

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 ORBIT PETROLEUM, INC. FINDING THAT THE OPERATOR IS IN VIOLATION OF 19.15.7.24 NMAC, 19.15.8.9 NMAC AND 19.15.25.8 NMAC, REQUIRING OPERATOR TO PROPERLY PLUG AND ABANDON ALL ITS WELLS BY A DATE CERTAIN, AND IN THE EVENT OF NON-COMPLIANCE AUTHORIZING THE DIVISION TO PLUG AND ABANDON THE WELLS AND FORFEIT THE APPLICABLE FINANCIAL ASSURANCE, ROOSEVELT AND LEA COUNTIES, NEW MEXICO.

CASE NO. 14312

APPLICATION FOR COMPLIANCE ORDER  
AGAINST ORBIT PETROLEUM INC.

1. Orbit Petroleum, Inc. ("Orbit") is a corporation operating the following wells in New Mexico under OGRID 227083:

Archer #001, 30-041-20787, K-17-07S-34E  
Archer #002, 30-042-20798, L-17-07S-34E  
Brown 51 #001, 30-025-07061, D-19-09S-38E  
Brown 51 #002, 30-025-21703, F-19-09S-38E  
Line State #001, 30-041-20451, 2-16-08S-38E  
Sieber #001, 30-041-20791, C-17-07S-34E  
State BA #001, 30-041-10003, A-34-07S-35E  
State BA #002, 30-041-20048, H-34-07S-35E

2. According to information posted on the website of the New Mexico Public Regulation Commission, Orbit is a domestic profit corporation in good standing, with the following registered agent: Casa de Search, 9 Carlton Road, Santa Fe, NM 87505. Its corporate officer is Phil Herr, and its director is Jim Fraser.

3. The records of the Oil Conservation Division ("OCD") identify the following financial assurances posted by Orbit to secure the plugging and abandonment of its wells:

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\$50,000 Blanket Cash Plugging Bond , Account No. 2169568157

\$40,000 Blanket Cash Plugging Bond, Account No. 2169568116

4. Orbit Petroleum, Inc. is the debtor in Chapter 11 Bankruptcy Case 08-10408-11, filed 2/13/08.

5. NMSA 1978, Section 70-2-14(B) provides, in relevant part, "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."

Violation of 19.15.7.24 NMAC (failure to file production reports):

6. Rule 19.15.7.24 NMAC requires operators to file a monthly production report for each non-plugged well completion for which the division has approved a form C-104.

7. Orbit has not filed monthly production reports for reporting periods after September 2007.

8. During the relevant time periods, Orbit had wells with approved C-104s.

Violation of 19.15.8.9 NMAC (financial assurance requirements):

9. Rule 19.15.8.9 NMAC requires operators to post financial assurances for wells on privately owned or state owned lands in New Mexico that have not been plugged and released, conditioned that the well will be plugged and abandoned and the location restored and remediated in compliance with OCD rules.

10. Effective January 1, 2008, the operator of a state or fee well that has been inactive for a period of more than two years must post a one-well financial assurance for

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the well, even if the well is also covered by a blanket financial assurance. See Rule 19.15.8.9.C NMAC.

11. Orbit operates six state or fee wells that have been inactive for more than two years and require single-well financial assurances under 19.15.8.9 NMAC. Orbit has not posted single-well financial assurances for these wells:

Archer #001, 30-041-20787, K-17-07S-34E  
Archer #002, 30-042-20798, L-17-07S-34E  
Line State #001, 30-041-20451, 2-16-08S-38E  
Sieber #001, 30-041-20791, C-17-07S-34E  
State BA #001, 30-041-10003, A-34-07S-35E  
State BA #002, 30-041-20048, H-34-07S-35E

Violation of 19.15.25 NMAC (inactive well requirements):

12. Rule 19.15.25.8 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.

13. Rule 19.15.25.10.D NMAC provides that, as soon as practical, but not later than one year after the completion of plugging operations, the operator shall level the location, remove deadmen and other junk, and take other measures necessary or required by the OCD to restore the location to a safe and clean condition. In addition, the operator is required to close all pits and below-grade tanks. See 19.15.25.10.E NMAC.

14. Rule 19.15.25.11 NMAC provides that within 30 days after completing all restoration work the operator shall file with the OCD a record of the work done. The OCD shall not approve the record of plugging or release a bond until the operator has filed the necessary reports and the OCD has inspected and approved the location.

15. All 8 of the wells operated by Orbit have been inactive for a continuous period in excess of one year plus 90 days, and are neither plugged and abandoned in accord with 19.15.25.10 NMAC nor on approved temporary abandonment status in accord with 19.15.25.13 NMAC. Two of the eight wells are already subject to a plugging order, R-12250, and the wellbores have been plugged by the State of New Mexico at a cost of \$61,238.52: State BA #001, 30-041-10003, and State BA #002, 30-041-20048.

16. Rule 19.15.8.13 NMAC authorizes the Director to order the operator to plug and abandon any well not in compliance with 19.15.25.8 NMAC and restore and remediate the location by a date certain.

17. NMSA 1978, Section 70-2-12(B)(18) and NMSA 1978, Section 70-2-38 authorize the OCD to plug and abandon wells, and restore and remediate the location of abandoned wells.

WHEREFORE, the Enforcement and Compliance Manager of the Division hereby applies to the Director to enter an order:

- A. Determining that Orbit Petroleum, Inc. is in violation of 19.15.7.24 NMAC, 19.15.8.9 NMAC, and 19.15.25 NMAC;
- B. Requiring Orbit Petroleum, Inc. to properly plug and abandon all its wells by a date certain, pursuant to NMSA 1978, Section 70-2-14(B);
- C. Authorizing the OCD to properly plug and abandon all wells operated by Orbit Petroleum, Inc.;
- D. Authorizing the OCD, if permitted by the bankruptcy court, to forfeit the applicable financial assurances if Orbit Petroleum, Inc. fails to meet the deadline for compliance set in the order; and

E. For such other and further relief as the Director deems just and proper under the circumstances.

RESPECTFULLY SUBMITTED,  
this 1st day of April 2009 by



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Case No. 14312. Application of the New Mexico Oil Conservation Division for a Compliance Order against Orbit Petroleum, Inc. The Applicant seeks an order finding that the operator is in violation of 19.15.7.24 NMAC, 19.15.8.9 NMAC, and 19.15.25 NMAC, requiring operator to properly plug and abandon all the wells it operates in New Mexico by a date certain, and in the event of non-compliance authorizing the division to plug and abandon the wells and forfeit the applicable financial assurance. The affected wells are: Archer #001, 30-041-20787, K-17-07S-34E; Archer #002, 30-042-20798, L-17-07S-34E; Brown 51 #001, 30-025-07061, D-19-09S-38E; Brown 51 #002, 30-025-21703, F-19-09S-38E; Line State #001, 30-041-20451, 2-16-08S-38E; Sieber #001, 30-041-20791, C-17-07S-34E; State BA #001, 30-041-10003, A-34-07S-35E; State BA #002, 30-041-20048, H-34-07S-35E. The Archer #001 and #002 and the Sieber #001 wells are located approximately 5 miles northwest of Milnesand, in Roosevelt County. The Brown 51 #001 and #002 are located approximately 15 miles east of Crossroads in Lea County. The Line State #001 is located approximately 15 miles east of Milnesand in Roosevelt County. The State BA #001 and #002 are located approximately 5 miles northeast of Milnesand in Roosevelt County.