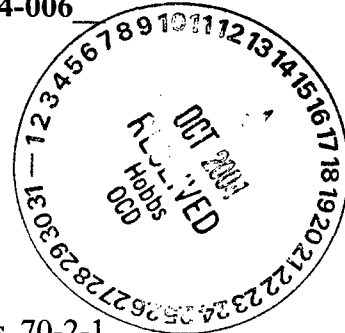


STATE OF NEW MEXICO  
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT  
**RECEIVED**  
OIL CONSERVATION DIVISION

OCT 25 2004

NMOCD - ACO 01-04-006

OIL CONSERVATION  
IN THE MATTER OF *Brothers Production Company, 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 *Brothers Production Company, 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 *Foreign Domestic Corporation* doing business in the state of New Mexico. SCC # 2046720 and Ogrid # 2936
3. Operator is the operator of record for the wells identified in Exhibit "A," attached.
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:

....

....  
(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 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.
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**

1. The OCD has jurisdiction over the parties and subject matter in this proceeding.
2. As operator of the wells identified in Exhibit “A,” Operator is responsible for bringing those wells into compliance with Rule 201.
3. 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**

1. Operator is hereby directed to bring each of the wells identified in Exhibit “A” into compliance with OCD Rule 201 by either:
  - (a) restoring such wells to production or other OCD-approved beneficial use by June 30, 2005
  - (b) causing the wellbore to be plugged in accordance with OCD Rule 202 by June 30, 2005 and causing the site to be remediated in accordance with OCD Rule 202 within one year of plugging the wellbore; or
  - (c) securing OCD approval for temporary abandonment of the well in accordance with OCD Rule 203 by June 30, 2005.
2. Operator shall, beginning with the month of December 1<sup>st</sup>, 2004, plug, temporarily abandon or restore to production or other approved beneficial use a minimum of Two of the wells identified in Exhibit “A” per calendar month.. If more than 2 wells are brought into compliance each month wells are plugged, temporarily abandoned or restored to production or other approved beneficial use during any month, the wells in excess of the number agreed to herein shall be credited to Operator’s obligation hereunder for succeeding months, provided that all of the wells identified in Exhibit “A” shall be plugged, temporarily abandoned or restored to production or other

approved beneficial use by June 30, 2005 according to the following schedule (hereinafter "schedule"):

<u>Date:</u>	<u>Number of Wells from Exhibit "A"</u>
December 31, 2004	2
January 31, 2005	4
February 28, 2005	6
March 31, 2005	8
April 30, 2005	10
May 31, 2005	12
June 30, 2005	14

3. A well shall be considered "plugged" for purposes of the schedule set out in paragraph 2, above, when the Operator has plugged the wellbore in accordance with Rule 202.A and B (1) and (2), and filed a sundry notice with the appropriate district office notifying them that the wellbore has been plugged. The wellsite 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.
4. A well shall be considered "temporarily abandoned" for purposes of the schedule set out in paragraph 2, 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.
5. A well shall be considered "restored to production or other approved beneficial use" for purposes of the schedule set out in Paragraph 2, above, when actual production or other approved beneficial use has commenced.
6. Operator shall file a written compliance report with the appropriate district office, and send a copy to the OCD's attorney, by the 10<sup>th</sup> day of each month starting with January, 2005 listing the wells identified in Exhibit "A" that it has plugged, temporarily abandoned or restored to production or other approved beneficial use. For each well listed, the Operator shall identify each well plugged, temporarily abandoned or restored to production or other approved beneficial use, and the date that work was completed. Operator shall file monthly compliance reports until all wells identified in Exhibit "A" have been plugged, temporarily abandoned or restored to production or other approved beneficial use. If, at any time, the OCD determines that a well identified in the Operator's compliance report is not plugged, temporarily abandoned or restored to production or other approved beneficial use according to the definitions set out in this agreement, the OCD shall promptly notify the Operator, and those wells shall not be credited toward the Operator's obligations under this Order until they are plugged, temporarily abandoned or restored to production or other approved beneficial use as defined in this agreement.

