

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

NMOCD – ACOI- 70-A

IN THE MATTER OF AMERICO ENERGY RESOURCES LLC,

Respondent.

**AMENDED 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"), the Director of the Oil Conservation Division ("OCD") and Americo Energy Resources LLC ("Operator") enter into this Amended Agreed Compliance Order ("Amended Order") that replaces Order ACO 01-05-70, entered into by Operator and the OCD on May 27, 2005.

Under this Amended Order, Operator agrees to pay a penalty for failing to comply with ACO 01-05-70, to bring wells identified herein into compliance with the Act and OCD Rule 201 [19.15.4.201 NMAC] in accordance with the following agreed schedule and procedures, and to pay penalties as set out below if it fails to meet the schedule set out in this Amended Order.

**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 operating wells in the state of New Mexico under OGRID 228051.
3. OCD Rule 201 [19.15.4.201 NMAC] states, in relevant part:

"A. The operator of any of the following wells, whether cased or uncased, shall be responsible for the plugging thereof: wells drilled for oil or gas; or service wells including but not limited to seismic, core, exploration or injection wells.

B. A well shall be either properly plugged and abandoned or placed in approved temporary abandonment in accordance with these rules within 90 days after:

(3) a period of one year in which a well has been continuously inactive.

4. On May 27, 2005, the OCD executed agreed compliance order ACO 01-05-70 with Operator, under which Operator agreed to bring 11 identified inactive wells into compliance with Rule 201 at a rate of at least one well per month, starting with the month of May, 2005. Order ACO 01-05-70 required Operator to file a monthly compliance report identifying the wells returned to compliance under the order, and pay a penalty (after a one month grace period) if it failed to meet its agreement to bring at least 1 well into compliance each month.
5. Operator has not filed monthly compliance reports, as required by ACO 01-05-70. Operator has returned 4 of the wells identified in ACO 01-05-70 to compliance as of January 31, 2006. According to the schedule set out in ACO 01-05-70 Operator should have returned 9 wells to compliance by the end of January 2006.
6. The following wells originally covered by ACO 01-05-70 remain out of compliance with Rule 201:
  - BC Dickinson A 1 #1, API 30-025-05222
  - BC Dickinson A 1 #2, API 30-025-09868
  - BC Dickinson D #5, API 30-025-05179
  - Denton #1, API 30-025-05309
  - Lee Whitman A #1, API 30-025-05135
  - Lee Whitman B #7, API 30-025-05112
  - State T #5, API 30-025-05230
7. Operator has requested an amendment to ACO 01-05-70 extending the time for bringing the wells identified in Findings Paragraph 6, above, into compliance with Rule 201. As grounds for the amendment, Operator states that it has encountered difficulties in obtaining a rig, but now has access to a rig.
8. 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 or willfully violates any provision of the Oil and Gas Act or any rule or order adopted pursuant to the Act.

9. NMSA 1978, Section 70-2-3(A) defines "person" in relevant part as

Amended Agreed Compliance Order  
Americo Energy Resources LLC

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. Operator is subject to civil penalties under order ACO 01-05-70 for its failure to comply with the schedule set out in that order.
3. As operator of the wells identified in Findings Paragraph 6 Operator is responsible for bringing those wells into compliance with Rule 201.
4. Operator is a "person" as defined by OCD Rule 7.P(2) 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. Taking into account both aggravating and mitigating factors, Operator is assessed a penalty of \$2,000 for its failure to comply with ACO 01-05-70. The payment shall be made by check made out to "New Mexico Oil Conservation Division," and mailed or hand-delivered to the following address prior to execution of the Amended Order:

EMNRD Oil Conservation Division  
1220 South St. Francis Drive  
Santa Fe, NM 87505  
Attn: Gail MacQuesten

2. Operator shall bring three of the wells identified in Findings Paragraph 6 into compliance with OCD Rule 201 by September 25, 2006 by
  - (a) restoring the well to production or other OCD-approved beneficial use and filing a C-115 documenting such production or use;
  - (b) causing the wellbore to be plugged in accordance with OCD Rule 202.B(2) and filing a C-103 describing the completed work;
  - (c) placing the well on approved temporary abandonment status pursuant to OCD Rule 203.

Transfer of a well identified in Findings Paragraph 6 to another operator does not count towards Operator's obligation to return three wells to compliance by

September 25, 2006 under the terms of this Order, but does reduce the total number of wells for which Operator is responsible under the terms of this Order.

3. Operator shall file a compliance report by September 25, 2006 using the OCD's web-based on-line application, identifying each well returned to compliance, stating the date it was returned to compliance, and describing how the well was returned to compliance (restored to production or other approved beneficial use, plugged wellbore, approved temporary abandonment status).

