

STATE OF NEW MEXICO **RECEIVED**
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION DIVISION **DEC 31 AM 11 19**

APPLICATION OF GP II ENERGY, INC., TO REMOVE THE PENALTY
ASSESSED FOR NON-COMPLIANCE WITH INACTIVE WELL COMPLIANCE
ORDER 163, LEA COUNTY.

CASE NO. 14267

ENTRY OF APPEARANCE AND
PRE-HEARING STATEMENT

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

APPEARANCES

APPLICANT

GP II Energy, Inc.

APPLICANT'S ATTORNEY

No entry of appearance filed.

RESPONDENT

Oil Conservation Division

Sonny Swazo
Oil Conservation Division
Energy, Minerals and Natural
Resources Department
1220 S. St. Francis Drive
Santa Fe, NM 87505
(505) 476-3463
FAX: 476-3462
Email: Sonny.Swazo@state.nm.us

STATEMENT OF THE CASE

Applicant GP II Energy, Inc. ("Operator") is requesting the removal of a \$7,000.00 penalty assessed pursuant to Inactive Well Agreed Compliance Order 163 ("Agreement") for Operator's failure to meet its schedule of bringing 7 injection wells into compliance by April 20, 2008; reinstatement of the Agreement, and extension of time to complete the plugging of the wells covered by the Agreement.

The OCD opposes Operator's application for several reasons.

Operator's application is untimely. The Agreement states, "An application for hearing requesting a waiver or reduction of penalties under this Order must be filed within 30 days after the end of the applicable six-month period." April 20, 2008 was the end of the applicable six-month period. Under the agreement, Operator had until May 20, 2008 in which to file its application. Operator did not file its application until several months later, after the time for filing its application had expired. Therefore, Operator's application should be dismissed because it is untimely.

Operator agreed to pay a penalty if it failed to meet its compliance goal during a six-month period. In the Agreement Operator agreed that if it failed to bring the required number of wells into compliance by the compliance deadline set by the agreement or an amendment issued pursuant to the agreement, Operator would pay a penalty of \$1,000.00 times the number of wells it failed to bring into compliance under its schedule during the applicable time period. The Agreement defines compliance to include the filing of the appropriate paperwork documenting the compliance action with OCD. Compliance also includes filing a compliance report with the OCD Compliance & Enforcement Manager.

Amendment A to the Agreement required Operator to bring 7 injection wells identified in the agreement and not already returned to compliance, to compliance by April 20, 2008. Amendment A further required Operator to file a written compliance report by April 20, 2008. Operator brought no injection wells into compliance by the April 20, 2008 deadline. Operator filed no compliance report with the OCD Compliance & Enforcement Manager. As a result of Operator's own actions, the Agreement expired.

Operator has no right to an agreed compliance order. OCD Rule 19.15.14.1227(A) NMAC provides that the **OCD Division Director** *may* enter into an agreed compliance order with an entity against whom compliance is sought.

RESPONDENT'S PROPOSED EVIDENCE

WITNESSES:

Daniel Sanchez
OCD Enforcement and Compliance Manager

Gail MacQuesten
OCD Assistant General Counsel

ESTIMATED TIME:

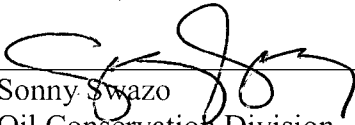
45 Minutes

45 Minutes

PROCEDURAL MATTERS

OCD's forthcoming Motion to Dismiss the Application for being time-barred.

Respectfully submitted
this 31 day of December 2008 by

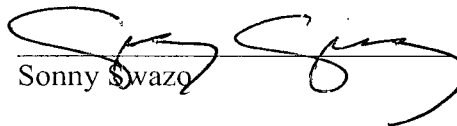


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Oil Conservation Division
Energy, Minerals and Natural
Resources Department
1220 S. St. Francis Drive
Santa Fe, NM 87505
(505) 476-3463
Email: sonny.swazo@state.nm.us
Attorney for the Oil Conservation Division

CERTIFICATE OF SERVICE

I hereby certify that on this 31 day of December, 2008, I sent a correct copy of the foregoing pleading via first class mail, fax, and electronic mail to:

Edward Adcock
GP II Energy, Inc.
P.O. Box 50682
Midland, TX 79710
Fax: 432-570-4748
Email: eadcock@gp2energy.com



Sonny Swazo