

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

2006 JUL 11 AM 10 22

NMOCD-06-135

**IN THE MATTER OF BLACK HILLS GAS
RESOURCES, INC.**

Respondent.

AGREED COMPLIANCE ORDER

Pursuant to the New Mexico Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38, as amended (hereinafter, "Act"), and the rules promulgated under the Act, the Director of the Oil Conservation Division of the Energy Minerals and Natural Resources Department of the State of New Mexico (hereinafter, "OCD") issues this Order to **BLACK HILLS GAS RESOURCES, INC.** (hereinafter "Black Hills") directing compliance with the Act and OCD Rules, and assessing a penalty for violations of the Act and OCD Rules.

I. FINDINGS

- 1) The OCD is the state division charged with administration and enforcement of the Act and OCD Rules.
- 2) Black Hills is a foreign for Profit Corporation doing business in New Mexico, registered with the Public Regulatory Commission Secretary of State, under number 1232834. Black Hills is an active entity with a principal address at 350 Indiana Street, Golden, Colorado 80401. Its registered agent for service of process in New Mexico is Corporation Service Company, 125 Lincoln Avenue, Suite 223, Santa Fe, New Mexico 87501. In New Mexico, Black Hills' address is P.O. Box 249, Bloomfield, New Mexico 87413. Black Hills OGRID is 13925.
- 3) Black Hills is the operator of the Jicarilla 29-03-14 #32, UL K, Sec. 14, T29N, R03W, API # 30-039-29429.
- 4) On April 27, 2006, OCD Deputy Oil and Gas Inspector Steve Hayden received an electric log for the referenced Black Hills well, but could find no OCD record on the well.
- 5) An OCD investigation found the following:
 - a. Black Hills commenced operations on the referenced well on January 18, 2006; it completed the well on January 23, 2006.
 - b. As of January 23, 2006, the OCD had neither received nor approved an application for a permit to drill the well.

- c. After Deputy Inspector Hayden contacted Allison Newcomb of Black Hills to request a copy of the application for a permit to drill the well, the OCD received a copy, mailed by Julie Stifflear on April 25, 2006; the copy was received by the OCD on April 27, 2006.
 - d. The referenced well is on Indian land and is, therefore, subject to OCD Rule 1128 [19.15.13.1128 NMAC].
- 6) OCD Rule 1128 provides that “[f]ederal forms shall be used in lieu of state forms when filing application for permit to drill ... and sundry notices and reports on wells and well completion or recompletion report and log for wells on federal lands in New Mexico.”
 - 7) An OCD Director’s memorandum titled “Operations on Federal and Indian Lands,” issued January 2, 1985, instructs operators to provide “copies of drilling permits, sundry notices, well completion reports, and any other required information on Indian lands wells [to the OCD],” and must file “two copies of the forms and permits ... following their approval by the BLM” with the appropriate OCD district office.
 - 8) OCD Rule 102.A [19.15.3.102.A NMAC] provides the following:
 - A. The operator shall obtain a permit prior to commencing drilling, deepening or re-entry operations, or before plugging a well back to a different pool or completing or re-completing a well in an additional pool.
 - 9) OCD Rule 102.B [19.15.3.102.B NMAC] requires that an applicant for a permit to drill a well complete certain forms. OCD Rule 102 states, in relevant part:
 - B. Applicants shall file a complete form C-101 [or Federal form 3160-3], application for permit to drill, deepen or plug back, and complete form C-102, well location and acreage dedication plat....
 - 10) Black Hills knew or should have known the requirements of OCD Rule 102, and knowingly and willfully violated the rule by:
 - a) Drilling a well without an OCD issued permit to drill; and
 - b) Failing to file forms C-101 (application for a permit to drill a well) or Federal form 3160-3, and C-102 (well location and acreage dedication plat).

Black Hills disagrees that it willfully violated OCD Rule 102.

