

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

**IN THE MATTER OF THE HEARING CALLED BY
THE OIL CONSERVATION DIVISION FOR THE
PURPOSE OF CONSIDERING:**

**CASE NO. 15323
ORDER NO. R-14049**

APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION ("OCD") COMPLIANCE AND ENFORCEMENT MANAGER FOR A COMPLIANCE ORDER AGAINST KODIAK PETROLEUM (MONTANA), INC., FINDING THAT THE OPERATOR IS IN VIOLATION OF THE OIL AND GAS ACT, NMSA 1978, SECTIONS 70-2-1 *et seq.* AND OCD RULES, NMAC 19.15.2 *et seq.*, REQUIRING OPERATOR TO RETURN TO COMPLIANCE WITH DIVISION RULES BY A DATE CERTAIN, AND IN THE EVENT OF NON-COMPLIANCE, REQUEST FOR ADDITIONAL SANCTIONS.

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on July 23, 2015, at Santa Fe, New Mexico, before Examiner Phillip R. Goetze.

NOW, on this 31st day of August, 2015, the Division Director, having considered the testimony, the record and the recommendations of the Examiner,

FINDS THAT:

(1) Due public notice has been given, and the Division has jurisdiction of this case and of the subject matter

(2) The Division seeks a compliance order against Kodiak Petroleum (Montana), Incorporated ("Kodiak" or "Operator") finding the Operator is in violation of Division rules 19.15.5.9, 19.15.25.8, and 19.15.8.9 NMAC, as to three wells (the "subject wells"), declaring the subject wells abandoned by the operator. The subject wells are identified as:

- (a) the Sofia Well No. 1 (API No. 30-059-20485) located 305 feet from the North line and 759 feet from the West line, Lot 1 (Unit D), Section 18, Township 25 North, Range 30 East, NMPM, Union County, New Mexico;

(b) the Sofia Well No. 2 (API No. 30-059-20486) located 2295 feet from the South line and 1488 feet from the West line, Unit K, Section 36, Township 26 North, Range 29 East, NMPM, Union County, New Mexico; and

(c) the Sofia Well No. 4 (API No. 30-059-20488) located 282 feet from the North line and 1682 feet from the West line, Unit C, Section 20, Township 26 North, Range 30 East, NMPM, Union County, New Mexico.

(3) The Division further seeks authorization to plug and abandon the subject wells and forfeit the applicable financial assurances and recover costs from the Operator in accordance with Division rule 19.15.8.13 NMAC.

(4) The Division appeared at the hearing through legal counsel and presented the following testimony:

(a) The Operator is registered under OGRID No. 257794.

(b) The Operator is a foreign corporation registered with the New Mexico Secretary of State and is not in good standing with the Secretary.

(c) The Division attempted notification of the Operator regarding the violations and pending hearing using the information registered with the Secretary of State. This included registered mailings to Mr. William Tighe, President of Kodiak, to the listed corporation addresses, and to the Agent for the Operator, Mr. Greg Nibert of Hinkle, Hensley, Shanor, and Martin, LLP in Roswell, New Mexico.

(d) All of the mailings to Mr. Tighe and the corporation addresses were returned while the Agent forwarded the mailing to the last known address for the Operator. This mailing was also returned.

(e) The Division conducted additional attempts at notification using phone messages and electronic mail and was unable to contact the Operator by these efforts.

(f) The Operator has a blanket financial assurance bond (bond no. B-004132 in the amount of \$50,000 USD issued by U.S. Specialty Insurance Company), but no individual well bonds as required for financial assurance under Division rule 19.15.8.9 NMAC.

(g) Notice of this application was provided to U.S. Specialty Insurance Company through the New Mexico Office of the Superintendent of Insurance on June 9, 2015.

- (h) The subject wells are completed and are currently shut-in with no evidence of pipeline connections or surface storage facilities.
- (i) The subject wells have been inactive in excess of a period of one (1) year plus 90 days, and are not plugged or abandoned, nor placed in temporary abandonment status in violation of Division rule 19.15.25.8 NMAC.
- (j) The current condition of the subject wells and associated area represent a potential danger to the environment and the general public.

