

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

**APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION  
COMPLIANCE AND ENFORCEMENT BUREAU FOR A COMPLIANCE  
ORDER AGAINST CANO PETRO OF NEW MEXICO, INC., FOR WELLS  
OPERATED IN CHAVES AND ROOSEVELT COUNTIES, NEW MEXICO.**

**CASE NO. 16359**

**REQUEST TO DIRECT CASE TO THE OIL CONSERVATION COMMISSION  
AND JOINDER WITH CASE NO. 16040**

The Oil Conservation Division Compliance and Enforcement Bureau (“Bureau”) had previously sought a compliance order against Cano Petro of New Mexico, Inc. (“Operator” or “Cano”) in case no. 16040. After the division issued order no. R-14663. Cano Petro of New Mexico, Inc. subsequently requested a De Novo hearing before the New Mexico Oil Conservation Commission (“OCC”) and a stay of order R-14663. Considering the De Novo appeal, the Bureau submits this application for hearing to include other relevant violations committed by Cano and requests the director to direct this adjudicatory hearing to be heard by the OCC and join the case with case no. 16040. This matter was presented to the OCC on July 20, 2018 and the OCC agreed with the Bureau’s request.

**APPLICATION**

The Bureau, through its undersigned attorney, hereby files this application with the Oil Conservation Division (“OCD” or “Division”) pursuant to the provisions of NMSA 1978, §70-2-12 for a compliance order (1) determining operator Cano is out of compliance with 19.15.8, 19.15.17, 19.15.29, and 19.15.36 NMAC; (2) requiring the Operator to return to compliance with 19.15.8, 19.15.17, 19.15.29, and 19.15.36 NMAC

by a date certain; and (3) the OCD retains its right to bring a compliance action for any other existing and future violations. In support of this application, the Bureau states:

1. The Bureau restates the claims in the application for hearing in case no. 16040 and incorporates them by reference into this application.
2. Operator is a foreign profit corporation that operates 323 wells (the “subject wells”) in Chaves and Roosevelt Counties, New Mexico, under OGRID No. 248802.
3. 19.15.8.9(C) NMAC states that an operator shall cover a well that has been in temporary abandonment for more than two (2) years by either a one-well financial assurance or a blanket plugging financial assurance for wells in temporarily abandoned status.
4. Operator currently needs acceptable financial assurance for the following wells:
  - a. Cato San Andreas Unit #007, API 30-005-10536, \$8,498 bond required;
  - b. Cato San Andreas Unit #094, API 30-005-20677, \$8,550 bond required;
  - c. Cato San Andreas Unit #516, API 30-005-27973, \$9,006 bond required;
  - d. Cato San Andreas Unit #561, API 30-005-28029, \$9,100 bond required;
5. 19.15.17.8(A) NMAC states “[a] person shall not construct or use a pit except in accordance with a division-issued permit. Only an operator may apply for a

division-issued permit. After June 16, 2008, an unlined pit is prohibited and the division shall not issue a permit for an unlined pit.”

6. 19.15.17.9 NMAC requires that all pits have a closure plan as a condition of its approval. The Oil Conservation Commission (“OCC”) adopted the closure requirements, as well as the other requirements of 19.15.17 NMAC (commonly known as the “pit rule”) to ensure that a pits design, operation, closure, and revegetation standards are protective of groundwater, public health, and the environment. OCC Order No. R-13506-D pg. 44, para. S.

7. To obtain a permit for a pit, an operator must properly submit OCD form C-144. Form C-144 must be completed in its entirety to ensure the division that: (1) the site, size, and location of a pit meets OCD requirements to protect fresh water and the environment; (2) proper deterrents are constructed to prevent wildlife and livestock from harmfully interacting with the pit; (3) the pit has a proposed lifespan for its limited intended purpose; (4) the pit has a closure plan approved by the OCD that will restore and revegetate the land following the pit’s cessation of operations.

