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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 XERIC OIL & GAS CORPORATION, FINDING THAT THE OPERATOR IS IN VIOLATION OF 19.15.3.101.B NMAC AS TO 69 WELLS & 19.15.4.201 NMAC &/OR 19.15.13.1115 NMAC AS TO 80 WELLS; DETERMINING THAT THE REFERENCED VIOLATIONS ARE KNOWING & WILLFUL AND IMPOSING PENALTIES; REQUIRING OPERATOR TO POST THE REQUIRED SINGLE-WELL FINANCIAL ASSURANCES FOR THE 69 NON-COMPLIANT WELLS BY A DATE CERTAIN; REQUIRING OPERATOR TO BRING THE 80 INACTIVE WELLS BACK INTO COMPLIANCE WITH RULE 201 &/OR RULE 1115 BY A DATE CERTAIN; AND IN THE EVENT OF NON-COMPLIANCE WITH ANY ASPECT OF THE ORDER, DECLARING THE WELLS ABANDONED, AUTHORIZING THE DIVISION TO PLUG THE WELLS AND FORFEITING ANY APPLICABLE FINANCIAL ASSURANCE - LEA COUNTY, NEW MEXICO.

CASE NO. 14106

BASIC STATEMENT OF APPLICATION:

COMES NOW the Oil Conservation Division, and respectfully presents this, its Application for an Order finding that Operator Xeric Oil & Gas Corporation ("Xeric") is in violation of OCD Rules 101 and 201 and/or 1115 regarding the wells more specifically identified herein, that such violations are knowing and willful, assessing an appropriate civil penalty and requiring Xeric to bring all such wells into full compliance with OCD Rules. In support of these requests, the Division states as follows:

I. BACKGROUND INFORMATION RELEVANT TO BOTH ISSUES

1. Xeric Oil & Gas Corporation is a corporation operating wells in New Mexico under the OGRID 25482.
2. Xeric currently operates 110 wells in the state of New Mexico, all of which are located in Lea County.
3. Xeric posted a \$50,000 cash bond, number OCD-218, through Wells Fargo Bank (1910 North Turner, Hobbs, NM 88240, account numbers 1100061035; 1100060900 and 1199961182), to secure its obligation to plug and abandon wells in compliance with Division Rule 101.A [19.15.3.101.A NMAC].
4. Xeric has not posted any additional single-well financial assurances applicable to any of the wells addressed by this Application.

II. RELEVANT LEGAL AUTHORITY

5. **Division Rule 201** [19.15.4.201 NMAC] requires an operator to plug and abandon or temporarily abandon a well in accordance with Division rules within 90 days after a period of one year of continuous inactivity.
6. **Division Rule 1115** [19.15.13.1115 NMAC] provides that operators must "file a monthly report, form C-115, for each non-plugged well completion for which the division has approved a C-104 authorization to transport, and for each secondary or other enhanced recovery project or pressure maintenance project injection well or other injection well within the state of New Mexico,

setting forth complete information and data indicated on said forms in the order, format and style the division director prescribes."

7. **Division Rule 101.B** [19.15.3.101.B NMAC] requires that Operators post additional financial assurances/one-well financial assurances for wells that have been inactive/in temporary abandonment for more than two years, with the amounts of such single-well financial assurances being based upon the total depth of the well involved. Rule 101.B went into full effect as of January 1, 2008.

Id.

8. NMSA 1978, Section 70-2-14(B) provides:

If any of the requirements of the Oil and Gas Act [70-2-1 NMSA 1978] or the rules promulgated pursuant to that act have not been complied with, the oil conservation division, after notice and hearing, may order any well plugged and abandoned by the operator or surety or both in accordance with division rules. If the order is not complied with in the time period set out in the order, the financial assurance shall be forfeited.

9. The Oil and Gas Act ("Act") provides that any person who knowingly and willfully violates any provision of the Act, or any Rule or Order issued pursuant to the Act, shall be subject to a civil penalty of not more than one thousand dollars per day for each violation. NMSA 1978, Section 70-2-31(A).

