

**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  
HEARING ON THE REQUEST OF AMERICO ENERGY RESOURCES LLC  
FOR A WAIVER OF PENALTIES DUE UNDER THE TERMS OF AGREED  
COMPLIANCE ORDER 70-A.**

2006 OCT 16 AM 11 23  
CASE NO. 13819

**APPLICATION FOR HEARING**

1. Americo Energy Resources LLC (hereinafter, "Operator") is a limited liability company operating wells in New Mexico under OGRID 228051.

2. The Oil Conservation Division (hereinafter, "OCD") is the state division charged with administration of the New Mexico Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38, as amended, and the rules and orders adopted pursuant to that Act.

3. On March 31, 2006, the Operator and the OCD entered into amended agreed compliance order 70-A (hereinafter, "ACOI 70-A" or "Order") which required Operator to return three of the wells identified in the Order to compliance with OCD Rule 201 [19.15.4.201 NMAC] by September 25, 2006, and file a compliance report by that date. A copy of ACOI 70-A is attached to this application as Exhibit 1.

4. Ordering Paragraph 5 of ACOI 70-A provides that if Operator fails to return three of the wells identified in ACOI 70-A to compliance by September 25, 2006,

the Operator shall be subject to a penalty of \$1000 for each well it failed to return to compliance. Ordering Paragraph 5 further provides:

In the event the Operator encounters unanticipated circumstances that prevent it from meeting the compliance deadlines set by this Order ...Operator may file an administrative application with the OCD to request a waiver or reduction of the penalty, and 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.

5. Operator filed an untimely compliance report on September 26, 2006 notifying the OCD that it had not returned any wells to compliance and requesting a waiver of the penalties due under the Order. A copy of Operator's e-mailed compliance report is attached as Exhibit 2.

6. The Enforcement and Compliance Manager declined to waive the applicable penalties. A copy of his October 16, 2006 letter denying the waiver of penalties is attached as Exhibit 3.

7. Pursuant to the provisions of Ordering Paragraph 5 of ACOI 70-A, the Enforcement and Compliance Manager requests that Operator's request for waiver of the penalties due under ACOI 70-A be set for hearing.

8. For the reasons stated in the Enforcement and Compliance Manager's letter dated October 16, 2006, the Enforcement and Compliance Manager opposes the Operator's request for waiver of penalties.

WHEREFORE, the Enforcement and Compliance Manager hereby applies for a hearing on the request of Americo Energy Resources LLC for a waiver of penalties due under ACOI 70-A.

RESPECTFULLY SUBMITTED,  
October 16, 2006 by

A handwritten signature in black ink, appearing to read "Gail MacQuesten", is written over a horizontal line.

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

Case No. \_\_\_\_\_. **Application Of The New Mexico Oil Conservation Division, Through The Enforcement And Compliance Manager, For A Hearing On The Request Of Americo Energy Resources LLC For A Waiver Of Penalties Due Under The Terms Of Agreed Compliance Order 70-A.** Americo Energy Resources LLC's request for a waiver of the penalties due under the terms of agreed compliance order 70-A was denied administratively. Under the terms of ACOI 70-A the request for waiver of penalties is being set for hearing.

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

**NMOCD – ACOI- 70-A**

**IN THE MATTER OF AMERICO ENERGY RESOURCES LLC,**

**Respondent.**

**AMENDED 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 Americo Energy Resources LLC ("Operator") enter into this Amended Agreed Compliance Order ("Amended Order") that replaces Order ACO 01-05-70, entered into by Operator and the OCD on May 27, 2005.

Under this Amended Order, Operator agrees to pay a penalty for failing to comply with ACO 01-05-70, to bring wells identified herein into compliance with the Act and OCD Rule 201 [19.15.4.201 NMAC] in accordance with the following agreed schedule and procedures, and to pay penalties as set out below if it fails to meet the schedule set out in this Amended 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 limited liability company operating wells in the state of New Mexico under OGRID 228051.
3. 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.”

