

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

NMOCD – ACOI- 138

IN THE MATTER OF FRED F POOL, III,

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 Fred F Pool, III ("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 sole proprietor doing business in the state of New Mexico.
3. Operator is the operator of record under OGRID 185217 for the following wells located in New Mexico:
 - LE Ranch 9 #002 30-005-60257
 - White #001 30-005-60514
 - White Plains #001 30-005-60427
4. OCD Rule 201 [19.15.4.201 NMAC] states, in relevant part:

“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. Two of the wells identified in Findings Paragraph 3 have been inactive for a continuous period in excess of one year plus ninety days, are not properly plugged and abandoned, and are not currently on approved temporary abandonment status: Le Ranch 9 #002 and White Plains #001. The third well, the White #001, was recently returned to production after being inactive for a continuous period in excess of one year plus ninety days; that well still appears on the list of inactive wells kept pursuant to Rule 40.F [19.15.1.40.F NMAC] because the C-115 production report showing recent production has not yet been filed.
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 or were out of compliance with Rule 201.
3. As operator of the wells identified in Findings Paragraph 3, Operator is responsible for bringing those wells into compliance with Rule 201 and maintaining 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 3 wells identified in Findings Paragraph 3 into compliance with OCD Rule 201 by January 31, 2007 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 January 31, 2007 using the OCD's web-based on-line application, identifying each well returned to compliance.
3. If Operator fails to return to compliance by January 31, 2007 the 3 wells identified in Findings Paragraph 3, Operator agrees to pay a penalty of \$1000 for each well that it failed to bring into compliance under the terms of this Order. No penalty shall be assessed against Operator for a well identified in Findings Paragraph 3 that has been transferred to another operator.
4. In the event the Operator encounters unanticipated circumstances that prevent it from returning all 3 wells to compliance by January 31, 2007, Operator may file an administrative application with the OCD to request a waiver or reduction of the penalty and/or an amendment extending the terms of the order for a period not to exceed 6 months. Operator shall serve the OCD's Enforcement and Compliance Manager with a copy of the application. 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. Once Operator pays the penalty or files an administrative application to request a waiver or reduction of the penalty, the OCD may, in its discretion, issue an amendment to this Order extending its terms for a period of time not to exceed 6 months.

Example A: Operator X enters into an agreed compliance order under which it agrees to bring 5 wells into compliance by December 15, 2006. On that date, Operator X has brought only 3 wells into compliance. Operator X pays the \$2000 penalty, but files an administrative application requesting an amendment extending the terms of the order by 6 months. The OCD exercises its discretion to issue an amendment extending the term of the agreed compliance order for an additional six-month period.

Example B: Operator Y enters into an agreed compliance order under which it agrees to bring 10 wells into compliance by February 20, 2007. 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 a waiver of the \$7000 penalty, and an amendment extending the terms of the order by 6 months. The Enforcement and Compliance Manager concurs on the amendment but does not concur with the application's request to waive the full amount of the penalty. The Enforcement and Compliance Manager grants the amendment administratively, and sets the application for hearing on the penalty issue.

6. Thirty days after the expiration of the term of this Order and any amendment to this Order issued pursuant to Ordering Paragraph 4, any wells identified in Findings Paragraph 3 not in compliance with OCD Rule 201 will appear on the inactive well list for Operator kept pursuant to OCD Rule 40.F.
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 the 3 wells identified in Findings Paragraph 3 by January 30, 2007, and agrees to comply with the compliance deadlines set by any amendment to this Order issued pursuant to Ordering Paragraph 4;
 - (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 meet the deadline set by this Order or an amendment to this order issued pursuant to Ordering Paragraph 4;
 - (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 an amendment to the Order issued pursuant to Ordering Paragraph 4 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 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.
9. 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 2nd day of August, 2006

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

ACCEPTANCE

Fred F. Pool III hereby accepts the foregoing Order, and agrees to all of the terms and provisions set forth in that Order.

By: Fred F. Pool III
Fred F. Pool III
Date: 7/28/06