10. NMSA 1978, Section 70-2-33(A) defines "person" as used in the Oil and Gas Act to include corporations.

II. ARGUMENT: ISSUE NO. 1 – XERIC’S VIOLATION OF RULE 101.B

11. Xeric is the Operator of Record of the following 69 wells in New Mexico:

Crosby Deep #002	30-025-24287	South Pearl Queen Unit #003	30-025-21772
Crosby Deep #004	30-025-25985	South Pearl Queen Unit #006	30-025-03315
East Pearl Queen Unit #001	30-025-03189	South Pearl Queen Unit #007	30-025-03316
East Pearl Queen Unit #004	30-025-03186	West Pearl Queen Unit #103	30-025-03247
East Pearl Queen Unit #007	30-025-03183	West Pearl Queen Unit #107	30-025-03231
East Pearl Queen Unit #008	30-025-03182	West Pearl Queen Unit #108	30-025-03234
East Pearl Queen Unit #009	30-025-03185	West Pearl Queen Unit #110	30-025-03254
East Pearl Queen Unit #011	30-025-03175	West Pearl Queen Unit #112	30-025-03244
East Pearl Queen Unit #012	30-025-03174	West Pearl Queen Unit #117	30-025-03241
East Pearl Queen Unit #014	30-025-03184	West Pearl Queen Unit #118	30-025-03248
East Pearl Queen Unit #015	30-025-03181	West Pearl Queen Unit #119	30-025-03240
East Pearl Queen Unit #016	30-025-03180	West Pearl Queen Unit #120	30-025-03224
East Pearl Queen Unit #018	30-025-03216	West Pearl Queen Unit #121	30-025-03225
East Pearl Queen Unit #021	30-025-03237	West Pearl Queen Unit #122	30-025-03228
East Pearl Queen Unit #022	30-025-03235	West Pearl Queen Unit #124	30-025-03229
East Pearl Queen Unit #023	30-025-03236	West Pearl Queen Unit #125	30-025-03227
East Pearl Queen Unit #026	30-025-03222	West Pearl Queen Unit #126	30-025-03226
East Pearl Queen Unit #028	30-025-03215	West Pearl Queen Unit #127	30-025-03242
East Pearl Queen Unit #029	30-025-03208	West Pearl Queen Unit #128	30-025-03249
East Pearl Queen Unit #030	30-025-03213	West Pearl Queen Unit #129	30-025-03243
East Pearl Queen Unit #036	30-025-03221	West Pearl Queen Unit #130	30-025-03250
East Pearl Queen Unit #037	30-025-03219	West Pearl Queen Unit #134	30-025-03262
East Pearl Queen Unit #039	30-025-03295	West Pearl Queen Unit #135	30-025-03261
East Pearl Queen Unit #042	30-025-03298	West Pearl Queen Unit #140	30-025-03283
East Pearl Queen Unit #046	30-025-03302	West Pearl Queen Unit #143	30-025-03286
East Pearl Queen Unit #056	30-025-23302	West Pearl Queen Unit #153	30-025-03265
East Pearl Queen Unit #057	30-025-23409	West Pearl Queen Unit #154	30-025-03266
East Pearl Queen Unit #059	30-025-23427	West Pearl Queen Unit #163	30-025-22870
East Pearl Queen Unit #077	30-025-31106	West Pearl Queen Unit #164	30-025-23083
Mesa Queen Unit #010	30-025-20340	West Pearl Queen Unit #169	30-025-25365
Mesa Queen Unit #011	30-025-20230	West Pearl Queen Unit #191	30-025-30861
Mesa Queen Unit #018	30-025-20313	West Pearl Queen Unit #192	30-025-30867
Mesa Queen Unit #020	30-025-20269	West Pearl Queen Unit #195	30-025-31021
Mexico U #001	30-025-12512	West Pearl Queen Unit #202	30-025-31125
Mexico U #003	30-025-30954		

12. Xeric last reported production for the above-identified 69 wells more than 2 years ago. Pursuant to Rule 101.B, therefore, Xeric is required to post a single-well financial assurance in addition to its blanket bond for each of the above-listed wells.

13. Between the time that the Rule change was passed and the date of the full implementation (January 1, 2008), the OCD took numerous steps to provide notification to each Operator of Record in the state of New Mexico regarding the single-well financial assurance obligations imposed by Rule 101.B.

14. In addition to the fact that Xeric was provided with the notice that was provided by the Division to all Operators of Record regarding Rule 101.B, Xeric was additionally provided with specific notice in a letter dated November 15, 2006 from OCD counsel, which advised Xeric of the single-well financial assurance obligations to become fully effective as of January 1, 2008.

15. Despite having being notified multiple times of the implementation of Rule 101.B and its specific obligation to post additional financial assurances, Xeric has failed and refused to do so as to the 69 subject wells.

16. Xeric has therefore knowingly and willfully violated Rule 101.B as to the 69 above-identified wells.

WHEREFORE, the Supervisor of District I of the Division hereby applies to the Director to enter an Order:

17. Requiring Xeric to submit single-well financial assurances for each of the above-identified 69 wells by a date certain.