1. On May 27, 2005, the OCD executed agreed compliance order ACO 01-05-70 with Operator, under which Operator agreed to bring 11 identified inactive wells into compliance with Rule 201 at a rate of at least one well per month, starting with the month of May, 2005. Order ACO 01-05-70 required Operator to file a monthly compliance report identifying the wells returned to compliance under the order, and pay a penalty (after a one month grace period) if it failed to meet its agreement to bring at least 1 well into compliance each month.
5. Operator has not filed monthly compliance reports, as required by ACO 01-05-70. Operator has returned 4 of the wells identified in ACO 01-05-70 to compliance as of January 31, 2006. According to the schedule set out in ACO 01-05-70 Operator should have returned 9 wells to compliance by the end of January 2006.
6. The following wells originally covered by ACO 01-05-70 remain out of compliance with Rule 201:
  - BC Dickinson A 1 #1, API 30-025-05222
  - BC Dickinson A 1 #2, API 30-025-09868
  - BC Dickinson D #5, API 30-025-05179
  - Denton #1, API 30-025-05309
  - Lee Whitman A #1, API 30-025-05135
  - Lee Whitman B #7, API 30-025-05112
  - State T #5, API 30-025-05230
7. Operator has requested an amendment to ACO 01-05-70 extending the time for bringing the wells identified in Findings Paragraph 6, above, into compliance with Rule 201. As grounds for the amendment, Operator states that it has encountered difficulties in obtaining a rig, but now has access to a rig.
8. 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.

9. NMSA 1978, Section 70-2-3(A) defines “person” in relevant part as

Amended Agreed Compliance Order

Americo Energy Resources LLC

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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. Operator is subject to civil penalties under order ACO 01-05-70 for its failure to comply with the schedule set out in that order.
3. As operator of the wells identified in Findings Paragraph 6 Operator is responsible for bringing those wells into compliance with Rule 201.
4. 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. Taking into account both aggravating and mitigating factors, Operator is assessed a penalty of \$2,000 for its failure to comply with ACO 01-05-70. The payment shall be made by check made out to "New Mexico Oil Conservation Division," and mailed or hand-delivered to the following address prior to execution of the Amended Order:

EMNRD Oil Conservation Division  
1220 South St. Francis Drive  
Santa Fe, NM 87505  
Attn: Gail MacQuesten

2. Operator shall bring three of the wells identified in Findings Paragraph 6 into compliance with OCD Rule 201 by September 25, 2006 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 202.B(2) and filing a C-103 describing the completed work;
  - (c) placing the well on approved temporary abandonment status pursuant to OCD Rule 203.

Transfer of a well identified in Findings Paragraph 6 to another operator does not count towards Operator's obligation to return three wells to compliance by

September 25, 2006 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.

3. Operator shall file a compliance report by September 25, 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 (restored to production or other approved beneficial use, plugged wellbore, approved temporary abandonment status).
4. When the OCD receives a timely compliance report indicating that Operator has returned at least three wells to compliance by September 25, 2006 and verifies the accuracy of that report, the OCD shall issue an amendment to this Order extending its terms and requiring Operator to bring any wells identified in Findings Paragraph 6 operated by Operator and still out of compliance into compliance by March 25, 2007. OCD shall provide a copy of that amendment to Operator at Operator's address of record provided pursuant to OCD Rule 100.C.
5. If Operator fails to bring at least three wells into compliance by September 25, 2006 or, if an amendment is issued pursuant to Ordering Paragraph 4, fails to bring remaining wells into compliance by March 25, 2007, 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 period. In the event the Operator encounters unanticipated circumstances that prevent it from meeting the compliance deadlines set by this Order or an amendment to the Order issued pursuant to Ordering Paragraph 4, Operator may file an administrative application with the OCD to request a waiver or reduction of the penalty, and 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 pursuant to Ordering Paragraph 4.

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, 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.

6. If no amendment is issued pursuant to Ordering Paragraph 4, any wells identified in Findings Paragraph 6 not in compliance with OCD Rule 201 will appear on the inactive well list kept pursuant to OCD Rule 40.F on October 26, 2006. If an amendment is issued pursuant to Ordering Paragraph 4, any wells identified in Findings Paragraph 6 not in compliance with OCD Rule 201 will appear on the inactive well list kept pursuant to OCD Rule 40.F on March 26, 2007.
7. 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 three of the wells identified in Findings Paragraph 6 by September 25, 2006, and agrees to comply with the compliance deadlines set by any amendment to this Order issued pursuant to Ordering Paragraph 4;
  - (c) agrees to submit a compliance report as required in Ordering Paragraph 3;
  - (d) agrees to pay penalties as set out in Ordering Paragraph 5 if it fails to return wells to compliance under the deadlines set by this Order or an amendment to this Order issued pursuant to Ordering Paragraph 4;
  - (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.
8. This Order applies only to those wells identified in Findings Paragraph 6. Other wells operated by Operator out of compliance with Rule 201 may be subject to immediate enforcement action under the Oil and Gas Act.
9. The Oil Conservation Division reserves the right to file an application for hearing to obtain authority to plug any well identified in Findings Paragraph 6 and forfeit

the applicable financial assurance if the well poses an immediate environmental threat.

