

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

ACO 09 **258**

IN THE MATTER OF KEVIN O. BUTLER & ASSOCIATES, INC. [12627],
Respondent.

AGREED ORDER DIRECTING COMPLIANCE

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 (hereinafter, "OCD") issues this Order to **KEVIN O. BUTLER & ASSOCIATES, INC.** [OGRID 12627] (hereinafter, "KOB"), determining violation of the Act and the OCD Rules and directing compliance therewith.

I. FINDINGS & DETERMINATIONS BY THE OCD

- 1) The OCD is the state division charged with administration and enforcement of the Act and OCD Rules.
- 2) KOB is a domestic profit corporation authorized to do business in the State of New Mexico under Public Regulation Commission (hereinafter, "PRC") SCC number 1690171. KOB's OGRID is 12627.
- 3) KOB is the operator of record for the 41 wells listed on **Exhibit A** (*Inactive Well Additional Financial Assurance Report dated 3/12/09*), attached hereto.
- 4) KOB is the operator of record for the 24 wells listed on **Exhibit B** (*Inactive Well List dated 3/12/09*), attached hereto.
- 5) OCD Rule 19.15.25.8 NMAC requires an operator to plug and abandon, or place on approved temporary abandonment status, a well that has been inactive for a continuous period exceeding one year plus ninety days.
- 6) A review of OCD records indicates that currently 24 of KOB's 41 total wells are in violation of OCD Rule 19.15.25.8 NMAC, with no production reported for some of these wells for twenty years.
- 7) OCD Records also reflect that two previous Letters of Violation were issued regarding inactivity concerns; specifically referencing KOB's well the **ANDERSON 6# 001, 30-025-29745**, which has been idle since July of 2001.

Kevin O. Butler (12627)

ACO **258**

March 17, 2009

Page 1

- 8) OCD Rule 19.15.8.9 NMAC requires each state or fee well that has been inactive for a period of at least two years to be covered by a single-well financial assurance. The amount of the financial assurance is determined by the location and depth of the well.
- 9) A review of OCD records indicates that currently **26** of KOB's 41 total wells are in violation of OCD Rule 19.15.8.9 NMAC, with a current total amount of additional bonding due of **\$305,043**. Records further indicate that KOB has not posted any of the required additional financial assurance for its wells since the additional bonding requirements went into full effect on January 1, 2008.
- 10) A Notice of Violation (**NOV 1-09-01**) was issued on February 2, 2009 to KOB referencing violations of OCD Rule 19.15.25.8 NMAC as to 24 inactive wells and Rule 19.15.8.9 NMAC as to (at that time) 25 wells for which additional bonding was due. NOV 1-09-01 requested that KOB contact the OCD to schedule an administrative conference to discuss the matter and further advised KOB it should come to the conference prepared to discuss its plans for meeting its financial assurance obligations and for returning its inactive wells to compliance.

**II. ADDITIONAL INFORMATION & FACTS FOUND AT ADMINISTRATIVE
CONFERENCE HELD MARCH 9, 2009**

- 11) KOB has indicated that the following three wells have already been plugged and the sites are ready to be released. KOB states that all that remains to be done as to these three wells is that it needs to file the special C-103 forms to get the sites inspected for release by the OCD district offices:

30-025-22766	EAST EK UNIT #010
30-025-27397	MESA STATE #001
30-025-27722	MESA STATE #002

- 12) KOB has indicated that it plans to plug the following five (5) wells and will be filing a "Notice of Intent" sundry to that effect for each:

30-025-29953	ANDERSON #001
30-025-29748	ANDERSON 6 #001
30-025-22340	E B ANDERSON #001
30-025-22454	E B ANDERSON #002
30-025-29786	E B ANDERSON #003

- 13) KOB has indicated that it plans to either plug or seek approved temporary abandonment status for the following wells and will be filing a "Notice of Intent" sundry to that effect for each:

30-025-03941	NEW MEXICO X STATE #001
30-025-29869	V E RODDY #001
30-025-21763	NM DE STATE #002
30-025-21813	NM DE STATE #003

- 14) Regarding the **V E RODDY #001, 30-025-29869**, KOB has acknowledged that a release occurred at this site in 2008 and states that it has performed the required clean-up and remediation required by the district office. KOB understands it has not yet filed the required sundry report formally documenting the work performed as required, and intends to do so promptly.