18. Requiring that Xeric pay a monetary penalty assessment in the amount consistent with the duration and severity of its willful disregard for Division Rules, pursuant to NMSA 1978, Section 70-2-31(A), specifically for its knowing and willful violation of Rule 101.B NMAC, (independent of and in addition to any other penalty assessment(s) Ordered in this matter for other violations of the OCD Rules and/or the New Mexico Oil and Gas Act).

19. Further, if the subject well is not brought into compliance with Rule 101.B by the date specified in the Order:

- (1) Assessing a penalty against Xeric of not less than \$1,000.00 for each full week of non-compliance with the Order;
- (2) Ordering the Operator to plug and abandon the subject wells by a date certain;
- (3) if the Operator fails to plug and abandon the subject wells by the date specified, authorizing the Division to plug the subject wells in accordance with a Division-approved plugging program and authorizing the Division to forfeit any applicable security posted in relation to the subject wells; and
- (4) For such other and further relief as the Director deems just and proper.

**IV. ARGUMENT: ISSUE NO. 2 – XERIC’S VIOLATION OF DIVISION RULE
201 AND/OR VIOLATION OF RULE 1115**

20. Xeric is the Operator of Record of the following 80 wells in New Mexico:

30-025-23891	Crosby Deep #001	30-025-12512	Mexico U #001
30-025-24287	Crosby Deep #002	30-025-30954	Mexico U #003
30-025-11870	Crosby Deep #003	30-025-21772	South Pearl Queen Unit #003
30-025-25985	Crosby Deep #004	30-025-03328	South Pearl Queen Unit #005
30-025-03189	East Pearl Queen Unit #001	30-025-03315	South Pearl Queen Unit #006
30-025-03186	East Pearl Queen Unit #004	30-025-03316	South Pearl Queen Unit #007
30-025-03183	East Pearl Queen Unit #007	30-025-03317	South Pearl Queen Unit #008
30-025-03182	East Pearl Queen Unit #008	30-025-03325	South Pearl Queen Unit #011
30-025-03185	East Pearl Queen Unit #009	30-025-03321	South Pearl Queen Unit #016
30-025-03175	East Pearl Queen Unit #011	30-025-03319	South Pearl Queen Unit #019
30-025-03174	East Pearl Queen Unit #012	30-025-03342	South Pearl Queen Unit #021
30-025-03184	East Pearl Queen Unit #014	30-025-03341	South Pearl Queen Unit #022
30-025-03181	East Pearl Queen Unit #015	30-025-03247	West Pearl Queen Unit #103
30-025-03180	East Pearl Queen Unit #016	30-025-03231	West Pearl Queen Unit #107
30-025-03216	East Pearl Queen Unit #018	30-025-03234	West Pearl Queen Unit #108
30-025-03237	East Pearl Queen Unit #021	30-025-03244	West Pearl Queen Unit #112
30-025-03235	East Pearl Queen Unit #022	30-025-03241	West Pearl Queen Unit #117
30-025-03236	East Pearl Queen Unit #023	30-025-03248	West Pearl Queen Unit #118
30-025-03222	East Pearl Queen Unit #026	30-025-03240	West Pearl Queen Unit #119
30-025-03215	East Pearl Queen Unit #028	30-025-03224	West Pearl Queen Unit #120
30-025-03208	East Pearl Queen Unit #029	30-025-03228	West Pearl Queen Unit #122
30-025-03213	East Pearl Queen Unit #030	30-025-03229	West Pearl Queen Unit #124
30-025-03221	East Pearl Queen Unit #036	30-025-03227	West Pearl Queen Unit #125
30-025-03219	East Pearl Queen Unit #037	30-025-03226	West Pearl Queen Unit #126
30-025-03295	East Pearl Queen Unit #039	30-025-03242	West Pearl Queen Unit #127
30-025-03298	East Pearl Queen Unit #042	30-025-03249	West Pearl Queen Unit #128
30-025-03302	East Pearl Queen Unit #046	30-025-03243	West Pearl Queen Unit #129
30-025-23302	East Pearl Queen Unit #056	30-025-03262	West Pearl Queen Unit #134
30-025-23409	East Pearl Queen Unit #057	30-025-03261	West Pearl Queen Unit #135
30-025-23427	East Pearl Queen Unit #059	30-025-03283	West Pearl Queen Unit #140
30-025-31106	East Pearl Queen Unit #077	30-025-03286	West Pearl Queen Unit #143
30-025-30869	East Pearl Queen Unit #084	30-025-03265	West Pearl Queen Unit #153
30-025-11884	Gregory A #005	30-025-03266	West Pearl Queen Unit #154
30-025-11867	Gregory A #007	30-025-23083	West Pearl Queen Unit #164
30-025-11865	Gregory C #001	30-025-23313	West Pearl Queen Unit #167
30-025-11871	Gregory El Paso Federal #004	30-025-25365	West Pearl Queen Unit #169
30-025-00396	Mesa Queen Unit #006	30-025-30868	West Pearl Queen Unit #180
30-025-20340	Mesa Queen Unit #010		
30-025-20230	Mesa Queen Unit #011		
30-025-20347	Mesa Queen Unit #015		
30-025-20313	Mesa Queen Unit #018		
30-025-20269	Mesa Queen Unit #020		
30-025-23483	Mesa Queen Unit #025		

