

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

#  
NMOCD - ACO 01-04-07-A

IN THE MATTER OF CW TRAINER,

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 C W Trainer ("Operator") enter into this Amended Order under which Operator agrees to pay a penalty for failure to comply with ACO-07, agrees that the wells identified herein shall be brought into compliance with the Act and OCD Rule 201 [19.15.4.201 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 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 sole proprietorship doing business in the state of New Mexico.
3. Operator is the operator of record under OGRID 3474 for the following wells:

Gulf State Com #1	API 30-025-23525
Amerada State SWD #1	API 30-025-23676
Harris Federal #1	API 30-025-28551
State GB #1	API 30-025-03689
Hope State #1	API 30-025-01059
Tower #2	API 30-025-35093
McElvain #3	API 30-025-28557

4. At the time Operator entered into ACO-7 the wells identified in Paragraph 3:
  - (a) had been continuously inactive for a period of one year plus ninety days;
  - (b) were not properly plugged and abandoned under OCD Rule 202 [19.15.4.202 NMAC]; and
  - (c) had not been placed on temporary abandonment status under OCD Rule 203 [19.15.4.203 NMAC].

**OCD Ex. No. 10**  
**Case 13846**

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

"A. The operator of any well drilled for oil, gas or injection; for seismic, core or other exploration, or for a service well, whether cased or uncased, shall be responsible for the plugging thereof.

B. A well shall be either properly plugged and abandoned or temporarily abandoned in accordance with these rules within ninety (90) days after:

....

....

(3) a period of one (1) year in which a well has been continuously inactive."

6. Under the terms of ACO-7 Operator agreed to bring the wells identified in Paragraph 3 into compliance with Rule 201 in accordance with a negotiated schedule, will all wells to be in compliance by December 31, 2005.

7. As of November 16, 2005, Operator had brought three of the wells identified in Paragraph 3 into compliance with Rule 201:

Harris Federal #1	API 30-025-28551
Hope State #1	API 30-025-01059
Tower #2	API 30-025-35093

8. Operator was not able to bring the remaining 4 wells identified in Paragraph 3 into compliance in accordance with the negotiated schedule due to difficulties obtaining equipment, unanticipated difficulties in returning wells to production and/or placing the wells on approved temporary abandonment status, and personal issues including health problems.

9. Operator acknowledged to the OCD that it had not read the terms of ACO-7, and had put other business priorities ahead of meeting the compliance schedule set out in ACO-7. Operator did not file compliance reports as required by ACO-7, or request an amendment when it first encountered difficulty in meeting the schedule set out in ACO-7.

10. Since the execution of ACO-7, two other wells operated by Operator have fallen out of compliance with Rule 201:

Lea DS State #1	API 30-025-23611
Morse #1	API 30-025-04991

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 or willfully violates any provision of the Oil and Gas Act or any rule or order adopted pursuant to the Act.

12. OCD Rule 7.P (2) [19.15.1.7.P (2) NMAC] defines "person" as  
"an individual or any other entity including partnerships, corporation, associations, responsible business or association agents or officers, the state or a political subdivision of the state or any agency, department or instrumentality of the United States and any of its officers, agents or employees;"
13. Under the terms of ACO-7, Operator agreed that, after taking advantage of an initial one-month grace period, it would pay a penalty of \$1000 per month times the number of wells it failed to bring into compliance under the schedule set out in ACO-7.

### CONCLUSIONS

1. The OCD has jurisdiction over the parties and subject matter in this proceeding.
2. As operator of the wells identified in Paragraphs 3 and 9, Operator is responsible for bringing those wells into compliance with Rule 201.
3. Operator is a "person" as defined by OCD Rule 7.P(2) subject to civil penalties for knowing and willful violations of the Oil and Gas Act or rules or orders adopted pursuant to the Act.
4. Operator is subject to civil penalties for its failure to comply with ACO-7.

