

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

NMOCD - OGA 04- 52

RECEIVED

IN THE MATTER OF KC RESOURCES INC.,

Respondent.

JAN 19 2005

OIL CONSERVATION
DIVISION

**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"), the Director of the Oil Conservation Division ("OCD") issues this Order to KC Resources Inc. ("KC"), 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. KC is a foreign profit corporation registered with the New Mexico Public Regulation Commission under SCC number 1664242.
3. KC is the operator of record for the tank battery located at the site of the Lea YH State #003, API #30-025-26562, J-25-18S-34E, NMPM and is the operator of record for the for the following wells ("subject wells"):

Lea YH State #001, API #30-025-26104, O-25-18S-34E, NMPM
Lea YH State #002, API #30-025-26299, P-25-18S-34E, NMPM
Lea YH State #004, API #30-025-26687, I-25-18S-34E, NMPM

The subject wells and the tank battery are located in Lea County, New Mexico.

4. KC posted a \$50,000 blanket bond, number 54664, issued by Frontier Insurance Company, to secure its obligation to plug and abandon the wells in compliance with OCD rules.
5. An OCD investigation revealed surface contamination at the tank battery site from releases of oil and produced water, and revealed that the subject wells had been inactive for a period of time in excess of one year plus ninety days and had not been plugged and abandoned or placed on temporary abandonment status under Division rules.

6. Division rule 19.15.3.116(D) NMAC requires the responsible person to complete corrective action according to a remediation plan submitted to and approved by the Division for releases that endanger public health or the environment.
7. Division rule 19.15.4.201 NMAC requires an operator to plug and abandon or temporarily abandon a well in accordance with Division rules within 90 days after a period of one year of continuous inactivity.
8. The Division repeatedly notified KC that the subject wells were in violation of 19.15.4.201 NMAC and asked KC to submit a remediation plan for the tank battery site as required by 19.15.3.116(D) NMAC.
9. Division rule 19.15.101(M) NMAC authorizes the Director to order the operator to plug and abandon any well not in compliance with 19.15.4.201 NMAC by a date certain, and to direct the Division to forfeit the bond and cause such well to be plugged in accordance with a Division-approved plugging program if, after the time provided in such order, the operator has failed to plug the well.
10. NMSA 1978, Section 70-2-31 authorizes the Director to impose a civil penalty of \$1000 for each knowing and willful violation of any provision of the Oil and Gas Act or any rule or order issued pursuant to that act.
11. On September 9, 2004 the OCD filed the application for compliance order in case 13362, seeking an order imposing penalties and requiring KC to remediate the contamination at the tank battery site, and return the subject wells to compliance with 19.15.4.201 NMAC.
12. After the OCD filed the application in case 13362, KC cooperated fully with the OCD in remediating surface contamination at the site of the tank battery, and returned the Lea YH State #001 well to production. KC is currently working on obtaining a transporter for production from the Lea YH State #002 and plans additional work on the Lea YH State #004 to determine if it is capable of production.
13. On December 14, 2004, the OCD filed an amended application in case 13362, dismissing the allegations regarding the contamination at the tank battery site, and the lack of compliance at the Lea YH State #001 well.
14. The amended application added a claim for relief under NMSA 1978, Section 70-2-14(B), which provides:

If any of the requirements of the Oil and Gas Act [Chapter 70, Article 2 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. If the order is not complied with in the time period set out in the order, the financial assurance shall be forfeited.

CONCLUSIONS

1. The OCD has jurisdiction over the parties and subject matter in this proceeding.
2. As operator of the subject wells, KC is responsible for bringing the wells into compliance with OCD rule 19.15.4.201 NMAC.
3. KC violated OCD rule 19.15.4.201 NMAC by allowing the Lea YH State #002 and Lea YH State #004 wells to remain inactive for a continuous period exceeding one year plus ninety days, without plugging and abandoning the wells or placing the wells on temporary abandonment status.
4. Because KC violated 19.15.4.201 NMAC, NMSA 1978, the OCD may order the subject wells plugged and abandoned by KC within a certain time period, and may forfeit KC's financial assurance if it fails to comply within the time period set by the order. Pursuant to 19.15.4.101.M NMAC, the OCD may then plug and abandon the wells.

ORDER

1. KC is hereby directed to bring the Lea YH State #002 and Lea YH State #004 wells into compliance with 19.15.4.201 NMAC by either:
 - (a) restoring the well to production or other OCD-approved beneficial use by April 30, 2005;
 - (b) causing the wellbore to be plugged in accordance with 19.15.4.202 NMAC by April 30, 2005, and causing the site to be remediated in accordance with 19.15.4.202 NMAC within one year of plugging the wellbore; or
 - (c) securing OCD approval for temporary abandonment of the well in accordance with 19.15.4.203 NMAC by April 30, 2005.
2. A well shall be considered "restored to production or other approved beneficial use" for purposes of order paragraph 1(a) above when actual production or other approved beneficial use has commenced. A well "restored to production" by swabbing must successfully pass the mechanical integrity test required under 19.15.4.203 NMAC.
3. A well shall be considered "plugged" for purposes of order paragraph 1(b) above when the operator has plugged the wellbore in accordance with 19.15.4.202.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 19.15.4.202.B(3) NMAC 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 order paragraph 1(c) above when the well has successfully passed the mechanical integrity test required by 19.15.4.204 NMAC and the operator has filed the request for temporary abandonment with the appropriate district office.

5. Further, if KC fails to bring either the Lea YH State #002 or the Lea YH State #004 into compliance with 19.15.4.201 NMAC by April 30, 2005, the OCD is authorized to forfeit immediately the applicable security and plug both the Lea YH State #002 and the Lea YH State #004 in accordance with an OCD-approved plugging program.

6. If KC plugs and abandons either the Lea YH State #002 or the Lea YH State #004 but fails to remediate the site within one year of plugging the wellbore, the OCD is authorized to forfeit immediately the applicable security and remediate the site of the plugged well or wells in accordance with 19.15.4.202 NMAC.

7. By signing this order, KC expressly:

- (a) acknowledges the correctness of the Findings and Conclusions set forth in this order;
- (b) agrees to comply with ordering paragraphs one through seven;
- (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; and
- (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 OCD entered after notice and hearing in accordance with all terms and provisions of the Oil and Gas Act (NMSA 1978, Sections 70-2-1 through 70-2-38, as amended).

10. Upon execution of this order by both KC and the OCD, the OCD shall dismiss case number 13362.

Done at Santa Fe, New Mexico, this 19th day of January 2005

By: 

Mark Fesmire, PE, Director
Oil Conservation Division

ACCEPTANCE


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

KC Resources Inc.

By:

Title:

Date:



VICE PRESIDENT

JANUARY 5, 2005

JAMES P. SULLIVAN