(5) No other party appeared at the hearing, or otherwise opposed the granting of this application.

The Division Concludes as Follows:

(6) Kodiak is the operator of record for the subject wells and is responsible for compliance with the Oil and Gas Act and Division rules.

(7) NMSA 1978, Section 70-2-14(B) provides, in relevant part, *"If any of the requirements of the Oil and Gas Act [70-2-1 NMSA 1978] or the rules promulgated pursuant to that act have not been complied with, the oil conservation division, after notice and hearing, may order any well plugged and abandoned by the operator or surety or both in accordance with division rules."*

(8) Division rule 19.15.5.10(B) authorizes the Division to commence compliance proceedings for violation of a provision of the Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38 or a provision of a rule or order issued pursuant to the Act.

(9) As established by the evidence provided at hearing, the Operator is in violation of Division rule 19.15.8.9 NMAC (the inactive well rule), Division rule 19.15.8.9 NMAC (the financial assurance rule) and rule 19.15.5.9 NMAC (the compliance rule).

(10) Kodiak should be required to plug and abandon the subject wells and in the event of non-compliance, the Division should be authorized to plug and abandon the subject wells, and to restore and remediate the well locations utilizing the financial assurance of the Operator. The Division should also be authorized to recover costs from the Operator if the financial assurance is insufficient for the cost of plugging and abandoning the subject wells.

IT IS THEREFORE ORDERED THAT:

(1) Kodiak Petroleum (Montana), Incorporated ("Kodiak" or "Operator") shall plug and abandon the listed subject wells within thirty (30) days of the issuance date of this order:

- (a) the Sofia Well No. 1 (API No. 30-059-20485) located 305 feet from the North line and 759 feet from the West line, Lot 1 (Unit D), Section 18, Township 25 North, Range 30 East, NMPM, Union County, New Mexico;
- (b) the Sofia Well No. 2 (API No. 30-059-20486) located 2295 feet from the South line and 1488 feet from the West line, Unit K, Section 36, Township 26 North, Range 29 East, NMPM, Union County, New Mexico; and
- (c) the Sofia Well No. 4 (API No. 30-059-20488) located 282 feet from the North line and 1682 feet from the West line, Unit C, Section 20, Township 26 North, Range 30 East, NMPM, Union County, New Mexico.

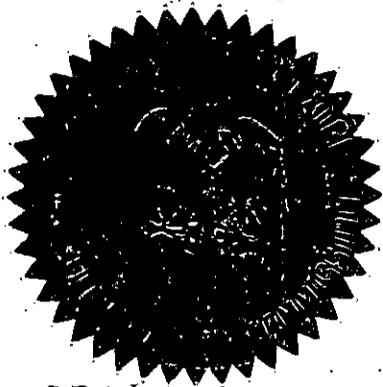
(2) If Kodiak fails to comply, the Operator shall be found in violation of this order pursuant to Division rule 19.15.5.11 NMAC.

(3) If after thirty (30) days the Operator has not commenced the work described in Ordering Paragraph (1), Kodiak shall be in violation of this order and the Division shall be authorized:

- (a) to plug and abandon the subject wells that are out of compliance with Division rules;
- (b) to restore and remediate the well locations;
- (c) to direct forfeiture of the applicable financial assurance of the Operator;
- (d) to recover costs from the Operator in accordance with Division rule 19.15.8.13 NMAC; and
- (e) to have opportunity to seek indemnification from the Operator as provided in NMSA 1978, Section 70-2-14(E) if there are not sufficient funds to cover all costs the Division incurs plugging and abandoning the wells and restoring and remediating the well locations.

(4) Jurisdiction of this case is retained for the entry of such further orders as the Division may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.



SEAL

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

David R. Catanach

DAVID R. CATANACH
Director