

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

NMOCD - 06-158

IN THE MATTER OF BEC CORPORATION,

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 (hereinafter, "Act"), the Director of the Oil Conservation Division (hereinafter, "OCD") issues this Order to **BEC Corporation** (hereinafter, "BEC" or "Operator") directing compliance with the Act and the OCD Rules, and assessing a penalty for violations of the Act and OCD Rules.

FINDINGS

1. The OCD is the state division charged with administration and enforcement of the Act and OCD Rules.
2. BEC is an active for-profit corporation, authorized to do business in the State of New Mexico, with SCC # 1310135. BEC has a principal address of 110 N. Marienfeld #370, Midland, Texas 7970 and a mailing address of Box 1392, Midland, Texas 79702. Its registered agent is CT Corporation System, 123 E. Marcy, Santa Fe, New Mexico 87501. BEC is assigned OGRID 1958.
3. BEC is the operator of record for the J.W. Grizzel A #4, API No. 30-025-10068, the J.W. Grizzel A #1, API No. 30-025-24978, and the B.A. Christmas #1, API No. 30-025-10069.
4. The last reported production/injection on the **B.A. Christmas #1** was February 2005. On October 19, 2006, the OCD sent to BEC a Notice of Violation ("NOV") advising it that the B.A. Christmas #1 was in violation of OCD Rule 201 [19.15.4.201], as the well had been continuously inactive for a period of over one (1) year. The NOV advised BEC that the well needed to be temporarily or permanently plugged and abandoned or returned to production or other beneficial use. BEC failed to take any corrective actions.
5. The **J.W. Grizzel A #1** has never been reported as having produced/injected. On September 24, 2002, the OCD sent to BEC a letter advising it that the J.W. Grizzel A #1 had been shut in for a long period of time, that it had no flowline or well sign. It was advised to correct the issue by December 14, 2002. On May 5, 2005, the OCD sent BEC a NOV, advising it that the well remains shut-in and has no well sign. BEC was required

to take corrective action by June 3, 2005, by returning the well to active status, temporarily abandoning the well or plugging it. No corrective action was taken.

On April 5, 2006, another NOV was sent to BEC advising it that no production had ever been reported on the well. Corrective action was required by July 8, 2006. No corrective action was taken.

6. The last reported production/injection on the **J.W. Grizzel A #4** was December 1992. By letter dated February 3, 2003, the OCD advised BEC that in December 2002 the **J.W. Grizzel A #4** well had failed a mechanical integrity test (“MIT”) and required that the well be repaired by May 13, 2003. It was not. Additional NOV’s dated December 9, 2004, December 16, 2004, February 17, 2005 and April 10, 2006 were sent advising it of the failed MIT and requiring the well be repaired, temporarily abandoned, plugged or put back into productive use within 90 days of the letter. No corrective action was taken.
7. OCD Rule 19.15.9.703.A NMAC (hereinafter, “Rule 703”) requires that “[i]njection wells shall be equipped, operated, monitored, and maintained to facilitate periodic testing”
8. OCD Rule 19.15.4.201 NMAC (hereinafter, “Rule 201”) requires that the operator of any well shall be responsible for the plugging of the well, which shall be “either properly plugged and abandoned or temporarily abandoned in accordance with these rules within ninety (90) days after ... a period of one (1) year in which a well has been continuously inactive.”
9. The J.W. Grizzel A #1, J.W. Grizzel A #4, and the B.A. Christmas #1 all:
 - a. have been continuously inactive for a period of one year plus ninety days;
 - b. have not been properly plugged and abandoned under Rule 19.15.4.202 NMAC (hereinafter, “Rule 202”); and
 - c. have not been placed on temporary abandonment status under OCD Rule 19.15.4.203 NMAC (hereinafter, “Rule 203”).
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 adopted pursuant to the Act.
11. NMSA 1978, Section 70-2-33(A) defines “person” to include corporations. See also, OCD Rule 19.15.1.7P(2) NMAC.
12. On October 20, 2006 the OCD issued Notice of Violation (1-06-17) to BEC, alleging a violation of OCD Rules 703 and 201 as against each of the J.W. Grizzel A #1, the J.W. Grizzel A #4, and the B.A. Christmas #1.

CONCLUSIONS

1. The OCD has jurisdiction over the parties and subject matter in this proceeding.
2. BEC is a "person" subject to civil penalties for knowing and willful violations of the Oil and Gas Act and OCD Rules.
3. BEC is the operator of the J.W. Grizzel A #1, the J.W. Grizzel A #4, and the B.A. Christmas #1 and is responsible for bringing those wells into compliance with OCD rules.
4. BEC knowingly and willfully violated OCD Rule 201 by failing to either properly plug and abandon or temporarily abandon the J.W. Grizzel A #1, the J.W. Grizzel A #4, and the B.A. Christmas #1 wells within ninety (90) days after a one (1) year period in which the wells had been continuously inactive.

