

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

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

APPLICATION OF THE NEW MEXICO OIL
CONSERVATION DIVISION FOR A COMPLIANCE Case No. 13920 (*de novo*)
ORDER AGAINST NORTHSTAR OIL AND GAS Order No. R-12779-B
CORPORATION, SAN JUAN COUNTY, NEW MEXICO.

ORDER OF THE COMMISSION

THIS MATTER, having come before the New Mexico Oil Conservation Commission (Commission) on April 16, 2008 at Santa Fe, New Mexico, on the motion of the New Mexico Oil Conservation Division (Division) to reopen this matter and clarify the responsibilities of the Division and Northstar Oil and Gas Corporation under the terms of Order No. R-12779-A, and the Commission, having carefully considered the evidence and other materials the parties submitted, now, on this 9th day of May, 2008,

FINDS:

1. Due public notice has been given, and the Commission has jurisdiction of this case and the subject matter.

2. Northstar Oil and Gas Corporation of Farmington, New Mexico is the operator of the following oil or gas wells in San Juan County, New Mexico (the wells):

<u>Name</u>	<u>Location</u>	<u>API No.</u>
Barbara #1	P-12-29N-15W	30-045-24263
Davie #1	M-2-29N-15W	30-045-25092

3. Each of the wells has been inactive for a continuous period since on or about 1991, which is far in excess of the one year plus 90 days allowed under 19.15.4.201 NMAC.

4. On or about March 31, 1999 (as to both wells); December 17, 1999 and February 25, 2000 (as to the Barbara #1); and October 31, 2000, April 11, 2002, May 13, 2005, and September 26, 2006 (as to both wells) the Division mailed to Northstar Oil and Gas Corporation notices specifically informing it that the wells were and remained out of compliance with 19.15.4.201 NMAC.

5. Northstar Oil and Gas Corporation furnished financial assurance to the Division to secure its obligation to properly plug and abandon wells that it operates as required by NMSA 1978, Section 70-2-14 and by 19.15.3.101 NMAC. Northstar Oil and Gas Corporation's financial assurance consists of an Assignment of Cash Collateral Deposit pledging funds in the amount of \$50,000 on deposit with Wells Fargo New Mexico, N.A., Account No. 068754554.

6. Subsection H of 19.15.3.101 NMAC authorizes the Division Director to order an operator to plug and abandon any well not in compliance with 19.15.4.201 NMAC, and to restore the well's location, by a date certain, and further authorizes the Division Director to forfeit the operator's financial assurance upon the operator's or its surety's refusal or failure to comply.

7. NMSA 1978, Section 70-2-31(A) provides that any person who knowingly and willfully violates any provision of the Oil and Gas Act or any provision of any rule or order issued pursuant to that act shall be subject to a civil penalty of not more than \$1,000 for each violation, and that, in the case of a continuing violation, each day of violation shall constitute a separate violation.

8. On April 24, 2007, the Division filed an application seeking an order pursuant to NMSA 1978, Section 70-2-14 and Subsection H of 19.15.3.101 NMAC directing Northstar Oil and Gas Corporation to properly plug and abandon the wells, or otherwise bring them into compliance with 19.15.4.201 NMAC, by a date certain, and, in event of Northstar Oil and Gas Corporation's failure to comply with such order, forfeiting its financial assurance. The Division also sought assessment of civil penalties because of Northstar Oil and Gas Corporation's failure to bring the wells into compliance with 19.15.4.201 NMAC.

9. As of the date of the hearing before the Division's hearing examiners on June 21, 2007, the wells remained out of compliance.

10. On July 5, 2007, the Division entered Order No. R-12779, which directed Northstar Oil and Gas Corporation, in accordance with 19.15.4.202 NMAC, and a plugging procedure approved by the Division's Aztec District Office, to bring the wells into compliance with 19.15.4.201 NMAC on or before September 5, 2007, and restore the well sites associated with the wells in the manner and within the time provided in Paragraph (3) of Subsection B of 19.15.4.202 NMAC.

11. In addition, Order No. R-122779 assessed a \$10,000 civil penalty against Northstar Oil and Gas Corporation for its knowing and willful failure to return the wells to compliance with 19.15.4.201 NMAC for the period from March 31, 1999 to June 21, 2007.

12. Northstar Oil and Gas Corporation timely filed a request for *de novo* review of the application with the Commission and asked that the Commission reduce the civil penalty or assess no penalty.

13. Northstar Oil and Gas Corporation plugged the Davie #1 on September 6, 2007 and the Barbara #1 on October 9, 2007. The locations of the well sites still needed to be restored.

