

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

**IN THE MATTER OF THE HEARING CALLED BY
THE OIL CONSERVATION DIVISION TO
CONSIDER:**

**CASE NO. 16358
ORDER NO. R-20821
Previous Order No. R-14388**

**APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION
COMPLIANCE AND ENFORCEMENT BUREAU FOR A COMPLIANCE ORDER
AGAINST PRIMAL ENERGY CORPORATION, FOR WELLS OPERATED IN
EDDY AND LEA COUNTIES, NEW MEXICO.**

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on August 9, 2018, at Santa Fe, New Mexico, before Examiner Scott A. Dawson.

NOW, on this 28th day of August 2019, the Division Director, having considered the testimony, the record and the recommendations of the Examiner,

FINDS THAT

- (1) Due public notice has been given, and the Division has jurisdiction of this case and of the subject matter.
- (2) The Oil Conservation Division Compliance and Enforcement Bureau (the "Bureau") seeks a compliance order against Primal Energy Corporation (OGRID 154303, the "Operator"):
 - a. determining the Operator is out of compliance with 19.15.25.8 NMAC and with Paragraph (4) of Subsection A of 19.15.5.9 NMAC; and
 - b. in the event of non-compliance, declaring the wells abandoned and authorizing the OCD to plug the violating wells in accordance with a Division-approved plugging program and restore and remediate the location, recover costs from the Operator's financial assurance as permitted by 19.15.8.13 NMAC, and seek indemnification and costs as permitted by Subsection E of NMSA 1978, § 70-2-14.

(3) The Subject Well(s) are the following:

API	Well Name	Surface Location (ULSTR)	Last Production
30-015-27635	BIG EDDY UNIT #127	K-16-21S-29E	Dec-09
30-025-30812	COCHISE-KING GAS COM #001	F-12-23S-36E	Jul-06
30-025-09337	COCHISE-KING GAS COM #002	L-12-23S-36E	Jul-06
30-025-11103	FOWLER HAIR #001	E-14-24S-37E	Oct-02
30-025-11105	FOWLER HAIR #003	D-14-24S-37E	Jul-13
30-025-11107	FOWLER HAIR #005	D-14-24S-37E	Jul-04
30-025-24609	HARRISON #001	A-07-25S-37E	Feb-10
30-025-24749	HARRISON #002	H-07-25S-37E	Feb-10
30-025-24641	JUDY #001	C-07-25S-37E	Aug-12
30-025-26262	JUDY #003	F-07-25S-37E	Aug-12

(4) Subsection B of Rule 19.15.28.8 NMAC requires, among other things, operators to either properly plug and abandon a well or place the well in approved temporary abandonment within 90 days after a period of one year in which the well has been continuously inactive.

(5) Paragraph (4) of Subsection A of 19.15.5.9 NMAC states that an operator is in compliance with Subsection A of 19.15.5.9 NMAC if the operator has no more than the following number of wells out of compliance with 19.15.25.8 NMAC that are not subject to an agreed compliance order setting a schedule for bringing the wells into compliance with 19.15.25.8 NMAC and imposing sanctions if the schedule is not met: (a) two wells or 50 percent of the wells the operator operates, whichever is less, if the operator operates 100 wells or less; (b) five wells if the operator operates between 101 and 500 wells; (c) seven wells if the operator operates between 501 and 1000 wells; and (d) 10 wells if the operator operates more than 1000 wells.

(6) The Bureau appeared at the hearing through legal counsel and presented the following testimony:

- a. Operator currently has ten (10) Subject Wells out of compliance with 19.15.25.8 NMAC out of a total of ten (10) operated wells, exceeding the amount allowed under Paragraph (4) of Subsection A of 19.15.5.9 NMAC.
- b. The Subject Well(s) are not included in an agreed compliance order between the Division and the Operator.
- c. On June 16, 2016, the Bureau sent Operator notice, via first class mail, that it was out of compliance with 19.15.5.9 NMAC and that the Bureau would seek formal compliance proceedings as required by Subsection B of 19.15.5.9 NMAC if no action was taken by Operator to return to compliance within 30 days.

