

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

NMOCD – ACOI- 126

IN THE MATTER OF McKAY OIL CORP.,

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 McKay Oil Corp. ("Operator") enter into this Agreed Compliance Order ("Order") under which Operator agrees to bring wells identified herein 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 corporation doing business in the state of New Mexico.
3. Operator is the operator of record under OGRID 14424 for the following wells:

API 30-005-62551	Bonnie Federal #1
API 30-005-61028	Macho State #001
API 30-005-62625	West Fork Unit #001
API 30-005-61044	Wolf State #001
API 30-005-63152	South Four Mile Draw B Federal Com #008
API 30-005-62654	Cottonwood Federal Com #001
API 30-005-61142	Huggins Draw #001
API 30-005-60955	Isler Fee #001
API 30-005-62851	Rugged Federal #001
API 30-005-61850	Miller Federal #001
API 30-005-62482	West Fork Unit #002
API 30-005-61278	Sherri #001
API 30-005-62350	Terry Federal #004
API 30-005-62189	West McKay Harvey Federal A #001

4. OCD Rule 201 [19.15.4.201 NMAC] states, in relevant part:

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“A. The operator of any of the following wells, whether cased or uncased, shall be responsible for the plugging thereof: wells drilled for oil or gas; or service wells including but not limited to seismic, core, exploration or injection wells.

B. A well shall be either properly plugged and abandoned or placed in approved temporary abandonment in accordance with these rules within 90 days after:

....

....

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

5. The wells identified in Findings Paragraph 3 are currently out of compliance with Rule 201 or will fall out of compliance with Rule 201 in the next several months if no action is taken on the wells.
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. NMSA 1978, Section 70-2-3(A) defines “person” in relevant part as
“any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate or other entity...”

CONCLUSIONS

1. The OCD has jurisdiction over the parties and subject matter in this proceeding.
2. The wells identified in Findings Paragraph 3 are either out of compliance with Rule 201 or will fall out of compliance with Rule 201 in the next several months if they are not returned to production or other beneficial use, plugged and abandoned, or placed on approved temporary abandonment status.
3. As operator of the wells identified in Findings Paragraph 3, Operator is responsible for bringing those wells into compliance with Rule 201.
4. Operator is a “person” as defined by OCD Rule 7.P(2) and may be 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 agrees to bring the wells identified in Findings Paragraph 3 into compliance with OCD Rule 201 by October 31, 2006 by
 - (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 wellbore to be plugged in accordance with OCD Rule 202.B(2) and filing a C-103 describing the completed work; or
 - (c) placing the well on approved temporary abandonment status pursuant to OCD Rule 203.
2. Operator shall file a compliance report by October 31, 2006 using the OCD's web-based on-line application, identifying each well 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, approved temporary abandonment status).
3. If Operator fails to bring all of the wells identified in Findings Paragraph 3 into compliance by October 31, 2006, Operator agrees to pay a penalty of \$1000 times the number of wells identified in Findings Paragraph 3 that remain out of compliance. In the event the Operator encounters unanticipated circumstances that prevent it from bringing all of the wells identified in Findings Paragraph 3 into compliance by October 31, 2006, Operator may file an administrative application with the OCD's Enforcement and Compliance Manager to request a waiver or reduction of the penalty and an amendment to this Order extending its terms for an additional period not to exceed six months. If the Enforcement and Compliance Manager concurs with the Operator's request, the application may be granted administratively. If the Enforcement and Compliance Manager does not concur with the Operator's request, the application shall be set for hearing.

Example: Operator Y enters into an agreed compliance order under which it agrees to bring 10 wells into compliance in a six-month period. Although Y has made arrangements for plugging the 10 wells, due to adverse weather conditions and mechanical difficulties with the available plugging rig, Y is able to plug only 3 wells. Y files an administrative application seeking to waive the \$7000 penalty and amend the order extending its terms for an additional 6 months. The Enforcement and Compliance Manager concurs with the application's request for an amendment, and issues an amendment extending the terms of the order for an additional 6 months. The Enforcement and Compliance Manager does not concur with the application's request to waive the full amount of the penalty, so the application is set for hearing on the penalty issue. The hearing examiner reduces the amount of the penalty to \$1000, which Y pays. At the end of the 6-month period covered by the amendment, Y has returned all but one of the 10 wells to compliance. Y is subject to a \$1000 penalty. Y files an administrative application seeking a waiver of the penalty and an amendment extending the terms of the order for an additional 3 months. The Enforcement and Compliance

Manager denies the application, so the application is set for hearing. The hearing examiner denies the application. Y is subject to a \$1000 penalty.

4. Thirty days after the expiration of the term of this Order and any amendment to this Order issued pursuant to Ordering Paragraph 3, any wells identified in Findings Paragraph 3 not in compliance with OCD Rule 201 will appear on the inactive well list kept pursuant to OCD Rule 40.F.
5. 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 all of the wells identified in Findings Paragraph 3 by October 31, 2006, and agrees to comply with the compliance deadlines set by any amendment to this Order;
 - (c) agrees to submit a compliance report as required in Ordering Paragraph 2;
 - (d) agrees to pay penalties as set out in Ordering Paragraph 3 if it fails to return all of the wells identified in Findings Paragraph 3 by October 31, 2006 and, if an amendment is issued pursuant to Ordering Paragraph 3, fails to return all of the wells identified in Findings Paragraph 3 by the deadline set in the amendment;
 - (e) waives any right, pursuant to the Oil and Gas Act or otherwise, to a hearing either prior to or subsequent to the entry of this Order or to an appeal from this Order; and
 - (f) agrees that the Order and amendments to 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.
6. This Order applies only to those wells identified in Findings Paragraph 3. Other wells operated by Operator out of compliance with Rule 201 may be subject to immediate enforcement action under the Oil and Gas Act.
7. The Oil Conservation Division reserves the right to file an application for hearing to obtain authority to plug any well identified in Findings Paragraph 3 and forfeit the applicable financial assurance if the well poses an immediate environmental threat.

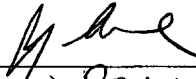
Done at Santa Fe, New Mexico this 21st day of April, 2006

By: 
Mark Fesmire, P.E.
Director, Oil Conservation Division

ACCEPTANCE

McKay Oil Corp. hereby accepts the foregoing Order, and agrees to all of the terms and provisions set forth in that Order.

McKay Oil Corp.

By: 
(please print name) Roy L McKay
Title: President
Date: 4/20/04