

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

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APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION, THROUGH THE ENFORCEMENT AND COMPLIANCE MANAGER, FOR A COMPLIANCE ORDER AGAINST JAY MANAGEMENT COMPANY, LLC FINDING THAT THE OPERATOR IS IN VIOLATION OF 19.15.25.8 NMAC AS TO TWENTY FOUR WELLS, REQUIRING OPERATOR TO RETURN THE WELLS TO COMPLIANCE BY A DATE CERTAIN, AND IN THE EVENT OF NON-COMPLIANCE AUTHORIZING THE DIVISION TO PLUG AND ABANDON THE WELLS AND FORFEIT THE APPLICABLE FINANCIAL ASSURANCE, LEA COUNTY, NEW MEXICO.

CASE NO. 14303

MOTION TO DISMISS

The Oil Conservation Division (OCD) moves to dismiss Case No. 14303, currently scheduled for June 2, 2009. This motion is supported by the following:

1. The OCD filed the application in Case No. 14303 seeking an order setting a schedule for the operator to return 24 inactive wells to compliance.
2. The operator has entered into inactive well agreed compliance order 207 (ACOI 207) that sets a schedule for compliance and authorizes the OCD to plug the wells and forfeit the applicable financial assurance if the operator fails to meet its schedule. A copy of the agreed order is attached.

Respectfully submitted
this 14th day of May 2009 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 mailed by first class mail to Jay Management Company, LLC, 4801 Woodway Drive, Suite 100E, Houston, TX 77056 this 14th day of May 2009.


Gail MacQuesten

6/14/09
WV 5/15/09

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

NMOCD - ACOI- 207

IN THE MATTER OF JAY MANAGEMENT COMPANY, LLC,

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 Jay Management Company, LLC ("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 in Exhibit "A" pursuant to the Act and OCD Rule 19.15.25.8 NMAC in accordance with the following agreed schedule and procedures; agrees to maintain financial assurances as required by OCD Rule 19.15.8.9 NMAC for the wells identified in Exhibit "A" in the form of cash bonds or letters of credit; agrees to pay penalties as set out below if it fails to meet the schedule set out in this Order; and agrees that if it fails to comply with this Order as set out below, the OCD may plug any well identified on Exhibit "A" that remains out of compliance with OCD Rule 19.15.5.8 NMAC and forfeit the applicable financial assurance and waives any right to notice and hearing prior to that plugging and forfeiture.

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 limited liability company doing business in the state of New Mexico.
3. Operator is the operator of record under OGRID 247692 for the wells identified in Exhibit "A," attached.
4. OCD Rule 19.15.25.8 NMAC [Part 25.8] 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.”

5. The wells identified in Exhibit “A” are in violation of Part 25.8 because they

(a) have been continuously inactive for a period of one year plus 90 days;

(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 70-2-14(B) provides:

“If any of the requirements of the Oil and Gas Act or the rules promulgated pursuant to that act have not been complied with, the oil conservation division, after notice and hearing, may order any well plugged and abandoned by the operator or surety or both in accordance with division rules. If the order is not complied with in the time period set out in the order, the financial assurance shall be forfeited.”

7. OCD Rule 19.15.8.9 NMAC requires operators to post a single-well financial assurance for each state or fee well that has been inactive for more than two years, even if the operator has also posted a \$50,000 blanket financial assurance.

8. Operator has posted blanket \$50,000 letter of credit No. BOK07SDP01655 and single-well letters of credit for the following wells in the amounts indicated:

Amerada Com #1	30-025-22378	BOKO8SDP01882	\$15,160
Bess #002	30-025-28545	BOKO8SDP01883	\$15,825
Clark State #001	30-025-21880	BOKO8SDP01884	\$15,150
Eva Com #001	30-025-22412	BOKO8SDP01885	\$15,244
G S State #001	30-025-22811	BOKO8SDP01887	\$15,400
Iva Com. #001	30-025-22437	BOKO8SDP01886	\$15,250
Kelsay #001	30-025-01005	BOKO8SDP01888	\$15,135
Leigh Com #001	30-025-22541	BOKO8SDP01889	\$15,300
NM B State #1	30-025-00035	BOKO8SDP01890	\$14,558