7. If, at the end of any month, the total number of wells the Operator has plugged, temporarily abandoned or restored to production or other beneficial use is less than the number required under the schedule, Operator shall have a one-month grace period in which to become current. If, at the end of that one-month grace period, Operator has not become current under the schedule, Operator shall pay a penalty of \$1000 times the number of wells it is short of the total required for the current month. 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 appropriate district office with the next month's report. Penalties are calculated, and payable, each month.

Example A: ABC Company's agreed compliance order requires it to plug, temporarily abandon or restore to production or other approved beneficial use a minimum of 6 wells each month. ABC Company meets or exceeds its obligations in months 1-4. The agreed schedule calls for a total of 30 wells to be plugged, temporarily abandoned or restored to production or other approved beneficial use by the end of month 5. But at the end of month 5, ABC Company is two wells behind schedule. ABC Company will have a one-month grace period in which to become current. At the end of month 6, however, ABC Company has plugged, temporarily abandoned or restored to production or other approved beneficial use a total of 35 wells: one well short of the 36 required by the schedule. ABC Company must pay a penalty of \$1000 when it files its report for month 6. At the end of month 7, ABC Company is 4 wells short of the 42 required by the schedule. ABC Company must pay a penalty of \$4000 when it files its report for month 7.

Example B: XYZ Company's agreed compliance order requires it to plug, temporarily abandon or restore to production or other approved beneficial use a minimum of 5 wells each month. XYZ Company files compliance reports each month indicating that it is meeting its agreed schedule. In month 3, the OCD inspects the site of one of the wells listed as "plugged" in XYZ Company's compliance report for month 1, and determines that the wellbore has not been properly plugged under Rule 202.B(2) because the marker has not been placed on the site. Because the well has not been properly "plugged" as defined by this agreement, it will not count towards fulfilling XYZ Company's obligations under the schedule. XYZ Company will be responsible for calculating, and paying, any additional penalties that apply.

8. If Operator fails to plug, temporarily abandon or restore to production or other approved beneficial use all the wells identified in Exhibit "A" by June 30, 2005. Operator shall pay a penalty of \$2000 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

the appropriate district office with the next month's report. Penalties are calculated, and payable, each month.

9. 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 \$1000 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 appropriate district office. Penalties are calculated, and payable, each month.
10. 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 or other approved beneficial use the wells identified in Exhibit "A" under the schedule set out in Ordering Paragraph (2), and remediate plugged wells within one year of plugging the wellbore as set out in Ordering Paragraph (3);
  - (c) agrees to file monthly compliance reports as required in Ordering Paragraph (6);
  - (d) agrees to pay penalties as set out in Ordering Paragraphs (7), (8) and (9) if it fails to meet the schedule set out in Ordering Paragraph (2) and the remediation requirements set out in Ordering Paragraph (3);
  - (e) 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
  - (f) agrees that the Order 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 entered after notice and hearing in accordance with all terms and provisions of the Oil and Gas Act.
7. 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 25<sup>th</sup> day of Oct, 2004

By: 

Mark E. Fesmire, PE

Director, Oil Conservation Division

**ACCEPTANCE**

***Brothers Production Company, Inc*** hereby accepts the foregoing Order, and agrees to all of the terms and provisions set forth in that Order.

*Brothers Production Company, Inc*

By: 

Title: Prod Manager

Date: 10/14/04

Brothers Production  
Exhibit A

Inactive well list

	Well Name	Well #	API #	Date last prod
1	Denton	1	3002525495	May of 2002
2	Hamon A Fed Com	1	3002530881	Jan. of 2002
3	JM Denton	2	3002505276	Dec. of 1976
4	JM Denton	4	3002505278	June of 1996
5	JM Denton	5	3002505279	July of 1991
6	JM Denton	6	3002505280	Nov of 1994
7	JM Denton	9	3002505283	Prior to 1973
8	JM Denton	10	3002505284	Dec. of 1992
9	JM Denton	11	3002505285	June of 1987
10	JM Denton	13	3002505287	Jan. of 1999
11	Lea Unit	3	3002520038	May of 1997
12	Lea Unit	5	3002502429	Oct of 1998
13	Lea Unit	7	3002502430	Aug of 1992
14	Lea Unit	9	3002502432	July of 2002

Exhibit A

Brothers Production Company, Inc

By:

Danny M. Brock

Title:

Production Superintendent

Date:

10-18-04