ORDER

1. Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty totaling **Six Thousand Dollars (\$6,000.00)** against BEC for three knowing and willful violations of OCD Rule 703 and three knowing and willful violations of OCD Rule 201.
2. The OCD acknowledges that BEC has already paid the Six Thousand Dollar (\$6,000.00) civil penalty and that no additional funds are due at this time as a result of these violations.
3. BEC shall bring the J.W. Grizzel A #1, the J.W. Grizzel A #4, and the B.A. Christmas #1 wells into compliance with OCD Rule 201 by:
 - (a) properly plugging the wellbore of the J.W. Grizzell A #1, J. W. Grizzell A #4, and the B.A. Christmas #1 no later than April 6, 2007, and remediating the sites in accordance with OCD Rule 202 within one year of plugging the wellbores. MB
1/11/07
4. For purposes herein, a well shall be "restored to production or other approved beneficial use," when actual production or other approved beneficial use has commenced. MEF
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E
5. The wells shall be considered plugged when the wellbores have been plugged in accordance with Rule 202.A, B(1) and (2), and BEC has filed sundry notices with the OCD Hobbs District Office notifying them of the plugging. The well sites shall be remediated pursuant to Rule 202.B(3) within one year of plugging the wellbore. When remediation is complete, BEC shall request the Hobbs District Office inspect the well and site.

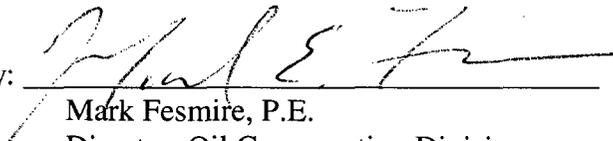
6. If BEC fails to restore the J.A. Grizzel A #4 by January 19, 2007 to production or fails to properly plug the J.W. Grizzel A #1, and the B.A. Christmas #1 by May 20, 2007 it shall pay a penalty of \$1000 per well for each full month the well remains out of compliance with this Order and the remediation requirements of Rule 202.B(3). There shall be no grace period. Payment shall be made by certified or cashier's check made payable to the "New Mexico Oil Conservation Division," and mailed or hand-delivered to the OCD Hobbs District Office. Penalties are calculated, and payable, each month.
7. For good cause shown, BEC may request an extension to complete the requirements as set out in Ordering Paragraph 3 above. Such request shall be in writing and shall reasonably describe the circumstances encountered by BEC that prohibits it from meeting the deadlines set out herein, the wells that will be affected by these circumstances and a date as to when the affected well(s) will be brought into compliance with Ordering Paragraph 3, above. Within ten (10) days of receipt of the request, the OCD shall either approve the extended time request or notify BEC, in writing, that it will not extend the deadline. The OCD's approval of a requested extension shall not be unreasonably withheld.

BEC and the OCD each recognize that the purpose of this provision is to address unanticipated circumstances, which BEC, acting in good faith and as a reasonably prudent operator, could not reasonably expect to remedy under the time periods set out in Ordering paragraph 3 above.

8. By signing this Order, BEC expressly:
 - (a) acknowledges the correctness of the Findings and Conclusions set forth in this Order;
 - (b) agrees to comply with Ordering paragraphs 3, 5 and 6 or an amended schedule issued pursuant to Ordering paragraph 7 above, and remediate plugged wells within one year of plugging the wellbore, pursuant to Ordering paragraphs 3 and 5;
 - (c) agrees to pay penalties as set out in Ordering paragraph 6 if it fails to meet the schedules set out in Ordering paragraph 5 or an amended schedule issued pursuant to Ordering paragraph 7 above;
 - (d) waives, subject to the provisions of Ordering Paragraph 7 above, 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
 - (e) agrees that the Order and amendments to the Order may be enforced by the OCD by suit or otherwise to the same extent and with the same effect as a final Order of the OCD or Oil Conservation Commission entered after notice and hearing in accordance with all terms and provisions of the Oil and Gas Act.

15. If BEC complies with the terms of this Order and any amendments to the Order, issued pursuant to Paragraph 7 above, the OCD will not seek penalties beyond those applicable under the terms of this Order or any amendments to this Order for BEC's failure to bring the J.W. Grizzel A #1, the J.W. Grizzel A #4, and the B.A. Christmas #1 wells into compliance with OCD Rule 201 prior to the deadlines set by this Order.

Done at Santa Fe, New Mexico this 17th day of January 2007.

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

ACCEPTANCE

BEC CORPORATION hereby accepts the foregoing Order, and agrees to all of the terms and provisions set forth in that Order.

BEC CORPORATION

By: 

Title: VICE ~~PRESIDENT~~ PRESIDENT

Date: 1/10/07