

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

NMOCD – ACOI- 244

IN THE MATTER OF DC ENERGY, LLC,

Respondent.

**INACTIVE WELL
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") and OCD Rule 19.15.5.10(E) NMAC, the Director of the Oil Conservation Division ("OCD") and DC Energy, LLC ("Operator") enter into this Inactive Well Agreed Compliance Order ("Order" or "ACOI"). Operator agrees to plug or restore to production or other beneficial use the wells identified herein in accordance with the following agreed schedule and procedures, or face the possibility of no further agreed compliance orders. See 19.15.25.8 NMAC

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 limited liability company doing business in the state of New Mexico.
3. Operator is the operator of record under OGRID 268370 for the wells identified in Exhibit "A," attached.
4. OCD Rule 19.15.25.8 NMAC states, in relevant part:

"A. The operator of wells drilled for oil or gas or service wells including seismic, core, exploration or injection wells, whether cased or uncased, shall plug the wells as Subsection B of 19.15.25.8 NMAC requires.

B. The operator shall either properly plug and abandon a well or place the well in approved temporary abandonment in accordance with 19.15.25 NMAC within 90 days after:

....

....

(3) a period of one year in which a well has been continuously inactive."

5. The wells identified in Exhibit "A"
 - (a) have been continuously inactive for a period of more than one year;
 - (b) are not plugged or abandoned in accordance with OCD Rule 19.15.25.9 NMAC through 19.15.25.11 NMAC; and
 - (c) are not on approved temporary abandonment status in accordance with OCD Rule 19.15.25.12 NMAC through 19.15.25.14 NMAC.
6. An operator faces sanctions if it is out of compliance with OCD Rule 19.15.5.9 NMAC. Sanctions include possible denial of registration by operator or certain related entities (OCD Rule 19.15.9.8B NMAC), possible denial of change of operator that would transfer wells to the noncompliant operator (OCD Rule 19.15.9.9C.1 NMAC), mandatory denial of injection permits (OCD Rule 19.15.26.8A NMAC), possible revocation of injection permits after notice and hearing (OCD Rule 19.15.26.8A NMAC), possible denial of applications for a drilling permit (OCD Rule 19.15.14.10A NMAC), and mandatory denial of allowable and authorization to transport (OCD Rule 19.15.16.19A NMAC).
7. Operator is currently out of compliance with OCD Rule 19.15.5.9.A(4) NMAC because it has too many wells out of compliance with OCD Rule 19.15.25.8 NMAC (the inactive well rule) that are not subject to an agreed compliance order setting a schedule for bringing the wells into compliance with the inactive well rule and imposing sanctions if the schedule is not met in Exhibit B. See OCD Rule 19.15.5.9(A)(4) NMAC
8. As the operator of record of 12 wells, to be in compliance with OCD Rule 19.15.5.9.A(4) NMAC, Operator may have no more than 2 wells out of compliance with OCD Rule 19.15.25.8 NMAC (inactive well rule). See OCD Rule 19.15.5.9A(4)(b) NMAC. According to the inactive well list kept pursuant to OCD Rule 19.15.5.9(F) NMAC, Operator has 8 wells out of compliance with the inactive well rule. A copy of Operator's inactive well list as of September 21, 2011 is attached as Exhibit "A." Operator faces sanctions for being out of compliance with OCD Rule 19.15.5.9 NMAC.
9. Operator intends to seek authority to inject, plug and abandon, or return to production a well bore which requires approval from the OCD. These privileges would be subject to sanction due to Operator being out of compliance with OCD Rule 19.15.5.9 NMAC. By placing the wells identified in Exhibit "A" under this Order, Operator will not face sanctions for being out of compliance with OCD Rule 19.15.5.9 NMAC.

