

STATE OF MICHIGAN  
CIRCUIT COURT FOR THE 20TH JUDICIAL CIRCUIT  
OTTAWA COUNTY

MICHIGAN DEPARTMENT OF  
ENVIRONMENT, GREAT LAKES,  
AND ENERGY,

Plaintiff,

v

FISHER MCCALL OIL & GAS, INC., and  
DAVID A. ROBB, President,

Defendants.

Case No. 22-6881-CB

HON. JON A. VAN ALLSBURG

**CONSENT JUDGMENT**

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At a session of said Court, held in the City of Grand Haven County of Ottawa, State of Michigan, on this \_\_\_ day of \_\_\_\_\_, 2023

PRESENT: Honorable Jon A. Van Allsburg  
Chief Circuit Court Judge

This matter having come to be heard upon the complaint of the above-named Plaintiff, and the parties having stipulated to this Consent Judgment;

**IT IS HEREBY STIPULATED:**

1. Plaintiff Michigan Department of Environment, Great Lakes, and Energy (EGLE) is charged with enforcement of Part 615, Supervisor of Wells, of the Michigan Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, MCL 324.61501 *et seq.*, and the rules promulgated thereunder (Part 615).

2. Defendant Fisher McCall Oil & Gas, Inc. is the permittee of record for the 21 wells identified in the attached Exhibit A to this Consent Judgment.

3. Defendant David A. Robb is the president of Fisher McCall Oil & Gas, Inc. and is authorized to act on its behalf.

4. Fisher McCall Oil & Gas, Inc. has a blanket conformance bond of Fifty-One Thousand, Six Hundred Twenty-Seven Dollars and Seventy-Six Cents (\$51,627.76) associated with the Fisher McCall Oil & Gas, Inc.'s wells and facilities identified in Exhibit A under Part 615.

5. EGLE has alleged that the wells and facilities listed in Exhibit A are currently not in compliance with the requirements of Part 615 or the attendant administrative rules. Specifically, Fisher McCall Oil & Gas, Inc.'s wells have not

economically produced or been used for their permitted purpose for more than 12 consecutive months in violation of Mich Admin Code, R 324.903.

6. EGLE has also alleged that the conditions at Fisher McCall Oil & Gas, Inc.'s oil wells and facilities present a hazard to the health and safety of individuals and the environment in violation of Part 615 and several administrative rules, including Mich Admin Code, R 324.504, R 324.610, R 324.701, R 324.903, R 324.1001, R 324.1006, and R 324.1012.

7. In order to bring these wells into compliance with Michigan law, they must be properly plugged and abandoned. EGLE estimates the cost of plugging and abandoning these 21 wells to be One Hundred Thousand Dollars and Zero Cents (\$100,000.00) per well, for a total plugging cost of Two Million, One Hundred Thousand Dollars and Zero Cents (\$2,100,000.00).

8. EGLE estimates it will expend Four Hundred Thousand Dollars and Zero Cents (\$400,000.00) in state funds to clean, delineate and remediate the wells and facilities identified in Exhibit A.

9. In January 2019, an alleged release of oil occurred at Fisher McCall Oil & Gas, Inc. Moss, C. B-1 well (permit number 8465) which Fisher McCall Oil & Gas, Inc. failed to adequately address in violation of Mich Admin Code, R 324.504 and R 324.701.

10. EGLE will be forced to expend a significant amount of state funds to address and remediate the Moss, C. B-1 release in the future.

11. Defendant David A. Robb loaned Fisher McCall Oil & Gas, Inc. a total of One Hundred Sixty Thousand Dollars and Zero Cents (\$160,000.00) to pay for additional costs related to the Moss, C. B-1 release. This loan was based on the four following promissory notes to Fisher McCall Oil & Gas, Inc.: Twenty Thousand Dollars and Zero Cents (\$20,000.00) dated January 8, 2019; One Hundred Thousand Dollars and Zero Cents (\$100,000.00) dated June 21, 2019; Thirty Thousand Dollars and Zero Cents (\$30,000.00) dated September 27, 2019; and Ten Thousand Dollars and Zero Cents (\$10,000.00) dated July 21, 2021, for a sum total of One Hundred Sixty Thousand Dollars and Zero Cents (\$160,000.00) (collectively the Promissory Notes). To date no portion of these loans has been paid back.

12. In April of 2023, an alleged release occurred at Fisher McCall Oil & Gas, Inc.'s well sites Moss, C. 2 (permit number 8329), and Single, 1 (permit number 7871), and Single, 2 (permit number 7959). This release has yet to be fully remediated.

13. EGLE has thus far expended One Hundred Two Thousand, Ninety-Five Dollars and Eighteen Cents (\$102,095.18) of state funds to remediate the April 2023 release from the Moss, C. 2 (permit number 8329), Single, 1 (permit number 7871), and Single, 2 (permit number 7959) wells.