- d. Operator has not resolved the outstanding compliance issues.
- e. Pursuant to Paragraph (4) of Subsection A of 19.15.5.9 NMAC, the Operator may have a total of no more than two (2) wells out of compliance with Subsection B of 19.15.25.8 NMAC or 50 percent of the operated wells, whichever is less.
- f. Applicant stated that Operator is in violation of Division Order No. R-14388; which stipulated order required the posting of adequate bonding on the Subject Wells.
- g. Applicant has agreed to allow Operator up to 75 days to return to compliance with the rules governing inactive wells and the lack of adequate bonding.

(7) Operator did not appear in this case or at the hearing. No other party appeared at the hearing or otherwise opposed the granting of the Bureau's application.

(8) The Division maintains a public database, through its *E-permitting* website, summarizing the well status for all current operators in New Mexico. This database also identifies the wells in violation of the financial assurance requirements, along with the corresponding amount for each well necessary to satisfy the applicable financial assurance requirement.

(9) Paragraph (4) of Subsection I of 19.15.2.7 NMAC defines as "inactive well" a well "that is not being used for beneficial purposes such as production, injection or monitoring and that is not being drilled, completed, repaired or worked over."

(10) Division well records indicate that the current condition of the Subject Wells may pose a threat to health, safety and the environment, if no action is properly taken to plug and abandon the wells, return the wells to production, or place the wells in approved temporary abandonment status.

The Division Concludes

(11) Subsection B of 19.15.5.10 NMAC authorizes the Division to commence compliance proceedings for violation of a provision of the Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38, or a provision of a rule or order issued pursuant to the Act.

(12) Operator is the "operator of record" for the Subject Wells and is responsible for compliance with the Oil and Gas Act and Division Rules. The Bureau has established that the Operator is in violation of 19.15.25.8 NMAC as to the Subject Wells.

(13) The Operator should be required to return to compliance with 19.15.8.9 NMAC, 19.15.25.8 NMAC, and with Paragraph (4) of Subsection A of 19.15.5.9 NMAC within 75 days. In the event of non-compliance,

- a. the wells operated by Operator should be declared as abandoned, and the OCD should be authorized to plug the wells in accordance with Division-approved plugging programs and restore and remediate the locations; and
- b. the Division should be authorized to recover costs from the Operator's financial assurance as permitted by 19.15.8.13 NMAC and seek indemnification and costs as permitted by Subsection E of NMSA 1978, § 70-2-14.

IT IS THEREFORE ORDERED THAT

(1) Primal Energy Corporation (OGRID 154303, the "Operator") shall return to compliance with 19.15.25.8 NMAC and with Paragraph (4) of Subsection A of 19.15.5.9 NMAC and with 19.15.8.9 NMAC within 75 days of the date of this order by posting adequate bonding, either plugging and abandoning, placing in approved temporary abandonment status, or returning its wells to production.

(2) If, after the date of this order, Operator has not performed the work described in Ordering Paragraph (1), then Operator shall be in violation of this Order and the Division shall be authorized:

- a. to plug and abandon the well or wells operated by Operator that are out of compliance with Division rules in accordance with Division-approved plugging programs;
- b. to restore and remediate the well locations;
- c. to direct forfeiture of the applicable financial assurance of Operator;
- d. to recover plugging, restoration, and remediation costs from Operator's financial assurance as permitted by 19.15.8.13 NMAC; and
- e. to seek indemnification and costs from the Operator as provided in Subsection E of NMSA 1978, § 70-2-14 if there are not sufficient funds recovered from financial assurance to cover all costs the Division incurs while plugging and abandoning the wells and restoring and remediating the well locations.

(3) Jurisdiction of this case is retained for the entry of such further orders as the Division may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.



STATE OF NEW MEXICO
OIL CONSERVATION DIVISION



ADRIENNE SANDOVAL
Director