

STATE OF SOUTH DAKOTA

SECRETARY OF THE

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

IN THE MATTER OF SPYGLASS CEDAR )  
CREEK'S FAILURE TO COMPLY WITH )  
ARSD 74:12 )

NOTICE OF VIOLATION  
AND  
ORDER

TO: March Kimmel  
Spyglass Cedar Creek, LP  
110 Broadway, Suite 215  
San Antonio, TX 78205

The Secretary of the Department of Environment and Natural Resources ("Department"), pursuant to South Dakota Codified Laws (SDCL) 45-9-11 hereby gives NOTICE that Spyglass Cedar Creek, LP ("Spyglass"), 110 Broadway, Suite 215, San Antonio, TX, 78205 has violated conditions of its Applications for Permit to Drill numbers: 1780, 1778, 1781, 1789, 1793, 1814, 1825, 1826, 1827, 1828, 1829, 1863, 1864, 1865, 1866, 1867, 1868, 1869, 1876, 1877, 1885, 1886, 1887, 1888, 1890, 1948, 1949, 1950, 1960, 1961, 1964, 1965, 1966, 1967, 1968, 1969, 1971, 1975, 1978, and 1979, and Administrative Rules of South Dakota (ARSD) 74:12 as specified below.

The **FACTS** alleged to constitute these violations are as follows:

1. Spyglass operates 40 gas wells located in Harding County, South Dakota:
  - a. State 1-2H, located in the northeast quarter of the northeast quarter of Section 2, Township 17 North, Range 1 East.
  - b. Price 13-24R, located in the southwest quarter of the southwest quarter of Section 24, Township 19 North, Range 4 East.

- c. State 4-16, located in the northwest quarter of the northwest quarter of Section 16, Township 19 North, Range 4 East.
- d. Gold Point State 32-1, located in the northwest quarter of the northwest quarter of Section 32, Township 19 North, Range 2 East.
- e. 10-27 State, located in the northwest quarter or the southeast quarter of Section 27, Township 19 North, Range 4 East.
- f. Peterson 6-5, located in the southeast quarter of the northwest quarter of Section 5, Township 17 North, Range 4 East.
- g. Hett 8-24, located in the southeast quarter of the northeast quarter of Section 24, Township 18 North, Range 3 East.
- h. State Jo 6-27, located in the southeast quarter of the northwest quarter of Section 27, Township 17 North, Range 4 East.
- i. State 14-36, located in the southeast quarter of the southwest quarter of Section 36, Township 18 North, Range 1 East.
- j. State 10-35, located in the northwest quarter of the southeast quarter of Section 35, Township 18 North, Range 4 East.
- k. State 13-23, located in the southwest quarter of the southwest quarter of Section 23, Township 18 North, Range 4 East.
- l. State 11-30, located in the northeast quarter of the southeast quarter of Section 30, Township 18 North, Range 4 East.
- m. Spyglass State 7-35, located in the southwest quarter of the northeast quarter of Section 35, Township 18 North, Range 4 East.

- n. State 2-27, located in the northwest quarter of the northeast quarter of Section 27, Township 18 North, Range 4 East.
- o. State 12-4, located in the northwest quarter of the southwest quarter of Section 4, Township 17 North, Range 4 East.
- p. Heairet-Henderson 10-15, located in the northwest quarter of the southeast quart of Section 15, Township 17 North, Range 4 East.
- q. Gilbert 12-16, located in the northwest quarter of the southwest quarter of Section 16, Township 17 North, Range 4 East.
- r. Gilbert 13-10, located in the southwest quarter of the southwest quarter of Section 10, Township 17 North, Range 4 East.
- s. Gilbert 1-34, located in the northeast quarter of the northeast quarter of Section 34, Township 18 North, Range 4 East.
- t. Gilbert-State 3-16, located in the center of the northwest quarter of Section 16, Township 17 North, Range 4 East.
- u. State 16-22, located in the southeast quarter of the southeast quarter of Section 22, Township 18 North, Range 4 East.
- v. 3-30 State, located in the northeast quarter of the northwest quarter of Section 30, Township 18 North, Range 4 East.
- w. State 4-35, located in the northwest quarter of the northwest quarter of Section 35, Township 18 North, Range 4 East.
- x. Spyglass 16-24 Hett, located in the southeast quarter of the southeast quarter of Section 24, Township 18 North, Range 3 East.