NM B State #3	30-025-00037	BOKO8SDP01891	\$14,495
NM X State #1	30-025-21603	BOKO8SDP01892	\$9,490
Opal #001	30-025-22561	BOKO8SDP01893	\$15,360
Queen Com #001	30-025-22642	BOKO8SDP01894	\$15,350
Rose #001	30-025-22653	BOKO8SDP01895	\$15,350
Shell State Com #1	30-025-22226	BOKO8SDP01896	\$15,300
Sohio B State #1	30-025-22122	BOKO8SDP01898	\$15,510
Sohio State #1	30-025-22043	BOKO8SDP01897	\$15,450
State NBF #1	30-025-20891	BOKO8SDP01899	\$15,100
State NBN #1	30-025-00998	BOKO8SDP01900	\$16,607
Vera #001	30-025-22761	BOKO8SDP01901	\$15,350
Warren A State #1	30-025-23338	BOKO8SDP01914	\$15,200
Warren State #1	30-025-22012	BOKO8SDP01902	\$15,160
Collier # 001	30-025-00994	BOK09Sdp01952	\$16,400*

*Pending

9. 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.
10. 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 in violation of Part 25.8 NMAC.
3. As operator of the wells identified in Exhibit "A," Operator is responsible for bringing those wells into compliance with Part 25.8.
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 shall comply with the financial assurance requirements of 19.15.8.9 NMAC for the wells identified in Exhibit "A" by posting financial assurances in the form of cash bonds or letters of credit.
2. Operator shall bring at least 3 of the wells identified in Exhibit "A" into compliance with Part 25.8 by December 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.
3. 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, delivered by courier, or e-mailed to the OCD's Enforcement and Compliance Manager so that it is **received by** the compliance deadline of December 1, , 2009.
4. When the OCD receives a timely compliance report indicating that Operator has returned at least 3 wells to compliance and verifies the accuracy of that report, and verifies that Operator is in compliance with the financial assurance requirements of this Order, 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.
5. If Operator returns at least 3 wells to compliance in the second six-month period and is in compliance with the financial assurance requirements of this Order, OCD shall issue an amendment to this Order extending its term for a third six-month period. If Operator returns at least 3 wells to compliance in the third six-month period and is in compliance with the financial assurance requirements of

this Order, 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.

6. 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.

7. 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 Part 25.8 will appear on the inactive well list kept pursuant to OCD Rule 19.15.5.9(F) NMAC.
8. **If the OCD does not issue an amendment after the first, second or third terms of this Order due to Operator's failure to comply with the terms of this Order, or if Operator has not returned a total of at least 12 wells from Exhibit "A" to compliance with Part 25.8 by the end of the fourth term of this Order, the OCD may plug all wells on Exhibit "A" that remain out of compliance with Part 25.8 and forfeit the applicable financial assurance(s); Operator expressly waives any right to notice and hearing prior to the plugging and forfeiture.**
9. **In the event the OCD files a judicial action to enforce this Order, the parties agree that the action shall be heard by the district court for Santa Fe County, and they waive any right to challenge such jurisdiction in any forum.**
10. By signing this Order, Operator expressly:
 - (a) acknowledges the correctness of the Findings and Conclusions set forth in this Order;
 - (b) agrees to comply with the financial assurance requirements of 19.15.8.9 NMAC as to the wells identified on Exhibit "A" by posting financial assurances in the form of cash bonds and letters of credit;
 - (c) agrees to return to compliance 3 of the wells identified in Exhibit "A" by December 1, 2009, and agrees to comply with the compliance deadlines set by any amendments to this Order;
 - (d) agrees to submit a compliance report as required in Ordering Paragraph 2 by the compliance deadline set by any amendments to this Order;
 - (e) 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, subject to its right to request waiver or reduction as specified in Ordering Paragraph 6;
 - (f) agrees that if the OCD does not issue an amendment after the first, second or third terms of this Order due to the failure of Operator to fulfill its obligations under this Order, or if Operator has not returned a total of at least 12 wells from Exhibit "A" to compliance with Part 25.8 by the end of the fourth term of this Order, the OCD may plug all wells on Exhibit "A" that remain out of compliance with Part 25.8 and forfeit the applicable financial assurance(s), and Operator waives its right to notice or hearing prior to the plugging or forfeiture;

- (g) 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;
- (h) 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; and
- (i) acknowledges that if the OCD files a judicial action to enforce this Order, the district court of Santa Fe County shall have jurisdiction.

11. This Order applies only to the enforcement of Part 25.8 against those wells identified in Exhibit "A." Other wells operated by Operator out of compliance with Part 25.8 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 Part 25.8 may be subject to immediate enforcement action under the Oil and Gas Act and OCD Rules.