Done at Santa Fe, New Mexico this 17 day of July, 2006.

By: [Signature]  
Mark Fesmin, P.E.  
Director, Oil Conservation Division

ACCEPTANCE

Americo Energy Resources LLC hereby accepts the foregoing Amended Order, and agrees to all of the terms and provisions set forth in that Amended Order.

Americo Energy Resources LLC

By: [Signature]

Title: Co-Minor

Date: 07/24/06

**Sanchez, Daniel J., EMNRD**

**From:** Don Gray [don.gray@americoenergy.com]  
**Sent:** Tuesday, September 26, 2006 4:07 PM  
**To:** Sanchez, Daniel J., EMNRD  
**Subject:** ACDI-70-A

Dear Mr. Sanchez,

Please accept this letter as a status report as to Americo Energy Resources, LLC's attempts to comply with the referenced Compliance Order, an explanation as to why Americo is not in full compliance with it and a request for waiver of penalties and an amendment to the Order to grant an extension to October 13, 2006 for Americo to comply.

The Order required that Americo bring three of a listed seven wells back into compliance by January 25, 2006. Unfortunately, Americo has been unable to meet this requirement.

As you know, there is a shortage of available rigs that are capable of working on wells at the depths (9,500'+) of the wells subject to the Order. In mid September, Americo was finally able to secure a rig. It was moved onto the State T #5 well (API 30-025-05230) on September 13, 2006. The work was completed and a successful mechanical integrity test was conducted on September 15, 2006.

From there, the rig was moved immediately to the BC Dickinson A1 #1 well (API 30-025-05222). Work on this well has taken longer than expected due to the rig anchors not holding when the rig was first rigged up and then through attempts to recover a fish thought to be down-hole. Operations were continued diligently and a successful mechanical integrity test was conducted today.

Forms 103 requesting that these wells be granted Temporary Abandonment status have not been filed. However, the charts have been mailed to me and I will file the forms and charts immediately upon receipt. A copy of the form and chart will also be faxed directly to you for your convenience.

The rig is currently being mobilized to the BC Dickinson D #5 well (API 30-025-05179) in order to prepare the well for its mechanical integrity test. It is anticipated that it should not take more than a couple of weeks to complete the test. After a successful test, Form 103 requesting Temporary Abandonment status and the chart will immediately be filed with the appropriate office and a copy faxed to you. At that time, Americo will request that the Order to be further amended to allow Americo to bring the remaining wells into compliance no later than March 25, 2007, as provided for in the Order.

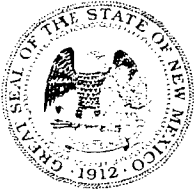
Americo currently believes that it will ultimately be able to return these wells to production.

Please let me know at your earliest convenience as to whether the OCD sees fit to grant the extension and waiver.

Respectfully submitted,

**Robert M. (Don) Gray**  
**Land Manager**  
**Americo Energy Resources, LLC**  
**7575 San Felipe, Suite 200**  
**Houston, Texas 77063**  
**Tel. 713.984.9700**  
**Fax 713.984.9933**  
**Mob. 713.594-3292**

**Exhibit 2**



# NEW MEXICO ENERGY, MINERALS and NATURAL RESOURCES DEPARTMENT

**BILL RICHARDSON**

Governor

**Joanna Prukop**

Cabinet Secretary

**Mark E. Fesmire, P.E.**

Director

**Oil Conservation Division**

October 16, 2006

Americo Energy Resources LLC  
P.O. Box 19163  
Houston, TX 77224  
[address of record]

Mr. Oscar Nosrati  
Americo Energy Resources LLC  
10940 Old Katy Rd., Suite 100  
Houston, TX 77043

e-mail: [oscar.nosrati@americoenergy.com](mailto:oscar.nosrati@americoenergy.com)  
[don.gray@americoenergy.com](mailto:don.gray@americoenergy.com)

Re: Inactive Well Agreed Compliance Order 70-A (ACOI-70-A)

Dear Operator:

When Americo Energy Resources LLC (Americo) executed ACOI 70-A it agreed to return at least three of the wells identified in the Order to compliance with Rule 201 by September 25, 2006 and file a compliance report by that date. "Compliance" is defined in the Order to include the filing of the appropriate paperwork to document the compliance action taken. The Order provided that if Americo met its three-well goal, the Oil Conservation Division (OCD) would amend the Order to extend its terms for six months and require Americo to return to compliance three additional wells by that new deadline. But if Americo failed to return at least three of the wells identified in the Order by September 25, 2006, penalties would be imposed and the OCD would have discretion whether to amend the Order to extend its terms.