8. Upon information and belief, operator has multiple unclosed pits at its wells, in violation of 19.15.17.13(D) NMAC.

9. The continued existence of unclosed pit is not protective of groundwater and the environment and in violation of 19.15.17 NMAC.

10. 19.15.29.11 NMAC requires the responsible person to “complete division-approved corrective action for releases that endanger public health or the environment. The responsible person shall address releases in accordance with a remediation plan

submitted to and approved by the division or with an abatement plan submitted in accordance with 19.15.30 NMAC.”

11. Upon information and belief, operator has multiple unreported major releases of oil, gas, produced water, and other oilfield waste that endanger public health and the environment and have not been addressed by a division approved remediation or abatement plan, in violation of 19.15.29 and 19.15.30 NMAC.

12. The subject wells are located directly above protectable groundwater.

13. Upon information and belief, groundwater located below Operator’s wells is at a depth that could be impacted by Operator’s operations.

14. 19.15.36.8 NMAC states that “[n]o person shall operate a surface waste management facility (other than a small landfarm registered pursuant to Paragraph (1) of Subsection A of 19.15.36.16 NMAC) except pursuant to and in accordance with the terms and conditions of a division-issued surface waste management facility permit. The applicant for a permit or permit modification, renewal or transfer shall be the operator of the surface waste management facility. The operator is responsible for the actions of the operator’s officers, employees, consultants, contractors and subcontractors as they relate to the operation of the surface waste management facility. Any person who is involved in a surface waste management facility’s operation shall comply with 19.15.36 NMAC and the permit.”

15. Upon information and belief, there is a large stockpile of contaminated soil, stored in an unlined area in violation of the provisions of 19.15.36 NMAC governing the operations of surface waste management facilities.

16. Without a groundwater study, the OCD Environmental Bureau cannot determine the impact of harm caused by Cano's unclosed pits, unaddressed major releases of oil, gas, produced water, or other oilfield waste, and unpermitted surface waste storage.

**WHEREFORE**, the Bureau, by and through its compliance and enforcement manager, hereby applies to the Director to enter an Order:

- A. determining that the Operator is in violation of 19.15.8, 19.15.17, 19.15.29, and 19.15.36 NMAC;
- B. requiring the Operator to return the subject wells to compliance with 19.15.8, 19.15.17, 19.15.29, and 19.15.36 NMAC by a date certain;
- C. requiring operator to address all releases as required by the OCD environmental bureau;
- D. requiring operator to perform a division approved groundwater study, and a division approved abatement plan if necessary;
- E. establishing that existing violations and non-action by operator are either knowing and willful, or unknown by willful negligence, and the Attorney General should seek monetary penalties of up to \$1,000 per day per violation for collection by the Attorney General in District Court pursuant to NMSA 1978 § 70-2-31;
- F. for such other and further relief as the Director deems just and proper under the circumstances.

RESPECTFULLY SUBMITTED,  
this 23<sup>rd</sup> day of July, 2018 by



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Case No. 16359. **Application of The New Mexico Oil Conservation Division Compliance and Enforcement Bureau for a Compliance Order against Cano Petro of New Mexico, Inc., for Wells Operated in Chaves and Roosevelt Counties, New Mexico.** The Oil Conservation Division Compliance and Enforcement Bureau ("Bureau"), through its undersigned attorney, hereby files this application with the Oil Conservation Division ("OCD" or "Division") pursuant to the provisions of NMSA 1978, §70-2-12 for a compliance order (1) determining operator Cano Petro of New Mexico, Inc. ("Operator") is out of compliance with 19.15.8, 19.15.17, 19.15.29, and 19.15.36 NMAC; (2) requiring the Operator to return to compliance with 19.15.8, 19.15.17, 19.15.29, and 19.15.36 NMAC by a date certain; and (3) the OCD retains its right to bring a compliance action for any other existing and future violations.