

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

NMOCD – ACOI- 247

IN THE MATTER OF AGAVE ENERGY COMPANY,

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 Agave Energy Company ("Operator") enter into this Inactive Well Agreed Compliance Order ("Order" or "ACOI"). Operator agrees to plug, restore to production or other beneficial use the well identified herein in accordance with the following agreed schedule and procedures, or face the possibility of no further agreed compliance orders. See 19.15.25.8 NMAC

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 company doing business in the state of New Mexico.
3. Operator is the operator of record under OGRID 147831 for the well 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."

5. The well identified in Exhibit "A"

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- (a) has been continuously inactive for a period of one year plus 90 days;
 - (b) is not plugged or abandoned in accordance with OCD Rule 19.15.25.9 NMAC through 19.15.25.11 NMAC; and
 - (c) is not on approved temporary abandonment status in accordance with OCD Rule 19.15.25.12 NMAC through 19.15.25.14 NMAC.
6. An operator faces sanctions if it is out of compliance with OCD Rule 19.15.5.9 NMAC. Sanctions include possible denial of registration by operator or certain related entities (OCD Rule 19.15.9.8B NMAC), possible denial of change of operator that would transfer wells to the noncompliant operator (OCD Rule 19.15.9.9C.1 NMAC), mandatory denial of injection permits (OCD Rule 19.15.26.8A NMAC), possible revocation of injection permits after notice and hearing (OCD Rule 19.15.26.8A NMAC), possible denial of applications for a drilling permit (OCD Rule 19.15.14.10A NMAC), and mandatory denial of allowable and authorization to transport (OCD Rule 19.15.16.19A NMAC).
7. Operator is currently out of compliance with OCD Rule 19.15.5.9.A(4) NMAC because it has one well and that well is out of compliance with OCD Rule 19.15.25.8 NMAC (the inactive well rule).
8. As the operator of record of 1 well, to be in compliance with OCD Rule 19.15.5.9.A(4) NMAC, Operator may have no more than 1 well out of compliance with OCD Rule 19.15.25.8 NMAC (inactive well rule). See OCD Rule 19.15.5.9A(4)(b) NMAC. According to the inactive well list kept pursuant to OCD Rule 19.15.5.9(F) NMAC, Operator has 1 well out of compliance with the inactive well rule. A copy of Operator's inactive well list as of November 28, 2011 is attached as Exhibit "A." Operator faces sanctions for being out of compliance with OCD Rule 19.15.5.9 NMAC.
9. Operator intends to seek privileges from the OCD that would be subject to sanction due to Operator being out of compliance with OCD Rule 19.15.5.9 NMAC. By placing the well identified in Exhibit "A" under this Order, Operator will not face sanctions for being out of compliance with OCD Rule 19.15.5.9 NMAC.

CONCLUSIONS

1. The OCD has jurisdiction over the parties and subject matter in this proceeding.
2. The well identified in Exhibit "A" is out of compliance with OCD Rule 19.15.25.8 NMAC.

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3. As operator of the well identified in Exhibit "A," Operator is responsible for bringing that well into compliance with OCD Rule 19.15.25.8 NMAC.
4. The OCD and Operator enter into this Order to remove the well identified in Exhibit "A" from the inactive well list kept pursuant to OCD Rule 19.15.5.9(F) NMAC and consideration of Operator's compliance with the inactive well rule for purposes of Operator's compliance with OCD Rule 19.15.5.9 NMAC. Operator remains subject to sanctions for being out of compliance with OCD Rule 19.15.5.9 NMAC IF Operator becomes out of compliance with OCD Rule 19.15.5.9 NMAC for any reason other than the inactive well identified in Exhibit "A."

ORDER

1. Operator agrees to bring 1 well identified in Exhibit "A" into compliance with OCD Rule 19.15.25.8 NMAC by March 1, 2012 via

restoring the well to OCD-approved beneficial use as an Acid Gas Injection well **and filing C-103s to document the work done to the well and a C-115 documenting such use;**
2. Operator shall file a compliance report identifying the 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 the well 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 and to the OCD attorney in charge of inactive well agreed compliance orders so that it is **received by** the compliance deadline of March 1, 2012. The total length of this Agreed Compliance Order is three months.
3. Operator understands that if it fails to meet the terms of this Order, the OCD may decide not to enter into any further agreed compliance orders with Operator.
4. This Order shall expire on March 1, 2012. At that time, 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, and will be considered when determining Operator's compliance with OCD Rule 19.15.5.9 NMAC.
6. By signing this Order, Operator expressly:

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- (a) acknowledges the correctness of the Findings and Conclusions set forth in this Order;
 - (b) agrees to return to compliance 1 well identified in Exhibit "A" by March 1, 2012;
 - (c) agrees to submit a compliance report as required in Ordering Paragraph 3 by the March 1, 2012 compliance deadline set by this Order;
 - (d) 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
 - (e) agrees that 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.
7. This Order applies only to the enforcement of OCD Rule 19.15.25.8 NMAC against the well 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. If the well identified in Exhibit "A" is out of compliance with the Oil and Gas Act or OCD Rules other than OCD Rule 19.15.25.8 NMAC may be subject to immediate enforcement action under the Oil and Gas Act and OCD Rules.
8. 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 1st day of December, 2011

By: _____

Daniel Sanchez
Compliance and Enforcement
Manager, Oil Conservation Division

ACCEPTANCE

Agave Energy Company hereby accepts the foregoing Order, and agrees to all of the terms and provisions set forth in that Order.

By: _____

J.B. Smith

Title: President

Date: November, 2011- December 1, 2011

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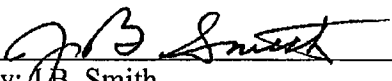
Exhibit A to Agreed Compliance Order for Agave Energy Company

Total Well Count: 1 Inactive Well Count: 1

As of: Monday, November 28 2011

District	API	Well	ULSTR	OCD Unit	OGRID	Operator	Lease Type	Well Type	Last Production	Formation/Notes	Status	TA Exp Date
2	30-015-31905	METROPOLIS DISPOSAL #001	K-36-10S-25E	K	147831	AGAVE ENERGY CO	S	S	07/2007	WILDCAT CHESTER		

WHERE Ogrid:147831, County:All, District:All, Township:All, Range:All, Section:All, Production(months):15, Excludes Wells Under ACOI, Excludes Wells in Approved TA Period


By: J.B. Smith
Title: President

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