

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

AMENDED
PRE-HEARING STATEMENT OF THE OIL CONSERVATION DIVISION

The Oil Conservation Division (OCD) submits this pre-hearing statement pursuant to 19.15.4.13(B) NMAC.

APPEARANCES

APPLICANT

Oil Conservation Division

APPLICANT'S ATTORNEY

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RESPONDENT

Orbit Petroleum, Inc.
1131 E. Britton Rod.
Oklahoma City, OK 73131

RESPONDENT'S ATTORNEY

No entry of appearance filed at this time.

Casa de Search
Registered Agent for Orbit Petroleum, Inc.
9 Carlton Road
Santa Fe, NM 87505

STATEMENT OF CASE

The Oil Conservation Division (OCD) seeks an order requiring Orbit Petroleum, Inc. (Orbit) to plug and abandon all its wells, or transfer all its wells to another operator, by a date certain. This request is made pursuant to NMSA 1978, Section 70-2-13(B), based on Orbit's history of non-compliance with OCD rules, including 19.15.7.24 NMAC (production reporting),

19.15.8.9 (financial assurances) and 19.15.25 NMAC (inactive wells). The OCD also asks that the order authorize the OCD to plug and abandon Orbit's wells and forfeit the applicable financial assurances (if permitted by the bankruptcy court) if Orbit fails to transfer or plug the wells by the deadline set in the order.

This matter was heard on May 14, 2009. The OCD had mailed notice of the May 14 hearing date to Orbit and to Orbit's registered agent at the addresses listed above. The notice mailed to Orbit was returned "Unclaimed, unable to forward." The OCD did receive a return-receipt card showing notice to Orbit's registered agent, Casa de Search, and introduced that card into evidence at the hearing as proof of actual notice to the operator. However, after the hearing letters sent to "Casa de Search" were returned to the OCD marked "attempted not known." The OCD has not been able to verify that "Casa de Search" exists, much less that it received notice of the May 14 hearing. This matter is being re-opened so that the OCD can provide notice to Orbit by publication.

OCD'S PROPOSED EVIDENCE

At the hearing, the OCD intends to provide proof of notice by publication, and ask the examiner to adopt the record of the May 14, 2009 hearing. If any party objects, the OCD will ask the examiner to continue the hearing to a future date so that the OCD may present the following:

WITNESS: Dorothy Phillips, OCD Financial Assurance Administrator
ESTIMATED TIME: Testimony by affidavit

Witness: Daniel Sanchez, OCD Compliance and Enforcement Manager
ESTIMATED TIME: 10 minutes, if pre-filed written testimony is accepted; otherwise 1 and ½ hours

PROCEDURAL MATTERS

Because the OCD does not have a valid address for Orbit, it is not attempting to serve this pre-hearing statement.

Respectfully submitted
this 17 day of June 2009 by



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