

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

NMOCD – ACOI- 145

IN THE MATTER OF McELVAIN OIL AND GAS PROPERTIES INC.,

Respondent.

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 McElvain Oil & Gas Properties, Inc. ("Operator") enter into this Agreed Compliance Order ("Order") under which Operator agrees to bring the well 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 agrees to pay penalties as set out below if it fails to meet the schedule set out in this Order.

FINDINGS

1. The OCD is the state division charged with administration and enforcement of the Act and orders adopted pursuant to the Act.
2. Operator operates over 100 wells in New Mexico under OGRID 22044, including the Bear Com 28 #001, API 30-039-26519.
3. According to OCD records, the Bear Com 28 #001 has not reported production or injection since May 2005, and is neither plugged and abandoned nor on approved temporary abandonment status.
4. OCD Rule 201 provides, in relevant part, that the operator of a well shall either plug and abandon the well or temporarily abandon the well in accordance with OCD rules within ninety days after a period of one year in which the well has been continuously inactive.
5. OCD Rule 40.F requires the OCD to make available on its website an "inactive well list" listing inactive well that according to division records does not have its wellbore plugged, is not in approved temporary abandonment status, and is not subject to an agreed compliance order setting a schedule for bringing the well into compliance and imposing a sanction if the operator does not meet the schedule. Pursuant to OCD Rule 40.F.(2), the listing of a well on the inactive well list as

inactive for more than one year plus ninety days creates a rebuttable presumption that the well is out of compliance with OCD Rule 201.

6. Wells appearing on the "inactive well list" may affect an operator's standing under OCD Rule 40.A.
7. According to representations made to the OCD by the Operator, the Bear Com 28 #001, which currently appears on the inactive well list kept pursuant to Rule 40.F, was recently completed and should return to production in the next several days.
8. The C-115 reports for September 2006 production will not be due until November 15, 2006.
9. Unless the Bear Com 28 #001 is placed under an agreed compliance order, it will appear on the list of inactive wells kept pursuant to Rule 40.F until the OCD receives a C-115 reporting production or injection from the well.
10. 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.
11. NMSA 1978, Section 70-2-3(A) defines "person" in relevant part as
"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. As operator of the Bear Com 28 #001, Operator is responsible for bringing the well into compliance with Rule 201.
3. Operator has presented evidence that it has done the field work to return the Bear Com 28 #001 to compliance with OCD Rule 201 by re-completing the well and intends to return it to production in September 2006.
4. The OCD should enter into this agreed compliance order to remove the Bear Com 28 #001 from the OCD Rule 40 inactive well list until the day after the November 15 due date for C-115 production reports for September 2006 production.
5. If the Bear Com 28 #001 is not returned to production in September 2006, Operator should be required to return the well to compliance by November 16,

2006 or enter into an agreed compliance order setting a schedule for returning the well to compliance and imposing penalties if that schedule is not met.

ORDER

1. The OCD shall remove the Bear Com 28 #001 well from the Operator's OCD Rule 40 inactive well list until November 16, 2006, to give Operator the time allowed under OCD Rule 1115 to file the C-115 production report for September production from the well.
2. If the Operator is not able to return the Bear Com 28 #001 to production in September, it shall immediately return the well to compliance with Rule 201 or contact the OCD and enter into an order setting a schedule for returning the Bear Com 28 #001 to compliance with Rule 201 with penalties for failing to meet that schedule.
3. If, on November 16, 2006, Operator has neither filed a C-115 showing production for the Bear Com 28 #001 nor placed the Bear Com 28 #001 under an agreed compliance order, and the Bear Com 28 #001 is still out of compliance with Rule 201, Operator shall pay a penalty of \$1,000.
4. By signing this Order, Operator expressly:
 - (a) acknowledges the correctness of the Findings and Conclusions set forth in this Order;
 - (b) waives any right, pursuant to the Oil and Gas Act or otherwise, to a hearing either prior or subsequent to the entry of this Order or to an appeal from this Order; and
 - (c) agrees to pay a penalty of \$1,000 if on November 16, 2006, it has neither filed a C-115 showing production for the Bear Com 28 #001 nor placed the Bear Com 28 #001 under an agreed compliance order, and the well is still out of compliance with Rule 201.
5. This Order applies only to the Bear Com 28 #001. Other wells operated by Operator out of compliance with Rule 201 are subject to enforcement action.

Done at Santa Fe, New Mexico this 13th day of SEPTEMBER, 2006

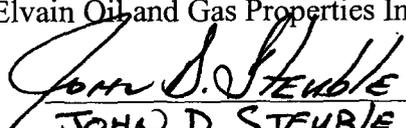
By: 
Mark Fesmire, P.E.
Director, Oil Conservation Division

ACCEPTANCE

McElvain Oil and Gas Properties Inc. hereby accepts the foregoing Order, and agrees to all of the terms and provisions set forth in that Order.

ACOI
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McElvain Oil and Gas Properties Inc.

By: 
JOHN D. STEUBLE

Title: V.P. ENGINEERING

Date: 9-11-06