14. To comply with the requirements of Part 615, the wells listed in Exhibit A must be properly plugged and abandoned, as set forth in Part 9: Plugging of the Part 615 administrative rules, Mich Admin Code, R 324.901-904.

15. The release at the Moss, C. B-1 site (permit number 8465) requires additional delineation, clean-up, and remediation to comply with the requirements of Part 615 and attendant administrative rules.

16. The release at wells Moss, C. 2 (permit number 8329), Single, 1 (permit number 7871), and Single, 2 (permit number 7959) require additional delineation, clean-up, and remediation to comply with the requirements of Part 615 and attendant administrative rules.

17. Part 615 allows EGLE to sue to recover state funds expended in response to, among other things, releases of oil from well sites. MCL 324.61519.

18. Part 615 allows EGLE to recover civil fines in the amount of One Thousand Dollars and Zero Cents (\$1,000.00) per day for violations of Part 615 and/or the associated administrative rules. MCL 324.61522. Fisher McCall Oil & Gas, Inc.'s wells listed in Exhibit A have been out of production and in violation of state law for at least 250 days, with each well constituting a separate violation.

19. Part 616, Orphan Well Fund, of the Michigan Natural Resources and Environmental Protection Act, MCL 324.61601 *et seq.* (Part 616) authorizes EGLE to expend state funds to plug oil and gas wells if the owner of the well cannot be located or is insolvent. MCL 324.61603.

20. Defendant Fisher McCall Oil & Gas, Inc. acknowledges that it is insolvent.

21. The entry of this Consent Judgment is necessary to prevent waste as defined in MCL 324.61501(q) and to alleviate pollution, impairment, and destruction of the natural resources of the State of Michigan.

**IT IS HEREBY ORDERED:**

1. This Consent Judgment is not intended to be an admission of liability; rather, this Agreement is intended to be a complete settlement and compromise of any and all disputes between the Parties.

2. Defendant Fisher McCall Oil & Gas, Inc. consents to a judgment for a total of Two Million, Eight Hundred Fifty-Two Thousand, Ninety-Five Dollars and Eighteen Cents (\$2,852,095.18) to be apportioned in the following manner:

- a. Two Million, One Hundred Thousand Dollars and Zero Cents (\$2,100,000.00) to plug the 21 wells identified in Exhibit A.
- b. Four Hundred Thousand Dollars and Zero Cents (\$400,000.00) to restore, delineate, clean, and remediate the wells and facilities identified in Exhibit A.
- c. One Hundred Two Thousand, Ninety-Five Dollars and Eighteen Cents (\$102,095.18) to remediate the release that occurred at Fisher McCall Oil & Gas, Inc.'s Moss, C. 2 (permit number 8329), Single 1 (permit number 7871), and Single 2 (permit number 7959) well sites.
- d. Two Hundred Fifty Thousand Dollars and Zero Cents (\$250,000.00) in civil fines pursuant to MCL 324.61522.

3. This Consent Judgment resolves all causes of action, claims, demands, or other liabilities, whether legal or equitable, arising out of, resulting from, or relating to the claims alleged in the May 27, 2022, Complaint in this matter. Each party is to bear their own attorney fees and costs with respect to this matter.

4. Fisher McCall Oil & Gas, Inc. is declared financially insolvent as that term is used in Part 616, specifically MCL 324.61603(1)(a).

5. EGLE may treat the wells and facilities listed in Exhibit A and wells Moss, C. 2 (permit number 8329), Single, 1 (permit number 7871), and Single, 2 (permit number 7959) as orphan wells pursuant to Part 616, Orphan Well Fund, of the Michigan Natural Resources and Environmental Protection Act, MCL 324.61601 *et seq.*

6. Fisher McCall Oil & Gas, Inc. hereby releases all interests and claims to the blanket conformance bond of Fifty-One Thousand, Six Hundred Twenty-Seven Dollars and Seventy-Six Cents (\$51,627.76) associated with Fisher McCall Oil & Gas, Inc.'s wells and facilities listed in Exhibit A under Part 615.

7. Fisher McCall Oil & Gas, Inc. hereby releases all claims of interest, ownership, and possession of any and all equipment, structures, machinery, fixtures owned by Fisher McCall Oil & Gas, Inc. in its oil and gas operations.