### ORDER

1. Taking into account both aggravating and mitigating circumstances, Operator is hereby assessed a penalty of \$1000 for its failure to comply with ACO-7. The \$1000 penalty shall be paid at the time this Amended Order is executed, by check payable to "Oil Conservation Division," and mailed or hand-delivered to the following address:

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

2. Operator is hereby directed to bring each of the following wells into compliance with OCD Rule 201 by **June 30, 2006**:

Gulf State Com #1	API 30-025-23525
Amerada State SWD #1	API 30-025-23676
State GB #1	API 30-025-03689

McElvain #3	API 30-025-28557
Lea DS State #1	API 30-025-23611
Morse #1	API 30-025-04991

3. Operator shall bring each well identified in Ordering Paragraph 2 into compliance with Rule 201 by either:
  - a. restoring such 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, and filing a C-103 describing the completed work; or
  - c. placing the well on approved temporary abandonment status pursuant to OCD Rule 203.
  
4. Operator agrees to pay a penalty of \$1000 for each well identified in Ordering Paragraph 2 that is not in compliance, as defined in Ordering Paragraph 3, by June 30, 2006. The penalty is due and payable July 1, 2006 by check made out to "Oil Conservation Division," and mailed or hand-delivered to:

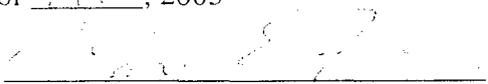
Oil Conservation Division, EMNRD  
1220 S. St. Francis Drive  
Santa Fe, NM 87505  
Attn: Gail MacQuesten

If Operator does not make the payment required by Ordering Paragraph 4 the OCD shall apply for an order assessing the penalty and pursue collection activity, including compliance under OCD Rule 40.A(3).

5. Any well identified in Ordering Paragraph 2 not brought into compliance with OCD Rule 201 by June 30, 2006 will be added to the OCD's inactive well list kept pursuant to OCD Rule 40.F.
  
6. Any further amendments to ACO-7 must be made after notice and hearing. To apply for amendment, Operator shall file an application for hearing before an OCD examiner.
  
7. By signing this Order, Operator expressly:
  - (a) acknowledges the correctness of the Findings and Conclusions set forth in this Order;
  - (b) agrees to pay a \$1000 penalty for violating ACO-07;
  - (c) agrees to bring the wells identified in Ordering Paragraph 2 into compliance with OCD Rule 201 by June 30, 2006;
  - (d) agrees to pay penalties as set out in Ordering Paragraph 4 if it fails to bring all the wells identified in Ordering Paragraph 2 into compliance with OCD Rule 201 by June 30, 2006;

- (e) waives, subject to the provisions of Ordering Paragraph (9) above, any right, pursuant to the Oil and Gas Act or otherwise, to a hearing either prior or subsequent to the entry of this Amended Order or to an appeal from this Amended Order; and
  - (f) agrees that this Amended Order may be enforced by Division or Oil Conservation Commission Order, by suit or otherwise to the same extent and with the same effect as a final Order of the Division or Oil Conservation Commission entered after notice and hearing in accordance with all terms and provisions of the Oil and Gas Act.
8. If the Operator complies with the terms of this Amended Order the Division will not seek penalties beyond those applicable under the terms of this Amended Order for Operator's failure to bring the wells identified in Ordering Paragraph 2 into compliance with Rule 201 prior to June 30, 2006.
9. This Amended Order applies only to those wells identified in Ordering Paragraph 2. Other wells operated by Operator out of compliance with Rule 201 may be subject to immediate enforcement action under the Oil and Gas Act.

Done at Santa Fe, New Mexico this 14<sup>th</sup> day of Dec, 2005

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

**ACCEPTANCE**

C W Trainer hereby accepts the foregoing Order, and agrees to all of the terms and provisions set forth in that Order.

C W Trainer  
 By:   
 Title: OWNER  
 Date: 12/2/05