

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

NMOCD – ACOI- 156

IN THE MATTER OF BC OPERATING, 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 ("Act"), the Director of the Oil Conservation Division ("OCD") and BC Operating, Inc. ("Operator") enter into this Agreed Compliance Order ("Order") under which Operator agrees to: 1) bring the wells identified herein into compliance with the Act and OCD Rules 201 [19.15.4.201 NMAC] and 703 [19.15.9.703 NMAC] in accordance with the following agreed schedule and procedures; and 2) pay penalties as set out below if it fails to meet the compliance schedule set out in this Order.

FINDINGS

Parties

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 operating wells in New Mexico under OGRID 160825.

Injection Well Issues

3. OCD Rule 701 [19.15.9.701 NMAC] requires operators to hold a permit for the injection of gas, liquefied petroleum gas, air, water or any other medium into any reservoir for the purpose of maintaining reservoir pressure or for the purpose of secondary or other enhanced recovery or for storage of the injection of water into any formation for the purpose of water disposal.
4. Operator holds permits under Rule 701 to operate the following wells as injection wells in New Mexico:

South Langlie Jal Unit #021	30-025-11615
W H Rhodes B Federal NCT-1 #008	30-025-12055
W H Rhodes B Federal NCT-1 #010	30-025-12056
Rhodes Yates Unit #009	30-025-12059
W H Rhodes B Federal NCT-1 #001	30-025-12067

W H Rhodes B Federal NCT 2 #003	30-025-12075
Mary E Wills B Federal #001	30-025-12105
Rhodes Yates Unit #004	30-025-25217

5. OCD Rule 703 [19.15.9.703 NMAC] provides in relevant part:

- A. Injection wells shall be equipped, operated, monitored, and maintained to facilitate periodic testing and to assure continued mechanical integrity which will result in no significant leak in the tubular goods and packing materials used and no significant fluid movement though vertical channels adjacent to the well bore.
- B. Injection project, including injection wells and producing wells and all related surface facilities shall be operated and maintained at all times in such a manner as will confine the injected fluids to the interval or intervals approved and prevent surface damage or pollution resulting from leaks, breaks, or spills.
- C.
- D.
- E. Injection wells or projects which have exhibited failure to confine injected fluids to the authorized injection zone or zones may be subject to restriction of injection volume and pressure, or shut-in, until the failure has been identified and corrected.

6. OCD Rule 704.A [19.15.9.704.A NMAC] provides in relevant part:

- (1) Prior to commencement of injection and any time tubing is pulled or the packer is resealed, wells shall be tested to assure the integrity of the casing and the tubing and packer, if used, including pressure testing of the casing-tubing annulus to a minimum of 300 psi for 30 minutes or such other pressure and/or time as may be approved by the appropriate district supervisor. A pressure recorder shall be used and copies of the chart shall be submitted to the appropriate division district office within 30 days following the test date.
- (2) At least once every five years thereafter, injection wells shall be tested to assure their continued mechanical integrity. Tests demonstrating continued mechanical integrity shall include the following:
 - (a) measurement of annular pressures in wells injecting at positive pressure under a packer or a balanced fluid seal; or,
 - (b) pressure testing of the casing-tubing annulus for wells injecting under vacuum conditions; or,
 - (c) such other tests which are demonstrably effective and which may be approved for use by the division.
- (3) Notwithstanding the test procedures outlined above, the division may require more comprehensive testing of the injection wells when deemed advisable, including the use of tracer surveys, noise logs, temperature logs, or other test procedures or devices.

7. The wells identified in Findings Paragraph 4 failed mechanical integrity tests. OCD notified Operator of the failures, and Operator has not repaired the wells.

Inactive Well Issues

8. OCD Rule 201 [19.15.4.201 NMAC] states, in relevant part:

“A. The operator of any of the following wells, whether cased or uncased, shall be responsible for the plugging thereof: wells drilled for oil or gas; or service wells including but not limited to seismic, core, exploration or injection wells.

B. A well shall be either properly plugged and abandoned or placed in approved temporary abandonment in accordance with these rules within 90 days after:

....

....

(3) a period of one year in which a well has been continuously inactive.”