- y. Gilbert 10-9, located in the northwest quarter of the southeast quarter of Section 9, Township 17 North, Range 4 East.
- z. Gilbert 5-26, located in the southwest quarter of the northwest quarter of Section 26, Township 18 North, Range 4 East.
- aa. State 16-8, located in the southeast quarter of the southeast quarter of Section 8, Township 17 North, Range 4 East.
- bb. State 10-16, located in the northwest quarter of the southeast quarter of Section 16, Township 17 North, Range 4 East.
- cc. State 8-8, located in the southeast quarter of the northeast quarter of Section 8, Township 17 North, Range 4 East.
- dd. Gilbert 13-15, located in the southwest quarter of the southwest quarter of Section 15, Township 17 North, Range 4 East.
- ee. Gilbert 5-15, located in the southwest quarter of the northwest quarter of Section 15, Township 17 North, Range 4 East.
- ff. Questar 9-27, located in the northeast quarter of the southeast quarter of Section 27, Township 18 North, Range 4 East.
- gg. Peterson 10-5, located in the northwest quarter of the southeast quarter of Section 5, Township 17 North, Range 4 East.
- hh. Gilbert 7-9, located in the southwest quarter of the northeast quarter of Section 9, Township 17 North, Range 4 East.
- ii. State 1-21, located in the northeast quarter of the northeast quarter of Section 21, Township 17 North, Range 4 East.

- jj. Fox 6-22, located in the southeast quarter of the northwest quarter of Section 22, Township 17 North, Range 4 East.
  - kk. Gilbert 12-9, located in the northwest quarter of the southwest quarter of Section 9, Township 17 North, Range 4 East.
  - ll. State 2-16, located in the northwest quarter of the northeast quarter of Section 16, Township 17 North, Range 4 East.
  - mm. Heairet-Henderson 2-22, located in the northwest quarter of the northeast quarter of Section 22, Township 17 North, Range 4 East.
  - nn. Acton 11-22, located in the northeast quarter of the southwest quarter of Section 22, Township 17 North, Range 4 East.
2. As part of the applications for the permits to drill, Spyglass submitted a \$20,000 statewide Plugging and Performance Bond in accordance with SDCL 45-9-15. The bond was submitted as a certificate of deposit, number 52113, issued by the First State Bank of New Braunfels, Texas. First State Bank was subsequently purchased by First Victoria Bank and then by Prosperity Bank.
  3. As part of the applications for permits to drill, Spyglass submitted a \$10,000 Surface Restoration Bond in accordance with the statutory requirement current in 2008. The bond was submitted in the form of two official checks issued by Wells Fargo Bank, the first, dated June 17, 2008 in the amount of \$2,000, and the second dated October 24, 2008 in the amount of \$8,000. In October, 2012, the two checks were escheated by the Texas Comptroller of Public Accounts. In 2013 the Department recovered the \$10,000 associated with the escheated checks from the State of Texas less a 1.5% fee charged by Texas Unclaimed

Property Division. Currently the Department holds the \$9,850 portion of the Surface Restoration Bond recovered from the State of Texas.

4. Spyglass completed, but reported no production for the following nine wells:
  - a. State 1-2H, API No. 40 063 20715, Permit 1979, drilled in 2010.
  - b. 13-24R Price, API No. 40 063 20542.01, Permit No. 1780, drilled in 2006.
  - c. State 4-16, API No. 40 063 20605, Permit No. 1781, drilled in 2006.
  - d. Gold Point State 32-1, API No. 40 063 20604, Permit No. 1778, drilled in 2006.
  - e. 10-27 State, API No. 40 063 20609, Permit No. 1789, drilled in 2006.
  - f. Hett 8-24, API No. 40 063 20644, Permit No. 1869, drilled in 2008.
  - g. State Jo 6-27, API No. 40 063 20657, Permit No. 1885, drilled in 2008.
  - h. State 14-36, API No. 40 063 20658, Permit No. 1886, drilled in 2008.
  - i. State 11-30, API NO. 40 063 20692, Permit No. 1948, drilled in 2010.
5. On February 16, 2012 the Department directed Spyglass to bring the nine wells that have never produced into compliance with ARSD 74:12:03:03 by returning the wells to production, plugging the wells, or submitting a Sundry Request for temporary abandonment of the wells. Spyglass did not respond.
6. On May 02, 2012 the Department received a complaint from land and royalty owner Ray Gilbert.
7. On May 15, 2012 the Department was made aware that New Frontier Energy, Inc. ("NFEI") had purchased interest in the wells, but no permits were transferred.

