

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

**NMOCD – ACOI- 2016-003**

**IN THE MATTER OF NEARBURG PRODUCING COMPANY**

**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 rules, the Director of the Oil Conservation Division (OCD) and Nearburg Producing Company (Operator), enter into this Agreed Compliance Order (Order or ACOI) under which Operator agrees to the schedule and procedures provided in this Order for bringing its wells into compliance, and understands that the OCD may seek additional enforcement of this Order should the Operator fail to meet the deadlines established herein.

**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 Company doing business in the State of New Mexico and is registered with the OCD under Oil and Gas Reporting Identification (OGRID) No. 15742.
3. Operator is the operator of record under OGRID 15742 for the wells identified in Exhibit "A", attached.
4. 19.15.25.8 NMAC states, in relevant part:

"A. The operator of wells drilled for oil or gas or services 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 (or soon will be) continuously inactive for a period of one year plus 90 days;
  - b. are not plugged or abandoned in accordance with 19.15.25.9 NMAC through 19.15.25.11 NMAC; and

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- c. are not in approved temporary abandonment status in accordance with 19.15.25.12 NMAC through 19.15.25.14 NMAC.
6. *(Use only if they have enough wells not in compliance with 19.15.25.8 NMAC to be out of compliance with 19.15.5.9 NMAC)* As the operator of record of \_\_\_\_\_ wells, to be in compliance with 19.15.5.9.A(4) NMAC, Operator may have no more than \_\_\_\_\_ wells out of compliance with 19.15.25.8 NMAC. See 19.15.5.9.A(4) NMAC.
7. Pursuant to 19.15.5.10.E NMAC, the OCD and Operator wish to enter into this ACOI to resolve violations of the Act and its rules.

### **CONCLUSIONS**

1. The OCD has jurisdiction over the parties and subject matter in this proceeding.
2. The wells identified in Exhibit "A" are out of compliance, or soon will be out of compliance, with 19.15.25.8 NMAC.
3. As Operator of the wells identified in Exhibit "A", Operator is responsible for bringing those wells into compliance with 19.15.25.8 NMAC.
4. The OCD and Operator are entering into this ACOI, which sets a schedule for Operator to return the wells identified in Exhibit "A" to compliance.

### **ORDER**

1. Operator agrees to bring the wells listed in Exhibit "A" into compliance with 19.15.25.8 NMAC within 36 months following the date the well became inactive as defined by 19.15.25.8 NMAC, and is provided in Exhibit "A", by either:
  - a. restoring the well to production or other OCD-approved beneficial use and filing a C-115 documenting such production or use;
  - b. causing the well to be plugged and abandoned in accordance with 19.15.25.10 NMAC and filing the C-105 as provided in 19.15.25.11 NMAC;
  - c. or placing the well in approved temporary abandonment pursuant to 15.15.25 NMAC.
2. Operator also agrees that it will perform a test for each well on Exhibit "A" one year from the effective date of this Order, and then again two years from the effective date of this Order for each well in Exhibit "A", and shall provide results of each test to OCD's Enforcement and Compliance Manager at 1220 S. St. Francis Drive, Santa Fe, NM 87505 within 30 days of completion of the test.
3. If Operator has additional wells that become out of compliance, or will soon be out of compliance, with 19.15.25.8 NMAC, Exhibit "A" may be amended to include such wells if the OCD approves the amendment. For the additional wells,

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Operator shall conduct the tests required in Ordering Paragraph 2 above on or before the dates specified in Exhibit "A".

4. If the Operator returns a well to compliance with 19.15.25.8 NMAC the well shall no longer be considered part of Exhibit "A".
5. Operator shall file a compliance report identifying each well returned to compliance, stating the date it was returned to compliance, and describing the work performed to return the well to compliance, in addition to any other forms or documentation required by OCD rules for the work performed. The written compliance report must be mailed to the attention of OCD's Enforcement and Compliance Manager and to the Office of General Counsel at 1220 S. St. Francis Drive, Santa Fe, NM 87505, so that it is **received within 10 business days** after return to compliance.
6. By signing this Order, Operator expressly:
  - a. acknowledges the correctness of the Findings and Conclusions set forth in this Order;
  - b. agrees to meet the deadlines established in Ordering Paragraphs 1 through 5 above;
  - c. agrees to perform the tests and submit test results as required in Ordering Paragraph 2;
  - d. agrees to submit compliance reports as required in Ordering Paragraph 5;
  - e. waives any right, pursuant to the Oil and Gas Act to an appeal from this Order, or to a hearing either prior to or subsequent to the entry of this Order regarding the matters resolved hereby; and
  - f. 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.
7. Operator understands that if it fails to meet the terms of this Order, the OCD may seek enforcement pursuant to the New Mexico Oil and Gas Act, including monetary penalties as authorized under NMSA 1978, § 70-2-31.
8. If a well poses a risk relating to the conservation of oil and gas or the protection of public health and the environment, the OCD reserves the right to file an application for hearing to require Operator to plug any well identified in Exhibit "A", or if the Operator fails to plug the well to obtain authority to plug the well and forfeit the applicable financial assurance.

9. Operator understands and agrees that, except as expressly provided in this Order, nothing in this Order exempts Operator from complying with all statutes, rules, and orders Operator is otherwise subject to, and the failure to comply with any applicable statute(s), rule(s), and/or order(s) may result in OCD pursuing any remedies available under the law. Further, Operator's failure to comply with other applicable statute(s), rule(s), and/or order(s) may, in OCD's sole discretion, result in termination of this Order.

Done at Santa Fe, New Mexico this 26<sup>th</sup> day of April, 2016

By: David Catanach  
David Catanach  
Director, Oil Conservation Division

**ACCEPTANCE**

Nearburg Producing Company hereby accepts the foregoing Order, and agrees to all of the terms and provisions set forth in that Order.

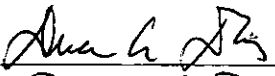
NEARBURG PRODUCING Company  
By: Duane A. Davis  
(Please print name) DUANE A DAVIS  
Title: COO / CEO  
Date: 4-18-16

# EXHIBIT "A"

NEARBURG PRODUCING COMPANY NEW MEXICO SHUT-IN WELLS								
API #	WELL NAME / #	LEASE	WELL	LAST PROD	15 MO SINCE	1st TEST	2nd TEST	3 YR + 15 MONTH
		TYPE	TYPE		LAST PROD			SINCE LAST PROD
30-025-35622	Diamondback 24 Federal Com #001	F	O	Nov-14	Feb-16	Feb-17	Feb-18	Feb-19
30-025-26499	Pennzoil Federal #002	F	G	Dec-14	Mar-16	Mar-17	Mar-18	Mar-19

## Exhibit "A" to Agreed Compliance Order for NEARBURG PRODUCING COMPANY

### Shut-In, Inactive wells:

  
 By: DUANE A DAVIS  
 Title: COO/CFO