

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

**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. 16040**

**CASE NO. 16359**

**MEMORANDUM IN OPPOSITION OF U.S. SPECIALTY INSURANCE CO.'S  
REQUEST FOR CONTINUANCE**

The Oil Conservation Division Compliance and Enforcement Bureau ("Bureau"), through its undersigned attorney, hereby submits this Memorandum to the Oil Conservation Commission ("OCC" or "Commission") in opposition to U.S. Specialty Insurance Company's ("U.S. Specialty") Request for Continuance.

The Bureau restates its position stated in its response to the notice of bankruptcy and automatic stay. Further, the Bureau objects to U.S. Specialty's request because it lacks standing to make such a request on behalf of Cano Petro of NM Inc. ("Cano"). Pursuant to 19.15.8.13(A) NMAC, the surety is entitled to notice of hearing when an operator fails to properly plug and abandon a well. At a plugging hearing, if it is determined that an operator has failed to plug, abandon, restore and remediate the well as required by division rules, the director shall issue an order directing the violating well to be plugged, abandoned, restored and remediated in a time certain. If the operator or surety fails to comply with said order, the financial assurance shall be forfeited. NMSA 1978 §70-2-14 (B).

By rule, a plugging hearing is limited to determine if the wells have been plugged as required by division rules. The surety is entitled to notice if it should wish to plug and abandon the wells or guarantee the forfeited financial assurance. The surety is not entitled to present evidence on behalf of the operator to present evidence or to delay proceedings upon the failure of the operator to respond to proceedings. Cano has not disputed the fact that its wells are not plugged and abandoned as required by 19.15.25.8 NMAC. By its request, it appears that U.S. Specialty is acting more as creditor who is owed money from Cano rather than a surety with a financial obligation related to the plugging and abandonment of the wells.

Further, U.S. Specialty, in its limited role as surety, is not a party to both cases filed against Cano and does not have standing to request a continuance in a matter it is not a party to. In its application for case no. 16359, the division seeks an order directing compliance with several regulations related to Cano's failure to address multiple and various environmental regulations. Cano not requested a continuance from the Commission in either proceeding, and if it did, the Bureau would oppose that continuance on the grounds that further delay would increase the harm caused by its failure to maintain its sites and make remediation and abatement of its hazards more difficult.

RESPECTFULLY SUBMITTED,  
this 17<sup>th</sup> day of August 2018 by



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### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing pleading was electronically mailed to the following parties on August 17, 2018:

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