8. On May 16, 2012 the Department conducted inspections of Spyglass wells in response to the Gilbert complaint. Inspections uncovered inadequate or obscured signs at the State 13-23, State 4-35, State 7-35, Gilbert 12-9, Gilbert State 3-16, and State 12-16 wells. Unused equipment and other debris were documented at the Gilbert 5-26, State 12-4, State 16-8, State 12-16, Peterson 10-5, and Peterson 6-5 wells. Existing pipelines and access roads were in poor repair.
9. On June 06, 2012 the Department directed Spyglass to address compliance issues uncovered in the May 16, 2012 inspections within 30 days. Spyglass did not respond.
10. On July 17, 2012 the Department conducted follow-up inspections for the compliance issues documented during the May 16, 2012 inspections. As of July 17, 2012, Spyglass had not corrected any of the previously identified compliance issues.
11. On August 23, 2012 the Department directed Spyglass to bring twenty wells that had not produced since 2011 or earlier into compliance with ARSD 74:12:03:03 by returning the wells to production, plugging the wells, or submitting a Sundry Request for temporary abandonment of the wells. Spyglass did not respond. The following wells were identified:
  - a. State 1-2H, API No. 40 063 20715, Permit 1979, drilled in 2010.
  - b. 13-24R Price, API No. 40 063 20542.01, Permit No. 1780, drilled in 2006.
  - c. State 4-16, API No. 40 063 20605, Permit No. 1781, drilled in 2006.

- d. Gold Point State 32-1, API No. 40 063 20604, Permit No. 1778, drilled in 2006.
- e. 10-27 State, API No. 40 063 20609, Permit No. 1789, drilled in 2006.
- f. Hett 8-24, API No. 40 063 20644, Permit No. 1869, drilled in 2008.
- g. State Jo 6-27, API No. 40 063 20657, Permit No. 1885, drilled in 2008.
- h. State 14-36, API No. 40 063 20658, Permit No. 1886, drilled in 2008.
- i. Peterson 6-5, API No. 40 063 2020621, Permit No. 1826, drilled in 2007.
- j. State 10-35, API No. 40 063 20640, Permit No. 1865, drilled in 2008.
- k. State 13-23, API No. 40 063 20659, Permit No. 1887, drilled in 2010.
- l. State 11-30, API No. 40 063 20692, Permit No. 1948, drilled in 2010.
- m. Spyglass State 7-35, API No. 40 063 20693, Permit No. 1949, drilled in 2010.
- n. State 2-27, API No. 40 063 20694, Permit No. 1950, drilled in 2010.
- o. State 12-4, API No. 40 063 20701, Permit No. 1964, drilled in 2010.
- p. Heairet-Henderson 10-15, API No. 40 063 20703, Permit No. 1966, drilled in 2010.
- q. State 12-16, API No. 40 063 20705, Permit No. 1968, drilled in 2010.
- r. Gilbert 13-10, API No. 40 063 20711, Permit No. 1975 drilled in 2010.
- s. Gilbert 1-34, API No. 40 063 20714, Permit No. 1978, drilled in 2010.
- t. Gilbert State 3-16, API No. 40 063 20623, Permit No. 1828, drilled in 2007.

12. On October 09, 2012 landowner and royalty owner George Acton lodged a complaint with the Department concerning Spyglass non-payment.



13. On April 25, 2013 the Office of School and Public Lands canceled Spyglass' state leases.
14. On July 14, 2013 the Department received a complaint from landowner and royalty owner Ray Gilbert concerning the excessive presence of weeds at Spyglass well sites and on well access roads.
15. On September 18, 2013 the Department conducted routine and compliance inspections of Spyglass wells in response to the landowner complaint. The condition of the well sites had not significantly changed from past inspections. Excessive weeds were documented throughout well sites and access roads.
16. On February 28, 2014 the Department conducted routine and compliance inspections on Spyglass wells and discovered the Gilbert 5-26 well, API No. 40 063 20624, was leaking gas. The Department coordinated with the Bureau of Land Management ("BLM"), Spyglass, and New Frontier, Inc. ("NFEI") to inspect the well and to ensure repair of the well.
17. On March 11, 2014 Spyglass and NFEI pumper, Billy Brence, repaired the leaking well.
18. On March 13, 2014 the Department conducted compliance inspections of Spyglass wells in response to the repair of the leaking Gilbert 5-26 well. Department staff were accompanied by NFEI/Spyglass pumper, Billy Brence and Don Herauf, BLM.
19. On March 19, 2014 the Department directed Spyglass to bring its 40 wells which had not produced in six or more months into compliance with ARSD 74:12:03:03 by returning the wells to production, plugging the wells, or

submitting a Sundry Request for temporary abandonment of the wells. Spyglass was directed to file a follow-up report on the 5-26 Gilbert well, pursuant to ARSD 74:12:04:11. The Department also directed Spyglass to procure a new resident agent.