- 15) KOB has indicated that the following wells located in the South Caprock Queen Unit are back online and producing. KOB intends to file production reports (C-115s) reflecting this production, as well as sundries reflecting any work performed on these wells and confirming their return to production as required by OCD Rules:

30-005-00674	SOUTH CAPROCK QUEEN UNIT #003
30-005-01190	SOUTH CAPROCK QUEEN UNIT #003
30-005-00658	SOUTH CAPROCK QUEEN UNIT #010
30-005-00657	SOUTH CAPROCK QUEEN UNIT #011
30-005-00661	SOUTH CAPROCK QUEEN UNIT #016

- 16) Regarding **SOUTH CAPROCK QUEEN UNIT #010, 30-005-00658**, (*one of the wells noted in Paragraph No. 15, above*), KOB has indicated that it is now aware that it was ordered to perform subsequent, witnessed testing of this well prior to commencing remedial work, and intends to follow up regarding this with the district office.

- 17) KOB has indicated that it intends to rework the following wells located in the South Caprock Queen Unit and either plug or seek approved temporary abandonment status for which KOB intends to file "Notice of Intent" sundries for each with the OCD:

30-005-00670	SOUTH CAPROCK QUEEN UNIT #005
30-005-01180	SOUTH CAPROCK QUEEN UNIT #012
30-005-01163	SOUTH CAPROCK QUEEN UNIT #014

30-005-01161	SOUTH CAPROCK QUEEN UNIT #015
30-005-00662	SOUTH CAPROCK QUEEN UNIT #015
30-005-21000	SOUTH CAPROCK QUEEN UNIT #017

- 18) KOB has indicated that it is aware that OCD records reflect that the last reported production for the **STATE R#01, 30-025-01155** was July of 2005. However, KOB believes this well to be producing and to be a commingled well, and believes the production not being reflected in OCD records to be the result of a filing error that KOB intends to investigate and promptly correct.
- 19) KOB has indicated that it believes that one of the following three wells may be producing while the other two are inactive. One of these three wells may also have a casing leak that KOB plans to address. KOB intends to determine if any of these wells is producing, and if so, to file any outstanding production reports (C-115s) that are required. For those well(s) of these three that are not producing, KOB intends to either plug the well(s) or seek approved temporary abandonment status and, to that end, plans to file "Notice of Intent" sundries for each with the OCD:

30-025-29066	STATE LAND 76 #003
30-025-29067	STATE LAND 76 #004
30-025-29208	STATE LAND 76 #005

- 20) KOB has acknowledged that a number of additional, single-well bonds are due to the OCD, the current total being \$305,043, and intends to post these bonds immediately.

III. CONCLUSIONS OF THE OCD

- 21) KOB currently has **24** wells that have been inactive for a period of at least one year plus 90 days, in violation of OCD Rule 19.15.25.8 NMAC.
- 22) KOB currently has **26** state or fee wells for which no production has been reported for at least two years, and for which additional financial assurance is therefore now due.
- 23) The total amount of additional bonding now due for these 26 wells is \$ 305,043. KOB has not posted any of the additional financial assurances for these 26 wells, and its failure to do so constitutes a violation of OCD Rule 19.15.8.9 NMAC.

Kevin O. Butler (12627)

ACO 268

March 17, 2009

Page 4

IV. ORDER

- 24) The OCD hereby Orders KOB to come into full compliance with OCD Rule 19.15.8.9 NMAC by posting the outstanding single-well financial assurances for the following ~~ten~~ ^{eleven} wells no later than 4:00 p.m. on MARCH 31, 2009:

ANDERSON #001	30-025-29953
ANDERSON 6#001	30-025-29748
E B ANDERSON #001	30-025-22340
E B ANDERSON #002	30-025-22454
E B ANDERSON #003	30-025-29786
NEW MEXICO X STATE #001	30-025-03941
NM DE STATE #002	30-025-21763
NM DE STATE #003	30-025-21813
STATE LAND 76 #003	30-025-29066
STATE LAND 76 #004	30-025-29067
STATE LAND 76 #005	30-025-29208

- 25) The OCD hereby Orders KOB to come into full compliance with OCD Rule 19.15.8.9 NMAC by posting the outstanding single-well financial assurances for the remaining ~~sixteen~~ ^{eleven} wells if the wells still require additional bonding per OCD Rule 19.15.8.9 NMAC no later than 4:00 p.m. on April 24, 2009:

