

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

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APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION, THROUGH THE SUPERVISOR OF DISTRICT IV, FOR AN ORDER PURSUANT TO 19.15.3.100 NMAC REQUIRING TUCUMCARI EXPLORATION, LLC., AS OPERATOR *IN FACT* TO PROPERLY REGISTER AS OPERATOR OF RECORD FOR THE SEVEN (7) WELLS DESCRIBED HEREIN, & FOR FURTHER ORDER TO BRING THE SEVEN (7) SUBJECT WELLS & RELATED DRILLING PITS INTO COMPLIANCE WITH 19.15.4.201 NMAC & 19.15.2.50 NMAC; AUTHORIZING THE DIVISION TO PLUG THE WELLS AND FORFEIT ANY APPLICABLE/AVAILABLE SECURITY IN THE EVENT TUCAMCARI EXPLORATION, LLC. FAILS TO COMPLY; AND ASSESSING AN APPROPRIATE CIVIL PENALTY; QUAY COUNTY, NEW MEXICO.

CASE NO. 14005

**APPLICATION FOR ORDER REQUIRING TUCUMCARI TO PROPERLY
REGISTER AS OPERATOR OF RECORD OF SEVEN (7) WELLS & FOR
ORDER OF COMPLIANCE**

COMES NOW the Oil Conservation Division, and respectfully presents this, its Application for an Order requiring Operator *in fact*, Tucumcari Exploration, LLC ("Tucumcari") to properly and fully register as Operator of record for the seven (7) wells described herein, and for an Order further requiring Tucumcari to bring the seven (7) subject wells into compliance, or alternatively authorizing the division to plug the wells and forfeit any applicable/available security in the event that Tucumcari fails to comply, and assessing an appropriate civil penalty. In support of these requests, the Division states as follows:

I. TUCUMCARI EXPLORATION, LLC IS THE OPERATOR IN FACT OF THE SEVEN (7) SUBJECT WELLS, & IS THEREFORE THE PROPER PARTY FOR PURPOSES OF THIS APPLICATION

1. The seven (7) wells at issue in this matter are as follows:

ANNA KATHERYN #001	3-19-10N-27E	30-037-20051
ANNA KATHERYN #002	1-30-10N-27E	30-037-20052
JOHN DAVID #001	G-19-10N-27E	30-037-20053
JOHN DAVID #002	J-19-10N-27E	30-037-20054
RANDALS #005	D-20-10N-27E	30-037-20055
RANDALS #006	P-30-10N-27E	30-037-20056
RANDALS #007	F-29-10N-27E	30-037-20057

2. The above-described wells were drilled and completed by Operator CKG Energy, OGRID 221076. According to the records submitted by CKG to the Oil Conservation Division, all of the above wells were completed (the casings were cemented), and their completions were effected between September of 2002 and May of 2003.

3. Subsequent to the completion of these wells, but prior to either placing them into production or closing the associated pits and performing the required remediation and clean-up of the sites, all CKG activity ceased due to the filing of bankruptcy petitions involving CKG. On December 31, 2003 an involuntary petition for bankruptcy was filed against CKG Energy, Inc., with the same occurring with regard to its sister-company, CKG Pipeline, LLC, on April 29, 2004. The two CKG bankruptcy actions were consolidated for joint administration as a single Chapter 11 case in the United States Bankruptcy Court, Western District of Texas, Austin Division as Cause No.04-11551-FM.

4. On November 30, 2005, a “Joint Plan of Reorganization proposed by Tucumcari Exploration, LLC & Chapter 11 Trustee, Ronald E. Ingalls for Jointly Administered Cases of CKG Energy, Inc. & CKG Pipeline LLC” was submitted. *(Relevant Excerpts attached as **Exhibit A**).*

5. A “Letter Agreement” (*Attached hereto as **Exhibit B***), was prepared on April 20, 2006 memorializing the terms of the Agreement between Tucumcari Exploration, LLC and Randals/T-4 Cattle as provided in the CKG Bankruptcy Joint Plan of Reorganization and the Oil and Gas Leases relating to property in Quay County, New Mexico. This Agreement was executed on behalf of Tucumcari Exploration, LLC by its legal representative.

