

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

APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION, THROUGH THE ENFORCEMENT AND COMPLIANCE MANAGER, FOR A COMPLIANCE ORDER AGAINST CBS OPERATING CORP. ASSESSING CIVIL PENALTIES; REQUIRING CBS OPERATING CORP. TO BRING THE WELLS INTO COMPLIANCE WITH 19.15.9.703 NMAC OR PLUG THE WELLS BY A DATE CERTAIN; AND IN THE EVENT OF NON-COMPLIANCE, AUTHORIZING THE DIVISION TO FORFEIT THE APPLICABLE FINANCIAL ASSURANCE AND PLUG THE WELLS; EDDY COUNTY, NEW MEXICO

CASE NO. 13720

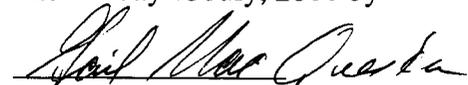
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MOTION TO DISMISS

Applicant Oil Conservation Division ("OCD") moves to dismiss case 13720 without prejudice on the following grounds:

1. OCD and CBS Operating Corp. ("CBS") have entered into agreed compliance order ACOI- 136 to resolve the issues raised in case 13720 and case 13721. CBS has tendered a check in the amount of \$10,000 in payment of the penalty assessed in the order.
2. A copy of the fully executed order and a copy of the check are attached.
3. William F. Carr, attorney for CBS, concurs with this motion.

RESPECTFULLY SUBMITTED,
this 5th day of July, 2006 by



Gail MacQuesten
Assistant General Counsel
Energy, Minerals and Natural
Resources Department of the State of
New Mexico

1220 S. St. Francis Drive
Santa Fe, NM 87505
(505) 476-3451

Attorney for The New Mexico Oil
Conservation Division

Certificate of Service

I certify that I served a copy of this pleading by e-mail and by first class mail to:

William F. Carr
Holland & Hart, LLP
P.O. Box 2208
Santa Fe, NM 87504-2208
wcarr@hollandhart.com

this 5th day of July, 2006.


Gail MacQuesten

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

NMOCD - ACOI- 136

IN THE MATTER OF CBS OPERATING CORP.,

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 CBS Operating Corp. ("Operator") enter into this Agreed Compliance Order ("Order") under which Operator agrees to: 1) pay penalties for violations of OCD Rule 703 [19.15.9.703 NMAC]; 2) bring the wells identified herein into compliance with the Act and OCD Rules 201 [19.15.4.201 NMAC] and 703 in accordance with the following agreed schedule and procedures; and 3) pay additional 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 216852.

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. CBS holds permits under Rule 701 to operate the following wells as injection wells in Eddy County, New Mexico:

30-015-03293	H G Watson #007
30-015-04044	Burnham Grayburg San Andres Unit #001A
30-015-04049	Burnham Grayburg San Andres Unit #001C
30-015-04058	Burnham Grayburg San Andres Unit #003A

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30-015-04066	Federal KK #003
30-015-04068	Federal Q #001
30-015-04071	Federal Q #004
30-015-04406	Federal L #002
30-015-04949	North Square Lake Unit 127
30-015-05034	Featherstone #005
30-015-20315	Federal KK #001
30-015-20536	Loco Hills A Federal #002
30-015-20537	Loco Hills B Federal #001
30-015-20610	Loco Hills A Federal #005
30-015-20672	Loco Hills B Federal #005
30-015-03925	North Square Lake Unit #069

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 through 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 reseated, 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 following wells operated by Operator in Eddy County, New Mexico 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:

Artesia State Unit #001, 30-015-00883, D-13-18S-27E
Constate #001, 30-015-05017, C-36-16S-31E
Cowtown Unit #201, 30-015-01849, M-13-18S-28E
Cowtown Unit #401, 30-015-02037, D-24-18S-28E
Cowtown Unit #402, 30-015-02032, E-24-18S-28E
Featherstone #002, 30-015-05037, F-2-17S-31E
Featherstone #004, 30-015-05039, 4-2-17S-31E
Federal JJ #003, 30-015-20737, N-3-17S-30E
Federal L #004, 30-015-04411, F-31-17S-30E
Federal R #007, 30-015-20695, B-10-17S-30E