21. Based upon production reported by Xeric, the 80 wells identified above, operated by Operator in New Mexico, have been inactive for a continuous period exceeding one year plus 90 days, and are neither plugged and abandoned in accord with 19.15.4.202 NMAC nor on approved temporary abandonment status in accord with 19.15.4.203 NMAC.

22. Per OCD records, and based upon production records submitted by Operator pursuant to Rule 1115, a number of the above-identified wells have not been productive for in excess of ten years.

23. OCD records reflect that the Division has made numerous attempts, both at the District level and through its Santa Fe office, over a period of a number of years to notify Xeric of the violations due to idle wells and to attempt to obtain compliance from Xeric.

24. Despite the fact that OCD repeatedly notified Xeric that it had multiple wells for which no production had been reported for a period in excess of 90 days following a period of one year of continuous inactivity, and despite OCD's repeated requests that Xeric bring the wells into compliance, Xeric provided no response to OCD's requests and took no action to bring the inactive wells into compliance and/or report previously unreported production for the subject wells.

25. Xeric therefore knowingly and willfully failed and/or refused to comply with Division Rule 201 regarding inactive wells and/or Division Rule 1115 regarding the reporting of production.

WHEREFORE, the Supervisor of District I of the Division hereby applies to the Director to enter an Order:

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Xeric Oil & Gas Corp., (25482) – Rules 201/1115 & 101*

50. Requiring Xeric to submit any and all delinquent C115s reflecting any as-yet unreported production for the subject 80 wells by a date certain.

51. Requiring that, by a date certain, Xeric plug and abandon each of the specified 80 wells.

52. Requiring that Xeric pay a monetary penalty assessment in an amount consistent with the severity (80 wells) and duration (over ten years in some cases) of Xeric's willful violations, pursuant to NMSA 1978, Section 70-2-31(A), specifically for its knowing and willful violations of Rule 201 and/or Rule 1115 NMAC (independent of and in addition to any other penalty assessment(s) Ordered in this matter for other violations of the OCD Rules and/or the New Mexico Oil and Gas Act).

53. Further, if the subject wells are not plugged and abandoned by the deadline set by the Order:

- (1) Assessing a penalty against Xeric of not less than \$1,000.00 for each full week of non-compliance with the Order;
- (2) Authorizing the Division to plug the subject wells in accordance with a Division-approved plugging program;
- (3) Authorizing the Division to forfeit any applicable financial assurances posted in relation to the subject wells; and
- (4) For such other and further relief as the Director deems just and proper under the circumstances.

RESPECTFULLY SUBMITTED, this 5th
day of March, 2008 by



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Conservation Division

CASE NO. 14/06. Application of the New Mexico Oil Conservation Division for a Compliance Order against Xeric Oil & Gas Corporation ("Xeric"). The Applicant seeks an Order finding that Operator Xeric is in violation of OCD Rule 101 as to 69 wells and Rule 201 &/or 1115 as to 80 wells, that such violations are knowing and willful, assessing an appropriate civil penalty and requiring Xeric to bring all such wells into full compliance with OCD Rules by a date certain. The Division further seeks authority to forfeit any associated financial assurances, and to plug and abandon the subject wells should the Operator fail to meet the deadline established by the Order. The subject wells are all located in Lea County. The Crosby Deep and Gregory Units are located approximately 2 miles South/Southeast of Jal; the Mesa Queen Unit is located approximately 4 miles North of Maljamar and 2 miles East of the Eddy County line; the South Pearl Queen, West Pearl Queen and East Pearl Queen Units are located between 12 and 20 miles Northwest of Eunice and 16 to 20 miles Southwest of Hobbs; and the Mexico U wells are located just Southwest of Hobbs (within 3 miles). The specific wells involved in this matter include the following:

Crosby Deep #001	30-025-23891	Mesa Queen Unit #011	30-025-20230
Crosby Deep #003	30-025-11870	Mesa Queen Unit #018	30-025-20313
East Pearl Queen Unit #084	30-025-30869	Mesa Queen Unit #020	30-025-20269
Gregory A #005	30-025-11884	Mexico U #001	30-025-12512
Gregory A #007	30-025-11867	Mexico U #003	30-025-30954
Gregory C #001	30-025-11865	South Pearl Queen Unit #003	30-025-21772
Gregory El Paso Federal #004	30-025-11871	South Pearl Queen Unit #006	30-025-03315
Mesa Queen Unit #006	30-025-00396	South Pearl Queen Unit #007	30-025-03316
Mesa Queen Unit #015	30-025-20347	West Pearl Queen Unit #103	30-025-03247
Mesa Queen Unit #025	30-025-23483	West Pearl Queen Unit #107	30-025-03231
South Pearl Queen Unit #005	30-025-03328	West Pearl Queen Unit #108	30-025-03234
South Pearl Queen Unit #008	30-025-03317	West Pearl Queen Unit #110	30-025-03254
South Pearl Queen Unit #011	30-025-03325	West Pearl Queen Unit #112	30-025-03244
South Pearl Queen Unit #016	30-025-03321	West Pearl Queen Unit #117	30-025-03241
South Pearl Queen Unit #019	30-025-03319	West Pearl Queen Unit #118	30-025-03248
South Pearl Queen Unit #021	30-025-03342	West Pearl Queen Unit #119	30-025-03240
South Pearl Queen Unit #022	30-025-03341	West Pearl Queen Unit #120	30-025-03224
West Pearl Queen Unit #167	30-025-23313	West Pearl Queen Unit #121	30-025-03225
West Pearl Queen Unit #180	30-025-30868	West Pearl Queen Unit #122	30-025-03228
West Pearl Queen Unit #130	30-025-03250	West Pearl Queen Unit #124	30-025-03229
Crosby Deep #002	30-025-24287	West Pearl Queen Unit #125	30-025-03227
Crosby Deep #004	30-025-25985	West Pearl Queen Unit #126	30-025-03226
East Pearl Queen Unit #001	30-025-03189	West Pearl Queen Unit #127	30-025-03242
East Pearl Queen Unit #004	30-025-03186	West Pearl Queen Unit #128	30-025-03249
East Pearl Queen Unit #007	30-025-03183	West Pearl Queen Unit #129	30-025-03243
East Pearl Queen Unit #008	30-025-03182	West Pearl Queen Unit #134	30-025-03262
East Pearl Queen Unit #009	30-025-03185	West Pearl Queen Unit #135	30-025-03261
East Pearl Queen Unit #011	30-025-03175	West Pearl Queen Unit #140	30-025-03283
East Pearl Queen Unit #012	30-025-03174	West Pearl Queen Unit #143	30-025-03286
East Pearl Queen Unit #014	30-025-03184	West Pearl Queen Unit #153	30-025-03265
East Pearl Queen Unit #015	30-025-03181	West Pearl Queen Unit #154	30-025-03266
East Pearl Queen Unit #016	30-025-03180	West Pearl Queen Unit #163	30-025-22870
East Pearl Queen Unit #018	30-025-03216	West Pearl Queen Unit #164	30-025-23083
East Pearl Queen Unit #021	30-025-03237	West Pearl Queen Unit #169	30-025-25365
East Pearl Queen Unit #022	30-025-03235	West Pearl Queen Unit #191	30-025-30861
East Pearl Queen Unit #023	30-025-03236	West Pearl Queen Unit #192	30-025-30867
East Pearl Queen Unit #026	30-025-03222	West Pearl Queen Unit #195	30-025-31021
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East Pearl Queen Unit #030	30-025-03213		
East Pearl Queen Unit #036	30-025-03221		
East Pearl Queen Unit #037	30-025-03219		
East Pearl Queen Unit #039	30-025-03295		
East Pearl Queen Unit #042	30-025-03298		
East Pearl Queen Unit #046	30-025-03302		
East Pearl Queen Unit #056	30-025-23302		
East Pearl Queen Unit #057	30-025-23409		
East Pearl Queen Unit #059	30-025-23427		
East Pearl Queen Unit #077	30-025-31106		
Mesa Queen Unit #010	30-025-20340		