SOUTH CAPROCK QUEEN UNIT #003	30-005-01190
SOUTH CAPROCK QUEEN UNIT #003	30-005-00674
SOUTH CAPROCK QUEEN UNIT #005	30-005-00670
SOUTH CAPROCK QUEEN UNIT #010	30-005-00658
SOUTH CAPROCK QUEEN UNIT #011	30-005-00657
SOUTH CAPROCK QUEEN UNIT #012	30-005-01180
SOUTH CAPROCK QUEEN UNIT #014	30-005-01163
SOUTH CAPROCK QUEEN UNIT #014X	30-005-01193
SOUTH CAPROCK QUEEN UNIT #015	30-005-01161
SOUTH CAPROCK QUEEN UNIT #015	30-005-00662
SOUTH CAPROCK QUEEN UNIT #016	30-005-00661
SOUTH CAPROCK QUEEN UNIT #017	30-005-21000

Kevin O. Butler (12627)

ACO 258

March 17, 2009

Page 5

STATE R #001

30-025-01155

MESA STATE #001

30-025-27397

MESA STATE #002

30-025-27722

EAST EK UNIT #010

30-025-22766

- 26) KOB shall submit all currently due and any amended production reports (C-115s) to the OCD no later than **4:00 p.m. on April 15, 2009.**
- 27) Regarding those wells identified on *Exhibits A and B* on which KOB has performed remedial work, tested, plugged or performed any other operation for which submission of a sundry is required pursuant to Rule 19.15.7.14 NMAC:
- If KOB has not yet filed the required C-103 notice of intent sundries, KOB shall submit said C-103 subsequent report sundries no later than **4:00 p.m. on MARCH 31, 2009.**
 - If KOB has not yet filed the required C-103 subsequent report sundries pursuant to Rule 19.15.7.14 NMAC, KOB shall submit said C-103 subsequent report sundries no later than **4:00 p.m. on MARCH 31, 2009.**
- 28) Specifically with regard to the **V E RODDY #001, 30-025-29869**, KOB shall submit a subsequent report sundry (C-103) reflecting the remediation performed to address the contaminated soil documented by the Letter of Violation issued to KOB in January of 2008 no later than **4:00 p.m. on MARCH 31, 2009.**
- 29) For any of the subject wells that KOB intends to return to production, plug and abandon or seek approval of temporary abandonment, KOB shall file C-103 notice of intent sundries reflecting its intentions for each such well no later than **4:00 p.m. on MARCH 31, 2009.**
- 30) By signing this order, KOB expressly:
- a. acknowledges the facts, findings and determinations set out above in Sections I and II;
 - b. acknowledges the authority of the OCD to render the "Conclusions" and "Order" contained herein in Sections III and IV;
 - c. acknowledges that it is now aware that it is required to post additional financial assurance based upon well location and depth pursuant to OCD Rule 19.15.8.9 NMAC for any state or fee well for which no production has been reported for two or more years, even if the well has obtained approval for

Kevin O. Butler (12627)

ACO **258**

March 17, 2009

Page 6

temporary abandonment from the OCD, and that this requirement applies to plugged wells until the surface has been restored and the site has been released by the district.

- d. specifically acknowledges that it currently has 26 state or fee wells that, based upon production reports submitted to the OCD by KOB, require the posting of additional financial assurances pursuant to OCD Rule 19.15.8.9 NMAC, and that the total current amount owed in additional bonding is \$305,043;
 - e. specifically acknowledges that it currently has 24 wells for which KOB has not reported production for a period of at least one year plus 90 days, and which are therefore "inactive" in violation of OCD Rule 19.15.25.8 NMAC.
 - f. agrees to comply with the Order, specifically as articulated herein;
 - g. waives any right, pursuant to the Oil and Gas Act or otherwise, to a hearing either prior or subsequent to the entry of this Order or to an appeal from this Order;
 - h. agrees that if it fails to comply with this Order and/or fails to follow through regarding the intentions memorialized by sundries filed pursuant to this Order, the Division intends to file an enforcement and compliance action under §70-2-14(b)NMSA 1978 requiring operator to plug all of its wells based on its failure to comply with OCD Rules.
- 25) Nothing in this Order relieves KOB of its 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 KOB of its responsibility for compliance with any other federal, state or local laws and/or regulations.

Done at Santa Fe, New Mexico this 17th day of March 2009.

By: 

Mark Fesmire, P.E.

Director, Oil Conservation Division

ACCEPTANCE

KEVIN O. BUTLER & ASSOCIATES, INC. (OGRID No. 12627), Operator of the wells specifically identified in **Exhibit A** and **Exhibit B**, attached hereto, hereby

Kevin O. Butler (12627)

ACO 258

March 17, 2009

Page 7

accepts the foregoing Order, and agrees to all of the terms and provisions as set forth in the Order.

KEVIN O. BUTLER & ASSOCIATES, INC.

By: 

Title: PCC

Date: 3-17-09