20. On April 21, 2014 Spyglass and NFEI replied to the Department's letter of March 19, 2014, and requested an abeyance to enforcement to allow for continuing negotiations between Spyglass and NFEI.

21. On April 23, 2014 Spyglass and NFEI's was granted a temporary abeyance until July 1, 2014 so long as the wells remained securely shut-in, a pumper inspected the wells on a bi-monthly basis and provided reports to the Department, and Spyglass/NFEI counsel provided regular updates to Department counsel.

22. On June 9, 2014 and June 24, 2014 Department staff contacted Spyglass and NFEI to remind them of the July 1, 2014 deadline and request inspection reports. Spyglass acknowledged the requests via email. Neither Spyglass nor NFEI provided inspection reports or further communications required under the temporary abeyance.

23. On May 15, 2015 landowner Don Hett contacted the Department with a complaint of leaking tanks and debris at the 3-30 State, API No. 40 063 20611, well site.

24. On May 18, 2015 Department staff visually inspected the 3-30 State well site to investigate the complaint of leaking tanks. No spill was documented due to generally wet conditions.

25. On July 06, 2015 Department contacted Spyglass and informed them of upcoming joint inspections with NFEI. The Department directed Spyglass to address compliance issues identified in previous inspections and to bring its 40 wells into compliance with ARSD 74:12:03:03 by returning the wells to production, plugging the wells, or submitting a Sundry Request for temporary abandonment of the wells. Spyglass did not respond.
26. On July 10, 2015 the Department informed Spyglass that a spill case had been initiated after the landowner notified the Department of leaking tanks at the 3-30 State wellsite. Spyglass did not respond.
27. On July 13, 14, and 15, 2015 Department staff accompanied Tristan Farel (NFEI) on inspections of the 40 Spyglass wells. Staff and Mr. Farel also met with Don Herauf (BLM), Don Hett (landowner), Ray Gilbert (landowner), and Mark Heairet (landowner). In addition to continuing issues of weeds and inadequate gauges, Department staff also identified two wells, the State 1-2H and the State 14-36, which required fences to prevent livestock from accessing them. Spyglass and NFEI were instructed to repair numerous small leaks at wellheads, to repair eroded areas, rebury pit liner, and remove unused equipment. The following wells had insufficient gauges:
- a. Peterson 6-5, API No. 40 063 20621, out of compliance since June 16, 2015.
  - b. Hett 8-24, API No. 40 063 20644, out of compliance since June 16, 2015.
  - c. State 14-36, API No. 40 063 20658, out of compliance since June 17, 2015.

- d. State 10-35, API No. 40 063 20640, out of compliance since June 16, 2015.
- e. State 13-23, API No. 40 063 20659, out of compliance since June 16, 2015.
- f. State 11-30, API No. 40 063 20692, out of compliance since June 16, 2015.
- g. Spyglass State 7-35, API No. 40 063 20693, out of compliance since June 16, 2015.
- h. State 2-27, API No. 40 063 20694, out of compliance since June 16, 2015.
- i. State 12-4, API No. 40 063 20701, out of compliance since June 16, 2015.
- j. Gilbert 12-16, API No. 40 063 20705, out of compliance since June 16, 2015.
- k. Gilbert 13-10, API No. 40 063 20711, out of compliance since June 16, 2015.
- l. Gilbert 1-34, API No. 40 063 20714, out of compliance since June 16, 2015.
- m. Gilbert-State 3-16, API No. 40 063 20623, out of compliance since June 16, 2015.
- n. State 16-22, API No. 40 063 20660, out of compliance since June 16, 2015.
- o. 3-30 State, API No. 40 063 20611, out of compliance since June 16, 2015.
- p. State 4-35, API No. 40 063 20614, out of compliance since June 16, 2015.

- q. Spyglass 16-24 Hett, API No. 40 063 20620, out of compliance since June 16, 2015.
- r. Gilbert 10-9, API No. 40 063 20622, out of compliance since June 16, 2015.
- s. Gilbert 5-26, API No. 40 063 20624, out of compliance since June 16, 2015.
- t. State 16-8, API No. 40 063 20638, out of compliance since June 16, 2015.
- u. State 10-16, API No. 40 063 20639, out of compliance since June 16, 2015.
- v. State 8-8, API No. 40 063 20641, out of compliance since June 16, 2015.
- w. Gilbert 13-15, API No. 40 063 20642, out of compliance since June 16, 2015.
- x. Gilbert 5-15, API No. 40 063 20643, out of compliance since June 16, 2015.
- y. Peterson 10-5, API No. 40 063 20651, out of compliance since June 16, 2015.
- z. Gilbert 7-9, API No. 40 063 20662, out of compliance since June 16, 2015.
- aa. Fox 6-22, API No. 40 063 20699, out of compliance since June 16, 2015.
- bb. Gilbert 12-9, API No. 40 063 20702, out of compliance since June 16, 2015.
- cc. State 2-16, API No. 40 063 20704, out of compliance since June 16, 2015.
- dd. Acton 11-22, API No. 40 063 20708, out of compliance since June 16, 2015.