6. Pursuant to the terms of the Letter Agreement, Tucumcari’s duties and obligations included (but were not limited to) the following:

a. “[D]iligently pursue approval of a Disclosure Statement, a Chapter 11 Plan...and an Order confirming the Plan...[and] shall cooperate to terminate the Old Oil and Gas Lease (dated July 31, 2002) and to clear any and all clouds on title of the property.” (**Exhibit B**, p. 1, ¶1).

b. Agree that, upon confirmation of the “Plan” by the Bankruptcy Court, Orders will be entered declaring “the Old Lease terminated, null and void and of no effect.” (**Exhibit B**, p. 2, ¶8).

c. “[C]ooperate to clear title to the Property, including termination of any assignments, liens, claims or any other interests whatsoever resulting from the Old Lease.” (**Exhibit B**, p. 3, ¶9).

d. “[S]hall escrow Three Hundred Thousand Dollars (\$300,000.00) with Randals’ counsel to be used for cleanup of the seven (7) current drilling sites to OCD standards...Lessors will not object to the assignment of the escrow to the New Mexico Oil Conservancy [sic] Division Fifty Thousand Dollar (\$50,000.00) Bond after the funds are escrowed and cleanup consistent with the Old Lease are completed. The Randals shall assign their cleanup claims against the CKG Chapter 11 Estate to TE.” (**Exhibit B**, p. 3, ¶11).

e. Will “indemnify the Lessors for any title disputes or litigation concerning ownership and title to the Property resulting from the Old Lease including...any claims by third parties and environmental claims.” (**Exhibit B**, p. 3, ¶12).

f. Agree that “[o]n confirmation of the Plan [by the Bankruptcy Court], the Bond with the OCD will be released (stay lifted) from the Bankruptcy Court and abandoned. **After entry into the Leases, TE will comply with the OCD requirements in the future.** (*Emphasis added*). (**Exhibit B**, p. 3, ¶13).

7. The lease between Tucumcari Exploration LLC and Randals, entitled “Randals Oil and Gas Lease” (*An unexecuted draft version of said lease is Attached hereto as **Exhibit C** and is hereafter referred to as “the Randals Lease”*), upon information and belief, was executed on or about August 20 or 21, 2006.

8. Upon information and belief, the unexecuted draft version of the Randals Lease, attached as **Exhibit C**, is substantively the same as that which was ultimately

executed by the parties, and outlines the property, surface and mineral rights, as well as the royalty interests relating to the property where the subject wells are located.¹

9. Upon information and belief, the Randals Lease specifies the following “progress deadlines” for Tucumcari:

- a. Within one (1) year, removal and properly dispose of contaminated soil; pit liners, if any; trash and debris; and completion of cleanup and remediation of contaminated areas at each of seven existing well sites all consistent with the terms and provisions of the Inter-American Oil and Gas Lease dated July 31, 2002, Recorded in Book 25, Pages 847-852, Records of Quay County, New Mexico.
- b. Achieve gas production in paying quantities from this land in a manner consistent with this Lease.

Exhibit C at p. 8, ¶ 21.

10. Upon information and belief, the Randals Lease also included a five (5) page Addendum entitled “Addendum A to the Randals’ Oil and Gas Lease: Surface Agreement.” (*An unexecuted, draft version is Attached hereto as **Exhibit D** and is hereafter referred to as “Addendum”*).

11. Upon information and belief, the unexecuted draft version of the Addendum to the Randals Lease, attached as **Exhibit D**, is substantively the same as that which was ultimately executed by the parties.

