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STATE OF NEW MEXICO  
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT 41  
OIL CONSERVATION DIVISION

ACO No. 243

IN THE MATTER OF KC RESOURCES, INC.,

Respondent.

AGREED ORDER DIRECTING COMPLIANCE  
AND ASSESSING CIVIL PENALTY

Pursuant to the New Mexico Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38, as amended ("Act"), and the regulations promulgated under the Act, the Director of the Oil Conservation Division of the Energy Minerals and Natural Resources Department of the State of New Mexico ("OCD") issues this Order to KC Resources, Inc. (hereinafter "Operator") directing compliance with the Act and OCD Rules, and assessing a penalty for violations of the Act and OCD rules.

I. FINDINGS

1. The OCD is the state division charged with administration and enforcement of the Act and OCD Rules.
2. Operator is a foreign for-profit corporation registered to do business in New Mexico under SCC Number 1664242. Operator's principal address of record with the New Mexico Public Regulation Commission is P.O. Box 6749, Snowmass Village, CO 81615.
3. Operator operates wells within New Mexico under OGRID 122912.
4. Operator's current address of record with OCD is P.O. Box 6749, Snowmass Village, CO 81615.
5. Operator is operator of record of the following well:
  - Paul Terry Et Al Gas Com No. 002; 30-015-10860; H-15-188-26E
6. OCD records show that the Paul Terry Et Al Gas Com No. 002 has had no reported production since September 1994.
7. OCD Rule 19.15.4.201 NMAC ("Rule 201") requires an operator of a well which has been inactive for a continuous period in excess of one year plus ninety days to plug and abandon the well or place the well in OCD-approved temporarily abandoned status.

8. OCD records show that the Paul Terry Et Al Gas Com No. 002 has not been plugged and abandoned, and is not on OCD-approved temporary abandonment status.
9. On January 12, 2004, OCD Deputy Oil and Gas Inspector Phil Hawkins sent Operator an inactive well notice of violation for the Paul Terry Et Al Gas Com No. 002. Deputy Inspector Hawkins informed Operator that the Paul Terry Et Al Gas Com No. 002 was in violation of OCD Rule 201, with the last reported date of production being September 1994. In the letter Deputy Inspector Hawkins asked Operator to take corrective action by April 13, 2004, and described how a well could be brought into compliance with OCD Rule 201. Operator did not respond to Deputy Inspector Hawkins's letter and did not bring the Paul Terry Et Al Gas Com No. 002 into compliance with OCD Rule 201.
10. On July 23, 2007, Deputy Inspector Hawkins sent Operator a letter of violation (LOV No. 0217407), which again informed Operator that the Paul Terry Et Al Gas Com No. 002 was in violation of OCD Rule 201. Deputy Inspector Hawkins noted that the date of last reported production for the well was September 1, 1994, "154 Months Since Production." Deputy Inspector Hawkins asked Operator to take corrective action by August 10, 2007. Operator did not respond to Deputy Inspector Hawkins's letter and did not bring the Paul Terry Et Al Gas Com No. 002 into compliance with OCD Rule 201.
11. As a result, OCD issued Notice of Violation No. 02-08-03, which alleged that Operator knowingly and willfully violated OCD Rule 201.
12. An administrative conference was held on March 25, 2008. Gary Schelling personally appeared for the conference on behalf of Operator.
13. At the conference Mr. Schelling told OCD staff that Operator wants to produce the Paul Terry Et Al Gas Com No. 002, and had spent money working on the well. Mr. Schelling further said that Operator is currently in the process of connecting the well to the Agave line. Mr. Schelling estimated 120 days to bring the well into production.

### III. CONCLUSIONS

1. The OCD has jurisdiction over the parties and subject matter in this proceeding.
2. Operator is a person as defined by NMSA 1978, § 70-2-33(A) that may be subject to civil penalties under NMSA 1978, §70-2-31(A).
3. NMSA 1978, Section 70-2-31(A) states, "Any person who knowingly and willfully violates any provision of the Oil and Gas Act or any provision of any rule or order issued pursuant to that act shall be subject to a civil penalty of not more than one thousand dollars for each violation. For purposes of this subsection, in the case of a continuing violation, each day of violation shall constitute a separate offense."

4. Operator is subject to civil penalties under NMSA, 1978, § 70-2-31(A) for knowing and willful violations of OCD Rule 201.

IV. ORDER & CIVIL PENALTY ASSESSMENT

1. Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty against Operator totaling Five Thousand Dollars (\$5,000.00).
2. The Five Thousand Dollars (\$5,000.00) civil penalty shall be paid upon execution of this Order. 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, Attention: Director, 1220 South Saint Francis Drive, Santa Fe, New Mexico 87505.
3. Operator shall return the well to production by August 1, 2008. If Operator has not returned the well to production by August 1, 2008, Operator shall plug the well by September 1, 2008.
4. By signing this Order, Operator expressly:
  - a. acknowledges the correctness of the Findings and Conclusions set forth in this Order;
  - b. agrees to comply with the Order;
  - c. 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;
  - d. agrees that if it fails to comply with this Order, the Order may be enforced by suit or otherwise to the same extent and with the same effect as a Final Order of the Division entered after notice and hearing in accordance with all terms and provisions of the Oil and Gas Act;
5. For good cause shown, Operator may request an extension to complete the requirements as set out in Ordering Paragraphs 3. Such notification ("notice") shall reasonably describe the circumstances encountered by Operator that prohibits it from meeting the deadlines set out herein.

Within ten (10) days of receipt of this notice, the OCD shall either approve the extended time requested by Operator by executing a written amendment to this Order, or notify Operator that it will not extend the deadline. The OCD's approval of a time extension shall not be unreasonably withheld.

6. Nothing in this Order relieves Operator of its liability should its operations fail to adequately investigate and remediate contamination that poses a threat to ground water, surface water, human health or the environment. In addition, nothing in this

Order relieves Operator of its responsibility for compliance with any other federal, state or local laws and/or regulations.

Done at Santa Fe, New Mexico this 2<sup>nd</sup> day of July 2008.

By: [Signature]  
Mark Fosmire, P.E.  
Director, Oil Conservation Division

ACCEPTANCE

KC Resources, Inc., hereby accepts the foregoing Order, and agrees to all of the terms and provisions as set forth in the Order.

KC RESOURCES, INC.

By: [Signature]  
REINER KLOWITZ  
Title: PRESIDENT  
Date: 6-25-08