9. The wells identified in Exhibit A, attached, are wells operated by Operator in New Mexico that have been inactive for a continuous period in excess of one year plus ninety days, and have not been properly plugged and abandoned or placed in approved temporary abandonment status.
10. Operator intends to acquire the following well, which has been inactive for a continuous period in excess of one year plus ninety days, and has not been properly plugged and abandoned or placed in approved temporary abandonment status: State GB #001, 30-025-03689.

Penalty Provisions:

11. 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.
12. NMSA 1978, Section 70-2-3(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 injection wells identified in Findings Paragraph 4 are out of compliance with OCD Rule 703 because they failed mechanical integrity tests and Operator did not correct those failures after being notified of the failures by the OCD.
3. The wells identified in Exhibit A are out of compliance with Rule 201 because they have been inactive for a period in excess of one year plus ninety days and have not been properly plugged and abandoned or placed on approved temporary abandonment status.
4. As operator of the wells identified in Findings Paragraphs 4 and Exhibit A Operator is responsible for bringing those wells into compliance with OCD rules.
5. The State GB #001 is out of compliance with Rule 201 because it has been inactive for a period in excess of one year plus ninety days and has not been properly plugged and abandoned or placed on approved temporary abandonment status. If Operator acquires the State GB #001 it will be responsible for returning the well to compliance with OCD rules.
6. Operator is a "person" as defined by NMSA 1978, Section 70-2-3(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. By July 22, 2007, Operator shall return at least 4 of the wells identified in Findings Paragraph 4 to compliance with Rule 703 by performing one of the following actions with regard to each well:
 - a) repair the well so that it passes the mechanical integrity tests required under Rule 704, return the well to injection and file a C-115 reporting injection;
 - b) plug the wellbore in accordance with 19.15.4.202.B(1) and (2) NMAC and file a sundry notice with the OCD reporting the plugging of the wellbore;
or
 - c) place the well on approved temporary abandonment status in accordance with 19.15.4.203 NMAC.
2. Operator shall file a written compliance report by July 22, 2007 identifying each well returned to compliance by name and API number, and describing how the well was returned to compliance (returned to injection, wellbore plugged, or placed on approved temporary abandonment). The written report must be mailed or sent by electronic mail to the OCD's Compliance and Enforcement Manager so that it is received by the July 22, 2007 due date.

3. When the OCD receives a timely compliance report indicating that Operator has returned at least 4 of the wells identified in Findings Paragraph 4 to compliance by July 22, 2007 and verifies the accuracy of that report, the OCD shall issue an amendment to this Order extending its terms for an additional six-month period and requiring Operator to return to compliance by January 22, 2008 the remaining wells identified in Findings Paragraph 4 not previously returned to compliance.
4. When the OCD receives a timely compliance report indicating that Operator has returned to compliance by January 22, 2008 the remaining wells identified in Findings Paragraph 4 not previously returned to compliance and verifies the accuracy of that report, the OCD shall issue an amendment to this Order extending its terms for an additional six-month period and requiring Operator to return to compliance by July 22, 2008 4 of the inactive wells described in Findings Paragraphs 9 and 10 (the wells listed in Exhibit A and the State GB #001). Operator shall return to compliance wells identified in Findings Paragraphs 9 and 10 by taking one of the following actions with regard to each well:
 - a) return the well to production or other OCD-approved beneficial use, and file a C-115 reporting that use;
 - b) plug the wellbore in accordance with 19.15.4.202.B(1) and (2) NMAC and file a sundry notice with the OCD reporting the plugging of the wellbore; or
 - c) place the well on approved temporary abandonment status in accordance with 19.15.4.203 NMAC.
5. If an amendment is issued pursuant to Ordering Paragraph 4, Operator shall file a written compliance report by July 22, 2008 identifying each well returned to compliance by name and API number, and describing how the well was returned to compliance (returned to production or other OCD-approved beneficial use, wellbore plugged, or placed on approved temporary abandonment). The written report must be mailed or sent by electronic mail to the OCD's Compliance and Enforcement Manager so that it is received by the July 22, 2008 due date.
6. When the OCD receives a timely compliance report indicating that Operator has returned to compliance by July 22, 2008 4 wells identified in Findings Paragraphs 9 and 10 and verifies the accuracy of that report, the OCD shall issue an amendment to this Order extending its terms for an additional six-month period and requiring Operator to return to compliance by January 22, 2009 at least 4 additional wells from Findings Paragraphs 9 and 10, so that the total number of wells identified in Findings Paragraphs 9 and 10 returned to compliance by January 22, 2009 is at least 8.