12. The terms of the Addendum include a number of specifications and limitations regarding the anticipated operations to be performed by Tucumcari on the

¹ Because the parties did not duly record either the Randals Lease or the T-4 Cattle Lease with the Quay County Clerk, the date(s) of execution and specific terms of the Leases as ultimately executed by the parties could not be confirmed by the OCD. However, based upon the information provided by the Letter Agreement and the Reorganization Plan, it is believed that the terms of the Leases (and the Addendum), as ultimately entered into, were substantively the same as those articulated in the attached, unexecuted draft versions of the same.

Randals property. Upon information and belief, the terms of the Addendum include (but are not limited to) the following:

- a. The imposition of duties and restrictions regarding the construction and maintenance of fencing (temporary and permanent), fence posts, cattle guards and gates by Tucumcari at and around drilling and pit sites for the purpose of protecting livestock from drilling activity. (**Exhibit D** at p. 1, ¶¶E, E(1), E(5), E(8)).
- b. The imposition of distance limitations for operations to be conducted in close proximity to houses, barns and other structures on the property. (**Exhibit D** at p. 2, ¶ E(3)).
- c. The imposition of duties and restrictions regarding maintenance, storage and removal of equipment to be used by Tucumcari in the course of its operations on the property. (**Exhibit D** at p. 2, ¶ E(4)).
- d. The imposition of duties and restrictions regarding prevention of the deposit of trash and debris and the disposal of trash and refuse produced in the course of Tucumcari's operations on the property. (**Exhibit D** at p. 3, ¶ E(13)).
- e. Specifications regarding the minimum thickness of pit liners to be installed by Tucumcari on the premises, and regarding the maintenance of said liners for the purpose of preventing contamination of the land and groundwater. (**Exhibit D** at p. 3, ¶ E(14)).
- f. Specification that **“as soon as practicable [Tucumcari] shall remove all pit liners in an appropriate manner,** determine with [Randals'] concurrence, that no contamination has occurred to the premises, fill and level all pits with

uncontaminated topsoil, **and restore all pit, drill sites and pipeline rights-of-way, to the maximum extent practicable, to original condition,** to including the reseeding of the disturbed area during the growing season.” [sic] (*Emphasis added*). (**Exhibit D** at p. 3, ¶ E(14)).

13. The final Paragraph of the Addendum to the Randals Lease addresses Tucumcari’s duty to indemnify the Randals and characterizes Tucumcari’s activity on the property as **Tucumcari’s “operations on the leased premises.”** (*Emphasis added*). (**Exhibit D** at p. 5, ¶ I).

14. The lease between Tucumcari Exploration LLC and T-4 Cattle Company, entitled “Randals’ Oil and Gas Lease” T-4 Cattle Company, LLC Oil and Gas Lease (*Unexecuted, draft version attached hereto as **Exhibit E**, and hereafter referred to as the “T-4 Lease”*), was likewise, upon information and belief, executed on or about August 20 or 21, 2006. The terms of the T-4 Lease are identical to those of the Randals Lease with regard to the property, surface and mineral rights, as well as the royalty interests relating to the property where the subject wells are located, and impose the same deadlines upon Tucumcari as discussed in Paragraph 8, above. (**Exhibit E** at p. 8, ¶ 21).

15. Pursuant to 19.15.1.7.O(5) NMAC, an “operator” is defined as “a person who, duly authorized, is in charge of the development of a lease or the operation of a producing property, or who is in charge of a facility’s operation or management.” (*Emphasis added*).

16. Although the Oil and Gas Act does not specifically define the term “operator,” it does provide specific definitions for both “owner” and “producer,” both of which are instructive and helpful in this case. In that Act, “owner” is defined as “the

person who has the right to drill into and produce from any pool and to appropriate the production either for himself or for himself and another;” and “producer means the owner of a well capable of producing oil or natural gas or both in paying quantities.” NMSA 1978, §§70-2-33(E), (F). The legislature did define the term “operator” in the Natural Gas and Crude Oil Production Incentive Act [NMSA 1978 §§7-29B-1 to 7-29B-6], describing an operator as “the person responsible for the actual physical operation of a natural gas or oil well.” NMSA 1978 7-29B-2(G).