28. With the exception of the leaking well (Gilbert 5-26) repaired on March 11, 2014, Spyglass failed to correct any of the previously identified violations.
29. On September 28, 2015, landowner Don Hett contacted the Department to complain again about leaking tanks at the 3-30 State well site.
30. On September 29, 2015 the Department directed Spyglass and NFEI to assess and clean up the spill associated with storage tanks at the 3-30 State well site; the Department re-sent the inspection and spill letters of July 06 and 10, 2015 to Spyglass and NFEI.
31. On October 01, 2015 March Kimmel (Spyglass) responded that he would have pumper Billy Brence check the tanks and report back.
32. On October 27, 2015 the Department inspected Spyglass wells and met with landowner Don Hett at the 3-30 State well site. Spyglass had taken no action to address the alleged spill at the 3-30 State well site.
33. On December 15, 2015 the Department directed Spyglass to bring its 40 wells into compliance with ARSD 74:12 by addressing lingering compliance issues including those identified during the July 2015 inspections, addressing the spill case at the State 3-30 well site, addressing well statuses, providing cement bond logs, and providing a completion report for the Gilbert 1-34 well. Spyglass did not respond.
34. On December 17, 2015 the Department directed Spyglass again to address the open spill case at the 3-30 State well site. Spyglass did not respond.
35. On March 07, 2016 landowner Don Hett contacted the Department to reiterate complaints about the 3-30 State well site.

36. On June 23, 2016 landowner Don Hett again contacted the Department to reiterate complaints about the 3-30 State well site.
37. On July 19, 2016 the Department directed Spyglass to bring its 40 wells into compliance with ARSD 74:12 by addressing lingering compliance issues. Spyglass did not respond.
38. On January 17, 2017 the Department held a conference call with March Kimmel (Spyglass). The Department directed Spyglass to provide a plan to return its 40 wells to compliance with ARSD 74:12 by March 30, 2017.
39. On January 24, 2017 the Department sent Spyglass a certified letter documenting the required compliance actions the Department outlined for Spyglass during the January 17, 2017 call. The letter was never picked up and was returned to the Department.
40. On March 27, 2017 March Kimmel (Spyglass) provided a work plan, itemized by well, via email.
41. On July 17, 2017 the Department conducted inspections of all Spyglass wells. The work outlined in Spyglass' March 27, 2017 letter was not completed.
42. On November 13, 2017 the Department held a conference call with March Kimmel (Spyglass) and James McCutcheon, Spyglass' counsel. The Department directed Spyglass to provide a work plan for the next six months by December 01, 2017. Spyglass did not provide the work plan.
43. On July 6, 2018, the Office of Attorney General was notified that Kevin Sellers of Spyglass cashed out the twenty-thousand-dollar (\$20,000.000) Certificate of Deposit that was serving as Spyglass' Plugging and Performance Bond.

Spyglass has not met the conditions of the bond under SDCL 45-9-15. The Certificate of Deposit was cashed out on October 23, 2015, without notification to the Department.

### VIOLATIONS

44. The Department realleges and incorporates by this reference each of the facts contained in the preceding paragraphs as if fully alleged herein.
45. In accordance with Administrative Rules of South Dakota (ARSD) 74:12:03:03, written approval must be obtained from the secretary for the temporary abandonment of a well, and a well with production casing may not be temporarily abandoned for more than six months unless the operator is granted an extension by the secretary.
46. In accordance with ARSD 74:12:03:03, before approving a request for extension of temporary abandonment status, the secretary may require mechanical integrity testing of the temporarily abandoned or shut-in well. A temporarily abandoned or shut-in well that successfully passes a mechanical integrity test may not be required to undergo another test for five years unless the secretary finds that circumstances have substantially changed to alter the condition of the well.
47. The following wells have never produced and remain unplugged:
  - a. State 1-2H, API No. 40 063 20715, Permit No. 1979, drilled in 2010.
  - b. 13-24R Price, API No. 40 063 20542.01, Permit No. 1780, drilled in 2006.
  - c. State 4-16, API No. 40 063 20605, Permit No. 1781, drilled in 2006.