7. If an amendment is issued pursuant to Ordering Paragraph 6, Operator shall file a compliance report by January 22, 2009 identifying each well returned to compliance by name and API number, and describing how the well was returned to compliance (returned to production or other OCD-approved beneficial use, wellbore plugged, or placed on approved temporary abandonment). The written report must be mailed or sent by electronic mail to the OCD's Compliance and Enforcement Manager so that it is received by the January 22, 2009 due date.
8. Transfer of the State GB #001 or a well identified in Exhibit A to another operator does not count towards Operator's obligation to return a certain number of wells to compliance by the deadlines set in this Order or in amendments to this Order, but does reduce the total number of wells for which Operator is responsible under the terms of this Order.
9. The OCD shall provide a copy of any amendment issued pursuant to this Order to Operator at Operator's address of record provided pursuant to OCD Rule 100.C.
10. If Operator fails to bring the required number of wells into compliance by the compliance deadline set by this Order or an amendment issued pursuant 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 time period. In the event the Operator encounters unanticipated circumstances that prevent it from meeting its goal, Operator may file an administrative application with the OCD to request a waiver or reduction of the penalty. Operator shall serve the OCD's Enforcement and Compliance Manager with a copy of the application. If the Enforcement and Compliance Manager concurs with the Operator's request, the application may be granted administratively. If the Enforcement and Compliance Manager denies the Operator's request, the Operator may, within ten days of that denial, apply for a hearing before an OCD hearing examiner. Once Operator pays the penalty or files an administrative application to request a waiver or reduction of the penalty, the OCD may, in its discretion, issue an amendment to this Order as provided in Ordering Paragraphs 5, 7 and 9.

Example A: Operator X enters into an agreed compliance order under which it agrees to bring 5 wells into compliance in a six-month period. At the end of the 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 an additional six-month period, again requiring Operator X to bring at least 5 wells into compliance. During this additional 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 an additional six-month period.

Example B: Operator Y enters into an agreed compliance order under which it agrees to bring 10 wells into compliance in a 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 files an administrative application for hearing seeking to waive the \$7000 penalty, and serves the Enforcement and Compliance Manager with a copy of the application. The Enforcement and Compliance Manager does not concur with the application's request to waive the full amount of the penalty, and the Operator requests a hearing on its request for a waiver of the penalty. The OCD exercises its discretion and issues an amendment to extend the terms of the agreed compliance order for an additional six-month period.

11. While this Order remains in effect, the wells identified in Findings Paragraph 4, the State GB #001 and the wells identified in Exhibit A shall be removed from the Operator's inactive well list kept pursuant to OCD Rule 40.F [19.15.1.40.F NMAC]. Thirty days after the compliance date set by this Order or any amendment to this Order issued pursuant to Ordering Paragraphs 3, 4 and 6, any wells identified in Findings Paragraph 4 and Exhibit A not in compliance with OCD Rule 201 will appear on the inactive well list kept pursuant to OCD Rule 40.F.
12. 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 4 of the wells identified in Findings Paragraph 4 by July 22, 2007, and agrees to comply with the compliance deadline and schedule set by any amendment to this Order issued pursuant to Ordering Paragraphs 3, 4 and 6;
 - (c) agrees to submit a compliance report as required in Ordering Paragraph 4 and the deadline set by any amendment to this Order issued pursuant to Ordering Paragraphs 3, 4 and 6;
 - (d) agrees to pay penalties as set out in Ordering Paragraph 10 if it fails to return wells to compliance under the deadline set by this Order or any amendment to this Order issued pursuant to Ordering Paragraphs 3, 4 and 6;
 - (e) waives any right, pursuant to the Oil and Gas Act or otherwise, to a hearing either prior to or subsequent to the entry of this Order or to an appeal from this Order; and
 - (f) 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.

