

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

NMOCD – ACOI- 205

IN THE MATTER OF CANO PETRO OF NEW MEXICO, INC.,

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 Cano Petro of New Mexico, Inc. ("Operator") enter into this Inactive Well Agreed Compliance Order ("Order" or "ACOI") under which Operator agrees to plug, place on approved temporary abandonment status or restore to production or other beneficial use the wells identified herein pursuant to the Act and OCD Rule 19.15.25.8 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 248802 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 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."

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5. The wells identified in Exhibit "A"
 - (a) have been continuously inactive for a period of one year plus 90 days (or within the next several months will become continuously inactive for a period of one year plus 90 days if no action is taken on the wells);
 - (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. 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 and willfully violates any provision of the Oil and Gas Act or any rule or order adopted pursuant to the Act.
7. NMSA 1978, Section 70-2-33(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 Exhibit "A" are either out of compliance with OCD Rule 19.15.25.8 NMAC or will fall out of compliance with OCD Rule 19.15.25.8 NMAC 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 Exhibit "A," Operator is responsible for bringing those wells into compliance with OCD Rule 19.15.25.8 NMAC.
4. Operator is a "person" as defined by NMSA 1978, Section 70-2-33(A) 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 at least 12 of the wells identified in Exhibit "A" into compliance with OCD Rule 19.15.25.8 NMAC by August 1, 2009 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 19.15.25.10(B) NMAC **and filing a C-103 describing the completed work;** or
 - (c) placing the well on approved temporary abandonment status in accordance with OCD Rule 19.15.25.12 NMAC through 19.15.25.14 NMAC.
- 2. Operator shall file a compliance report 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.) Transfer of a well identified on Exhibit "A" to another operator does not count towards Operator's obligation to return wells to compliance under the terms of this Order, but does reduce the total number of wells for which Operator is responsible under the terms of this Order. The written compliance report must be mailed or e-mailed to the OCD's Enforcement and Compliance Manager so that it is **received by** the compliance deadline of August 1, 2009.
- 3. When the OCD receives a timely compliance report indicating that Operator has returned at least 12 wells to compliance and verifies the accuracy of that report, the OCD shall issue an amendment to this Order extending its terms for an additional six-month period. OCD shall provide a copy of that amendment to Operator at Operator's address of record provided pursuant to OCD Rule 19.15.9.8(C) NMAC. If, in any six-month period, Operator returns more wells to compliance than the number required under this Order for that six-month period, the wells in excess of the number required will count towards the Operator's requirements for the next six-month period.
- 4. If Operator returns at least 12 wells to compliance in the second six-month period, OCD shall issue an amendment to this Order extending its term for a third six-month period. If Operator returns at least 12 wells to compliance in the third six-month period, OCD shall issue an amendment to this Order extending its term for a fourth six-month period. The total length of this Agreed Compliance Order, including the initial six-month period and any amendments, shall not exceed two years. At the end of two years, Operator and the OCD may negotiate a new agreed compliance order.
- 5. If Operator fails to bring the number of wells into compliance required in a six-month period covered by this Order or amendments issued to this Order, Operator agrees to pay a penalty of \$1000 times the number of wells it failed to bring into compliance under its schedule during the applicable six month period, subject to the terms of this Order. In the event the Operator encounters unanticipated circumstances that prevent it from meeting its goal within any six-month period covered by this Order or amendments issued to this Order, Operator may apply for a waiver or reduction of the penalty by making the request in writing to the

OCD's Enforcement and Compliance Manager. If the Enforcement and Compliance Manager concurs with the Operator's request, the request for waiver or reduction of penalties may be granted administratively. If the Enforcement and Compliance Manager does not concur with the Operator's request or fails to respond within 10 days, the Operator may file an application for hearing on the request. Any application for hearing on a request for waiver or reduction of penalty must be filed within 30 days of the date the compliance report is due. Once Operator pays the penalty or applies for a waiver or reduction of the penalty, the OCD may, in its discretion, issue an amendment to this Order extending its terms for an additional six-month period.