- 11) OCD Rule 1103 [19.15.13.1103 NMAC] requires form C-103, or Federal form 3160-5, “a dual purpose form,” be filed with the OCD to obtain approval prior to commencing certain operations, including commencement of drilling operations, and to report various completed operations. Subsection B(2) of the rule requires the form be used in reporting:
 - a) commencement of drilling operations;

b) casing and cement test;

... or

j) other operations that affect the well's original status but that are not specifically covered herein

- 12) OCD Rule 1103.C [19.15.13.1103.C NMAC] requires that within "ten days following the commencement of drilling operations, the operator of the well shall file a report thereof on form C-103" or Federal form 3160-5, that shall "indicate the hour and the date the well was spudded." OCD Rule 1103.D [19.15.13.1103.D NMAC] requires that within 10 days following the setting of each string of casing or liner, that the operator file a report of the casing and cement test.
- 13) OCD Rule 1105.A [19.15.13.1105.A NMAC] requires that the operator file, on form C-105, or Federal 3160-4 form a completion report within 20 days of completion of the well.
- 15) Black Hills violated OCD.C Rule 1103.C by failing to file the Sundry form notifying the OCD of commencement of drilling operations indicating the date the well was spudded, and OCD Rule 1103.D by failing to file the sundry form notifying the OCD of the casing and cement test.
- 16) Black Hills violated OCD Rule 1105.A or by not filing a completion report within twenty (20) days of completion of the well.

II. CONCLUSION

- 1) The OCD has jurisdiction over the parties and subject matter in this proceeding.
- 2) Black Hills is a person as defined by NMSA 1978, § 70-2-33(A) that may be subject to civil penalties under NMSA 1978, §70-2-31(A).
- 3) Black Hills is subject to civil penalties under NMSA 1978, § 70-2-31(A) at the Jicarilla 29-03-14 #32 for six (6) knowing and willful violations of Rule 102 A and B, Rule 1103.C and D, and Rule 1105.A.

III. ORDER AND CIVIL PENALTY

- 1) Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty against Black Hills totaling **Five Thousand Dollars (\$5,000.00)** for one violation each of Rule 102.A and B (failure to submit an application to drill a well, and drilling a well without a permit); one violation of OCD Rule 1103.C (failure to file form C-103 advising of commencement of drilling operations and date and time well was spudded); one violation of Rule 1103.D (failure to file C-103 reporting on casing and cement test); and one violation of Rule 1105.A (failure to file a completion report within 20 days of completion of the well).

- 2) The civil penalty shall be paid at the time Black Hills executes this Order. Payment shall be made by check payable to the "New Mexico Oil Conservation Division," and mailed or hand-delivered to the New Mexico Oil Conservation Division, Attention: Director, 1220 South Saint Francis Drive, Santa Fe, New Mexico 87505.
- 3) Black Hills has submitted the required forms.
- 4) By signing this Order, Black Hills expressly:
 - a. acknowledges the correctness of the Findings and Conclusions set forth in this Order;
 - b. agrees to comply with Ordering paragraph 2;
 - c. waives any right, pursuant to the Oil and Gas Act or otherwise, to a hearing either prior or subsequent to the entry of this Order or to an appeal from this Order;
 - d. agrees that if it fails to comply with this Order, the Order may be enforced by suit or otherwise to the same extent and with the same effect as a final Order of the Division entered after notice and hearing in accordance with all terms and provisions of the Oil and Gas Act;
- 5) Nothing in this Order relieves Black Hills of its liability should its operations fail to adequately investigate and remediate contamination that poses a threat to ground water, surface water, human health or the environment. In addition, nothing in this Order relieves Black Hills of its responsibility for compliance with any other federal, state or local laws and/or regulations.

Done at Santa Fe, New Mexico, this 13th day of ^{July}~~June~~ 2006.

By: _____

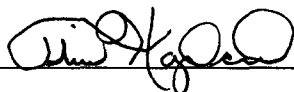
Mark Fesmire, P.E.
Director, Oil Conservation Division

Signatures Continued On Page 5

ACCEPTANCE

Black Hills Gas Resources, Incorporated hereby accepts the foregoing Order, and agrees to all of the terms and provisions set forth in the Order.

Black Hills Gas Resources, Incorporated

By: 

Title: VF& GEN. MGR.

Date: July 7, 2006