- d. Gold Point State 32-1, API No. 40 063 20604, Permit No. 1778, drilled in 2006.
- e. 10-27 State, API No. 40 063 20609, Permit No. 1789, drilled in 2006.
- f. Hett 8-24, API No. 40 063 20644, Permit No. 1869, drilled in 2008.
- g. State Jo 6-27, API No. 40 063 20657, Permit No. 1885, drilled in 2008.
- h. State 14-36, API No. 40 063 20658, Permit No. 1886, drilled in 2008.
- i. State 11-30, API No. 40 063 20692, Permit No. 1948, drilled in 2010.

48. The following Spyglass well regularly produced gas, but has not been productive since 2010:

- a. Peterson 6-5, API No. 40 063 20621, Permit No. 1826.

49. The following Spyglass wells regularly produced gas, but have not been productive since 2011 and remain unplugged.

- a. State 10-35, API No. 40 063 20640, Permit No. 1865.
- b. State 13-23, API No. 40 063 20659, Permit No. 1887.
- c. Spyglass State 7-35, API No. 40 063 20693, Permit No. 1949.
- d. State 2-27, API No. 40 063 20694, Permit No. 1950.
- e. State 12-4, API No. 40 063 20701, Permit No. 1964.
- f. Heairet-Henderson 10-15, API No. 40 063 20703, Permit No. 1966.
- g. Gilbert 12-16, API No. 40 063 20705, Permit No. 1968.
- h. Gilbert 13-10, API No. 40 063 20711, Permit No. 1975.
- i. Gilbert 1-34, API No. 40 063 20714, Permit No. 1978.
- j. Gilbert-State 3-16, API No. 40 063 20623, Permit No. 1828.

50. The following Spyglass wells regularly produced gas, but have not been productive since 2012 and remain unplugged:

- a. State 16-22, API No. 40 063 20660, Permit No. 1888.
- b. 3-30 State, API No. 40 063 20611, Permit No. 1793.
- c. State 4-35, API No. 40 063 20614, Permit No. 1814.
- d. Spyglass 16-24 Hett, API No. 40 063 20620, Permit No. 1825.
- e. Gilbert 10-9, API No. 40 063 20622, Permit No. 1827.
- f. Gilbert 5-26, API No. 40 063 20624, Permit No. 1829.
- g. State 16-8, API No. 40 063 20638, Permit No. 1863.
- h. State 10-16, API No. 40 063 20639, Permit No. 1864.
- i. Gilbert 13-15, API No. 40 063 20642, Permit No. 1867.
- j. Gilbert 5-15, API No. 40 063 20643, Permit No. 1868.
- k. State 8-8, API No. 40 063 20641, Permit No. 1866.
- l. Questar 9-27, API No. 40 063 20650, Permit No. 1876.
- m. Peterson 10-5, API No. 40 063 20651, Permit No. 1877.
- n. Gilbert 7-9, API No. 40 063 20662, Permit No. 1890.
- o. State 1-21, API No. 40 063 20698, Permit No. 1960.
- p. Fox 6-22, API No. 40 063 20699, Permit No. 1961.
- q. Gilbert 12-9, API No. 40 063 20702, Permit No. 1965.
- r. State 2-16, API No. 40 063 20704, Permit No. 1967.
- s. Heairet-Henderson 2-22, API No. 40 063 20706, Permit No. 1969.
- t. Acton 11-22, API No. 40 063 20708, Permit No. 1971.

51. Failure to plug and abandon, produce, or temporarily abandon Spyglass' 40 gas wells is a violation of ARSD 74:12:03:03.

52. In accordance with Administrative Rules of South Dakota (ARSD) 74:12:02:09, identification signs, legible under normal conditions at a distance of 50 feet, must be posted not more than 20 feet from the well. Each sign must show the number of the well; the name of the lease, which must be different or distinctive for each lease; the name of the lessee, owner, or operator, the permit number; and the location by quarter-quarter-section, township, and range.

53. The following wells have no sign or a sign that is not legible:

- a. Gilbert 1-2H, API No. 40 063 20715, out of compliance since June 17, 2015.
- b. Price 13-24R, API No. 40 063 20542.01, out of compliance since July 15, 2015.
- c. State 4-16, API No. 40 063 20605, out of compliance since July 15, 2015.
- d. Gold Point State 32-1, API No. 40 063 20604, out of compliance since July 15, 2015.
- e. Hett 8-24, API No. 40 063 20644, out of compliance since June 28, 2016.
- f. State 14-36, API No. 40 063 20658, out of compliance since September 2, 2014.
- g. State 11-30, API No. 40 063 20692, out of compliance since June 16, 2015.
- h. Heairet-Henderson 10-15, API No. 40 063 20703, out of compliance since July 15, 2015.