17. With regard to a change of operator, 19.15.3.100.E NMAC provides:

(1) A change of operator occurs when the entity responsible for a well or a group of wells changes. A change of operator may result from a sale, assignment by a court, a change in operating agreement or other transaction. Under a change of operator, wells are moved from the OGRID number of the operator of record with the division to the new operator’s OGRID number.

(2) The operator of record with the division and the new operator shall apply for a change of operator by jointly filing a form C-145 using the division’s web-based online application. If the operator of record with the division is unavailable, the new operator shall apply to the division for approval of change of operator without a joint application. The operator shall make such application in writing, and provide documentary evidence of the applicant’s right to assume operations. The new operator may not commence operations until the division approves the application for change of operator.

(Emphasis added).

18. Upon information and belief, the operator currently listed as the operator of record with the OCD, CKG Energy Inc., is unavailable for purposes of 19.15.3.100.E(2) NMAC due to the fact that its sole shareholder/owner has been indicted

by the federal government on multiple counts of securities fraud, and has recently entered into a plea agreement relating to those charges.

WHEREFORE, the Supervisor of District IV of the Division hereby applies to the Director to enter an Order:

19. Finding that as a result of the execution and approval of the below-listed documents (all of which were reviewed and approved by the Bankruptcy Court in relation to Cause No.04-11551-FM), the Operator of the seven (7) subject wells, as defined by 19.15.3.100.E(1) and 19.15.1.7.O(5) NMAC and other instructive New Mexico statutes, was changed from CKG Energy to Tucumcari Exploration, LLC.:

- a. *Letter Agreement* between Tucumcari Exploration LLC and James T. Randals & Dorothy Randals as Trustees for the James T. Randals Revocable Family Trust, Richard Randals and Jina D'Aun Randals Vick, and T-4 Cattle Company, LLC, dated April 20, 2006. **(Exhibit B).**
- b. *Randals' Oil and Gas Lease*, Lessor Richard Randals, Lessee Tucumcari Exploration, LLC, executed (upon information and belief) on or about August 20 or 21, 2006. **(Exhibit C).**
- c. *Addendum A to Randals' Oil and Gas Lease: Surface Agreement*, **(Exhibit D).**
- d. *T-4 Cattle Company, LLC Oil and Gas Lease*, Lessor T-4 Cattle Company, LLC, Lessee Tucumcari Exploration, LLC, (upon information and belief) executed on or about August 20 or 21, 2006. **(Exhibit E).**
- e. *Joint Plan of Reorganization proposed by Tucumcari Exploration, LLC & Chapter 11 Trustee, Ronald E. Ingalls for Jointly Administered Cases of CKG Energy, Inc. & CKG Pipeline LLC.* **(Exhibit A).**

20. Finding that for purposes of 19.15.3.100.E(2) NMAC, CKG Energy is "unavailable."

21. Ordering Tucumcari Exploration, LLC to properly and fully submit by a date certain a form C-145, along with all supporting paperwork (including but not

limited to documentation necessary to apply for and obtain an OGRID number), to formally record the change of Operator of Record with the New Mexico Oil Conservation Division.

22. Requiring Tucumcari Exploration, LLC to remit financial assurance(s) by a date certain for its Operation of the seven (7) subject wells, consistent with the Division Rules, including but not limited to the required blanket bond and any additional individual well bonds required for inactive wells as required by the Rules.

