

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

APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION, THROUGH THE ENFORCEMENT AND COMPLIANCE MANAGER, FOR A COMPLIANCE ORDER AGAINST ERS RESOURCES, LLC, FINDING OPERATOR IN VIOLATION OF DIVISION RULE 19.15.4.201 NMAC AS TO THIRTY-TWO WELLS; REQUIRING OPERATOR TO RETURN SAID WELLS TO COMPLIANCE BY A DATE CERTAIN; REQUIRING OPERATOR TO PLUG SAID WELLS AND RESTORE AND REMEDIATE THE WELL SITES IF OPERATOR FAILS TO BRING SAID WELLS TO COMPLIANCE BY A DATE CERTAIN; AND AUTHORIZING THE DIVISION TO FORFEIT THE FINANCIAL ASSURANCE AND PLUG SAID WELLS IN THE EVENT OF OPERATOR'S NON-COMPLIANCE; EDDY COUNTY, NEW MEXICO.

CASE NO. 14078

AFFIDAVIT OF NOTICE AND PUBLICATION

In accordance with Division Rule 1227.D [19.15.14.1227.D NMAC] and Rule 1210 [19.15.14.1210 NMAC] I hereby certify:

1. Notice of the original February 7, 2008 hearing setting in the above-captioned case was mailed on January 15, 2008 to the following by certified mail, return receipt requested, at least 20 days prior to the hearing date, with a copy of the application:

ERS Resources, LLC
1001 FM 1929
Voss, Texas 76888

Certified Mail No. 7099 3220 0009 7873 0264

ERS Resources, LLC
c/o Orbit Petroleum, Inc.
720 West Wilshire, Suite 115
Oklahoma City, OK 73116

Certified Mail No. 7099 3220 0009 7873 0271

ERS Resources, LLC
c/o Tipton Oil
P.O. Box 1234
Lovington, NM 88260

Certified Mail No. 7099 3220 0009 7873 0288

U.S. Specialty Insurance Company
13403 NW Freeway
Houston, TX 77040

Certified Mail No. 7099 3220 0009 7873 0295

2. The Oil Conservation Division (OCD) received return receipt cards for the letters sent to ERS Resources, LLC at three of the four addresses. The OCD received the letter sent to ERS Resources, LLC c/o Orbit Petroleum, Inc. Indicating 'attempted not known.' Exhibit A to this affidavit is a copy of the notice, with copies of certified mail return receipts and a copy of the returned envelope containing the notice sent to ERS Resources, LLC c/o Orbit Petroleum.

3. Notice of the original February 7, 2008 hearing date was published on January 15, 2008 in the Artesia Daily Press, a newspaper of general circulation in Eddy County, New Mexico. A copy of the Affidavit of Publication is attached to this affidavit as Exhibit B.

4. The OCD was contacted by Jim Frazier of Orbit Petroleum, Inc : (Orbit) who stated that Orbit had acquired ERS Resources, LLC and that Orbit intended to participate in the hearing. The OCD rescheduled the hearing to give Orbit time to prepare, and sent notice to the following by certified mail, return receipt requested, at least 20 days prior to the new hearing date, with a copy of the application:

ERS Resources, LLC
Attn: Mike Hughes
c/o Orbit Petroleum Inc.
1131 East Britton Rd.
Oklahoma City, OK 73131 Certified Mail No. 7099 3220 0009 7873 0837

ERS Resources, LLC
Attn: Jim Frazier
c/o Orbit Petroleum, Inc.
1131 East Britton Rd.
Oklahoma City, OK 73131 Certified Mail No. 7099 3220 0009 7873 0844

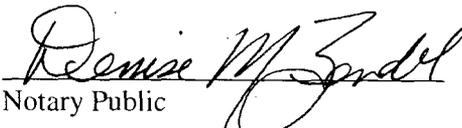
U.S. Specialty Insurance Company
13403 NW Freeway
Houston, TX 77040 Certified Mail No. 7099 3220 0009 7873 0776

5. The Oil Conservation Division (OCD) received return receipt cards for the letters sent to ERS Resources, LLC at the three addresses. Exhibit C to this affidavit is a copy of the notice, with copies of certified mail return receipts.

6. Notice of the June 26, 2008 rescheduled hearing setting in the above-captioned case was also emailed to ERS Resources, LLC Attn : Jim Frazier at jfrazier@orbitpetro.com on May 9, 2008. Exhibit D to this affidavit is a copy of the e-mail.


Gail MacQuesten

SUBSCRIBED AND SWORN to before me this 24th day of June 2008.


Notary Public

My Commission Expires: 1-09-2012