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**BUREAU OF
LAND MANAGEMENT
(BLM)**



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Las Cruces District Office
1800 Marquess Street
Las Cruces, New Mexico 88005
www.blm.gov/nm



In Reply Refer To:
NMNM 034793
3260 (L0310)

DEC 5 2011

CERTIFIED--RETURN RECEIPT REQUESTED
7006 0810 0003 4674 0303

DECISION

Sunflower Company LLC
c/o Mr. Alexander Masson
240 Lakeshore West
Lake Quivera, KS 66106

Sundry Notice (Commercial Use Permit) Approved

The Bureau of Land Management (BLM), Las Cruces District Office (LCDO) has completed review of your first sundry notice (Commercial Use Permit) for the Geothermal utilization operation associated with Federal Geothermal Lease NMNM 034793. This sundry is approved subject to the general standards defined in 43 CFR §33275 and the enclosed Conditions of Approval (43 CFR §3200.4).

If you contend that you are adversely affected by this decision, you may appeal this decision directly to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office (at the above address) within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you decide to file a petition (pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) (request) for a stay (suspension) of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- 1) The relative harm to the parties if the stay is granted or denied,
- 2) The likelihood of the appellant's success on the merits,
- 3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- 4) Whether the public interest favors granting the stay.



Bill Childress
District Manager

cc:
Ms. Leona Reilly
✓ Mr. Carl Chavez
Mr. Randy Dade

UNITED STATES DEPARTMENT OF THE INTERIOR

**BUREAU OF LAND MANAGEMENT
LAS CRUCES DISTRICT OFFICE
1800 MARQUESS ST.
LAS CRUCES, NEW MEXICO 88005**

**OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE, \$300**



**US OFFICIAL MAIL
\$300 Penalty
For Private Use**

012H16301182

\$00.440

12/07/2011

Postnet

Mailed From **PRIME**

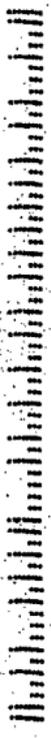
US POSTAGE

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2011 DEC -9 P 1:18

**Mr. Carl Chavez
New Mexico Energy, Minerals
and Natural Resources Department
Oil Conservation Division
1220 S. Saint Francis Drive
Santa Fe, NM 87505**

87505+4223





United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Las Cruces District Office
1800 Marquess Street
Las Cruces, New Mexico 88005
www.blm.gov/nm



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2011 NOV 21 P 2:08

In Reply Refer To:

NMNM 034793
3203 (L0310)

NOV 17 2011

CERTIFIED--RETURN RECEIPT REQUESTED
7006 0810 0003 4674 0204

Mr. Alexander Masson
Masson Farms of New Mexico, Inc.
2100 CR-D061
Radium Springs, NM 88054

INCIDENT OF NONCOMPLIANCE

The Bureau of Land Management (BLM), Las Cruces District Office (LCDO) is issuing an Incident of Noncompliance (INC) for Masson Farms of New Mexico's geothermal operation located on split estate land in section 3, T. 21 S., R. 1 W., Dona Ana County, New Mexico, NMPM. Federal regulations (43 CFR 3277.12) require the BLM to issue an INC for geothermal operations that do not comply with lease terms and conditions and/or applicable regulations.

1. Masson Farms of New Mexico, Inc., is in violation of section 3.c of Lease NMNM 034793 which states:

“On or before the last day of the calendar month after the month of commencement of production in commercial quantities of geothermal resources and thereafter on a monthly basis, the Lessee shall pay the Lessor a royalty of 10 percent on the amount or value of steam, or any other form of heat or other associated energy produced, processed, removed, sold or utilized from this lease or reasonably susceptible to sale or utilization by the Lessee.”

On October 28, 2011, BLM staff visited Masson Farms of New Mexico and observed that an electric pump was installed on an unmetered geothermal well (Well #36) within the limits of Federal Lease NMNM 034793. This well is also connected to a piping system that feeds the heat exchanger in the greenhouse facility. During discussions, Mr. Alexander Masson informed BLM staff that the Federal well had been used for 2 weeks “during the spring” of this year, and that royalty had not been paid to the Office of Natural Resource Revenue (ONRR).

2. Masson Farms of New Mexico, Inc., is in violation of Federal regulation 43 CFR3274.10 which states:

“You must have a commercial use permit approved by BLM before you begin commercial operations from a Federal lease, a Federal unit, or a utilization facility.”

On November 6, 2007, Mr. Alexander Masson was informed by (former) BLM employee John Besse that Masson Farms of New Mexico, Inc., would need to submit a complete commercial use permit (CUP). A geothermal sundry notice (BLM Form 3260-3) was subsequently submitted on November 7, 2007, and Masson Farms of New Mexico, Inc., staff was subsequently informed that this submittal was incomplete. The BLM does not have record that the required supplemental information was ever submitted, and the CUP submitted on November 7, 2007, was never approved.