II. EACH OF THE SEVEN (7) SUBJECT WELLS HAVE REMAINED INACTIVE SINCE THEIR COMPLETION FOR A TIME PERIOD EXCEEDING NINETY (90) DAYS FOLLOWING A PERIOD OF ONE (1) YEAR OF CONTINUOUS INACTIVITY, AND MUST NOW BE PLUGGED & ABANDONED, BROUGHT INTO PRODUCTION OR GRANTED APPROVED TEMPORARY ABANDONMENT STATUS BY THE DIVISION PURSUANT TO 19.15.4.201 NMAC.

23. Division rule 19.15.4.201 NMAC requires an operator to plug and abandon or temporarily abandon a well in accordance with Division Rules within ninety (90) days after a period of one (1) year of continuous inactivity.

24. Documents submitted by CKG Energy, the Operator of Record at the time the subject wells were completed, reveal the following information:

- a. Well Anna Katheryn #001, API 30-037-20051, was completed (and the casing was cemented) on September 19, 2002.
- b. Well Anna Katheryn #002, API 30-037-20052, was completed (and the casing was cemented) on November 20, 2002.
- c. Well John David #001, API 30-037-20053, was completed (and the casing was cemented) on January 13, 2003.

d. Well John David #002, API 30-037-20053, was completed (and the casing was cemented) on February 5, 2003.

e. Well Randals #005, API 30-037-20055, was completed (and the casing was cemented) on March 20, 2003.

f. Well Randals #006, API 30-037-20056, was completed (and the casing was cemented) on April 18, 2003.

g. Well Randals #007, API 30-037-20057, was completed (and the casing was cemented) on May 15, 2003.

25. Per OCD Records, none of the above-listed wells has ever produced, and all seven (7) wells have therefore been inactive since their respective dates of completion.

26. Each of the seven (7) subject wells has been inactive for a period well in excess of one (1) year, plus ninety (90) days, thus triggering obligations on the part of the current Operator, Tucumcari Exploration, LLC pursuant to 19.15.4.201 NMAC.

27. NMSA 1978, Section 70-2-14(B) provides:

If any of the requirements of the Oil and Gas Act [70-2-1 NMSA 1978] or the rules promulgated pursuant to that act have not been complied with, the oil conservation division, after notice and hearing, may order any well plugged and abandoned by the operator or surety or both in accordance with division rules. If the order is not complied with in the time period set out in the order, the financial assurance shall be forfeited.

28. The Oil and Gas Act ("Act") provides that any person who knowingly and willfully violates any provision of the Act, or any Rule or Order issued pursuant to the Act, shall be subject to a civil penalty of not more than one thousand dollars per day for each violation. NMSA 1978, Section 70-2-31(A).

29. NMSA 1978, Section 70-2-33(A) defines "person" as used in the Oil and Gas Act to include corporations.

30. At the time that Tucumcari entered into the Lease agreements, whereby it became the responsible party for the operation of the subject wells, Tucumcari was aware that there were seven (7) existing wells on the property and affirmatively agreed to abide by all OCD Rules with regard to the property and the subject wells upon executing the Leases relating to the subject property. (**Exhibit B** at p.2, ¶ 6 and p. 3, ¶13).

31. Despite being aware of the existence of the subject wells for which it took on operational responsibility nearly a year ago, and despite having agreed to abide by all OCD requirements with regard to these wells, Tucumcari has, over the course of nearly a year, done nothing to either bring these wells into production, acquire approved temporary abandonment status for said wells, or plug and abandon said wells.

WHEREFORE, the Supervisor of District IV of the Division hereby applies to the Director to enter an Order:

32. Determining that the subject seven (7) wells have each been inactive since their respective dates of completion, which, for each well, exceeds a period of continuous inactivity of one (1) year plus ninety (90) days;

33. Determining that Tucumcari is therefore not in compliance with 19.15.4.201 NMAC as to the subject seven (7) wells;

34. Requiring Tucumcari Exploration, LLC, as Operator of the subject seven (7) wells, to bring each of the subject wells into compliance with 19.15.4.201 NMAC by a date certain by plugging and abandoning the well in accordance with 19.15.4.202