HG Watson #006, 30-015-20312, K-4-18S-29E
 HG Watson #008, 30-015-03294, O-4-18S-29E
 J L Langford #006, 30-015-03362, C-9-18S-29E
 Loco Hills A Federal #006, 30-015-10611, D-15-17S-30E
 Loco Hills A Federal #007, 30-015-20615, F-15-17S-30E
 Loco Hills B Federal #009, 30-015-25110, I-9-17S-30E
 North Square Lake Unit, #20, 30-015-04936, B-30-16S-31E
 North Square Lake Unit #038, 30-015-04937, G-30-16S-31E
 North Square Lake Unit #046, 30-015-04899, G-28-16S-31E
 North Square Lake Unit #070, 30-015-20316, P-25-16S-30E
 North Square Lake Unit #071, 30-015-03924, P-25-16S-30E
 North Square Lake Unit #079, 30-015-04928, P-30-16S-31E
 North Square Lake Unit #081, 30-015-04917, N-29-16S-31E
 North Square Lake Unit #083, 30-015-04915, P-29-16S-31E
 North Square Lake Unit #096, 30-015-04031, A-36-16S-30E
 North Square Lake Unit #111, 30-015-04979, B-33-16S-31E
 North Square Lake Unit #113, 30-015-04990, D-34-16S-31E
 North Square Lake Unit #115, 30-015-10273, B-34-16S-31E
 North Square Lake Unit #132, 30-015-04978, E-33-16S-31E
 North Square Lake unit #167, 30-015-04983, N-33-16S-31E
 Porcupine AAQ Federal #001, 30-015-25050, N-26-16S-31E
 Travis D Federal #012, 30-015-03513, J-17-18S-29E
 Travis D Federal #021, 30-015-24709, L-17-18S-29E
 Wilson #002, 30-015-05041, J-2-17S-31E
 North Square Lake Unit #033, 30-015-20701
 North Square Lake Unit #011, 30-015-04857
 North Square Lake Unit #022, 30-015-04905
 North Square Lake Unit #109, 30-015-04977
 Artesia State Unit #001B, 30-015-00895
 Hedgehog ABM Federal #001, 30-015-25153
 Loco Hills B Federal #002, 30-015-20617
 Loco Hills A Federal #004, 30-015-20580
 Loco Hills Federal A #001, 30-015-20479
 Loco Hills A Federal #008, 30-015-20616

Penalty Provisions:

10. 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 or willfully violates any provision of the Oil and Gas Act or any rule or order adopted pursuant to the Act.
11. NMSA 1978, Section 70-2-3(A) defines "person" in relevant part as

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"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. Operator is subject to penalties under NMSA 1978, Section 70-2-31(A) because it failed to repair the wells after being notified that the wells had failed mechanical integrity tests.
3. The wells identified in Findings Paragraph 9 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 9 Operator is responsible for bringing those wells into compliance with OCD rules.
5. Operator is a "person" as defined by OCD Rule 7.P(2) 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 pay a penalty of \$10,000 for its failure, to date, to repair the wells identified in Findings Paragraph 4 after being informed by the OCD that the wells failed mechanical integrity tests.
2. Operator shall pay the \$10,000 penalty at the time this order is executed. 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 St. Francis Drive, Santa Fe, NM 87505.
3. By December 1, 2006, Operator shall return 8 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, or

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- c) place the well on approved temporary abandonment status in accordance with 19.15.4.203 NMAC.
4. Operator shall file a compliance report by December 1, 2006 using the OCD's web-based on-line application, identifying each well returned to compliance, stating the date it was returned to compliance, and describing how the well was returned to compliance.
5. When the OCD receives a timely compliance report indicating that Operator has returned at least 8 of the wells identified in Findings Paragraph 4 to compliance by December 1, 2006 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 the remaining wells identified in Findings Paragraph 4 to compliance by June 1, 2007.
6. If an amendment is issued pursuant to Ordering Paragraph 5, Operator shall file a compliance report by June 1, 2007 using the OCD's web-based on-line application, identifying each well returned to compliance, stating the date it was returned to compliance, and describing how the well was returned to compliance.
7. When the OCD receives a timely compliance report indicating that Operator has returned all the wells identified in Findings Paragraph 5 to compliance by June 1, 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 at least 6 of the wells from Findings Paragraph 9 to compliance by December 1, 2007 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; or
 - c) place the well on approved temporary abandonment status in accordance with 19.15.4.203 NMAC.
8. If an amendment is issued pursuant to Ordering Paragraph 7, Operator shall file a compliance report by December 1, 2007 using the OCD's web-based on-line application, identifying each well returned to compliance, stating the date it was returned to compliance, and describing how the well was returned to compliance.
9. When the OCD receives a timely compliance report indicating that Operator has returned at least 6 of the wells identified in Findings Paragraph 9 to compliance by December 1, 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 a total of at least 12 wells from Findings Paragraph 9 to compliance by June 1, 2008 (the 12 well total will include wells

