico Oil Conservation Division Compliance and Enforcement Bureau ("Bureau"), through its undersigned attorney, hereby files this application with the Oil Conservation Division ("OCD or Division") pursuant to the provisions of NMSA 1978, §70-2-12 for a compliance order (1) determining operator McKay Oil Corporation ("Operator") is out of compliance with 19.15.5.9, 19.15.8, and 19.15.25.8 NMAC; (2) requiring Operator to return to compliance with 19.15.5.9, 19.15.8, and 19.15.25.8 NMAC; and (3) in the event of non-compliance, finding the Operator in violation of a Division Order for each day after the deadline established in the sought order to obtain compliance, declaring the wells abandoned, and authorizing OCD to plug the violating wells in accordance with a Division-approved plugging program and restore and remediate the location, recover costs from the Operator's financial assurance as permitted by 19.15.8.13 NMAC, and seek indemnification as permitted by NMSA 1978, § 70-2-14(E). This application deals specifically with the Operator's violations of OCD rules regarding financial assurance and inactive wells and does not include all violations that may exist. OCD retains its right to bring a compliance action for any other existing and future violations. In support of this application, the Bureau states:

1. The Operator is a Domestic Profit Corporation that operates twenty-one (21) wells in Chaves and Lea Counties, New Mexico, under OGRID No. 14424. See *Exhibit 1: Well List and Financial Assurance Report.*, attached hereto and incorporated by reference as if set forth in its entirety.

2. The Operator's address of record with OCD is: One McKay Place P.O. Box 2014 Roswell, NM 88202.

3. The New Mexico Secretary of State has Operator registered under corporation number 900266 and identifies Roy L. McKay President, Charolette McKay, Vice President and Treasurer, April M. Marshall, Secretary, as officers and April D. McKay as Director.

4. NMSA 1978, § 70-2-14 requires that each person, firm, corporation, or association who operates any oil, gas, or service well within the state, as a condition precedent to drilling or producing the well, furnish financial assurance in the form of an irrevocable letter of credit or a cash or surety bond or a well-specific plugging insurance policy to the OCD running to the benefit of the state and conditioned that the well be plugged and abandoned in compliance with OCD rules.

5. 19.15.8.9(C) NMAC states that an operator shall cover a well that has been in temporary abandonment for more than two years by either a one-well financial assurance or a blanket plugging financial assurance for wells in temporarily abandoned status.

6. The Operator has one blanket bond filed with OCD, bond no. RLB0007286, from RLI Insurance Company, for fifty thousand dollars (\$50,000.00).

7. The Operator has two (2) single well bonds filed with OCD, from RLI Insurance Company, totaling eighteen thousand eight hundred seventy-four dollars (\$18,874.00). See *Exhibit 1*.

8. The Operator requires additional financial assurance on two (2) wells in the amounts of nine thousand-ten dollars (\$9,010.00) and eight thousand four-hundred dollars (\$8,400.00). See *Exhibit 1*.

9. RLI Insurance Company's address of record is: 8 Greenway Plaza, STE 400, Houston, TX 77046.

10. 19.15.5.9(A) NMAC states that an operator is in compliance with Subsection A of 19.15.5.9 NMAC if the operator:

(1) currently meets the financial assurance requirements of 19.15.8 NMAC;

(2) is not subject to a division or commission order, issued after notice and hearing, finding the operator to be in violation of an order requiring corrective action;

(3) does not have a penalty assessment that is unpaid more than 70 days after issuance of the order assessing the penalty; and

(4) has no more than the following number of wells out of compliance with 19.15.25.8 NMAC that are not subject to an agreed compliance order setting a schedule for bringing the wells into compliance with 19.15.25.8 NMAC and imposing sanctions if the schedule is not met:

a. two wells or 50 percent of the wells the operator operates, whichever is less, if the operator operates 100 wells or less;

- b. five wells if the operator operates between 101 and 500 wells;
- c. seven wells if the operator operates between 501 and 1000 wells; and
- d. 10 wells if the operator operates more than 1000 wells.

11. 19.15.25.8 NMAC requires an operator to plug and abandon or temporarily abandon a well within 90 days after: (1) a 60 day period following the suspension of drilling operations; (2) a determination that a well is no longer usable for beneficial purposes; or (3) a period of one year in which a well has been continuously inactive.

12. The Operator currently has twenty (20) wells out of a total of twenty-one (21) wells out of compliance with 19.15.25.8 NMAC, exceeding the amount allowed under 19.15.5.9(A)(4) NMAC. See *Exhibit 1*.

13. On June 21, 2016, the Bureau sent the Operator notice that it was out of compliance with 19.15.5.9 NMAC by having too many wells in violation of 19.15.25.8 NMAC. OCD did not receive a response from the Operator.

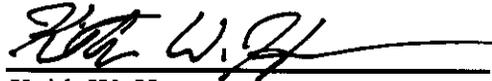
14. On May 25, 2016, the Bureau sent the Operator notice via certified mail that it was out of compliance with 19.15.8.9 NMAC by not having adequate financial assurance on file with OCD. The domestic return receipt indicates that the notice was delivered on June 2, 2016.