NMAC, securing temporary abandonment status for the well in accordance with 19.15.4.203 NMAC, or returning the well to a Division-approved beneficial use;

35. Further, if the subject wells are not brought into compliance with 19.15.4.201 NMAC by the date set by the order:

- ✓ (1) Assessing a penalty against Tucumcari Exploration, LLC of not less than \$1,000.00 per well for each full week of non-compliance with the Order;
- / (2) Authorizing the Division to plug the subject wells in accordance with a Division-approved plugging program;
- (3) Authorizing the Division to forfeit any applicable security posted in relation to the subject well(s); and
- (4) For such other and further relief as the Director deems just and proper under the circumstances.

III. EACH OF THE SEVEN (7) WELLS HAVE ASSOCIATED DRILLING PITS THAT TUCUMCARI IS RESPONSIBLE FOR BRINGING INTO COMPLIANCE WITH DIVISION RULES & WHICH CONTINUE TO BE IN VIOLATION OF MULTIPLE SUBSECTIONS OF 19.15.2.50 NMAC

36. 19.15.2.50.C(2)(b)(i) NMAC provides that “[e]ach drilling pit or workover pit shall contain, at a minimum, a single liner appropriate for conditions at the site. The liner shall be designed, constructed and maintained so as to prevent the contamination of fresh water, and protect public health and the environment.”

37. 19.15.2.50.C(2)(f) NMAC provides that “[a]ll pits shall be fenced or enclosed to prevent access by livestock, and fences shall be maintained in good repair.”

38. 19.15.2.50.F(1) NMAC provides that, “[e]xcept as otherwise specified in Section 50 of 19.15.2 NMAC, a pit or below-grade tank shall be properly closed within six months after cessation of use...[and] [w]here the pit’s contents will likely migrate and cause ground water or surface water to exceed water quality control commission standards, the pit’s contents and the liner shall be removed and disposed of in a manner approved by the division.”

39. 19.15.2.50.F(2) NMAC requires that “[w]ithin one year of the completion of closure of a pit, the operator shall contour the surface where the pit was located to prevent erosion and ponding of rainwater.”

40. As noted above, subsequent to the completion of the subject seven (7) wells, but prior to the closure of the associated pits at each of these well-sites by the prior Operator, a bankruptcy petition was filed involving the prior Operator company, CKG Energy.

41. Also as previously mentioned, the Agreement between Tucumcari and Randals/T-4 Cattle required that Tucumcari “escrow Three Hundred Thousand Dollars (\$300,000.00) with Randals’ counsel to be used for cleanup of the seven (7) current drilling sites to OCD standards...” and that Tucumcari further “comply with the OCD requirements” with regard to the subject property once it executed the Randals and T-4 Cattle Leases. (**Exhibit B**, p. 3, ¶¶11 & 13).

42. Both Leases imposed a one (1) year deadline upon Tucumcari to perform “removal and properly dispose of contaminated soil; pit liners, if any; trash and debris; and completion of cleanup and remediation of contaminated areas at each of seven existing well sites....” (**Exhibit C** at p. 8, ¶ 21(a) and **Exhibit E** at p. 8, ¶ 21(a)).

43. The Addendum to the Randals Lease specifically required that “as soon as practicable [Tucumcari] shall remove all pit liners in an appropriate manner, determine with [Randals’] concurrence, that no contamination has occurred to the premises, fill and level all pits with uncontaminated topsoil, and restore all pit, drill sites and pipeline rights-of-way, to the maximum extent practicable, to original condition, to including the reseedling of the disturbed area during the growing season.” (**Exhibit D** at p. 3, ¶ E(14)).

44. By way of the Randals Lease Addendum, Tucumcari took on responsibility for constructing fencing and other such barriers for the purpose of protecting livestock in the area from the well sites, and further agreed to install pit liners with a thickness of at least fifteen (15) mil to ensure the protection of the land and groundwater in the area from contamination. (**Exhibit D** at p. 1, ¶¶ E, E(1), E(5), E(8) and (14)).

