

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

APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION, THROUGH THE ENFORCEMENT AND COMPLIANCE BUREAU, BY AND THROUGH ITS ATTORNEY, FOR A COMPLIANCE ORDER AGAINST DESERT ROSE RESORT LLC DBA KOA KAMPGROUND, FINDING THAT THE OPERATOR IS IN VIOLATION OF DIVISION RULE 19.15.16.11 NMAC AS TO ONE WELL, REQUIRING OPERATOR TO BRING SAID WELL INTO COMPLIANCE WITH 19.15.16.11 NMAC BY A DATE CERTAIN, AND IN THE EVENT OF NON-COMPLIANCE, DECLARING THE WELL ABANDONED AND AUTHORIZING THE DIVISION TO PLUG THE WELL IN SAN JUAN COUNTY, NEW MEXICO.

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CASE NO. 15186

**APPLICATION FOR COMPLIANCE ORDER
AGAINST DESERT ROSE RESORT LLC DBA KOA KAMPGROUND**

1. Desert Rose Resort LLC DBA KOA Kampground (“Desert Rose”) is operating the following well (“subject well”) in San Juan County, New Mexico, under OGRID No. 215351:

- Hare #001, O-14-29N-11W, API No. 30-045-08185

2. Desert Rose has posted financial assurance in the form of a \$5,000 cash bond, Wells Fargo Farmington Bond No. OCD-726 to secure its obligation to plug and abandon the well.

3. Division Rule 19.15.16.11 NMAC requires an operator of a well with defective casing or cementing to notify the division within five working days to use the appropriate method and means to eliminate the hazard. If the hazard of waste or

contamination of fresh water cannot be eliminated, the operator shall properly plug and abandon the well.

4. On March 18, 2013, the Oil Conservation Division (“OCD”) responded to a public concern about fluid around the Hare #1 well. The OCD found water coming from the wellhead area and notified Desert Rose of the leak.

5. On April 9, 2013, Desert Rose scheduled to excavate around the wellhead to identify the source of the leak. As a result of the excavation, a hole was discovered in the casing. Compliance Officer Monica Kuehling informed Desert Rose’s onsite representative that a plan needed to be submitted to repair the casing.

6. On October 29, 2013, Inspection and Enforcement Supervisor Brandon Powell issued a compliance letter directing Desert Rose to submit a plan within 30 days and initiate remedial activity before December 29, 2013.

7. On April 1, 2014, the OCD responded to a public concern about a leak from the Hare #1 well. The OCD found water still leaking from the wellhead area.

8. Letter of Violation 3-14-01 (*See exhibit 1*) was issued April 2, 2014 and had a July 1, 2014 deadline to start remedial activity.

9. On May 30, 2014, Operator’s contractor filed a notice of intent to plug the well. The notice of intent was approved on June 6, 2014. On June 10, 2014 OCD’s District III I & E Supervisor Brandon Powell sent an E-mail reminder of the upcoming deadline to their field representative and he contacted their local consultant who also sent them an email reminder on June 13, 2014.

10. As of July 18, 2014 the OCD has not heard from Desert Rose. An inspection conducted on July 21, 2014 determined no activity taking place.

11. Division Rule 19.15.5.10 (B)(3-4) NMAC authorizes the Director to order the Operator to perform corrective action and plug and abandon the well and restore and remediate the location by a date certain.

12. NMSA 1978, Section 70-2-12(B)(18) and NMSA 1978, Section 70-2-38 authorize the Division to plug and abandon wells, and restore and remediate the location of abandoned wells.

WHEREFORE, Keith Herrmann, Assistant General Counsel of the Division, hereby applies to the Director to enter an Order:

- A. Determining that the subject well is not in compliance with Division Rule 19.15.16.11 NMAC;
- B. Requiring Operator Desert Rose Resort LLC, DBA KOA Kampground to plug and abandon the subject well by a date certain;
- C. If the subject well is not brought into compliance with Division Rule 19.15.25.8 NMAC governing proper plugging and abandonment, by the date set in the Order, finding Desert Rose out of compliance with a division order, declaring the well abandoned and authorizing the Division to plug the subject well in accordance with a Division-approved plugging program and restore and remediate the location;
- D. Should the Division have to plug and abandon the well, Desert Rose forfeits its financial assurance with the associated well and the Division retains its right to seek indemnification from Desert Rose for the remaining cost in accordance with NMSA 1978, Section 70-2-14(E); and

E. For such other and further relief as the Director deems just and proper under the circumstances.

RESPECTFULLY SUBMITTED,
this 22 day of July, 2014 by



Keith W. Herrmann
Assistant General Counsel
Energy, Minerals and Natural
Resources Department of the State of
New Mexico
1220 S. St. Francis Drive
Santa Fe, NM 87505
(505) 476-3463

Attorney for The New Mexico Oil
Conservation Division

Case No. 15/86. Application of the New Mexico Oil Conservation Division, through the Enforcement And Compliance Bureau, by and through its attorney, for a Compliance Order against Desert Rose Resort LLC DBA KOA Kampground, finding that the operator is in violation of division rule 19.15.16.11 NMAC as to one well, requiring operator to bring said well into compliance with 19.15.16.11 NMAC by a date certain, and in the event of non-compliance, declaring the well abandoned, authorizing the division to plug the well in San Juan County, New Mexico, forfeiting operator's financial assurance, and seek indemnification from Desert Rose for the remaining cost in accordance with NMSA 1978, Section 70-2-14(E).

