

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

**AMENDED APPLICATION OF ALPHA ENERGY
PARTNERS, LLC, FOR COMPULSORY
POOLING, EDDY COUNTY, NEW MEXICO**

CASE No. 25166

**RESPONSE TO AMERICAN ENERGY RESOURCES LLC'S MOTION
TO STRIKE AND ALPHA'S AMENDED MOTION TO COMPEL
THE P&A OF THE SAIK #001 WELL**

Alpha Energy Partners, II, LLC, ("Alpha"), through its undersigned attorneys, submits to the Oil Conservation Division ("Division" or "OCD") this Response to the Motion to Strike Alpha's Application in Case No. 25166 filed by American Energy Resources LLC ("AmER") on February 19, 2025, and Alpha's Amended Motion to Compel the plug and abandon ("P&A") of the Saik #001 Well ("Response" and "Motion"). The amended part is being added to provide the positions of the other parties who have entered appearances in the case in support of its Response and Motion, Alpha states the following:

1. AmER is the OCD designated Operator of the Saik #001 well (API No. 30-015-20971) (the "Saik Well") which is located in the NW/4NE/4 (Unit B) of Section 17, Township 22 South, Range 27 East, PMNM, Eddy County, New Mexico. The spacing unit for the Saik Well is the N/2 of Section 17 (the "Saik DSU"). Division records indicate zero production from the Saik Well from 2008 to 2021, and no reports for production have been submitted to the OCD from 2021 to the present. *See* OCD Production Information attached hereto as Exhibit 1. Pursuant to 19.15.25.8A and B NMAC, an operator of a well "shall plug" the well within 90 days after "a period of one year in which a well as been continuously inactive." 19.15.25.8B(3) NMAC. The

Saik #001 has been non-productive since 2008 and it is currently listed on the OCD's Inactive Well List as of February 25, 2025. *See* Inactive Well List for AmER attached hereto as Exhibit 2.

2. Furthermore, AmER has a total well count of nine wells, three of which are currently listed as inactive. *See id.* Under 19.15.5.8A(4) NMAC, an operator is out of compliance if the operator has more than “two wells or fifty percent of the wells the operator operates, whichever is less, if the operator operates 100 wells or less.” AmER operates a total of nine wells with three wells, including the Saik #001, listed as inactive; consequently, AmER's Saik #001 is out of compliance with OCD rules.

3. The Division recognized the need for the Operator of the Saik #001 to plug and abandon (“P&A”) the well in 2017 when Wildcat Energy LLC was the OCD recognized the Operator of the well. *See* Letter of Violation re Inactive Well(s) dated March 2, 2017, attached hereto as Exhibit 3. In the Letter of Violation, the Division mandated that either the Saik Well (1) be “immediately” restored to production, or (2) be placed on “Temporary Abandoned” status, or (3) proceed with plugging procedures. Records show that none of the options have been accomplished to date.

4. AmER by providing isolated examples of select assignments purports to claim that it owns current leasehold interest in the Saik Unit. *See* AmER's Motion to Strike, Attachment A. However, the leases AmER purports to own date from the late 1960s to the early 1970s. Such leases have expired as a matter of law due to Saik Well's years of lack production, and recent leases and ownership in the Saik Unit has supplanted AmER's expired leases. *See* Alpha's Exhibit A-2 (Ownership), Tracts 1 – 8, which cover the Saik Unit, showing current title and ownership which does not include AmER as an owner or any of the leases AmER purports to own in the

Attachment A of its Motion to Strike. Alpha owns 100% of the leasehold rights of all the tracts in the Saik DSU.

5. In spite of its lack of ownership in the Saik DSU, AmER filed a Form C-145 with the Division requesting a Change of Operator from Wildcat Energy LLC (“Wildcat”) to AmER as the new operator, in which AmER assumed all liabilities and consequences associated with a non-producing well in which AmER has no ownership. *See* AmER’s Change of Operator, attached hereto as Exhibit 4. In its Change of Operator, AmER certified to the Division that “I understand that New Mexico requires wells that have been inactive for certain time periods to be plugged or placed in approved temporary abandonment. *See* 19.15.25.8 NMAC. I understand the requirements for plugging and approved temporary abandonment in 19.15.25 NMAC. *See also* Wildcat’s Lis Pendens, III. Factual Background, p. 5, ¶ 13, attached hereto as Exhibit 6 (Wildcat confirming that Jonathan Samaniego, representative of AmER, contacted Wildcat “*about acquiring three non-producing wells*” in Eddy County from Wildcat: “The Rio Penasco KD #3 (the “Rio Penasco Well”); the Henry 2 Well *and the SAIK Well.*”) (emphasis added).

6. Without ownership in the Saik DSU or well and given the well’s current inactive status and its years of non-production, AmER does not have any basis or right to reenter and attempt to produce the Saik Well, which was earmarked for plugging by the Division in 2017. *See* Exhibit 3 (Letter of Violation). Nonetheless, AmER falsely perpetuates its claim with the Division that the non-producing Saik Well is suitable for re-entry instead of being plugged. *See* recent plans proposed by AmER to reenter the Saik #001 well attached hereto as Exhibit 5.

7. Alpha’s title analysis and its Ownership Exhibit A-2 show that AmER owns no interest in the Saik DSU or in the wellbore of the Saik Well, a conclusion that is supported by the expiration of the leases (circa 1960s and early 1970s) in AmER’s Attachment A. If AmER disputes

this conclusion, it would need to initiate a quiet title action in district court to address any dispute, and more importantly, to demonstrate to the Division that it has sufficient ownership in the Saik Well that would give AmER a right to reenter the well and produce it. Without working interest or wellbore interest, AmER does not have the right to drill, reenter or produce the Saik Well. Lacking ownership interest in minerals in the Saik DSU any attempt by AmER to reenter and produce the Saik Well would be a trespass on the rights of the current leasehold owners which do not include AmER. In sum, by filing a Change of Operator with the Division and acquiring the rights to the Saik Well, AmER has acquired only the personal property of salvage materials with no property rights except the obligation to plug the well and clean up and remediate any and all contaminants in the well's vicinity.

8. Conclusion: For the foregoing reasons, Alpha respectfully requests that the Division deny AmER's Motion to Strike Alpha's application in Case No. 25166 and proceed with the scheduled hearing on March 4, 2025. Furthermore, Alpha formally protests and objects to any attempt by AmER to reenter the defunct and inert Saik Well and requests that the Division review the well's history of not producing since 2008; the well's inactive status; and the ongoing violations of 19.15.5.9 NMAC (regarding number of inactive wells out of compliance) and 19.15.25.8 NMAC (regarding the need to P&A the Saik Well) in order to confirm that the Saik Well should be plugged. Alpha informed counsel of this Response and Amended Motion and requested positions on the motion part. Chief Capital (O&G) II, LLC, and Covenant Hercules, LLC, state they do not take a position on the Motion. As of the date of the filing, Permian Resources Operating, LLC, did not respond to the request; Warren Anderson did not respond; and American Energy Resources, LLC, did not respond.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was filed with the New Mexico Oil Conservation Division and was served on counsel of record, or on party if self-represented, via electronic mail on March 3, 2025:

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