

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

NMOCD - ACOI 07- 182

IN THE MATTER OF *McDonnold Operating 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 *McDonnold Operating Inc.* ("Operator") enter into this Order under which Operator agrees that the wells identified herein shall be brought 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 rules and orders adopted pursuant to the Act.
2. Operator is a corporation doing business in the state of New Mexico. SCC # 1496389
3. Operator is the operator of record for the wells identified in Exhibit "A," attached, under OGRID 143372.
4. The wells identified in Exhibit "A":
 - (a) have been continuously inactive for a period of one year plus ninety days;
 - (b) are not properly plugged and abandoned under OCD Rule 202 [19.15.4.202 NMAC]; and
 - (c) have not been placed on temporary abandonment status under OCD Rule 203 [19.15.4.203 NMAC].
5. OCD Rule 201 [19.15.4.201 NMAC] states, in relevant part:

- A. The operator of any well drilled for oil, gas or injection; for seismic, core or other exploration, or for a service well, whether cased or uncased, shall be responsible for the plugging thereof.
- B. A well shall be either properly plugged and abandoned or temporarily abandoned in accordance with these rules within ninety (90) days after:
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 - (3) a period of one (1) year in which a well has been continuously inactive.”

6. NMSA 1978, Section 70-2-31(A) authorizes the assessment of civil penalties of up to one thousand dollars (\$1,000) per day per violation against any person who knowingly and willfully violates any provision of the Oil and Gas Act or any rule or order adopted pursuant to the Act.

7. OCD Rule 7.P (2) [19.15.1.7.P (2) NMAC] defines “person” as:

an individual or any other entity including partnerships, corporation, associations, responsible business or association agents or officers, the state or a political subdivision of the state or any agency, department or instrumentality of the United States and any of its officers, agents or employees.

CONCLUSIONS

8. The OCD has jurisdiction over the parties and subject matter in this proceeding.

9. As operator of the wells identified in Exhibit “A,” Operator is responsible for bringing those wells into compliance with Rule 201.

10. Operator is a “person” as defined by OCD Rule 7.P(2) subject to civil penalties for knowing and willful violations of the Oil and Gas Act or rules or orders adopted pursuant to the Act.

ORDER

11. Operator is hereby directed and agrees to bring each of the wells identified in Exhibit “A” into compliance with OCD Rule 201 by **July 31, 2008** by:

- (a) restoring such well to production, injection or other OCD-approved beneficial use by the specified date **and timely-filing a C-115 documenting such production, injection or use** (as required by OCD Rule 1115 [19.15.13.1115 NMAC]);

- (b) causing the wellbore to be plugged in accordance with OCD Rule 202.B(2) [19.15.4.202(B)(2) NMAC] by the specified deadline, **and timely-filing a C-103 describing the completed work** pursuant to OCD Rule 1103 [NMAC 19.15.13.1103], and further causing the site to be remediated in accordance with OCD Rule 202 [NMAC 19.15.4. 202] within one year of plugging the wellbore; or
- (c) securing OCD approval for and effectuating the placement of the well on approved temporary abandonment status pursuant to OCD Rule 203 [19.15.4.203 NMAC].

12. Operator shall, beginning with the month of January 2008, plug, temporarily abandon or restore to production, injection or other approved beneficial use all 7 wells referenced in Exhibit "A," thus bringing all such wells back into compliance, no later than **July 31, 2008**.

13. A well shall be considered "*plugged*" for purposes of Paragraph 12, above, when:

- (a) the Operator has plugged the wellbore in accordance with Rule 202.A and B (1) and (2), **and**
- (b) the Operator has properly filed a C-103 sundry notice with the appropriate district office pursuant to OCD Rule 1103 [NMAC 19.15.13.1103], describing the completed work and notifying the district office that the wellbore has been plugged.

The well-site must be remediated in accordance with Rule 202.B(3) within one year of plugging the wellbore. Upon completion of the remediation, the Operator must contact the appropriate district office to arrange for an inspection of the well and location.

14. A well shall be considered "*temporarily abandoned*" for purposes of Paragraphs 11 and 12, above, when the well has successfully passed the mechanical integrity test required by Rule 203 and the Operator has filed the request for temporary abandonment with the appropriate district office.

15. A well shall be considered "*restored to production, injection or other approved beneficial use*" for purposes of Paragraphs 11 and 12, above, when actual production, injection or other approved beneficial use has commenced and a production report has been properly filed pursuant to OCD Rule 1115 [19.15.13.1115 NMAC], reflecting production or injection for the relevant time period (for example, reflecting that production of the well resumed prior to the specified deadline).

16. At the close of the six-month period, **on or before the July 31, 2008 deadline**, Operator shall file a written comprehensive compliance report with the appropriate district office(s), **and** send a copy to the OCD's attorney, listing the wells identified in Exhibit "A" that it has plugged, temporarily abandoned or restored to production, injection or other approved beneficial use. For each well so listed, the Operator shall identify whether that well was plugged, temporarily abandoned or restored to production, injection or other approved beneficial use, and the date that such work was completed.

17. If, the Operator has not plugged, temporarily abandoned or restored to production, injection or other beneficial use every well identified in Exhibit "A" by **July 31, 2008**. Operator shall pay a penalty of two-thousand dollars (\$2,000) per well for each full month the well remains out of compliance with this order after that date. No grace period applies. 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 New Mexico Oil Conservation Division in Santa Fe. **Penalties are calculated, and payable, each month.**

18. In the event Operator encounters shortages of labor or equipment, or other such unanticipated circumstances (including, but not limited to inclement weather), which, in the reasonable opinion of the Operator, are likely to significantly disrupt or suspend the schedule of operations set forth in Paragraph 12 above, and affect the Operator's ability to meet the six-month deadline, then Operator shall have the right to notify the OCD in writing of such circumstances and request an amendment to this Order. Such notification ("Notice") shall:

- (a) reasonably describe the circumstances likely to significantly disrupt or suspend the schedule, and if the circumstances include shortages of labor or equipment, describe the efforts taken by the Operator to obtain labor and equipment;
- (b) identify those wells on Exhibit "A" affected or expected to be affected; and
- (c) set forth a revised schedule, which, in the reasonable and prudent opinion of the Operator, is necessary to accomplish the plugging, , temporary abandonment or restoration to production or other approved use of those wells identified in Exhibit "A" that are affected or expected to be affected by such circumstances.