8. Defendant David A. Robb forbears collection on the Promissory Notes.


9. Except for the Consent Judgment by Defendant Fisher McCall Oil & Gas, Inc., the Parties, on behalf of themselves, their heirs, successors, and assigns, now and forever fully release, forgive, acquit, and discharge one another, their heirs, administrators, trustees, businesses, shareholders, directors, officers, agents, attorneys, servants, employees, insurers, successor, and assigns (Released Parties), and all other persons, firms, companies, corporations and entities who are liable or may be liable for and from all claims, debts, demands, damages, liabilities, actions,

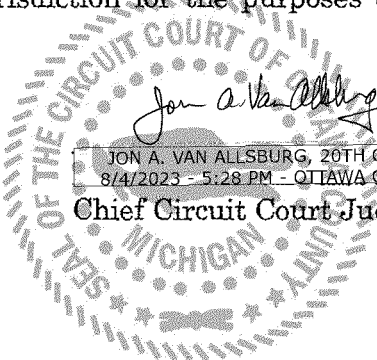
causes of action, suits, covenants, contracts, promises or obligations of any kind, whether known or unknown, asserted or unasserted, liquidated or fixed, accrued or unaccrued, certain or contingent, matured or unmatured, both at law and in equity, whether arising in tort, contract, statute or otherwise, whether for damages, costs, expenses, attorneys' fees, penalties, or for any other charges or sums of money of any kind whatsoever, which either party now has, or may later acquire against any of the Released Parties relating to the subject matter of this litigation. For the avoidance of doubt, this Consent Judgment resolves EGLE's claims against Defendant David A. Robb in his personal capacity, and he is dismissed from this action with prejudice and without penalties, costs, or payment of any kind to any party.

10. This Consent Judgment resolves any claim that Defendants Fisher McCall Oil & Gas, Inc. or David A. Robb might have against EGLE arising out of the subject matter of this action.

11. This case is dismissed with prejudice, and this Consent Judgment resolves the last pending claim and closes the case.

12. The Court shall retain jurisdiction for the purposes of enforcing the terms of this Consent Judgment.

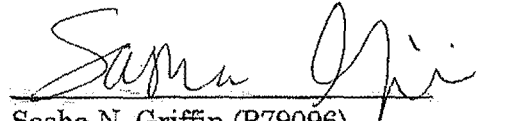
  
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JON A. VAN ALLSBURG, 20TH CIRCUIT COURT JUDGE  
8/4/2023 - 5:28 PM - OTTAWA COUNTY - E-SIGNATURE  
Chief Circuit Court Judge



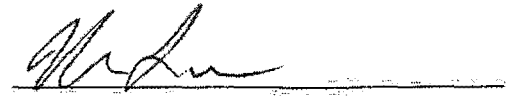


Agreed as to content, form, and for entry:

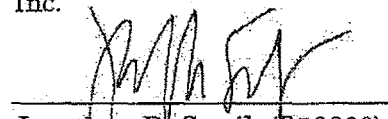
Dated: July 31, 2023

  
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Dated: July 31, 2023

  
Nicholas S. Laue (P79260)  
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Dated: July 31, 2023

  
Jonathan D. Sweik (P59880)  
Attorney for David A. Robb

LF: Fisher McCall Oil and Gas (EGLE v)/AG# 2021-0323610-A/Settlement Agreement 2023-07-27

# **EXHIBIT A**

**EXHIBIT A**  
**FISHER MCCALL OIL AND GAS, INC. - WELL AND FACILITY LIST**

<b>Well Name &amp; Number</b>	<b>Permit Number</b>	<b>Township</b>	<b>County</b>
SHEATHELM, H&D 1-129	35876	White Oak	Ingham
MACKUS, H 2	8400	Georgetown	Ottawa
MACKUS, H 3	8548	Georgetown	Ottawa
MACKUS, H B-4	8617	Georgetown	Ottawa
MOSS, C1	8261	Georgetown	Ottawa
MOSS, C 2	8329	Georgetown	Ottawa
MOSS, C B-1	8465	Georgetown	Ottawa
MOSS, C J C-2	15567	Georgetown	Ottawa
MOSS, C J D-1	16969	Georgetown	Ottawa
MOSS, C J D-2	17280	Georgetown	Ottawa
MOSS, C J D-3	17640	Georgetown	Ottawa
BOYNTON, GEORGE W 5-A	24492	Georgetown	Ottawa
BOYNTON, GEORGE W 1	17557	Georgetown	Ottawa
BOYNTON, GEORGE W 3	19029	Georgetown	Ottawa
BERGER, WM 2	15581	Georgetown	Ottawa
BOYNTON, GEORGE W 4	21680	Georgetown	Ottawa
HEYBOER, PETER 1	8542	Tallmadge	Ottawa
HEYBOER, PETER 2	15798	Tallmadge	Ottawa
HEYBOER, PETER 5	19388	Tallmadge	Ottawa
HEYBOER, PETER 4	19270	Tallmadge	Ottawa
WADSWORTH, HARRY 1	15642	Georgetown	Ottawa
<b>Facility Name</b>	<b>Facility Number</b>	<b>Township</b>	<b>County</b>
BOYNTON #5A B3-02	1439	Georgetown	Ottawa
MOSS #B1 A3-02	1438	Georgetown	Ottawa
MACKUS #1 A2-02	1437	Georgetown	Ottawa
HEYBOER #1 A2-12	1441	Tallmadge	Ottawa