- i. Gilbert 10-9, API No. 40 063 20622, out of compliance since July 18, 2017.

54. Failure to maintain legible identification signs at nine well sites is a violation of ARSD 74:12:02:09.

55. In accordance with Administrative Rules of South Dakota (ARSD) 74:12:02:17, completion and/or recompletion reports must be filed with the secretary within 30 days of completing or recompleting a production or injection well.

56. A completion report for the Gilbert 1-34, API No. 40 063 20714 was due on October 31, 2010, but has not been filed with the secretary.

57. Failure to submit a completion report for the Gilbert 1-34 is a violation of ARSD 74:12:02:17.

58. In accordance with Administrative Rules of South Dakota (ARSD) 74:12:02:12, the operator shall file a cement bond log within 60 days after completion of a well.

59. The following wells have no cement bond log on file:

- a. State 1-2H, API No. 40 063 20715, completed on October 20, 2010.
- b. State 4-16, API No. 40 063 20605, completed on July 2, 2009.
- c. Gold Point State 32-1, API No. 40 063 20604, completed on July 2, 2009.
- d. 10-27 State, API No. 40 063 20609, completed on May 2, 2007.
- e. State 14-36, API No. 40 063 20658, completed on February 22, 2007.
- f. State 13-23, API No. 40 063 20659, completed on March 17, 2010.
- g. State 11-30, API No. 40 063 20692, completed on April 28, 2010.
- h. Spyglass State 7-35, API No. 40 063 20693, completed on March 5, 2010.

- i. State 2-27, API No. 40 063 20694, completed on February 8, 2010.
- j. State 12-4, API No. 40 063 20701, completed on June 19, 2010.
- k. Heairet-Henderson 10-15, API No. 40 063 20703, completed on July 28, 2010.
- l. Gilbert 13-10, API No. 40 063 20711, completed on July 27, 2010.
- m. Gilbert 1-34, API No. 40 063 20714, completed on October 31, 2010.
- n. 3-30 State, API No. 40 063 20611, completed on December 13, 2006.
- o. State 10-16, API No. 40 063 20639, completed on July 30, 2008.
- p. Gilbert 5-15, API No. 40 063 20643, completed on July 31, 2008.
- q. Questar 9-27, API No. 40 063 20650, completed on July 31, 2008.
- r. State 1-21, API No. 40 063 20698, completed on May 18, 2010.
- s. Fox 6-22, API No. 40 063 20699, completed on May 18, 2010.
- t. Gilbert 12-9, API No. 40 063 20702, completed on November 29, 2010.
- u. Heairet-Henderson 2-22, API No. 40 063 20706, completed on July 28, 2010.
- v. Acton 11-22, API No. 40 063 20708, completed on May 19, 2010.

60. Failure to submit cement bond logs for twenty-two Spyglass wells is a violation of ARSD 74:12:02:12.

61. In accordance with Administrative Rules of South Dakota (ARSD) 74:12:02:16, valves and gauges must be installed and maintained in good working order to permit pressure readings to be obtained on both casing and tubing.

62. The wells identified in paragraph 27 do not have sufficient or working gauges.

63. Failure to install and maintain adequate gauges at thirty well sites is a violation of ARSD 74:12:02:16.
64. In accordance with Administrative Rules of South Dakota (ARSD) 74:12:03:07, interim reclamation must be conducted on all areas disturbed by a well drilling operation and not needed for production operations within 12 months after the well is completed. Interim reclamation includes backfilling pits, correcting subsidence of backfilled pits or trenches, controlling erosion, removing unused or discarded equipment, and related activities.
65. The following well sites have a pit that is not properly reclaimed, erosion issues, unused equipment or debris onsite, or pit liner material at the surface:
- a. State 1-2H, API No. 40 063 20715, out of compliance since June 17, 2015.
  - b. State 4-16, API No. 40 063 20605, out of compliance since June 15, 2015.
  - c. State 14-36, API No. 40 063 20658, out of compliance since September 2, 2014.
  - d. 3-30 State, API No. 40 063 20611, out of compliance since March 13, 2014.
  - e. Fox 6-22, API No. 40 063 20699, out of compliance since March 13, 2014.
  - f. Gold Point State 32-1, API No. 40 063 20604, out of compliance since June 29, 2016.
  - g. Gilbert-State 3-16, API No. 40 063 20623, out of compliance since June 28, 2016.
  - h. State 4-35, API No. 40 063 20614, out of compliance since June 29, 2016.

