

Davidson, Florene, EMNRD

From: Herrmann, Keith, EMNRD
Sent: Thursday, February 23, 2017 12:59 PM
To: Davidson, Florene, EMNRD
Cc: Keith E. Bucy; Michael Feldewert; Jordan L. Kessler; Sanchez, Daniel J., EMNRD; Marks, Allison, EMNRD; McMillan, Michael, EMNRD
Subject: OCD Case 15624
Attachments: 2017-02-23 Executed ACOI David H. Arrington Oil and Gas.pdf

Florene,

We have completed an Agreed Compliance Order (ACOI 381) to resolve OCD case 15624 (enclosed). We therefore move to dismiss OCD case 15624. Please let me know if you require any further information.

Thanks
Keith

Keith Herrmann
Office of the General Counsel
Energy Minerals and Natural Resources Department
1220 S. St. Francis Dr.
Santa Fe, NM 87505
Tel: (505) 476-3463
Fax: (505) 476-3462
Keith.Herrmann@state.nm.us

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

NMOCD – ACOI- 318

IN THE MATTER OF DAVID H. ARRINGTON OIL & GAS, INC.

Respondent.

INACTIVE WELL
AGREED COMPLIANCE ORDER

Pursuant to the New Mexico Oil and Gas Act, NMSA 1978, §§ 70-2-1 through 70-2-38, as amended ("Act") and 19.15.5.10(E) NMAC, the Director of the Oil Conservation Division ("OCD") and David H. Arrington Oil & Gas, Inc. ("Operator") enter into this Inactive Well Agreed Compliance Order ("Order" or "ACOI"). Operator agrees to plug, place on approved temporary abandonment status, or restore to production or other beneficial use the wells identified herein in accordance with the following agreed schedule and procedures.

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. NMSA 1978, § 70-2-6(A).
2. The New Mexico Secretary of State has the Operator registered as a foreign profit corporation under entity number 1452689 and identifies David Arrington as Director, President, Vice President, Secretary, and Treasurer.
3. Operator is the operator of record under OGRID 5898 for the wells identified in Exhibit "A," attached.
4. 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 19.15.25.9 NMAC through 19.15.25.11 NMAC; and

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(c) are not on approved temporary abandonment status in accordance with 19.15.25.12 NMAC through 19.15.25.14 NMAC.

6. For an operator who is not compliant with Subsection A of 19.15.5.9 NMAC, the OCD may sanction violating operators by: (1) denying operator registration of related entities if the applicant, officer, director, partner or person has an interest exceeding 25 percent in an entity that is not compliant with Subsection A of 19.15.5.9 NMAC (19.15.9.8(B) NMAC); (2) denying a change of operator request that would transfer wells to a noncompliant operator, or if the transfer would make a new operator non-compliant with 19.15.5.9 NMAC (19.15.9.9(C)(I) NMAC); (3) revoking a permit for injection issued under 19.15.26.8 NMAC after notice and hearing (19.15.26.8(A) NMAC); (4) denying a permit to drill, deepen, or plug back (19.15.14.10(A) NMAC); (5) denying an allowable production volume or authorization to transport from a newly completed, re-completed well, or a well completed in an additional pool (19.15.16.20(A)(4) NMAC).
7. The OCD is not permitted to issue any injection permits to an operator who is not compliant with Subsection A of 19.15.5.9 NMAC (19.15.26.8(A) NMAC).
8. Operator is currently out of compliance with 19.15.5.9.A(4) NMAC because it has too many wells out of compliance with 19.15.25.8 NMAC (the inactive well rule) that are not subject to an agreed compliance order setting a schedule for bringing the wells into compliance with the inactive well rule and imposing sanctions if the schedule is not met. See 19.15.5.9(A)(4) NMAC.
9. As the operator of record of 38 wells, to be in compliance with 19.15.5.9.A(4) NMAC, Operator may have no more than 2 wells out of compliance with 19.15.25.8 NMAC. See 19.15.5.9A(4)(b) NMAC. According to the inactive well list kept pursuant to 19.15.5.9(F) NMAC, Operator has 15 wells out of compliance as of January 30, 2017. The Operator's inactive well list, dated January 30, 2017 is attached as Exhibit "A." Operator faces sanctions for being out of compliance with 19.15.5.9 NMAC.
10. Operator intends to seek privileges from the OCD that would be subject to sanction due to Operator being out of compliance with 19.15.5.9 NMAC. By placing the wells identified in Exhibit "A" under this Order, Operator will not face sanctions for being out of compliance with 19.15.5.9 NMAC, provided Operator remains in compliance with this Order.