Exhibit 1: Letter of Violation 3-14-01

State of New Mexico
Energy, Minerals and Natural Resources Department

Susana Martinez
Governor

David Martin
Cabinet Secretary

Brett F. Woods, Ph.D.
Deputy Cabinet Secretary

Jami Bailey, Division Director
Oil Conservation Division



**LETTER OF VIOLATION
(3-14-01)**

April 2, 2014

Certified Mail

Return Receipt #: 7006 3450 0000 0451 8742

Thomas Sikorski, President
Desert Rose Resort LLC,
DBA KOA Kampground
1900 E Blanco Blvd.
Bloomfield, NM 87413

Re: Desert Rose Resort LLC, DBA KOA Kampground, OGRID 215351

**Well: Hare #1, API 30-045-08185, UL O, Section 14, Township 29N, Range 11W
San Juan County, New Mexico**

Violation of OCD Rules:
19.15.16.11NMAC

Dear Mr. Sikorski:

On March 18, 2013, the Oil Conservation Division (hereinafter OCD) responded to a public concern about fluid around the Hare #1 (API# 30-045-08185) well. The OCD found water coming from the wellhead area and notified Desert Rose Resort LLC (hereinafter Desert Rose) of the leak.

A subsequent OCD investigation found the following:

1. On April 9, 2013, Desert Rose scheduled to excavate around the wellhead to identify the source of the leak. As a result of the excavation, a hole was discovered in the casing. Compliance Officer Monica Kuehling informed Desert Rose's onsite representative that a plan needed to be submitted to repair the casing.

2. On October 29, 2013, Inspection and Enforcement Supervisor Brandon Powell issued a compliance letter directing Desert Rose to submit a plan within 30 days and initiate remedial activity before December 29, 2013.
3. On April 1, 2014, the OCD responded to a public concern about a leak from the Hare #1 well. The OCD found water still leaking from the wellhead area.
4. As of April 1, 2014, the OCD has not received an official plan and Desert Rose has not initiated remedial activity to repair the Hare #1 well.

OCD Rule 19.15.16.11 NMAC DEFECTIVE CASING OR CEMENTING: If a well appears to have a defective casing program or faultily cemented or corroded casing that will permit or may create underground waste or contamination of fresh waters, the operator shall give written notice to the division within five working days and proceed with diligence to use the appropriate method and means to eliminate the hazard. If the hazard of waste or contamination of fresh water cannot be eliminated, the operator shall properly plug and abandon the well.

Violation 1: Desert Rose violated **OCD Rule 19.15.16.11 NMAC** by not proceeding with diligence to repair the casing or plug the Hare #1 well site. It has been 357 days since the casing leak was first verified.

The OCD is opting **NOT** to issue a **NOTICE OF VIOLATION** at this time for the failure to comply with OCD Rule 19.15.16.11 NMAC. However, Desert Rose is admonished that any future activities that are not in compliance with OCD Rules may be subject to formal enforcement action.

Please be advised formal action under NMSA 1978 Section 70-2-31(A) provides in relevant part, “[a]ny person who knowingly and willfully violates any provision of the Oil and Gas Act or any provision of any rule or order issued pursuant to that act shall be subject to a civil penalty of not more than one thousand dollars (\$1,000) for each violation.”

As an Operator in the State of New Mexico, it is Desert Rose’s responsibility to comply with OCD’s rules. Desert Rose is advised to review **all** of the OCD rules with additional emphasis on **Rule 19.15.16.11 NMAC “DEFECTIVE CASING OR CEMENTING”**.

To come into compliance and avoid further enforcement action, Desert Rose is required to perform the following actions:

Submit a sundry by May 1, 2014, detailing how Desert Rose will either repair the casing or plug the Hare #1.

Desert Rose is required to initiate the remedial activity by July 1, 2014.

Review Desert Rose's compliance with OCD Rule 19.15.17 NMAC PITS, CLOSED-LOOP SYSTEMS, BELOW-GRADE TANKS AND SUMPS to ensure the below-grade tank Desert Rose has on location is in compliance. If it is found out of compliance, perform all necessary work to bring the below grade tank into compliance by July 1, 2014.

All documents should be submitted and addressed to the OCD's Aztec district office.

If I can be of assistance, please contact me at (505) 334-6178 extension 111.

Sincerely,



Charlie T. Perrin
District III Supervisor
charlie.perrin@state.nm.us

cc: LOV file

cc: Daniel Sanchez, OCD Compliance Manager
Gabriel Wade, OCD Assistant General Counsel
John Bagwell, Desert Rose Acting Assistant Manager