13. This Order applies only to those wells identified in Findings Paragraph 4, the State GB #001 and the wells identified in Exhibit A. Other wells operated by Operator out of compliance with Rules 201 or 703 may be subject to immediate enforcement action under the Oil and Gas Act. Wells identified in Exhibit A out of compliance with Rule 703 during the time periods covered by this Order or amendments to this Order are subject to immediate enforcement action under Rule 703.
14. This Order does not affect Operator's obligations to provide financial assurances pursuant to OCD Rule 101 [19.15.3.101 NMAC].
15. The OCD reserves the right to file an application for hearing to obtain authority to plug the State GB #001 or any well identified in Findings Paragraph 4 and Exhibit A and forfeit the applicable financial assurance if the well poses an immediate environmental threat.

Done at Santa Fe, New Mexico this 29th day of January, 2007

By: _____

Mark Fesmire, P.E.

Director, Oil Conservation Division

ACCEPTANCE

BC Operating, Inc. hereby accepts the foregoing Order, and agrees to all of the terms and provisions set forth in that Order.

BC Operating, Inc.

By: _____

(Please print name) _____

Title: _____

Date: _____

Exhibit A to Agreed Compliance Order for BC Operating, Inc.

District	API	Well	ULSTR
1	30-025-34154	HOOD STATE #001	F-25-10S-37E
1	30-025-12776	MARY E WILLS A FEDERAL #008	D-35-26S-37E
1	30-025-32357	RHODES YATES COOP FED COM 2 #001	E-27-26S-37E
1	30-025-32379	RHODES YATES COOP FED COM 4 #002	D-27-26S-37E
1	30-025-32378	RHODES YATES COOP FED COM 5 #001	D-27-26S-37E
1	30-025-12072	RHODES YATES UNIT #005	D-27-26S-37E
1	30-025-12063	RHODES YATES UNIT #007	F-27-26S-37E
1	30-025-12064	RHODES YATES UNIT #008	E-27-26S-37E
1	30-025-12058	RHODES YATES UNIT #010	L-27-26S-37E
1	30-025-12062	RHODES YATES UNIT #012	N-27-26S-37E
1	30-025-31757	RHODES YATES UNIT #015	K-27-26S-37E
1	30-025-32022	RHODES YATES UNIT #017	D-27-26S-37E
1	30-025-11482	SOUTH LANGLEIE JAL UNIT #001	G-7 -25S-37E
1	30-025-11485	SOUTH LANGLEIE JAL UNIT #007	N-7 -25S-37E
1	30-025-11486	SOUTH LANGLEIE JAL UNIT #009	P-7 -25S-37E
1	30-025-26293	SOUTH LANGLEIE JAL UNIT #028	I-18-25S-37E
1	30-025-25691	W H RHODES B FEDERAL NCT 2 #004	P-28-26S-37E
1	30-025-28911	W H RHODES B FEDERAL NCT 2 #006	O-28-26S-37E
1	30-025-32459	W H RHODES B FEDERAL NCT 2 #007	I-28-26S-37E
1	30-025-12069	W H RHODES B FEDERAL NCT-1 #006	I-27-26S-37E
1	30-025-12054	W H RHODES B FEDERAL NCT-1 #007	L-26-26S-37E
1	30-025-12070	W H RHODES B FEDERAL NCT-1 #009	P-27-26S-37E
1	30-025-12071	W H RHODES B FEDERAL NCT-1 #013	O-27-26S-37E
1	30-025-21952	W H RHODES B FEDERAL NCT-1 #014	E-26-26S-37E
1	30-025-31764	W H RHODES B FEDERAL NCT-1 #020	I-27-26S-37E
1	30-025-32099	W H RHODES B FEDERAL NCT-1 #025	A-27-26S-37E
1	30-025-32109	W H RHODES B FEDERAL NCT-1 #029	H-27-26S-37E
1	30-025-11483	WINTERS C #001	J-7 -25S-37E

BC Operating, Inc

By: 

Date: 4/24/07