14. The Commission held a hearing on the request for *de novo* review on October 11, 2007.

15. On November 8, 2007, the Commission issued Order No. R-12779-A.

16. The Commission assessed a civil penalty, pursuant to NMSA 1978, Section 70-2-31(A) against Northstar Oil and Gas Corporation for its knowing and willful failure to bring the wells into compliance with 19.15.4.201 NMAC during the period of time from March 31, 1999 to June 21, 2007, in the amount of \$10,000.

17. In addition, it directed Northstar Oil and Gas Corporation to restore the well sites associated with the wells in the manner provided in Subsection B of 19.15.4.202 NMAC and seed the well sites with seed of plants native to the area by December 15, 2007.

18. The Commission provided, however, that because Northstar Oil and Gas Corporation operates no other wells, is defunct and planning to dissolve as a corporation once it restores the well sites, and its sole owner is not planning to return to the oil and gas industry that it could reduce the civil penalty by the amount of its actual expenditures for restoration of the well sites if it completed the restoration and seeds the well sites with seed of plants native to the area by December 15, 2007.

19. On January 30, 2008, the Division filed a motion to reopen Case 13920 to clarify the responsibilities of the Division and Northstar Oil and Gas Corporation under the terms of Order No. R-12779-A.

20. The Commission heard the matter on April 16, 2008.

21. The Division's witness, Daniel Sanchez, Compliance and Enforcement Manager, testified that on January 11, 2008, Northstar Oil and Gas Corporation requested that the Division release its financial assurance.

22. While Northstar Oil and Gas Corporation had restored the Davie #1 and Barbara #1 well sites by January 11, 2008, it had not complied with Subsections B and C of 19.15.4.202 NMAC and filed the Form C-103s notifying the Division that Northstar Oil and Gas Corporation had completed the restoration activities and that the well sites were ready for Division inspection as required by Subsection B of 19.15.4.202 NMAC. In addition, Northstar had not completed the reseedling of the well sites as ordered by the Commission.

23. Northstar Oil and Gas Corporation filed the Form C-103s on March 9, 2008 for the Davie #1 and Barbara #1.

24. Northstar Oil and Gas Corporation's President, John Corbett, testified that Bill Davie, the surface owner at the Davie #1 well site, did not want the site reseeded and provided a letter from Mr. Davie stating that he did not want the site reseeded because of his plans for the well pad. Given that the surface owner does not want the site reseeded, Northstar Oil and Gas Corporation should not be required to reseed the Davie #1 well site.

25. Mr. Corbett also testified that he had ordered the seed for the Barbara #1 well site, but that the site had not yet been reseeded.

26. Northstar Oil and Gas Corporation failed to complete restoration in the manner provided by Subsection B of 19.15.2.202 NMAC and failed to reseed the well sites as required in Order No. 12779-A by December 15, 2007. In addition, Northstar Oil and Gas Corporation did not file a motion with the Commission requesting an extension of time to complete the activities as ordered. Therefore, Northstar Oil and Gas Corporation should not be allowed to reduce the civil penalty by the amount of its actual expenditures for restoration of the well sites.

IT IS THEREFORE ORDERED THAT:

1. A civil penalty is assessed against Northstar Oil and Gas Corporation in the amount of \$10,000 because of its knowing and willful failure to return the wells to compliance with 19.15.4.201 NMAC for the period from March 31, 1999 to June 21, 2007. Northstar Oil and Gas Corporation shall pay the \$10,000 civil penalty by June 9, 2008.

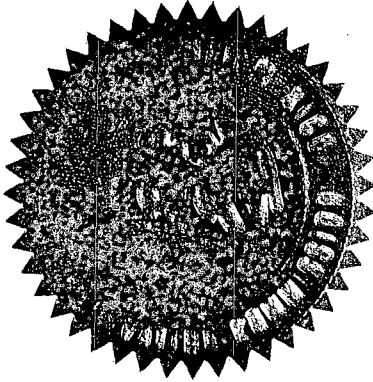
2. Northstar Oil and Gas Corporation shall reseed the Barbara #1 well site with seed of plants native to the area by June 9, 2008.

3. Northstar Oil and Gas Corporation does not have to reseed the Davie #1 well site with seed of plants native to the area.

4. The Division shall not release Northstar Oil and Gas Corporation's financial assurance until Northstar Oil and Gas Corporation reseeds the Barbara #1 well site with seed of plants native to the area and provides written notification to the Division upon completion of the seeding, and pays the \$10,000 civil penalty.

DONE at Santa Fe, New Mexico on the 9th of May 2008.

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION



SEAL

A handwritten signature in cursive script, appearing to read "Jami Bailey".

JAMI BAILEY, CPG, Member

A handwritten signature in cursive script, appearing to read "William Olson".

WILLIAM OLSON, Member

A handwritten signature in cursive script, appearing to read "Mark E. Fesmire".

MARK E. FESMIRE, P.E., Chair