

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

2008 APR 10 PM 1 40

APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION, THROUGH THE ENFORCEMENT AND COMPLIANCE MANAGER, FOR A COMPLIANCE ORDER AGAINST BUCKEYE DISPOSAL, LLC, FINDING THAT THE OPERATOR IS IN VIOLATION OF 19.15.3.101.B NMAC & 19.15.4.201 NMAC AS TO TWO WELLS; THAT THE OPERATOR HAS FAILED TO COMPLY WITH THE TERMS OF ACO 183; DETERMINING THAT THE VIOLATION OF 19.15.3.101.B NMAC & 19.15.4.201 NMAC IS KNOWING & WILLFUL AND IMPOSING PENALTIES; REQUIRING OPERATOR TO POST THE REQUIRED SINGLE-WELL FINANCIAL ASSURANCES FOR BOTH WELLS AND PLUG & ABANDON BOTH WELLS BY A DATE CERTAIN; ENFORCING THE PENALTY PROVISION OF ACO 183 AND REQUIRING OPERATOR TO REMIT PAYMENT OF THE PENALTY PURSUANT TO THE TERMS OF ACO 183 BY A DATE CERTAIN; AND IN THE EVENT OF NON-COMPLIANCE, DECLARING THE WELLS ABANDONED, AUTHORIZING THE DIVISION TO PLUG THE WELLS AND FORFEIT ANY APPLICABLE FINANCIAL ASSURANCE, LEA COUNTY, NEW MEXICO.

CASE NO. 14108

PRE-HEARING STATEMENT

The Oil Conservation Division submits this pre-hearing statement pursuant to OCD Rule 1211 [19.15.14.1211 NMAC].

APPEARANCES

APPLICANT

OIL CONSERVATION DIVISION

APPLICANT'S ATTORNEY

MIKAL ALTOMARE

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RESPONDENT

BUCKEYE DISPOSAL

RESPONDENT

BUCKEYE DISPOSAL

P.O. Box. 2724
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(505) 393-8352 or (505) 441-5548

STATEMENT OF THE CASE

The Oil Conservation Division (OCD) seeks a compliance order against Buckeye Disposal, LLC ("Buckeye"). Buckeye is the Operator of Record for the two (2) wells identified and referenced by the Application. Buckeye had previously entered into an Agreed Compliance Order with the Division (ACO 183) relating to the State AF#1 well. ACO 183 rendered a finding that had failed to either plug and abandon or obtain approved temporary abandonment status within 90 days after a period of 1 year of continuous inactivity, as required by Rule 201. By entering into the ACO, Buckeye agreed to pay a \$1,000 penalty and to perform certain actions relating to its operation of the State AF#1, including returning the State AF#1 to compliance within a certain time period. Per the terms of the agreement, if Buckeye failed to comply with the terms of the ACO, additional penalties were assessed and continued to accrue until Buckeye fulfilled its obligations. Buckeye failed to comply with the terms of the ACO, and likewise failed to pay the additional penalties that were imposed - and that continue to accrue- due to this non-compliance.

In addition, the State AF#1 well, as well as another of Buckeye's wells, the State AF#2, have been inactive for a period of over two years, and, pursuant to Rule 101.B [19.15.3.101.B NMAC], Buckeye was therefore required as of January 1, 2008, to post additional financial assurances for each of these two wells. Buckeye has failed to post the required financial assurances, and is therefore in violation of Rule 101.B. Likewise, both of these wells are also in violation of Rule 201 [19.15.4.201 NMAC], which requires an operator to plug and abandon or temporarily abandon (with division approval) a well within 90 days after a period of one year of continuous inactivity. Both wells have been continuously inactive in excess of one year plus 90 days, and Buckeye has neither plugged and abandoned nor temporarily abandoned either of them per Division Rules.

It is the Division's position that all alleged violations by Buckeye at issue in this action were knowing and willful and thus justify the imposition of penalties pursuant to NMSA 1978, Section 70-2-31 (A).

The OCD seeks an Order stating the following in this case:

As to Operator's Non-Compliance with ACO 183

- A. Finding that Operator **failed and refused to comply with the terms of ACO 183** by:
1. Failing to submit the required sundry by June 11, 2007;
 2. Failing to bring the well into compliance with Rule 201 by December 1, 2007; and
 3. Failing to remit payment of the penalty assessment as provided by the terms of ACO 183.

- B. **Enforcing the penalty assessment provision of ACO 183, and Ordering Operator to remit payment of the penalty accrued to date pursuant to ACO 183 by a date certain;**
- C. **Requiring the Operator to plug and abandon the State AF#1 well by a date certain;**
- D. If the State AF #1 well is not plugged and abandoned by the designated date set in the order,
 - 1. declaring the wells abandoned;
 - 2. authorizing the OCD to plug the subject wells in accordance with an OCD-approved plugging program and restore and remediate the locations; and
 - 3. authorizing the OCD to forfeit any applicable financial assurances associated with the subject wells;

As to Operator's Violation of Rule 101

- E. **Determining that the subject wells are not in compliance with 19.15.4.101 NMAC;**
- F. **Determining that Operator knowingly and willfully violated 19.15.4.101 NMAC;**
- G. **Ordering Operator to post the required single-well financial assurances for each of the two subject wells by a date certain;**
- H. **Imposing a penalty on the Operator in an amount consistent with the degree and duration of Operator's knowing and willful violations of 19.15.4.101 NMAC as to the subject two wells;**

As to Operator's Violation of Rule 201

- I. **Determining that the subject wells are not in compliance with 19.15.4.201 NMAC;**
- J. **Determining that Operator knowingly and willfully violated 19.15.4.201 NMAC;**
- K. **Imposing a penalty on the Operator in an amount consistent with the degree and duration of Operator's knowing and willful violations of 19.15.4.201 NMAC as to the subject two wells;**
- L. **Requiring the Operator to plug and abandon each of the subject wells by a date certain;**
- M. If the subject wells are not brought into compliance with 19.15.4.201 NMAC by the date set in the order,
 - 1. declaring the wells abandoned;
 - 2. authorizing the OCD to plug the subject wells in accordance with an OCD-approved plugging program and restore and remediate the locations; and

3. authorizing the OCD to forfeit any applicable financial assurances associated with the subject wells; and
- N. For such other and further relief as the Director deems just and proper under the circumstances.

APPLICANT'S PROPOSED EVIDENCE

WITNESS:

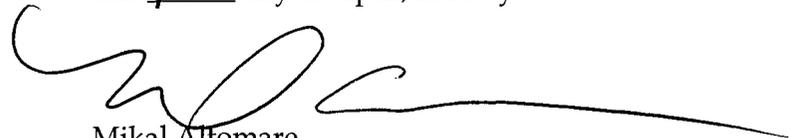
ESTIMATED TIME:

Larry "Buddy" Hill, Compliance Officer	40 minutes
Daniel Sanchez, Enforcement & Compliance Manager	25 minutes
Jane Prouty, Automation and Records Bureau	10 minutes
Dorothy Phillips, Financial Assurance Administrator	Affidavit

PROCEDURAL MATTERS

None.

Respectfully submitted
this 10th day of April, 2008 by



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Resources Department
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Attorney for the Oil Conservation Division

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was mailed via first class U.S. mail to the address of record for Buckeye Disposal, LLC, as provided to the OCD by Buckeye Disposal, LLC, this 10th day of April, 2008.



Mikal Altomare