19. Within ten (10) days of receipt of the Notice described in Paragraph 18, above, the OCD shall either:

- (a) approve a written amendment to this Order incorporating the revised schedule submitted by Operator, or
- (b) notify Operator that the revised schedule is not acceptable, but in such event promptly agree to meet with Operator at the OCD district office and negotiate in good faith in an attempt to reach a reasonable resolution of the situation.

If the Operator and the OCD are unable to agree to amend this Order, the Operator within thirty (30) days of being advised by the Division that the Operator's proposed revised schedule is not acceptable, **may apply for a hearing** before an OCD examiner and request an amendment to the Order revising the schedule. The Operator may also request that the examiner waive penalties accrued pursuant to this Order after the filing of the Notice as to those wells identified in the Notice.

20. Operator and the OCD each recognize that the purpose of the provision articulated in Paragraph Nos. 18 and 19, above, is to address shortages of labor and equipment and unanticipated circumstances which the Operator, acting in good faith and as a reasonably prudent operator, could not reasonably expect to remedy without additional negotiations with the OCD and appropriate adjustment to or revision of the schedule imposed by this Order.

21. **SITE REMEDIATION:** For each plugged well, if the Operator fails to remediate the site and request inspection by the appropriate district office within one year of plugging the wellbore, the Operator shall pay a penalty of one-thousand dollars (\$1,000) for each full month that the well remains out of compliance with the remediation requirements of Rule 202.B(3). No grace period applies. 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 New Mexico Oil Conservation Division in Santa Fe. **Penalties are calculated, and payable, each month.**

22. **PENALTY ASSESSMENT:** Exclusive of and in addition to any other penalties that may become due to the OCD pursuant to either Paragraph 17 or Paragraph 21, above, Operator shall pay a penalty assessment in the amount of five-thousand dollars (\$5,000) pursuant to NMSA 1978, Section 70-2-31(A). Payment is due at the time of execution of this Order, in the form of a certified or cashier's check made payable to the "New Mexico Oil Conservation Division," and may be mailed or hand-delivered to the New Mexico Oil Conservation Division in Santa Fe.

23. By signing this Order, Operator expressly:

- (a) acknowledges the correctness of the Findings and Conclusions set forth in this Order;
- (b) agrees to plug, temporarily abandon or restore to production, injection or other approved beneficial use the wells identified in Exhibit "A" by July 31, 2008, and remediate plugged wells within one year of plugging the wellbore of each well, as set out in Paragraph 13;
- (c) agrees to file a comprehensive compliance report as required in Paragraph 16;
- (d) agrees to pay a penalty assessment in the amount of \$5,000 upon execution of this Order;
- (e) agrees to pay penalties as set out in Paragraphs 17 and 21 if it fails to meet the deadline set out in Paragraph 12 or the remediation requirements set out in Paragraph 13;
- (f) waives, subject to the provisions of Paragraph 18 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;
- (g) agrees that the Order and amendments to the Order issued pursuant to Paragraph 18 above may be enforced by Division or Oil Conservation Commission Order, by suit or otherwise to the same extent and with the same effect as a final Order of the Division or Oil Conservation Commission entered after notice and hearing in accordance with all terms and provisions of the Oil and Gas Act; and
- (h) agrees that if it fails to pay penalties assessed pursuant to this Order, upon application by the Division the district court may enter judgment against Operator in the amount of the penalties assessed and the district court may, in its discretion, impose additional penalties against the Operator for violating the payment terms of this Order.

24. If the Operator complies with the terms of this Order and any amendments to the Order issued pursuant to Paragraph 18 above, the Division will not seek penalties beyond those applicable under the terms of this Order or any amendments to this Order for Operator's failure to bring the wells identified in Exhibit "A" into compliance with Rule 201 prior to the deadlines set by this Order.

25. This Order applies only to those wells identified in Exhibit "A." Other wells operated by Operator out of compliance with Rule 201 may be subject to immediate enforcement action under the Oil and Gas Act.

Done at Santa Fe, New Mexico this 31st day of December, 2007.

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

ACCEPTANCE

McDonnold Operating, Inc. hereby accepts the foregoing Order, and agrees to all of the terms and provisions set forth in that Order.

McDonnold Operating Inc.

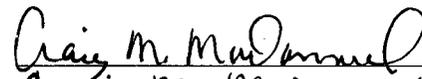
By: 
Craig M. McDonnold
Title: President
Date: 12-19-07

EXHIBIT A to ACOI _____, McDonnold Operating Inc.

30-025-04408	BAY FEDERAL #003	D-35-20S-36E
30-025-11177	LANGLIE JACK UNIT #010	E-21-24S-37E
30-025-11184	LANGLIE JACK UNIT #016	M-21-24S-37E
30-025-11269	LITIE WOOLWORTH #003	M-28-24S-37E
30-025-11268	LITIE WOOLWORTH #004	L-28-24S-37E
30-025-30870	RED CLOUD #002	M-3 -25S-37E
30-041-20325	STATE CO #001	L-16-08S-38E

McDonnold Operating, Inc.

By: 