15. The Operator has not contacted the OCD to resolve the outstanding compliance issues.

**WHEREFORE**, the Bureau, by and through its compliance and enforcement manager, hereby applies to the Director to enter an Order:

- A. Determining that the Operator is in violation of 19.15.8, 19.15.5.9, and 19.15.25.8 NMAC;
- B. Requiring the Operator to provide OCD with acceptable financial assurance within thirty (30) days of the issuance of an order;
- C. Requiring the Operator to return to compliance with 19.15.5.9(A)(4) and 19.15.25.8 NMAC within sixty (60) days of the issuance of an order by returning the wells to production, plugging the wells pursuant to 19.15.25 NMAC, or transferring the wells to an operator who is compliant with 19.15.5.9 NMAC;
- D. In the event of non-compliance with the sought Division Order by the dates established by OCD, finding the Operator in violation of a Division order, declaring the violating wells abandoned and authorizing the Division to plug the subject wells in accordance with a Division-approved plugging program and restore and remediate the location and recover costs from the Operator's financial assurance as required by 19.15.8.13 NMAC and seek indemnification as permitted by NMSA 1978, § 70-2-14(E);
- E. For such other and further relief as the Director deems just and proper under the circumstances.

RESPECTFULLY SUBMITTED,  
November 1, 2016 by



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Enforcement Bureau

Case No. 15589. **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.** The New Mexico Oil Conservation Division Compliance and Enforcement Bureau ("Bureau"), through its undersigned attorney, hereby files this application with the Oil Conservation Division ("OCD or Division") pursuant to the provisions of NMSA 1978, §70-2-12 for a compliance order (1) determining operator McKay Oil Corporation ("Operator") is out of compliance with 19.15.5.9, 19.15.8, and 19.15.25.8 NMAC; (2) requiring Operator to return to compliance with 19.15.5.9, 19.15.8, and 19.15.25.8 NMAC; and (3) in the event of non-compliance, finding the Operator in violation of a Division Order for each day after the deadline established in the sought order to obtain compliance, declaring the wells abandoned, and authorizing the OCD to plug the violating wells in accordance with a Division-approved plugging program and restore and remediate the location, recover costs from the Operator's financial assurance as permitted by 19.15.8.13 NMAC, and seek indemnification as permitted by NMSA 1978, § 70-2-14(E).

## Application for Compliance Order

McKay Oil Corp.

## Exhibit 1: Well List and Financial Assurance Report

Well Name	Lease Type	ULSTR	OCD Unit Letter	API no.	Last Prod/Inj	Inactive Additional Bond Due	Measured Depth (ft)	Required Bond Amount	Bond Required Now	Bond In Place	Bond No.	In Violation of 19.15.8.9 NMAC	In Violation of 19.15.25.8 NMAC
ANTELOPE FEDERAL #001	F	E-29-04S-22E	E	30-005-61661	Feb-15		Unknown			\$0.00			Y
ANTELOPE FEDERAL #002	F	J-29-04S-22E	J	30-005-61766	Feb-15		Unknown			\$0.00			Y
ANTELOPE FEDERAL #003	F	M-29-04S-22E	M	30-005-61774	Feb-15		Unknown			\$0.00			Y
BONNIE #001	P	O-30-05S-22E	O	30-005-62551	Jan-94	2/1/1996	4296	\$9,296.00	Y	\$9,296.00	RLB0011056		Y
CAMP STATE #001	S	J-25-05S-22E		30-005-61446			3650			\$0.00			Y
FIVE MILE TANK FEDERAL #002	F	J-09-06S-23E	J	30-005-61403	Feb-01		3751			\$0.00			Y
HUSKY-MCKAY #001	F	O-18-08S-26E	O	30-005-61616	Feb-06		Unknown			\$0.00			Y
INEXCO FEDERAL #002	F	J-25-05S-21E	J	30-005-62389	Mar-09		Unknown			\$0.00			Y
INEXCO FEDERAL #004	F	2-30-05S-22E	E	30-005-62382	Apr-12		4255			\$0.00			Y
INEXCO FEDERAL #005	F	A-25-05S-21E	A	30-005-63601	Aug-12		4295			\$0.00			Y
INEXCO FEDERAL #006	F	4-19-05S-22E	4	30-005-63740	May-09		4260			\$0.00			Y
JERRY DON FEDERAL #001	F	A-24-04S-21E	A	30-005-62221	Nov-10		Unknown			\$0.00			Y
MCKAY B FEDERAL #004	F	H-33-05S-21E	H	30-005-64082	Apr-12		2800			\$0.00			Y
MCKAY BERRENDO #001Y	P	I-02-10S-24E	I	30-005-62161	Aug-11	9/1/2013	4010	\$9,010.00	Y	\$0.00		Y	Y
PRONGHORN FEDERAL #001	F	A-30-04S-22E	A	30-005-62204	Apr-11		Unknown			\$0.00			Y
RUGGED FEDERAL #001	F	C-23-05S-21E		30-005-62851	Feb-09		4260			\$0.00			Y
WEST FORK UNIT #001	S	C-32-04S-22E	C	30-005-62625	Nov-03	12/1/2005	4578	\$9,578.00	Y	\$9,578.00	RLB0011059		Y
WEST FORK UNIT #002	F	4-07-05S-22E	M	30-005-62482	Mar-09		4343			\$0.00			Y
WEST FORK UNIT #004	S	K-32-04S-22E	K	30-005-62821	Jul-12	8/1/2014	3400	\$8,400.00	Y	\$0.00		Y	Y
WEST MCKAY HARVEY FEDERAL A #00	F	B-26-08S-23E	B	30-005-62189	Feb-97		3500			\$0.00			Y
WOOLWORTH RANCH UNIT #001	F	J-04-24S-35E	J	30-025-26180	Aug-16		14340			\$0.00			