

State of New Mexico
Energy, Minerals and Natural Resources Department

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Adrienne Sandoval, Division Director
Oil Conservation Division



**BY CERTIFIED MAIL -RETURN RECEIPT REQUESTED
AND ELECTRONIC MAIL**

November 6, 2020

Kevin O. Butler & Associates
c/o Jennifer Johnston
Director of Administration
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Midland, TX 79705
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NOTICE OF VIOLATION

The Director of the Oil Conservation Division ("OCD") issues this Notice of Violation ("NOV") pursuant to 19.15.5.10 NMAC.

(1) *Alleged Violator:* Kevin O. Butler & Associates, OGRID #12627 ("Butler").

(2) *Citation, Nature, and Factual and Legal Basis for Alleged Violation(s):*

**19.15.8.9 CATEGORIES AND AMOUNTS OF FINANCIAL
ASSURANCE FOR WELL PLUGGING:**

A. Applicability. *An operator who has drilled or acquired, is drilling or proposes to drill or acquire an oil, gas or injection or other service well within this state shall furnish a financial assurance acceptable to the division in accordance with 19.15.8.9 NMAC and in the form of an irrevocable letter of credit, plugging insurance policy or cash or surety bond running to the state of New Mexico conditioned that the well be plugged and abandoned and the location restored and remediated in compliance with commission rules, unless the well is covered by federally required financial assurance.*

....

D. Inactive wells. *An operator shall provide financial assurance for wells that are covered by Subsection A of 19.15.8.9 NMAC that have been in temporarily abandoned status for more than two years or for which the operator*

is seeking approved temporary abandonment pursuant to 19.15.25.13 NMAC in one of the following categories:

(1) a one well financial assurance in the amount of \$25,000 plus \$2 per foot of the projected depth of a proposed well or the depth of an existing well; the depth of a well is the true vertical depth for vertical and horizontal wells and the measured depth for deviated and directional wells; or

(2) a blanket plugging financial assurance covering all wells of the operator subject to Subsection D of 19.15.8.9 NMAC:

(a) \$150,000 for one to five wells;

(b) \$300,000 for six to 10 wells....

Butler failed to provide one well or blanket financial assurance for the V.E. Roddy #1 well (API #30-025-29869). Butler should have increased the financial assurance for the well, which has been inactive since May 2017, from \$18,300.00 to \$51,600.00 on January 15, 2019.

Butler failed to provide one well or blanket financial assurance for the Delmont L. Hatfield #1 well (API #30-025-27487). OCD approved Butler's Form C-103 to plug the well on April 2, 2018. However, Butler has not submitted an approvable Subsequent Form C-103 to demonstrate that the well has been plugged. The well is not released from financial assurance until OCD approves the Subsequent Form C-103. Accordingly, Butler should have increased the financial assurance for the well from \$14,000.00 to \$43,000.00 on March 1, 2020.

19.15.9.8 OPERATOR REGISTRATION:

B. *The division may deny registration as an operator if:*

...

(4) the applicant is a corporation or limited liability company and is not registered with the public regulation commission to do business in New Mexico; or

(5) the applicant is a limited partnership and is not registered with the New Mexico secretary of state to do business in New Mexico.

Butler is not authorized to do business in the state of New Mexico. Pursuant to NMSA Section 8-4-7, the Secretary of State assumed responsibility for the function of the former corporations bureau of the Public Regulation Commission. The Secretary of State revoked Butler's authorization to do business in the state of New Mexico. Accordingly, Butler's registration as an operator should be terminated, and its authority to transport in the state of New Mexico should be cancelled.

(3) Compliance: No later than thirty (30) days after receipt of this NOV, Butler shall (a) for the V.E. Roddy #1 well, increase the financial assurance from \$18,300.00 to \$51,600.00; and (b) for the Delmont L. Hatfield #1 well, increase the financial assurance from \$14,000.00 to \$43,000.00.

(4) Sanction(s): OCD may impose one or more of the following sanctions:

- civil penalty
- modification, suspension, cancellation, or termination of a permit or authorization
- plugging and abandonment of a well
- remediation and restoration of a well location and associated facilities, including the removal of surface and subsurface equipment and other materials

- remediation and restoration of a location affected by a spill or release
- forfeiture of financial assurance
- shutting in a well or wells
- any other remedy authorized by law

For the alleged violations described above, OCD proposes the following sanctions:

- 1) Butler's registration as an operator is revoked.
- 2) Butler's authority to transport from all wells is cancelled.
- 3) Butler shall pay the following civil penalties:

19.15.8.9(D) NMAC: \$ 2,400

The civil penalty calculation is attached. OCD may recalculate the civil penalty for additional violations occurring on or after the date of this NOV, including additional days of violation, and to seek an order to forfeit financial assurance and plug and abandon the wells.

OCD will take into consideration the alleged violator's good faith effort to comply with the applicable requirements.

(5) Informal Review and Resolution: A process is available for the informal review and resolution of the alleged violation(s) in the NOV. To initiate the informal review process, contact the OCD employee identified at the end of this letter. If OCD and the alleged violator agree to resolve the alleged violations in the NOV, the agreement will be incorporated into a stipulated final order signed by both parties and stating that the alleged violator admits OCD's jurisdiction to file the NOV, consents to the specified relief, including the civil penalty, if any, and waives the right of review by the Oil Conservation Commission.

(6) Hearing: If this Notice of Violation is not resolved within thirty (30) days of receipt of service, OCD will hold a hearing on February 3, 2021. Please see 19.15.5.10 NMAC for more information regarding the hearing. However, please note that the hearing does not prohibit OCD from negotiating with the alleged violator at any time to settle the NOV.

For more information regarding this NOV, contact Daniel Sanchez, OCD Compliance and Enforcement Manager, at (505) 476-3493 or Daniel.Sanchez@state.nm.us.

Regards,



Adrienne Sandoval
Director

cc: OCD Southern District
Office of Legal Counsel, EMNRD