45. Upon information and belief and based upon the records of the Division, to date, Tucumcari Exploration has met none of its obligations outlined in the Letter Agreement, the Randals Lease, the T-4 Cattle Company Lease, the Randals Lease Addendum or the Bankruptcy Reorganization Plan.

- a. Tucumcari has not escrowed \$300,000.00 with Randals legal counsel for the purpose of cleaning up the seven (7) sites; (**Exhibit B** at p. 3, ¶11).
- b. Tucumcari has not complied with OCD Rules since executing the Randals and T-4 Cattle Leases. (**Exhibit B** at p. 3, ¶13).
- c. Tucumcari has taken no steps toward effecting the removal and proper disposal of contaminated soil, pit liners, etc. and the general completion of cleanup and remediation of the contaminated areas at each of the seven (7)

existing well sites, which, per the terms of the Randals Lease, is to be completed “within one (1) year.” **Exhibit C** at p. 8, ¶ 21.

d. Tucumcari has taken no steps to begin removing pit liners at the pit sites, or to assess the sites to determine whether contamination has occurred, which the Randals Lease Addendum instructs Tucumcari to do “as soon as practicable,” and all of which must be completed before the sites can be restored to their original condition and reseeded as required by the Addendum. (**Exhibit D** at p. 3, ¶ E(14)).

e. Tucumcari has taken no action to either construct new or maintain existing fencing or other barriers in place to protect livestock, and has taken no action to install pit liners of the thickness required by the Randals Lease Addendum. (**Exhibit D** at p. 1, ¶¶ E, E(1), E(5), E(8) and (14)).

46. Tucumcari is in violation of 19.15.2.50.F(1) NMAC as to each of the seven (7) subject wells because Tucumcari has failed to timely and properly close these pits, as per Division Rules.

47. Tucumcari is in violation of 19.15.2.50.C(2)(b)(i) NMAC as to NMAC as to each of the seven (7) subject wells because Tucumcari has failed to maintain the liners for the pits, and they have therefore deteriorated, shredded and become torn.

48. Tucumcari is in violation of 19.15.2.50.C(2)(f) NMAC as to at least one well (John David #002, API 30-037-20054) because Tucumcari has failed to maintain the fence for that location, which is now in need of repair.

49. Tucumcari is in violation of 19.15.2.50.F(2) NMAC as to each of the seven (7) subject wells because Tucumcari has failed to re-contour the land at the pit sites to prevent ponding and erosion.

50. A Letter of Violation (“LOV”) was sent to Tucumcari Exploration on February 22, 2007, notifying Tucumcari of violations at the John David #001 and #002 well sites. (*Attached hereto as Exhibit F*). Specifically, the LOV notified Tucumcari that the pit liner at the John David #001 site was in disrepair and was shredded, and was thus in violation of 19.15.2.50 NMAC, and that the fence at the John David #002 site was in disrepair and in need of attention and was thus also in violation of 19.15.2.50 NMAC.

51. The February 22, 2007 LOV provided Tucumcari with a deadline of March 5, 2007 by which to perform Corrective Action with regard to the two specified sites.

52. Tucumcari failed to perform, or notify the Division of any intention to perform any “Corrective Action” with regard to the violations specified in the LOV by the March 5, 2007 deadline.

53. To date, Tucumcari has still not performed, and has not notified the Division of any intention to perform any “Corrective Action” with regard to these, or any other violations.

54. The Oil and Gas Act (“Act”) provides that any person who knowingly and willfully violates any provision of the Act, or any Rule or Order issued pursuant to the Act, shall be subject to a civil penalty of not more than one thousand dollars per day for each violation. NMSA 1978, Section 70-2-31(A).