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 or will be out of compliance with 19.15.25.8 NMAC.

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

ORDER

1. Operator agrees to bring all wells identified in Exhibit "A" into compliance with 19.15.25.8 NMAC pursuant to the deadlines established in Order paragraph 4 by:
 - (a) restoring the well to production or other OCD-approved beneficial use and filing a C-115 documenting such production or use; or
 - (b) causing the wellbore to be plugged in accordance with 19.15.25.10(B) NMAC and filing a C-103 describing the completed work.
2. Oil and gas produced during swabbing does not count as production for purposes of this Order.
3. Provided Operator complies with the agreed upon schedule below, this Order will automatically renew itself biannually every February 1 and August 1, at a rate of three wells in Exhibit "A" returned to compliance per six-month period running consecutively from February 1, 2017 until all wells identified are returned to compliance, or either party wishes to cancel or amend this order. Any request to amend or cancel this agreement shall be submitted in writing at least 30 days prior to the renewal date to an authorized agent of the other party.
4. The parties to this Order have agreed to the following schedule to return the wells in Exhibit "A" to compliance with 19.15.25.8 NMAC as provided in Order paragraph 1 above:
 - a. By August 1, 2017 – Bills Hopper #002, Double Hackle Peacock 31 State Com #001, Royal Coachman #001;
 - b. By February 1, 2018 – Miss Moneypenny Federal Com #001, Mangum B Com #001, Mangum B Com #001E;
 - c. By August 1, 2018 – Deep Sparkling Muddler 15 State #001, Royal Stimulator #001, Royal Wulff #001;
 - d. By February 1, 2019 – BV Culp NCT A Com #001, McQuarters State Com #001, Foster #003; and

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- e. By August 1, 2019 -, Green Eyed Squealy Worm #001, Mallon Drake 16 State #001, Royal Stimulator #002.
5. 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, or plugged and abandoned pursuant to 19.15.25 NMAC). 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 respective compliance deadline of August 1 or February 1 as applicable.
 6. OCD will not unreasonably withhold approval of reasonable extensions for good cause shown, provided Operator requests extensions five business days before the expiration of the deadline, and remains in compliance with the other terms of the Order, the Act, and the rules promulgated in accordance with the Act.
 7. Operator and the OCD have the right to modify or terminate this Order by written instrument signed by both parties. This Order shall expire on August 1, 2019 or upon failure to meet one of the agreed upon deadlines, whichever occurs first. At that time, any wells in Exhibit "A" not in compliance with 19.15.25.8 NMAC will appear on the inactive well list kept pursuant to 19.15.5.9(F) NMAC, and will be considered when determining Operator's compliance with 19.15.5.9 NMAC.
 8. This Order applies only to the enforcement of 19.15.25.8 NMAC against those wells identified in Exhibit "A." Operator will not allow any other wells it operates to become non-compliant with 19.15.25.8 NMAC during the duration of this Order. Additional wells that violate the provisions of 19.15.25.8 may be subject to immediate enforcement action under the Oil and Gas Act and the rules adopted pursuant to the Act. Wells identified in Exhibit "A" that are out of compliance with the Oil and Gas Act or the rules adopted pursuant to the Act other than 19.15.25.8 NMAC may be subject to immediate enforcement action under the Oil and Gas Act and the rules adopted pursuant to the Act.