- i. Gilbert 5-15, API No. 40 063 20643, out of compliance since July 18, 2017.
- j. State 1-21, API No. 40 063 20698, out of compliance since June 16, 2015.
- k. Heairet-Henderson 2-22, API No. 40 063 20706, out of compliance since June 28, 2016.
- l. Acton 11-22, API No. 40 063 20708, out of compliance since June 28, 2016.
- m. State 13-23, API No. 40 063 20659, out of compliance since May 16, 2012.
- n. State 16-22, API No. 40 063 20660, out of compliance since June 29, 2016.

66. Failure to properly reclaim pits, remove unused equipment and debris, remove or rebury pit liner material present at the surface, and to correct erosion issues at fourteen well sites is a violation of ARSD 74:12:03:07.

67. By cashing out the twenty-thousand-dollar (\$20,000.000) Certificate of Deposit on October 23, 2015, Spyglass failed to maintain a bond as required by SDCL 45-9-15.

68. Failure to maintain an adequate bond is a violation of SDCL 45-9-15.

#### ORDER

WHEREFORE, as a result of these FACTS and VIOLATIONS, and pursuant to SDCL Chapter 45-9, and ARSD Article 74:12, the Secretary of the South Dakota Department of Environment and Natural Resources hereby ORDERS that the following corrective actions be taken by Spyglass:

1. Spyglass shall submit plugging plans for its 40 wells to the Department by July 31, 2018. The plans must include a budget and implementation schedule developed in consultation with a well-services company approved by the Department.

2. Spyglass shall plug the State 1-2H, Price 13-24R, State 4-16, Gold Point State 32-1, 10-27 State, Hett 8-24, State JO 6-27, State 11-30, and State 14-36 wells in accordance with ARSD 74:12:03 by August 31, 2018.

3. Spyglass shall plug, or perform mechanical integrity tests and request temporarily abandoned status for the following wells: Peterson 6-5, State 10-35, State 13-23, Spyglass State 7-35, State 2-27, State 12-4, Heairet-Henderson 10-15, Gilbert 12-16, Gilbert 13-10, Gilbert 1-34, Gilbert-State 3-16, State 16-22, 3-30 State, State 4-35, Spyglass 16-24 Hett, Gilbert 10-9, Gilbert 5-26, State 16-8, State 10-16, State 8-8, Gilbert 13-15, Gilbert 5-15, Questar 9-27, Peterson 10-5, Gilbert 7-9, State 1-21, Fox 6-22, Gilbert 12-9, State 2-16, Heairet-Henderson 2-22, and Action 11-22. Required plugging or mechanical integrity tests must be completed by August 31, 2018. Wells must be brought into compliance with ARSD 74:12 prior to returning wells to production.

4. Spyglass shall, in accordance with SDCL 45-9-15, immediately secure a Plugging and Performance bond, payable to the Department, in the amount of twenty-thousand dollars (\$20,000.00).



NOTICE IS HEREBY GIVEN that if Spyglass fails to fully comply with the above ORDER by August 31, 2018, the Department will hold a contested case hearing in front of the Board of Minerals and Environment ("Board") on October 18, 2018.

NOTICE IS HEREBY GIVEN that should the October 18, 2018, contested case hearing be necessary, the Board will consider the Department's Recommendation which may include, but is not limited to, permit revocation and surety forfeiture. The Department's Recommendation is reflected in the attached Petition for Revocation and Surety Forfeiture and Notice of Hearing which are hereby incorporated by this reference.

NOTICE IS HEREBY GIVEN that if Spyglass fails to file a response in opposition to the Department's Recommendation and fails to request a contested case hearing by August 31, 2018, no hearing shall be held and the Department's Recommendation shall become final. Any petition requesting a contested case hearing must be delivered to: Secretary, Department of Environment and Natural Resources, 523 East Capitol Ave., Pierre, SD 57501-3182.

NOTICE IS ALSO HEREBY GIVEN that these violations, as well as a failure to comply with the provisions of the ORDER, may subject Spyglass to injunctive legal action pursuant to SDCL 34A-10-2.5, and to legal action for civil penalties and for damages to the natural resources pursuant to SDCL 45-9-68.

This Notice of Violation does not constitute a waiver or election by the State to forego civil or criminal action of any kind, including actions to seek penalties

or other relief as the State may deem appropriate under the provisions of SDCL Chapters 34A-10 and 45-9.

Dated and signed this 10<sup>th</sup> day of July, 2018.



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Steven M. Pirner  
Secretary  
Department of Environment and Natural Resources