

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 MANAGER, FOR A
HEARING ON THE REQUEST OF AMERICO ENERGY RESOURCES LLC
FOR A WAIVER OF PENALTIES DUE UNDER THE TERMS OF AGREED
COMPLIANCE ORDER 70-A.

CASE NO. 13819

**ENTRY OF APPEARANCE AND
PRE-HEARING STATEMENT**

The Oil Conservation Division submits this entry of appearance and pre-hearing statement pursuant to OCD Rule 1211 [19.15.14.1211 NMAC].

APPEARANCES

APPLICANT

Oil Conservation Division

APPLICANT'S ATTORNEY

Gail MacQuesten
Oil Conservation Division
Energy, Minerals and Natural
Resources Department
1220 S. St. Francis Drive
Santa Fe, NM 87505
(505) 476-3451
FAX: 476-3462

RESPONDENT

Americo Energy Resources LLC

Mr. Oscar Nosrati
Americo Energy Resources LLC
10940 Old Katy Rd., Suite 100
Houston, TX 77043
Oscar.nosrati@americoenergy.com

STATEMENT OF THE CASE

On March 31, 2006, Americo Energy Resources LLC (Americo) entered into inactive well agreed compliance order 70-A (ACOI 70-A) which required Americo to return three of the wells identified in the agreed order to compliance with Rule 201 [19.15.4.201 NMAC] by September 25, 2006, and file a compliance report by that date. To bring a well into compliance under the terms of the order Americo had to restore the well to production or other beneficial use, plug the wellbore, or place the well on approved

temporary abandonment status, and file the appropriate paperwork to document the work done.

If Americo failed to meet its goal of returning three of the identified wells to compliance by September 25, 2006, it agreed to pay a penalty of \$1,000 times the number of wells it failed to return to compliance under the terms of the order. The agreed order further provided, however, that if Americo encountered unanticipated circumstances that prevented it from meeting the compliance deadlines, Americo could request a waiver or reduction of the penalties. If the Enforcement and Compliance Manager did not grant the requested waiver or reduction administratively, the matter would be set for hearing.

Americo failed to file a timely compliance report, as required by the agreed order. The day after the report was due, Americo filed a report notifying the OCD that it had not returned any wells to compliance, and requesting a waiver of penalties due. The Enforcement and Compliance Manager declined to waive the penalties. The OCD set the matter for hearing, as provided in ACOI 70-A.

It is Americo's burden at this hearing to persuade the examiner that the \$3,000 penalty due under ACOI 70-A should be waived. The OCD opposes the waiver of the penalty, for the following reasons:

1. Americo disregarded the requirements of ACOI 70-A by
 - Failing to file a timely compliance report, as required by the order.
 - Failing to return three wells to compliance by the deadline set in the order.
 - Failing to understand and follow OCD rules for obtaining approved temporary abandonment status for wells, even after the rule was explained to Americo in writing.
2. Americo's excuse that its partner failed to do the work required under the order is inadequate. Americo is operator of record. If it chooses to use an agent to carry out its duties as operator it assumes responsibility for that agent's failures.
3. Americo has been on notice of the need to return its inactive wells to compliance since at least May 27, 2005, when it entered into its first agreed compliance order for inactive wells, ACOI 70. That order covered 11 wells (including the seven wells now covered by ACOI 70-A). The original order, ACOI 70, required Americo to file monthly compliance reports and return all 11 wells to compliance by January 31, 2006. Americo failed to file compliance reports and only returned 4 wells to compliance. Americo paid a reduced penalty of \$2,000 for its failure to comply with ACOI 70 when it entered into its current order, ACOI 70-A.

The OCD requests that the examiner enter an order denying Americo's request for a waiver of the \$3,000 penalty due under ACOI 70-A.

APPLICANT'S PROPOSED EVIDENCE

WITNESS:

ESTIMATED TIME:

Daniel Sanchez, Enforcement and Compliance
Manager

20 min.

Chris Williams, Supervisor, OCD District I

10 min.

PROCEDURAL MATTERS

None.

Respectfully submitted
this 21st day of November 2006 by



Gail MacQuesten
Oil Conservation Division
Energy, Minerals and Natural
Resources Department
1220 S. St. Francis Drive
Santa Fe, NM 87505
(505) 476-3451

Attorney for the Oil Conservation Division

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was served upon the following by first class mail and electronic mail this 21st day of November 2006:

Mr. Oscar Nosrati
Americo Energy Resources LLC
10940 Old Katy Rd., Suite 100
Houston, TX 77043
Oscar.nosrati@americoenergy.com


Gail MacQuesten