OTHER TERMS AND CONDITIONS

1. By signing this Order, Operator expressly:
 - a. acknowledges the authority of the Director to render the above Findings, Conclusions, and Order;
 - b. agrees to comply with the Order;

- c. as to the Order, waives any right, pursuant to the Act or otherwise, to a hearing either prior or subsequent to the entry of this Order or to an appeal from this Order; and
 - d. agrees that if it fails to comply with this Order, OCD may enforce the Order by suit or otherwise to the same extent and with the same effect as a final OCD Order entered after notice and hearing or civil suit in accordance with all terms and provisions of the Oil and Gas Act.
- 2. The parties represent and warrant that the individuals executing this Order on the parties' behalf are competent and duly authorized to execute this Order.
- 3. Nothing in this Order relieves Operator of its liability should its operations create waste and/or pose additional threats to the environment or correlative rights, or commit other violations of the Act or rules promulgated in accordance with the Act. 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.
- 4. Should Operator's financial assurance prove insufficient to cover the costs associated with plugging and abandoning the wells subject to this Order, the OCD reserves its rights under the Oil and Gas Act for indemnification and costs pursuant to NMSA 1978, § 70-2-14.
- 5. This Order applies only to the enforcement of 19.15.25.8 NMAC against those wells identified in Exhibit "A." Other wells operated by Operator out of compliance with 19.15.25.8 NMAC may be subject to immediate enforcement action under the Oil and Gas Act and or the rules promulgated pursuant to the Act. Wells identified in Exhibit "A" that are out of compliance with any provision of the Oil and Gas Act or the rules promulgated pursuant to the Act, other than 19.15.25.8 NMAC, may be subject to immediate enforcement action.
- 6. 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 a well poses an immediate threat to public safety or the environment.
- 7. In the event any one or more of the provisions in this Order shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Order.
- 8. This Order shall be governed by the laws of the State of New Mexico.
- 9. Any dispute, legal proceeding, or litigation arising in connection with this Order shall be brought in Santa Fe County, New Mexico and the parties consent to the jurisdiction of such courts.
- 10. This Order may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same Order.

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11. The parties agree that this Order may be electronically signed. The parties agree that electronic signatures, signatures provided by facsimile transmission, or in Portable Document Format (PDF) sent by electronic mail, shall be deemed to be original signatures and are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.
12. The effective date of this Order shall be the date of the signature of the last signatory to this Order.

Done at Santa Fe, New Mexico this 23rd day of February, 2017

By: David Catanach
David Catanach
Director, Oil Conservation Division

ACCEPTANCE

David H. Arrington Oil & Gas, Inc. hereby accepts the foregoing Order, and agrees to all of the terms and provisions set forth in that Order.

By: Keith E. Bucy
(Please print name) KEITH E. BUCY
Title: General Manager
Date: 2/21/17

Exhibit "A" to Agreed Compliance Order for David H. Arrington Oil & Gas, Inc.

Well Name	Lease Type	ULSTR	OCD Unit Letter	API no.	Last Prod/Inj	In Violation of 19.15.25.8 NMAC
B V CULP NCT A COM #010	P	A-19-19S-37E	A	30-025-31002	Jan-13	Y
BILL'S HOPPER #002	S	J-18-15S-35E	J	30-025-36081	Feb-14	Y
DEEP SPARKLING MUDDLER 15 STATE #001	S	O-15-17S-36E	O	30-025-22194	Apr-15	Y
DOUBLE HACKLE PEACOCK 31 STATE COM #001	S	3-31-16S-36E	L	30-025-35802	Apr-11	Y
FOSTER #003	P	P-34-19S-36E	P	30-025-31982	May-13	Y
GREEN EYED SQUEALY WORM #001	P	I-26-15S-34E	I	30-025-36013	May-12	Y
MALLON DRAKE 16 STATE #001	S	G-16-16S-37E	G	30-025-28707		Y
MANGUM B COM #001	P	1-32-29N-11W	P	30-045-12005	Jan-12	Y
MANGUM B COM #001E	P	4-32-29N-11W	M	30-045-24085	Sep-12	Y
MCQUATTERS STATE COM #001	S	F-11-21S-36E	F	30-025-32300	Jul-15	Y
MISS MONEYPENNY FEDERAL COM #001	F	N-14-21S-22E	N	30-015-31846	Jun-11	Y
ROYAL COACHMAN #001	P	I-27-19S-36E	I	30-025-33192	Jan-13	Y
ROYAL STIMULATOR #001	P	F-31-15S-36E	F	30-025-35284	Mar-08	Y
ROYAL STIMULATOR #002	P	2-31-15S-36E	E	30-025-35975		Y
ROYAL WULFF #001	S	P-27-19S-36E	P	30-025-33514	Jan-08	Y

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