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, so the application is set for hearing. The OCD exercises its discretion and issues an amendment to extend the terms of the agreed compliance order for an additional six-month period.

13. While this Order remains in effect, the wells identified in Findings Paragraphs 4 and 9 shall be removed from the inactive well list kept pursuant to OCD Rule 40.F [19.15.1.40.F NMAC]. Thirty days after the expiration of the original term of this Order and any amendments to this Order issued pursuant to Ordering Paragraphs 5, 7 or 9, any wells identified in Findings Paragraphs 4 and 9 not in compliance with OCD Rule 201 will appear on the inactive well list kept pursuant to OCD Rule 40.F.
14. 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 8 of the wells identified in Findings Paragraph 4 by December 1, 2006, and agrees to comply with the compliance deadline set by any amendment to this Order issued pursuant to Ordering Paragraphs 5, 7 and 9;
 - (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 5, 7 and 9;
 - (d) agrees to pay penalties as set out in Ordering Paragraph 12 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 5, 7 and 9;
 - (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

identified in Findings Paragraph 9 returned to compliance by December 1, 2007). To return the wells to compliance, Operator must take one of the following actions with regard to each well:

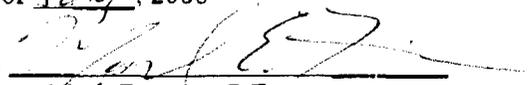
- a) return the well to production or other OCD-approved beneficial use, and file a C-115 reporting that use;
 - b) plug the wellbore in accordance with 19.15.4.202.B(1) and (2) NMAC; or
 - c) place the well on approved temporary abandonment status in accordance with 19.15.4.203 NMAC.
10. Transfer of a well identified in Findings Paragraph 9 to another operator does not count towards Operator's obligation to return a total of 12 wells to compliance by June 1, 2008 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.
 11. The OCD shall provide a copy of any amendment issued pursuant to Ordering Paragraphs 5, 7 and 9 to Operator at Operator's address of record provided pursuant to OCD Rule 100.C.
 12. 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 Ordering Paragraphs 5, 7 and 9, 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, and/or an amendment pursuant to Ordering Paragraphs 5, 7 or 9. 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 does not concur with the Operator's request, the application shall be set for hearing. 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

Conservation Commission entered after notice and hearing in accordance with all terms and provisions of the Oil and Gas Act.

15. This Order applies only to those wells identified in Findings Paragraphs 4 and 9. 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.
16. The Oil Conservation Division reserves the right to file an application for hearing to obtain authority to plug any well identified in Findings Paragraphs 4 and 9 and forfeit the applicable financial assurance if the well poses an immediate environmental threat.

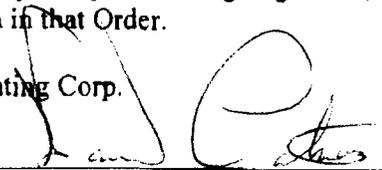
Done at Santa Fe, New Mexico this 2nd day of July, 2006

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

ACCEPTANCE

CBS Operating Corp. _____ hereby accepts the foregoing Order, and agrees to all of the terms and provisions set forth in that Order.

CBS Operating Corp.

By: 
(Please print name) David Cotner
Title: President
Date: 6/21/06

CBS OPERATING CORP.

4788

6/15/06

\$10,000.00
NON-COMPLIANCE PENALTY

4788

CBS OPERATING CORP.

P.O. BOX 2236
MIDLAND, TX 79702
(432) 682-5671

FIRST NATIONAL BANK OF MIDLAND

MIDLAND, TX 79701
88-2420-1163

****TEN THOUSAND AND NO/100*****

DATE
6/15/06

AMOUNT
\$10,000.00

PAY
TO THE
ORDER
OF

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