Example A: Operator X enters into an agreed compliance order under which it agrees to bring 5 wells into compliance in each six-month period. At the end of the first six-month period, Operator X has brought only 3 wells into compliance. Operator X pays the \$2000 penalty. The OCD exercises its discretion to issue an amendment extending the term of the agreed compliance order for a second six-month period, again requiring Operator X to bring at least 5 wells into compliance. During the second six-month period, Operator brings only one well into compliance. Operator X pays a \$4000 penalty. Although Operator X pays the \$4000 penalty, the OCD exercises its discretion and declines to issue an amendment to extend the terms of the agreed compliance order for a third six-month period.

Example B: Operator Y enters into an agreed compliance order under which it agrees to bring 10 wells into compliance in each 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 applies for a waiver of the \$7000 penalty. The Enforcement and Compliance Manager does not agree to waive the full amount of the penalty, and the Operator files an application for hearing on the request for waiver of penalty. While the application is pending, the OCD exercises its discretion and issues an amendment to extend the terms of the agreed compliance order for a second six-month period.

6. Thirty days after the compliance deadline set by this Order or any amendments to this Order, any wells on Exhibit "A" not in 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.
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 12 of the wells identified in Exhibit "A" by August 1, 2009, and agrees to comply with the compliance deadlines set by any amendments to this Order;

- (c) agrees to submit a compliance report as required in Ordering Paragraph 2 by the compliance deadline set by any amendments to this Order;
 - (d) agrees to pay penalties as set out in and limited by Ordering Paragraph 5 if it fails to return the required number of wells to compliance under the deadlines set by this Order or any amendments to this Order;
 - (e) 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 penalties; 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.
8. This Order applies only to the enforcement of OCD Rule 19.15.25.8 NMAC against those wells identified in Exhibit "A." 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 Rule 19.15.25.8 NMAC may be subject to immediate enforcement action under the Oil and Gas Act and OCD Rules.
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 26th day of January, 2009

By: 

Mark Fesmire, P.E.

Director, Oil Conservation Division

ACCEPTANCE

Cano Petro of New Mexico, Inc. hereby accepts the foregoing Order, and agrees to all of the terms and provisions set forth in that Order.

Cano Petro of New Mexico, Inc.

By: 

Patrick McKinney

Title: Vice President of Operations

Date: 1/23/09

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Exhibit A to Agreed Compliance Order for Cano Petro of New Mexico


30-005-20588	AMOCO FEDERAL #001
30-005-20610	AMOCO FEDERAL #002
30-005-10538	CATO SAN ANDRES UNIT #046
30-005-20293	CATO SAN ANDRES UNIT #053
30-005-10500	CATO SAN ANDRES UNIT #058
30-005-10525	CATO SAN ANDRES UNIT #082
30-005-20144	CATO SAN ANDRES UNIT #083
30-005-10588	CATO SAN ANDRES UNIT #085
30-005-10561	CATO SAN ANDRES UNIT #087
30-005-20008	CATO SAN ANDRES UNIT #107
30-005-20094	CATO SAN ANDRES UNIT #117
30-005-20045	CATO SAN ANDRES UNIT #128
30-005-20282	CATO SAN ANDRES UNIT #151
30-005-20100	CATO SAN ANDRES UNIT #164
30-005-20188	CATO SAN ANDRES UNIT #174
30-005-20189	CATO SAN ANDRES UNIT #175
30-005-20197	CATO SAN ANDRES UNIT #176
30-005-20179	CATO SAN ANDRES UNIT #177
30-005-20224	CATO SAN ANDRES UNIT #178
30-005-20207	CATO SAN ANDRES UNIT #179
30-005-20169	CATO SAN ANDRES UNIT #180
30-005-20178	CATO SAN ANDRES UNIT #181
30-005-20305	CATO SAN ANDRES UNIT #182
30-005-20545	CATO SAN ANDRES UNIT #183
30-005-20243	CATO SAN ANDRES UNIT #184
30-005-20186	CATO SAN ANDRES UNIT #185
30-005-20217	CATO SAN ANDRES UNIT #186
30-005-20596	CATO SAN ANDRES UNIT #187
30-005-20273	CATO SAN ANDRES UNIT #188
30-005-20261	CATO SAN ANDRES UNIT #189
30-005-20544	CATO SAN ANDRES UNIT #190
30-005-20526	CATO SAN ANDRES UNIT #191
30-005-20482	CATO SAN ANDRES UNIT #193