CONCLUSIONS

1. The OCD has jurisdiction over the Operator and subject matter in this proceeding.
2. For purposes of this agreement, OCD's jurisdiction over the subject matter is not exclusive with respect to the federal well bores identified on Exhibit "A", which are also subject to the jurisdiction of the BLM.
3. The wells identified in Exhibit "A" are out of compliance with OCD Rule 19.15.25.8 NMAC.
4. As operator of the wells identified in Exhibit "A," Operator is responsible for bringing those wells into compliance with OCD Rule 19.15.25.8 NMAC. This Order requires Operator to only bring two wells identified in Exhibit "B" into compliance by April 27, 2012. If Operator brings the two wells identified on Exhibit B into compliance by April 27, 2012, then Operator may seek a new ACOI from the OCD for the other wells out of compliance with 19.15.25.8 NMAC.
5. OCD is aware that DC Energy is also attempting to come to terms for bringing all of the well bores identified on Exhibit "A" into compliance with the requirements of the BLM within a period of 18 months. In implementing this Order, and if DC Energy seeks to enter into a subsequent ACOI, OCD will consider DC Energy's obligations to the BLM as they pertain to the wells on Exhibit "A" and attempt in good faith to avoid any conflict between DC Energy's obligations to OCD and DC Energy's obligations to the BLM. However, the OCD will not be bound by any agreement entered into between DC Energy and the BLM.
6. The OCD and Operator enter into this Order to remove the wells identified in Exhibit "B" from the inactive well list kept pursuant to OCD Rule 19.15.5.9(F) NMAC. Operator remains subject to sanctions for being out of compliance with OCD Rule 19.15.5.9 NMAC **IF** Operator becomes out of compliance with OCD Rule 19.15.5.9 NMAC for any reason other than the inactive wells identified in Exhibit "A."

ORDER

1. Operator agrees to bring 2 wells identified in Exhibit "B" into compliance with OCD Rule 19.15.25.8 NMAC by April 27, 2012 via
 - (a) restoring the well to production or other OCD-approved beneficial use and filing a C-115 documenting such production or use; or
 - (b) causing the wellbore to be plugged in accordance with OCD Rule 19.15.25.10(B) NMAC **and filing a C-103 describing the completed work.**

2. Oil and gas produced during swabbing does not count as production for purposes of this Order.
3. Operator shall file a compliance report identifying each well on Exhibit "B" returned to compliance, stating the date it was returned to compliance and describing how the well was returned to compliance (restored to production or other approved beneficial use, plugged wellbore.) The written compliance report must be e-mailed or mailed to the OCD's Enforcement and Compliance Manager, 1220 South St. Francis Dr., Santa Fe, New Mexico, 87505 so that it is **received by** the compliance deadline of April 27, 2012. The total length of this Agreed Compliance Order is six months.
4. Transfer of a well(s) identified on Exhibit "A" to a third-party operator approved by OCD will relieve DC Energy of its obligation to bring that well(s) into compliance under the terms of this Order; however, DC Energy will still have to comply with the "inactive well" rule with respect to any wells for which it remains the operator of record.
5. Operator understands that if it fails to meet the terms of this Order, the OCD may decide not to enter into any further agreed compliance orders with Operator.
6. This Order shall expire on April 27, 2012. At that time, the wells on Exhibit "A" and Exhibit "B" which were not brought into compliance with OCD Rule 19.15.25.8 NMAC will appear on the inactive well list kept pursuant to OCD Rule 19.15.5.9(F) NMAC, and will be considered when determining Operator's compliance with OCD Rule 19.15.5.9 NMAC. If Operator has complied with this Order, Operator may request another ACOI from the OCD.
7. By signing this Order, Operator expressly:
 - (a) acknowledges the correctness of the Findings and Conclusions set forth in this Order;
 - (b) agrees to return to compliance, pursuant to procedures approved by both the OCD and the BLM, 2 wells identified in Exhibit "B" by April 27, 2012;
 - (c) agrees to submit a compliance report as required in Order, Paragraph 3 by the April 27, 2012 compliance deadline set by this Order;
 - (d) waives any right, pursuant to the Oil and Gas Act or otherwise, to an appeal from this Order, or to a hearing either prior to or subsequent to the entry of this Order other than a hearing on a request for waiver or reduction of sanctions; and
 - (e) agrees that the Order may be enforced by OCD or Oil Conservation Commission Order, by suit or otherwise to the same extent and with the same effect as a final Order of the OCD or Oil Conservation Commission

entered after notice and hearing in accordance with all terms and provisions of the Oil and Gas Act.