When the OCD receives a timely compliance report indicating that Operator has returned at least three wells to compliance by September 25, 2006 and verifies the accuracy of that report, the OCD shall issue an amendment to this Order extending its terms and requiring Operator to bring any wells identified in Findings Paragraph 6 operated by Operator and still out of compliance into compliance by March 25, 2007. OCD shall provide a copy of that amendment to Operator at Operator's address of record provided pursuant to OCD Rule 100.C.

5. If Operator fails to bring at least three wells into compliance by September 25, 2006 or, if an amendment is issued pursuant to Ordering Paragraph 4, fails to bring remaining wells into compliance by March 25, 2007, Operator agrees to pay a penalty of \$1000 times the number of wells it failed to bring into compliance under its schedule during the applicable period. In the event the Operator encounters unanticipated circumstances that prevent it from meeting the compliance deadlines set by this Order or an amendment to the Order issued pursuant to Ordering Paragraph 4, Operator may file an administrative application with the OCD to request a waiver or reduction of the penalty, and serve the OCD's Enforcement and Compliance Manager with a copy of the application. If the Enforcement and Compliance Manager concurs with the Operator's request, the application may be granted administratively. If the Enforcement and Compliance Manager does not concur with the Operator's request, the application shall be set for hearing. Once Operator pays the penalty or files an administrative application to request a waiver or reduction of the penalty, the OCD may, in its discretion, issue an amendment to this Order pursuant to Ordering Paragraph 4.

Example A: Operator X enters into an agreed compliance order under which it agrees to bring 5 wells into compliance in a six-month period. At the end of the six-month period, Operator X has brought only 3 wells into compliance. Operator X pays the \$2000 penalty. The OCD exercises its discretion to issue an amendment extending the term of the agreed compliance order for an additional six-month period, again requiring Operator X to bring at least 5 wells into compliance. During this additional six-month period, Operator brings only one well into compliance. Operator X pays a \$4000 penalty. Although Operator X pays the \$4000 penalty, the OCD exercises its discretion and declines to issue an amendment to extend the terms of the agreed compliance order for an additional six-month period.

Example B: Operator Y enters into an agreed compliance order under which it agrees to bring 10 wells into compliance in a six-month period. Although Y has made arrangements for plugging the 10 wells, due to adverse weather conditions and mechanical difficulties with the available plugging rig, Y is able to plug only 7 wells. Y files an administrative application for hearing seeking to waive the \$7000 penalty, and serves the Enforcement and Compliance Manager with a copy of the application. The Enforcement and Compliance Manager does not concur with the application's request to waive the full amount of the penalty, so the application is set for hearing. The OCD exercises its discretion and issues an amendment to extend the terms of the agreed compliance order for an additional six-month period.

6. If no amendment is issued pursuant to Ordering Paragraph 4, any wells identified in Findings Paragraph 6 not in compliance with OCD Rule 201 will appear on the inactive well list kept pursuant to OCD Rule 40.F on October 26, 2006. If an amendment is issued pursuant to Ordering Paragraph 4, any wells identified in Findings Paragraph 6 not in compliance with OCD Rule 201 will appear on the inactive well list kept pursuant to OCD Rule 40.F on March 26, 2007.
7. By signing this Order, Operator expressly:
  - (a) acknowledges the correctness of the Findings and Conclusions set forth in this Order;
  - (b) agrees to return to compliance three of the wells identified in Findings Paragraph 6 by September 25, 2006, and agrees to comply with the compliance deadlines set by any amendment to this Order issued pursuant to Ordering Paragraph 4;
  - (c) agrees to submit a compliance report as required in Ordering Paragraph 3;
  - (d) agrees to pay penalties as set out in Ordering Paragraph 5 if it fails to return wells to compliance under the deadlines set by this Order or an amendment to this Order issued pursuant to Ordering Paragraph 4;
  - (e) 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
  - (f) agrees that the Order and amendments to 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.
8. This Order applies only to those wells identified in Findings Paragraph 6. Other wells operated by Operator out of compliance with Rule 201 may be subject to immediate enforcement action under the Oil and Gas Act.
9. The Oil Conservation Division reserves the right to file an application for hearing to obtain authority to plug any well identified in Findings Paragraph 6 and forfeit

the applicable financial assurance if the well poses an immediate environmental threat.

Done at Santa Fe, New Mexico this 22 day of July 2006

By: [Signature]  
Mark Fesmire, P.E.  
Director, Oil Conservation Division

ACCEPTANCE

Americo Energy Resources LLC hereby accepts the foregoing Amended Order, and agrees to all of the terms and provisions set forth in that Amended Order.

Americo Energy Resources LLC  
By: [Signature]  
Title: Co-Manager  
Date: 13 / 24 / 06