

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

NMOCD - ACOX- 122

IN THE MATTER OF CBS OPERATING 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 CBS Operating Corp. ("Operator") enter into this Agreed Compliance Order ("Order") under which Operator agrees to: 1) close 10 pits as specified in the Order and 2) perform remediation at 9 sites as specified in the Order.

FINDINGS

Parties

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 operating wells in New Mexico under OGRID 216852.

Pit Issues

3. The following wells operated by Operator in New Mexico have associated drilling pits that were in existence on April 15, 2004:

NSLU 191	API 30-015-33040	
NSLU 192	API 30-015-33047	#198
NSLU 200	API 30-015-33048	
NSLU 197	API 30-015-33065	
NSLU 198	API 30-015-33068	#199
NSLU 199	API 30-015-33068	duplicate
NSLU 177	API 30-015-32907	
NSLU 187	API 30-015-33102	
NSLU 184	API 30-015-32911	
NSLU 194	API 30-015-32912	

4. OCD Rule 50.B(3) [19.15.2.50.B(3) NMAC] provides, in relevant part, "For each pit...in existence on April 15, 2004 that has not received an exemption after

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hearing as allowed by OCC Order R-3211 through R-3221D inclusive, the operator shall submit a notice not later than April 15, 2004 indicating either that use of the pit...will continue or that such pit...will be closed. If use of a pit ...is to be discontinued, discharge into the pit ...shall cease not later than June 30, 2005...."

5. OCD Rule 50.F(1) [19.15.2.50.F(1) NMAC] provides, in relevant part, "except as otherwise specified in Section 50 of 19.15.2 NMAC, a pit...shall be properly closed within six months after cessation of use....The division for good cause shown may grant a six-month extension of time to accomplish closure. Upon completion of closure a closure report (form C-144), or sundry notices and reports on wells shall be submitted to the division...."
6. Operator has not submitted a notice of continued use or closure for the drilling pits associated with the 10 wells identified in Findings Paragraph 3 above, as required by Rule 50.B.3.
7. Operator has closed the drilling pits associated with the following wells, but has not yet filed a closure report with the OCD as required by Rule 50.F(1):

NSLU 191	API 30-015-33040
NSLU 192	API 30-015-33047
NSLU 200	API 30-015-33048

8. Operator has not completed closure of the drilling pits associated with the following wells because the pits do not have liner caps and closure reports have not been filed:

NSLU 197	API 30-015-33065
NSLU 198	API 30-015-33068
NSLU 199	API 30-015-33068
NSLU 177	API 30-015-32907
NSLU 187	API 30-015-33102
NSLU 184	API 30-015-32911
NSLU 194	API 30-015-32912

Remediation Issues

9. OCD Rule 116.D [19.15.3.116.D NMAC] requires operators to address releases "in accordance with a remediation plan submitted to and approved by the division or with an abatement plan submitted in accordance with Section 19 of 19.15.1 NMAC."
10. Operator submitted an Initial Report C-141 and Remediation Work Plan for cleanup/remediation of releases that occurred at the following well sites. The

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OCD accepted the work plans with stipulations. To date, the remediation work has not been completed:

Federal M Unit 005	API 30-015-04410
Federal L Unit 007	API 30-015-23213
Cowtown Unit 101	API 30-015-01843
NSLU 025	API 30-015-04913
NSLU 148	API 30-015-04956
NSLU 148 (battery site)	
Hustate #2	API 30-015-05018

11. Operator needs to take corrective action as indicated below regarding releases at the following wells:

- A. Scanlon Draw API 30-015-29384.
- Delineate contamination due to loss of pit liner integrity.
 - Remediate per OCD guidelines as deemed necessary by delineation.
 - Close pit as per OCD Rule 50.
- B. NSLU 158 API 30-015-24920.
- Repair all leaks.
 - Submit a remediation plan based on OCD guidelines for remediation of the area surrounding the wellhead and unit skid.
 - Carry out approved remediation plan.
- C. State AA-1 API 30-015-22698.
- Complete work as requested in clean-up letter dated November 3, 2004; sign and return the letter.

Penalty Provisions:

12. 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.
13. 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.
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2. The drilling pits associated with the wells identified in Findings Paragraph 3 are out of compliance with OCD Rule 50 because Operator has not completed closure of the pits as required by that rule.
3. The wells identified in Findings Paragraph 10 and 11 are currently out of compliance with OCD Rule 116.D because Operator has not completed remediation of releases.
4. As operator of the wells identified in Findings Paragraphs 3, 10 and 11 Operator is responsible for bringing those wells into compliance with OCD rules.
5. 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 shall file closure reports for the wells identified in Findings Paragraph 7 with the OCD Artesia District Office within 30 days of the execution of this Order.
2. Operator shall close the wells identified in Findings Paragraph 8 by October 31, 2006 by performing the following actions:
 - Removing 3 feet of soil;
 - Placing a 12 mil liner over the pit;
 - Covering the liner with 3 feet of clean soil; and
 - Filing a closure report.
3. Operator shall remediate the sites identified in Findings Paragraph 10 in accordance with the approved remediation plans by December 31, 2006.
4. Operator shall remediate the sites identified in Findings Paragraph 11 by performing the corrective action identified in Findings Paragraph 11 by December 31, 2006.
5. If Operator fails to complete the corrective action required under this Order by the deadlines set out in this Order, Operator shall pay a penalty of \$1,000 per well that remains out of compliance with the Order, and an additional \$1000 per well for each full month the well remains out of compliance after the deadline set by the Order.
6. By signing this Order, Operator expressly:

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- (a) acknowledges the correctness of the Findings and Conclusions set forth in this Order;
 - (b) agrees to file closure reports for the wells identified in Findings Paragraph 7 with the OCD Artesia District Office within 30 days of the execution of this Order;
 - (c) agrees to close the wells identified in Findings Paragraph 8 by October 31, 2006 in accordance with the specifications set out in Ordering Paragraph 2;
 - (d) agrees to remediate the sites identified in Findings Paragraph 10 in accordance with the approved remediation plans by December 31, 2006;
 - (e) agrees to remediate the sites identified in Findings Paragraph 11 by performing the corrective action identified in Findings Paragraph 11 by December 31, 2006;
 - (f) agrees to pay penalties as set out in Ordering Paragraph 5 if it fails to comply with the provisions of this Order by the deadlines set by this Order;
 - (g) 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
 - (h) 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.
7. Nothing in this Order relieves Operator of liability should its operations fail to adequately investigate and remediate contamination that poses a threat to ground water, surface water, human health or the environment. In addition, nothing in this Order relieves Operator of its responsibility for compliance with any other federal, state or local laws and/or regulations.

Done at Santa Fe, New Mexico this 2nd day of July, 2006

By: 

Mark Fesmire, P.E.

Director, Oil Conservation Division

ACCEPTANCE

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

CBS Operating Corp.

By: 

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(Please print name) David Cotner
Title: President
Date: 6/21/06