

January 2, 2020 Administrative Penalties Hearing

Public Comments

Ms. Florene Davidson,

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Epic Energy, LLC is a small Northwest New Mexico producer and would like to add the comments below for the record during the Administrative Penalties Hearing to be held at 9 AM on January 2, 2020.

Epic Energy joined with IPANM and many other producers in New Mexico in opposition to the legislation that was recently passed that gave the OCD the authority to administer monetary penalties for violations of OCD rules. We all believed that this legislation was unnecessary as the rules allowed the Oil Conservation Division to withhold approvals of drilling permits, C-104's, Change of Operator forms, ect., until any violations were addressed. Withholding these approvals would have been very effective and ensuring compliance. In cases where operators knowingly and willfully violated NMOCD rules the Oil and Gas Act had a process where the Attorney General's office could file suit to force the offender to comply.

With that said, Epic Energy would like the OCD to consider the following items when they finalize the Administrative Penalties Rule:

1. The OCD should create a table showing the amount of the fine for a specific violation with specific factors that could cause the amount of the penalty to go up or down. Without such transparency OCD could put themselves in a position of appearing to be biased if not all similar violations resulted in similar fines. Court costs and OCD staff time could severely hamper the OCD's ability to do their mandated job.

2. The rule should not be written to make fines mandatory. No penalties are appropriate where the operator and the OCD agree to a resolution and the operator complies with that agreement.
3. Operators should not be penalized for violations that they were not aware of. Daily penalties should only be imposed after the operator has received proper notice of a violation, given adequate time to rectify to violation, and failed to resolve the issue.
4. The proposed rule does not allow an aggrieved operator the opportunity to have a District Court review any matters that the operator and OCD cannot agree on.

As a long time San Juan Basin operator and resident I am disappointed that the OCD has proposed these monetary penalty rules. There used to be a time where the OCD and operators collaborated on ways to produce oil and gas in the safest, most efficient, and most environmentally friendly manner. With these rules the era of cooperation is over and we are now in an adversarial relationship. These rules will make it more difficult to operate in New Mexico which will have a negative effect on oil and gas revenues to the State to the detriment of the state's school children.

Paul C. Thompson, P.E.

President

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