55. NMSA 1978, Section 70-2-33(A) defines “person” as used in the Oil and Gas Act to include corporations.

56. Tucumcari acknowledged the condition of the seven (7) sites and the need for remediation of the pits at those sites through its execution of the Randals and T-4 Cattle Leases and the Addenda thereto, the Execution of the Letter Agreement between Tucumcari and Randals/T-4, and through its joint submission of the proposed reorganization plan relating to the Bankruptcy Action involving former Operator, CKG. **(Exhibits A, B, C, D & E)**. Upon execution of the leases, Tucumcari affirmatively agreed to abide by all OCD Rules. **(Exhibit C** at p. 3, ¶13 **and Exhibit E** at p. 3, ¶13). Tucumcari was further made aware of the continuing and degrading condition of these sites, with specific information being provided as to two (2) of the subject sites, in the LOV issued in February of 2007. **(Exhibit F)**.

57. Tucumcari has knowingly and willfully violated the Oil and Gas Conservation Division Rules because, despite having affirmatively agreed to abide by such Rules, despite having extensive and longstanding knowledge of the condition and need for remediation at the subject sites, and despite the fact that the OCD has formally requested that it address these violations, it has failed and refused to do so.

WHEREFORE, the Supervisor of District IV of the Division hereby applies to the Director to enter an Order:

✓ 58. Requiring Tucumcari Exploration, LLC to close the pits at each of the seven (7) subject sites per OCD Rules by a date certain.

✓ 59. Requiring that Tucumcari Exploration, LLC file C-144 forms corresponding with the pit closures at each of the seven (7) well sites by a date certain.

✓ 60. Requiring Tucumcari Exploration, LLC to investigate to determine what, if any contamination has occurred at each of the seven (7) sites, and remediate contamination that poses a threat to ground water, surface water, human health or the environment as required by OCD Rules, water quality control commission standards and/or any other applicable state or federal law or regulation.

∫ 61. Imposing date-specific deadlines for the completion of the above-described investigation and remediation as to the seven (7) subject sites.

∫ 62. Requiring that Tucumcari Exploration, Inc. re-contour the land at each of the seven (7) sites, pursuant to 19.15.2.50.F(2) NMAC no later than one (1) year after the pit at that particular site has been closed.

63. Further, if the subject wells are not brought into compliance with 19.15.2.50 NMAC and/or Tucumcari fails to meet any of the deadlines set by the order:

- ✓ (1) Assessing a penalty against Tucumcari Exploration, LLC of not less than \$1,000.00 per well for each full week of non-compliance with the Order;
- (2) Authorizing the Division to plug the subject wells in accordance with a Division-approved plugging program;
- (3) Authorizing the Division to forfeit any applicable security posted in relation to the subject well(s); and
- (4) For such other and further relief as the Director deems just and proper under the circumstances.

RESPECTFULLY SUBMITTED,
this 14 day of September, 2007 by



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Conservation Division

Case No. 14005. Application of the New Mexico Oil Conservation Division for a Compliance Order against Tucumcari Exploration, LLC. The Applicant seeks an Order requiring Operator *in fact*, Tucumcari Exploration, LLC ("Tucumcari") to properly and fully register as Operator of record for the seven (7) wells described herein, and for an Order further requiring Tucumcari to bring the seven (7) subject wells into compliance, or alternatively authorizing the division to plug the wells and forfeit any applicable/available security in the event that Tucumcari fails to comply, and assessing an appropriate civil penalty, and for such other relief as the Director deems appropriate. The wells involved in this matter include the following:

ANNA KATHERYN #001	3-19-10N-27E	30-037-20051
ANNA KATHERYN #002	1-30-10N-27E	30-037-20052
JOHN DAVID #001	G-19-10N-27E	30-037-20053
JOHN DAVID #002	J-19-10N-27E	30-037-20054
RANDALS #005	D-20-10N-27E	30-037-20055
RANDALS #006	P-30-10N-27E	30-037-20056
RANDALS #007	F-29-10N-27E	30-037-20057