30-005-20546	CATO SAN ANDRES UNIT #194
30-005-20272	CATO SAN ANDRES UNIT #195
30-005-20598	CATO SAN ANDRES UNIT #196
30-005-20230	CATO SAN ANDRES UNIT #197
30-005-20599	CATO SAN ANDRES UNIT #198
30-005-20597	CATO SAN ANDRES UNIT #199
30-005-20472	CATO SAN ANDRES UNIT #201
30-005-20524	CATO SAN ANDRES UNIT #202
30-005-20241	CATO SAN ANDRES UNIT #203
30-005-20556	CATO SAN ANDRES UNIT #204
30-041-20432	CHAMBERS FEDERAL #001
30-041-20442	CHAMBERS FEDERAL #002
30-041-20478	CHAMBERS FEDERAL #003
30-041-20049	CONE FEDERAL #013
30-041-20509	CONE FEDERAL #020
30-041-20567	CONE FEDERAL #028
30-005-20557	EXXON FEDERAL #001
30-005-20584	EXXON FEDERAL #002
30-005-20585	EXXON FEDERAL #003
30-005-20611	EXXON FEDERAL #004
30-005-20541	GRAVES #001
30-005-20549	GRAVES #002
30-005-20577	GRAVES #003
30-005-20579	GRAVES #005
30-005-20580	GRAVES #006
30-005-20607	GRAVES #007
30-005-20621	GRAVES #008
30-005-20646	INGRAM FEDERAL #001Y
30-005-20488	INGRAM FEDERAL #002
30-005-20605	INGRAM FEDERAL #006
30-005-20639	INGRAM FEDERAL #007
30-005-20702	INGRAM FEDERAL #009
30-005-20703	INGRAM FEDERAL #010
30-005-20704	INGRAM FEDERAL #011
30-005-20705	INGRAM FEDERAL #012

30-005-20743	INGRAM FEDERAL #013
30-005-20744	INGRAM FEDERAL #014
30-005-20745	INGRAM FEDERAL #015
30-005-20782	INGRAM FEDERAL #016
30-005-20783	INGRAM FEDERAL #017
30-005-21025	INGRAM FEDERAL #019
30-041-20469	LANGLEY FEDERAL #001
30-005-20838	MILLER 33 FEDERAL #002
30-005-20886	MILLER 33 FEDERAL #003
30-005-20890	MILLER 33 FEDERAL #004
30-005-20606	MILLER FEDERAL #001
30-005-20613	MILLER FEDERAL #002
30-005-20622	MILLER FEDERAL #003
30-005-20617	OAKSON A FEDERAL #002
30-005-20633	OAKSON A FEDERAL #003
30-005-20635	OAKSON A FEDERAL #004
30-005-20647	OAKSON A FEDERAL #005
30-005-20640	OAKSON B FEDERAL #001
30-005-20652	OAKSON B FEDERAL #002
30-005-20682	OAKSON B FEDERAL #003
30-005-20671	OAKSON B FEDERAL #004
30-005-20698	OAKSON FEDERAL #001
30-005-20458	PAYE FEDERAL #001
30-005-20484	PAYE FEDERAL #002
30-005-20492	PAYE FEDERAL #004
30-005-20493	PAYE FEDERAL #005
30-005-20494	PAYE FEDERAL #006
30-005-20500	PAYE FEDERAL #008
30-005-20501	PAYE FEDERAL #009
30-005-20502	PAYE FEDERAL #010
30-005-20904	SIETE FEDERAL #002Y
30-005-20910	SIETE FEDERAL #003
30-005-20947	SIETE FEDERAL #004
30-005-20974	SIETE FEDERAL #005
30-005-21031	SIETE FEDERAL #006

30-005-20945 SIETE FEDERAL WEST #001
30-041-20445 STATE #001
30-041-20542 STATE #002
30-005-20455 STRANGE FEDERAL #001
30-005-20486 STRANGE FEDERAL #002
30-005-10462 WILSON FEDERAL #001

Cano Petro of New Mexico, Inc.

By:  pf

Patrick McKinney

Title: Vice President of Operations

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