Americo failed to file a timely compliance report. This requirement is set out in Ordering Paragraph 3 of ACOI 70-A. It is further explained in the cover letter dated April 3, 2006, which was sent to Americo with the fully executed ACOI 70-A. Specific instructions on how to comply with this requirement were set out in a reminder letter sent to Americo on July 28, 2006. Americo's failure to comply with the requirement that it file a timely compliance report is especially disturbing because this is Americo's second failure to file compliance reports required by an agreed compliance order. Americo's failure to file the monthly compliance reports required by its original agreed compliance order, ACOI 70, is discussed in Findings Paragraph 5 of ACOI 70-A.

Americo's compliance report, filed one day after the September 25, 2006 deadline, reported that it had not been able to meet its three-well goal. Americo explained that it was unable to secure a rig until mid-September. Once it acquired the rig, it conducted mechanical integrity tests on two wells and hopes to conduct tests on a third well in several weeks. Americo stated that it had not yet filed requests to place the wells on temporary abandonment status, but that it intended to do so soon. Americo requested a waiver of penalties, and asked the OCD to issue an amendment to the Order.

Americo's explanation for its failure to meet its three-well goal is inadequate. Americo states in its compliance report that it was not able to obtain a rig until mid-September 2006. Yet when Americo negotiated this order in March of 2006, it represented that it had a rig available.

**Exhibit 3**

Americo has had more than adequate time to return its wells to compliance. Its current inactive well agreed compliance order, ACOI 70-A, replaced an earlier order, ACOI 70. Americo signed ACOI 70 on May 27, 2005. ACOI 70 covered nine wells and required Americo to return them to compliance with Rule 201 at a rate of one well per month, starting in May 2005, and finishing by the end of January 2006. Americo returned only two of those wells to compliance. Based on Americo's representation that its past failure was caused by circumstances beyond its control, but that it now had access to a rig, the OCD entered into the current order, ACOI 70-A. The current order gave Americo additional time to return to compliance the seven wells it had failed to return to compliance under the original order. Instead of imposing penalties at the rate set out in the original order, the OCD agreed to a reduced penalty of \$2,000 for Americo's failure to comply with the original order. Americo has now had over 16 months to bring its nine inactive wells into compliance, and still has only returned two wells to compliance.

Further, Americo does not appear to understand what is required to return a well to compliance under the terms of the order or OCD rules. The order requires Americo to return the wells to compliance 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 202.B(2) and filing a C-103 describing the completed work; of
- c. placing the well on approved temporary abandonment status pursuant to OCD Rule 203.

From Americo's compliance report it appears that it simply conducted MIT tests on two of the wells. For a well to be placed on approved temporary abandonment status, the well must meet the requirements of Rule 203. Those requirements include, but are not limited to the successful completion of an MIT test. As explained in Rule 203, the operator must demonstrate both internal casing integrity (which includes the setting of a bridge plug for wells completed 5 years ago or more) and external casing integrity, and submission of a request for approval.

Based on Americo's failure to comply with the reporting and compliance provisions of two agreed compliance orders, its poor record of compliance efforts during the 16 months covered by the orders, and its lack of understanding regarding OCD's rule requirements, the OCD had determined **not** to issue an amendment extending the terms of ACOI 70-A for an additional six month period. On October 26, 2006, all non-compliant wells covered by ACOI 70-A will re-appear on the Rule 40 inactive well list.

The OCD also declines to waiver of the \$3,000 penalty due under the terms of ACOI 70-A. Pursuant to Ordering Paragraph 5 of ACOI 70-A, Americo's request for a waiver of penalty will be set for hearing. If Americo does not wish to contest the penalty, it may remit the \$3,000 penalty and the OCD will request that the hearing be dismissed. You will receive notice of the hearing date and time by separate correspondence.

Sincerely,

Daniel Sanchez  
OCD Enforcement and Compliance Manager

Cc: Gail MacQuesten, OCD Attorney  
Chris Williams, OCD District I  
Tim Gum, OCD District II  
Charlie Perrin, OCD District III  
Theresa Duran-Saenz, OCD Legal Assistant