



NEW MEXICO ENERGY, MINERALS and NATURAL RESOURCES DEPARTMENT

BILL RICHARDSON

Governor

Joanna Prukop

Cabinet Secretary

Mark E. Fesmire, P.E.

Director

Oil Conservation Division

October 10, 2006

Mr. Richard Ezeanyim, Hearing Examiner
Oil Conservation Division
1220 South St. Francis Drive
Santa Fe, NM 87505

Hand Delivered

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CASE No. 13373: APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION FOR AN ORDER DETERMINING THAT ORBIT ENERGY INC. KNOWINGLY AND WILLFULLY VIOLATED 19.15.4.201 NMAC; REQUIRING ORBIT ENERGY INC. TO BRING FIVE WELLS INTO COMPLIANCE WITH 19.15.4.201 NMAC; ASSESSING APPROPRIATE CIVIL PENALTIES; AND IN THE EVENT OF NON-COMPLIANCE, AUTHORIZING THE DIVISION TO PLUG SAID WELLS AND FORFEIT THE APPLICABLE FINANCIAL ASSURANCES; ROOSEVELT COUNTY, NEW MEXICO.

Motion to Re-Open Case No. 13373 and Enter an Order Assessing Civil Penalties and Finding Orbit Petroleum, Inc. in Violation of an Order Requiring Corrective Action.

Dear Mr. Ezeanyim:

The above-captioned matter is currently scheduled for hearing on the October 12, 2006 docket. The Applicant Oil Conservation Division respectfully requests that the matter be dismissed without prejudice.

The pending motion to re-open Case 13373 involves enforcing Order R-12250, which required Orbit Energy Inc. (Orbit) to return 5 inactive wells to compliance. After the order was entered, the OCD agreed to plug 2 of the wells, with Orbit Energy Inc. (Orbit) reimbursing the OCD for its costs. The pending motion was filed to require Orbit to return the remaining 3 wells to compliance. As to those three wells, the OCD sought an order finding Orbit to be in violation of an order requiring corrective action, and an assessment of penalties for Orbit's failure to comply with Order R-12250.

Since the motion was filed, Orbit has plugged the wellbores of two of the three wells at issue: the Farrell Federal #10 and the Humble Federal #005. Orbit is also actively working on the James McFarland #004. Once the James McFarland #004 is plugged, the request for an order finding Orbit to be in violation of an order requiring corrective action will be moot. Orbit also provided information regarding its efforts to comply with Order R-12250, to show that its failure to meet the compliance deadlines in that order was not knowing and willful.

The parties have also met to discuss a path forward on Orbit's compliance issues.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "Gail MacQuesten", written in a cursive style.

Gail MacQuesten
Assistant General Counsel

Ec: Mr. Jim Frazier, President, Orbit Energy Inc.
Clay Tipton, agent for Orbit Energy Inc.
Daniel Sanchez, Enforcement and Compliance Manager
Chris Williams, Supervisor, District 1