

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

NMOCD – ACOI- 215

IN THE MATTER OF BC OPERATING, INC.,

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 BC Operating, Inc. ("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 herein pursuant to the Act and OCD Rule 19.15.25.8 NMAC in accordance with the following agreed schedule and procedures, and agrees to pay penalties as set out below if it 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 160825 for the wells 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 wells identified in Exhibit "A"
 - (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 70-2-31(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.
7. 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 out of compliance with OCD Rule 19.15.25.8 NMAC.
3. As operator of the wells identified in Exhibit "A," Operator is responsible for bringing those wells into compliance with OCD Rule 19.15.25.8 NMAC.
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 agrees to bring 5 wells identified in Exhibit "A" into compliance with OCD Rule 19.15.25.8 NMAC by August 17, 2010 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.

2. Oil and gas produced during swabbing does not count as production for purposes of this Order.
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 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 August 17, 2010. The total length of this Agreed Compliance Order is six months.
4. If Operator fails to bring 5 wells into compliance by August 17, 2010, or fails to file a compliance report by August 17, 2010, which identifies the 5 wells that Operator brought into compliance by August 17, 2010, Operator agrees to pay a penalty of \$1000 times the number of wells it failed to bring into compliance, subject to the terms of this Order. In the event the Operator encounters unanticipated circumstances that prevent it from bringing 5 wells into compliance by August 17, 2010, 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.
5. Thirty days after the compliance deadline set by this Order, 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.
6. 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 5 wells identified in Exhibit "A" by August 17, 2010;
 - (c) agrees to submit a compliance report as required in Ordering Paragraph 3 by the August 17, 2010 compliance deadline set by this Order;
 - (d) agrees to pay penalties as set out in and limited by Ordering Paragraph 4 if it fails to return 5 wells to compliance by the August 17, 2010 compliance

deadline set out in the Order, or fails to file a compliance report by August 17, 2010, which identifies the 5 wells that Operator brought into compliance by August 17, 2010;

- (e) 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
 - (f) 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 those wells 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. Wells identified in Exhibit "A" that are 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 15th day of Feb., 2010

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) Brandon Black

Title: Vice President

Date: 2/9/10

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

30-025-12072	RHODES YATES UNIT #005
30-025-12064	RHODES YATES UNIT #008
30-025-12058	RHODES YATES UNIT #010
30-025-31757	RHODES YATES UNIT #015
30-025-32022	RHODES YATES UNIT #017
30-025-11482	SOUTH LANGLIE JAL UNIT #001
30-025-11486	SOUTH LANGLIE JAL UNIT #009
30-025-26293	SOUTH LANGLIE JAL UNIT #028
30-005-62029	STATE ET GAS COM #001
30-025-12038	W H RHODES A FEDERAL #006
30-025-25692	W H RHODES B FEDERAL NCT 2 #005
30-025-11980	W H RHODES B FEDERAL NCT-1 #012
30-025-25424	W H RHODES B FEDERAL NCT-1 #016
30-025-25425	W H RHODES B FEDERAL NCT-1 #017
30-025-25426	W H RHODES B FEDERAL NCT-1 #019
30-025-32099	W H RHODES B FEDERAL NCT-1 #025
30-025-11483	WINTERS C #001

BC Operating, Inc.

By: 
Title: Vice President