12. 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 14th day of May 2009

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

ACCEPTANCE

Jay Management Company, LLC hereby accepts the foregoing Order, and agrees to all of the terms and provisions set forth in that Order.

Jay Management Company, LLC

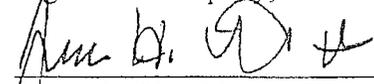
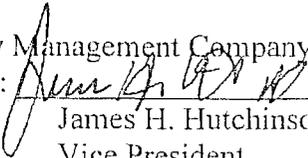
By: 
James H. Hutchinson, III
Title: Vice President
Date: May 6, 2009

Exhibit A to Agreed Compliance Order for Jay Management Company, LLC

1	30-025-22378	AMERADA COM #001	J-28-11S-33E	J	247692	JAY MANAGEMENT COMPANY, LLC	S O	07/1979	
1	30-025-21904	ANDOVER FEDERAL #001	P-17-11S-33E	P	247692	JAY MANAGEMENT COMPANY, LLC	F O	10/2000	
1	30-025-28545	BESS #002	A-20-11S-33E	A	247692	JAY MANAGEMENT COMPANY, LLC	P G	10/2000	
1	30-025-21880	CLARK STATE #001	D-27-11S-33E	D	247692	JAY MANAGEMENT COMPANY, LLC	S O	06/2003	
1	30-025-00994	COLLIER #001	F-9-11S-33E	F	247692	JAY MANAGEMENT COMPANY, LLC	P O	03/2007	
1	30-025-22412	EVA COM #001	J-20-11S-33E	J	247692	JAY MANAGEMENT COMPANY, LLC	P O	05/2002	
1	30-025-22811	G.S. STATE #001	G-8-11S-33E	G	247692	JAY MANAGEMENT COMPANY, LLC	S O	04/1994	
1	30-025-22437	IVA COM #001	H-20-11S-33E	H	247692	JAY MANAGEMENT COMPANY, LLC	P O	03/1993	
1	30-025-01005	KELSAY #001	M-28-11S-33E	M	247692	JAY MANAGEMENT COMPANY, LLC	P O	04/1991	
1	30-025-22541	LEIGH COM #001	N-20-11S-33E	N	247692	JAY MANAGEMENT COMPANY, LLC	P O	01/1991	
1	30-025-00035	NEW MEXICO B STATE #001	B-27-10S-32E	B	247692	JAY MANAGEMENT COMPANY, LLC	S O	03/2001	DEVONIAN
1	30-025-00037	NEW MEXICO B STATE #003	B-27-10S-32E	B	247692	JAY MANAGEMENT COMPANY, LLC	S O	06/2000	
1	30-025-21603	NEW MEXICO X STATE #001	P-10-10S-32E	P	247692	JAY MANAGEMENT COMPANY, LLC	S O	10/2000	
1	30-025-22561	OPAL #001	D-20-11S-33E	D	247692	JAY MANAGEMENT COMPANY, LLC	P G	07/1993	
1	30-025-22642	QUEEN COM #001	L-20-11S-33E	L	247692	JAY MANAGEMENT COMPANY, LLC	P G	12/1997	
1	30-025-22653	ROSE #001	C-32-11S-33E	C	247692	JAY MANAGEMENT COMPANY, LLC	S G	08/1996	
1	30-025-22226	SHELL STATE COM #001	H-17-11S-33E	H	247692	JAY MANAGEMENT COMPANY, LLC	S G	06/1988	
1	30-025-22122	SOHIO B STATE #001	P-5-11S-33E	P	247692	JAY MANAGEMENT COMPANY, LLC	S O	05/2003	
1	30-025-20891	STATE NBF #001	F-22-11S-33E	F	247692	JAY MANAGEMENT COMPANY, LLC	S O	12/1994	
1	30-025-00998	STATE NBN #001	N-16-11S-33E	N	247692	JAY MANAGEMENT COMPANY, LLC	S O	04/2002	
1	30-025-22761	VERA #001	E-32-11S-33E	E	247692	JAY MANAGEMENT COMPANY, LLC	S G	03/2002	
1	30-025-23338	WARREN A STATE #001	I-28-11S-33E	I	247692	JAY MANAGEMENT COMPANY, LLC	S O	01/2006	

Jay Management Company, LLC

By: 
James H. Hutchinson, III
Vice President