Corrective Action:

1. Contact the ONRR (303-231-3162) to arrange payment of unpaid royalty from your Federal lease, and to arrange for royalty payments on future production.
2. Secure the Federal well (Well #36) against further unauthorized use until you receive BLM approval of your CUP. This shall be accomplished by removing the pump motor from the well. Contact the Las Cruces BLM ((575) 525-4300) after you have removed the motor to arrange for a verification inspection.

Please complete the above corrective action within 30 days of receipt. The BLM will rescind this INC in writing after receiving confirmation that royalty has been paid to ONRR, and after BLM staff have verified that Well #36 is secured. If the noncompliance continues, the BLM will take one or more of the following actions prescribed in 43 CFR 3265.12:

1. Enter your lease, and correct any deficiencies at your expense
2. Collect all or part of your bond
3. Direct modification or shutdown of your operations
4. Take other enforcement action under 43 CFR 3213.17 (i.e., termination of lease)

Appeal Procedures

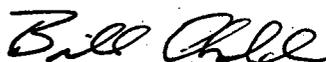
If you contend that this decision is erroneous and that you are adversely affected by this decision, you may appeal this decision directly to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office (at the above address) within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

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- 3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- 4) Whether the public interest favors granting the stay.



Bill Childress
District Manager

3 Enclosures:

- 1 - E-mails from J. Besse (2)
- 2 - Form 1842-1

cc:

Ms. Leona Reilly
✓ Mr. Carl Chavez
Mr. Randy Dade



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Las Cruces District Office
1800 Marquess Street
Las Cruces, New Mexico 88005
www.blm.gov/nm



In Reply Refer To:

NMNM 34793
3203 (L0310)

OCT 31 2011

CERTIFIED--RETURN RECEIPT REQUESTED
7006 0810 0003 4674 0075

Mr. Alexander Masson
Masson Farms of New Mexico, Inc.
2100 CR-D061
Radium Springs, NM 88054

Dear Mr. Masson:

The Bureau of Land Management (BLM), Las Cruces District Office (LCDO) has received (October 11, 2011) your proposed commercial use permit (CUP) to begin utilization operations on your Federal geothermal lease (NMNM34793). BLM staff has reviewed this application, and determined that further information is needed to complete your CUP, assure technical accuracy, and verify compliance with 43 CFR 3200.4. Please provide the following supplemental information to meet the CUP requirements defined in 43 CFR 3274.11:

1. Provide the design specifications and proposed calibration schedule for the proposed production, injection and royalty meters (43 CFR 3274.11(a)).
2. Provide an improved schematic diagram of the utilization site. Include a north arrow on your diagram and clearly delineate the location of production well (Well #34), injection well (Well #36) and greenhouse facility so their relative locations can be discerned. On this diagram, delineate locations of production and royalty meters and the flow direction from the production well to the greenhouse facility and injection well. Clearly delineate the point where production from the Federal mineral estate will be co-mingled with production from your private wells.
3. Provide a description and analysis of reservoir production and injection characteristic, including flow rates, temperatures and pressures of each production and injection well (43 CFR 3274.11(d)).
4. Provide a schematic diagram of the production and injection well showing the configuration of the wellhead and location of production and royalty meters (43 CFR 3274.11(e)). The

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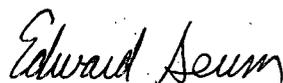
figure you provided is only the production well and does not show the wellhead configuration or meter locations.

5. Provide a schematic flow diagram of the utilization facilities ((43 CFR 3274.11(f)).
6. Additional information is required to evaluate the proposed utilization process (43 CFR 3274.11(g)). Describe how co-mingled production water will be metered to assure accurate estimation of Federal royalty due. Provide an estimate of how frequently or under what conditions the Federal Well #36 will be used to supplement geothermal production from non-Federal mineral estate.
7. Additional detail is needed to describe safety procedures. Discuss emergency shut-down procedures in the event of a blow-out or accident. Include a schedule for the testing and maintenance of safety devices (43 CFR 3274.11(h)).

The LCDO will suspend further action on your proposal until this information is received (43 CR 3274.12(e)). You may use BLM Form 3260-4: Geothermal Sundry Notice (copy enclosed) to prepare your revised CUP. Please contact Michael Smith, Geologist, at (575) 525-4421, if you have any questions.

Your proposed operation may also be regulated by the State of New Mexico under existing State laws and statutes. You are advised to contact the New Mexico Oil Conservation Division, District 2 at (575) 748-1283, to inquire if a State permit is necessary.

Sincerely,



Edward Seum
Supervisory Multi-Resources Specialist
Division of Multi-Resources

1 Enclosure

cc:

Richard Estabrook

Randy Dade

✓ Carl Chavez