

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

NMOCD – ACO- 279

IN THE MATTER OF BP AMERICA PRODUCTION COMPANY,

Respondent.

**BELOW-GRADE TANK
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 19.15.17 NMAC, the Director of the Oil Conservation Division ("OCD") and BP America Production Company ("Operator") enter into this Below-Grade Tank Agreed Compliance Order ("Order" or "ACO") under which Operator agrees to bring the below-grade tanks, identified herein, into compliance with the Act and OCD Rule 19.15.17 NMAC. Operator shall do so in accordance with the following agreed schedule and procedures, and understands that the OCD may decide not to enter into another agreement with Operator if Operator fails to meet the schedule set out in this Order.

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 corporation doing business in the state of New Mexico.
3. Operator is the operator of record under OGRID 778 for the below-grade tanks identified in Exhibit "A."
4. OCD Rule 19.15.17.11(1) NMAC states, in relevant part:

The operator of a single walled below-grade tank constructed and installed prior to June 16, 2008 and where any portion of the tank sidewall is below the ground surface and not visible shall equip or retrofit the below-grade tank to comply with Paragraphs (1) through (4) of Subsection I of 19.15.17.11 NMAC, or close it, by June 16, 2013. If the existing below-grade tank does not demonstrate integrity, the operator shall promptly drain the below-grade tank, remove it from service and comply with the closure requirements of 19.15.17.13 NMAC.

5. The below-grade tanks identified in Exhibit "A" will be out of compliance with Rule 19.15.17 NMAC as of June 17, 2013.

6. The below-grade tanks identified in Exhibit "A" could result in Operator facing sanctions.
7. Sanctions for being out of compliance with OCD Rule 19.15.17 NMAC include the possibility of the OCD seeking a Compliance Order against Operator.
8. The OCD and Operator enter into this agreement to allow Operator to complete its improvements while not being subject to sanctions.
9. Operator will be subject to sanctions if it fails to meet the terms of this Agreed Compliance Order.

CONCLUSIONS

1. The OCD has jurisdiction over the parties and subject matter in this proceeding.
2. The below-grade tanks identified in Exhibit "A" are out of compliance with OCD Rule 19.15.17 NMAC as of June 17, 2013.
3. As operator of the below-grade tanks identified in Exhibit "A," Operator is responsible for bringing those below-grade tanks into compliance with OCD Rule 19.15.17 NMAC.
4. The OCD and Operator enter into this agreement to allow Operator to complete its improvements while not being subject to sanctions under OCD Rule 19.15.17 NMAC.

ORDER

1. Operator agrees to bring forty-eight (48) below-grade tanks identified in Exhibit "A" into compliance with OCD Rule 19.15.17 NMAC by December 30, 2013.
2. Operator shall file a compliance report identifying each below-grade tank returned to compliance and stating the date it was returned to compliance. The written compliance report must be mailed or e-mailed to the OCD's Enforcement and Compliance Manager and to the OCD hydrologist in charge of below-grade tanks so that it is **received by** the compliance deadline of December 30, 2013. The total length of this Agreed Compliance Order is six months.
4. 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.
5. By signing this Order, Operator expressly:

- (a) acknowledges the correctness of the Findings and Conclusions set forth in this Order;
 - (b) agrees to return to compliance forty-eight (48) below-grade tanks identified in Exhibit "A" by December 30, 2013;
 - (c) agrees to submit a compliance report as required in Ordering Paragraph 2 by the December 30, 2013 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; 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 19.15.17 NMAC against those below-grade tanks identified in Exhibit "A." Other than the below-grade tanks identified in Exhibit "A", Operator acknowledges that if it is out of compliance with OCD Rule 19.15.17 NMAC on any other matter Operator may be subject to immediate enforcement action under the Oil and Gas Act and OCD Rules.

Done at Santa Fe, New Mexico this 15th day of July, 2013

By: Jam Bailey
Jam Bailey, OCD Director

ACCEPTANCE

BP America Production Company hereby accepts the foregoing Order, and agrees to all of the terms and provisions set forth in that Order.

BP America Production Company

By: Jerry L. Austin
(Please print name) Jerry L. Austin
Title: Area Operations Manager
Date: July 10, 2013

Exhibit A to Agreed Compliance Order for BP America Production Company

**Exhibit A to Below Ground Tank Agreed Compliance Order between BP
America Production Company and NMOCD dated 7/15, 2013**

	Single Walled Single Bottomed BGT List	
	Category: Within 300' of Flowing Water	
	Well Name	API#
1	LEEPER GC 001-MV	3004511142A
2	SULLIVAN GAS COM 001	3004511310A
	Category: Within 50' of Ground Water	
	Well Name	API#
3	ARCHULETA GC A 001B-MV	3004530189A
4	FLORANCE 124-DK, MV	3004524126A
5	GALLEGOS CANYON UNIT 303	3004524012A
6	GALLEGOS CANYON UNIT 512	3004528221A
7	GALLEGOS CANYON UNIT 563	3004530290A
8	GALLEGOS CANYON UNIT 579	3004530672A
9	GALLEGOS CANYON UNIT COM 568	3004530220A
10	GALLEGOS CANYON UNIT COM A 142	3004507767A
11	GALLEGOS CANYON UNIT COM B 143E	3004524284A
12	GALLEGOS CANYON UNIT COM G 179E	3004524556A, 3004524556B
13	JACQUES 001-MV	3004509105A
14	JAQUEZ GC B 001B-MV	3004530110A
15	UPTEGROVE GAS COM 001B	3004530267A
16	STATE GC L 001-MV	3004508741A
17	GCU 108-DK	3004508271B
18	GCU 288-PC	3004523735A
19	HEATH GC H 001E-MV/DK	3004523561A
20	PRITCHARD SALT WATER DISPOSAL	3004528351C
21	RUSSELL LS 003A-MV	3004523701B
22	SANDOVAL GC A 001B-MV	3004530187A
23	SMYERS GAS COM B 001	3004527939B
24	STATE COM B 003B	3004529699A
25	STATE GC J 001B-MV	3004529752A
26	GALLEGOS CANYON UNIT 542	3004529309A
27	GALLEGOS CANYON UNIT 008E	3004526191A
28	GALLEGOS CANYON UNIT 009	3004507006A
29	GALLEGOS CANYON UNIT 273	3004522238A
30	GALLEGOS CANYON UNIT 274	3004522234A
31	GALLEGOS CANYON UNIT 024	3004507003A

32	GALLEGOS CANYON UNIT 178E	3004526206A
33	GALLEGOS CANYON UNIT 245E	3004526290A
34	GALLEGOS CANYON UNIT 041	3004507074A
35	GALLEGOS CANYON UNIT 062	3004506920A
36	GALLEGOS CANYON UNIT 064	3004506837A
37	GALLEGOS CANYON UNIT 079	3004506729A
38	GALLEGOS CANYON UNIT 185	3004507085B
39	GALLEGOS CANYON UNIT 268	3004522239A
40	GCU 005-FC	3004507468A
41	GALLEGOS CANYON UNIT 340	3004526119A
42	GCU 200E-DK	3004524170A
43	GALLEGOS CANYON UNIT 566	3004530319A
44	GCU 321-PC	3004524625A
45	GCU COM 094-DK	3004508057B
	Category: Within 250' of Significant Water Way	
	Well Name	API#
46	HEATON LS 005	3004510251A
47	PRICE COM 004-MV	3004524029A
	Category: Within 500' of Wetlands	
	Well Name	API#
48	ELLIOTT GC F 001A-MV	3004522279A

BP America Production Company

By: _____

Title: _____