8. This Order applies only to the enforcement of OCD Rule 19.15.25.8 NMAC against those wells identified in Exhibit "A" and Exhibit "B." Other wells operated by Operator out of compliance with OCD Rule 19.15.25.8 NMAC may be subject to immediate enforcement action under the Oil and Gas Act and OCD Rules. Wells identified in Exhibit "A" that are out of compliance with the Oil and Gas Act or OCD Rules other than OCD Rule 19.15.25.8 NMAC may be subject to immediate enforcement action under the Oil and Gas Act and OCD Rules. As of the date of the execution of this Order, OCD is only aware of those wells listed in Exhibit "A" as being out of compliance with OCD Rule 19.15.25.8.
9. The OCD reserves the right to file an application for hearing to obtain authority to plug any well identified in Exhibit "A" and forfeit the applicable financial assurance if the well poses an immediate environmental threat

Done at Santa Fe, New Mexico this 4th day of November, 2011

For By: 

Jami Bailey

Director, Oil Conservation Division

ACCEPTANCE

DC Energy LLC hereby accepts the foregoing Order, and agrees to all of the terms and provisions set forth in that Order.

DC Energy, LLC

By: 

(Please print name) DAN JOHNSON

Title: MANAGING MEMBER

Date: 10-31-2011

Exhibit A to Agreed Compliance Order for DC Energy, LLC

Total Well Count: 12 Inactive Well Count: 8

As of: Wednesday, September 21 2011

District	API	Well	ULSTR	OCD Unit	OGRID	Operator	Lease Type	Well Type	Last Production	Formation/Notes	Status	TA Exp Date
1	30-025-23891	CROSBY DEEP #001	N-28-25S-37E	N	268370	DC ENERGY LLC	F	O	09/2009	INT TO RESTR TO PROD EXT TIL 02/01/09BLM		
1	30-025-11870	CROSBY DEEP #003	J-33-25S-37E	J	268370	DC ENERGY LLC	F	O	09/2009	FUSSELMAN EXT 02/01/09 PER BLM	T	8/10/2001
1	30-025-25985	CROSBY DEEP #004	C-33-25S-37E	C	268370	DC ENERGY LLC	F	O	09/2009	FUSSELMAN ON PROD BY 01/07/09 PER BLM		
1	30-025-11884	GREGORY A #005	I-33-25S-37E	I	268370	DC ENERGY LLC	F	S	04/2009	CONV TO SWD		
1	30-025-11867	GREGORY A #007	N-33-25S-37E	N	268370	DC ENERGY LLC	F	O	09/2009			
1	30-025-29539	GREGORY A #008	I-33-25S-37E	I	268370	DC ENERGY LLC	F	G	09/2009			
1	30-025-11865	GREGORY C #001	C-33-25S-37E	C	268370	DC ENERGY LLC	F	O	11/2005			
1	30-025-20491	GREGORY EL PASO FEDERAL #001	O-33-25S-37E	O	268370	DC ENERGY LLC	F	G	11/2009	DEVONIAN BLM RET PROD OR PA 09/09 BLM		

WHERE Ogrid:268370, County:All, District:All, Township:All, Range:All, Section:All, Production(months):15, Excludes Wells Under ACOI, Excludes Wells in Approved TA Period

Exhibit B: 2 Wells to be brought into compliance by April 27, 2012

1. Operator will either plug or produce Gregory C #001 (API# 30-025-11865). Operator shall file Form C-103 and must notify OCD Hobbs District Office 24 hours prior to any testing of the well in order for OCD personnel to witness. Operator shall also file an intent (Form 3160) with BLM at the same time it files Form C-103 with OCD.
2. Operator will determine why Crosby Deep #003 (API# 30-025-11870) failed multiple pressure tests and repair problem. Operator shall file Form C-103 and must notify Hobbs District Office 24 hours prior to conducting the pressure test in order for OCD personnel to witness. If well passes the pressure test then Operator shall plug or apply for injection authority. Operator is aware that just because it applies for injection authority does not mean that the OCD and BLM will grant said authority, however the agencies will evaluate such an application under independent agency procedures.