

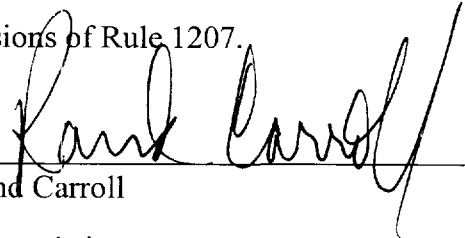
**STATE OF NEW MEXICO ENERGY,
MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION DIVISION**

APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION THROUGH THE SUPERVISOR OF DISTRICT II FOR AN ORDER REQUIRING MERIT ENERGY COMPANY TO PROPERLY PLUG THREE WELLS LOCATED IN UNITS J, O AND P IN SECTION 1, TOWNSHIP 21 SOUTH, RANGE 27 EAST, EDDY COUNTY, NEW MEXICO, AUTHORIZING THE DIVISION TO PLUG THESE WELLS, AND ORDERING A FORFEITURE OF THE PLUGGING BOND.

CASE NO. 12279

AFFIDAVIT REGARDING NOTICE

1. I am over the age of eighteen and have personal knowledge of the matters stated herein.
2. I am the attorney of record for the Applicant.
3. Applicant has conducted a good faith, diligent effort to find the correct addresses of interest owners entitled to receive notice of the Application herein.
4. Notice of the Application was provided to the interest owners at their correct addresses by mailing them, by certified mail, a copy of the Application. Copies of the notice letter and certified return receipts are attached hereto.
5. Applicant has complied with the notice provisions of Rule 1207.

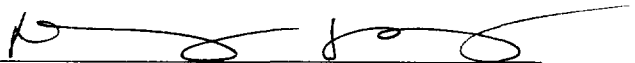


Rand Carroll

SUBSCRIBED AND SWORN TO before me this 12th day of October, 1999,
by Rand Carroll.

My commission expires:

2/18/2003



NOTARY PUBLIC

BEFORE EXAMINER	
OIL CONSERVATION DIVISION	
<u>OCD</u>	EXHIBIT NO. <u>3</u>
CASE NO. <u>12279</u>	



NEW MEXICO ENERGY, MINERALS
& NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION
2040 South Pacheco Street
Santa Fe, New Mexico 87505
(505) 827-7131

October 15, 1999

Certified Mail
Return Receipt Requested

COPY

Merit Energy Company
12222 Merit Drive, Suite 1500
Dallas, TX 75251

Aetna Casualty & Surety Co.
151 Farmington Ave
Hartford, CT 06156

RE: Case No. 12279 Application of the New Mexico Oil Conservation Division for an order requiring Merit Energy Company to plug three wells in Eddy County, NM

Aetna Casualty & Surety Co. Bond No: 71S100832237BCA

Dear Sir/Madam:

This letter is to advise you that the New Mexico Oil Conservation Division has filed the enclosed application for a hearing requiring Merit Energy Company and other interested parties to appear and show cause why certain wells should not be ordered plugged and abandoned.

This application has been set for hearing before an Examiner of the Oil Conservation Division on November 4, 1999. You are not required to attend this hearing, but as an owner of an interest that may be affected by an order issued in this case, you may appear and present testimony. Failure to appear at that time and become a party of record will preclude you from challenging the matter at a later date.

Parties appearing in cases are required (Rule 1208.B—Enclosed) to file a Prehearing Statement three days in advance of the hearing.

Very truly yours,

Rand Carroll
Legal Counsel

Enclosures

c: Tim Stubblefield, OCD Artesia
Tim Gum, OCD Artesia District Supervisor

**STATE OF NEW MEXICO
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CASE NO.

13279

99 OCT 13 AM 2:45

OIL CONSERVATION DIV.

APPLICATION FOR PLUGGING AND FORFEITURE OF BOND

1. Merit Energy Company (the "Operator") is the operator of three wells, the Burton Flat Wells No. 1 (API No. 30-015-24960), 2 (API No. 30-015-24959), and 3 (API No. 30-015-25555), located in Units J, O and P, respectively, in Section 1, Township 21 South, Range 27 East, Eddy County, New Mexico.

2. Operator has posted a surety bond in the amount of \$50,000 for these wells in compliance with Section 70-2-14, NMSA 1978, and Division Rule 101, which bond is conditioned upon compliance with New Mexico statutes and Division Rules with respect to the proper plugging and abandonment of the wells operated by Operator. Aetna Casualty and Surety Company is surety on the bond, Bond No. 71S100832237BCA.

3. These wells (i) have not produced hydrocarbon or carbon dioxide substance or have otherwise been inactive for more than one year, or (ii) are no longer usable for beneficial

purposes, and no permit for temporary abandonment has been requested by the Operator and approved by the Division.

4. By virtue of the failure to use the wells for beneficial purposes or to have approved current temporary abandonment permits, these wells are presumed to have been abandoned and are required to be plugged.

5. By authority of Section 70-2-14 NMSA 1978, Division Rules require wells which are inactive for more than one year or are no longer usable for beneficial purposes to be properly plugged.

6. Demand has been made or attempted to be made upon the Operator to either place the wells to beneficial use, obtain approval for temporary abandonment or properly plug and abandon the wells and the Operator has failed to do so.

WHEREFORE, the Division District II Supervisor applies to the Director to enter an order:

A. Requiring the Operator to plug the wells in accordance with a Division-approved plugging program.

B. If the Operator fails to plug and abandon the wells as ordered by the Director, authorizing the Director:

i. to plug the wells;

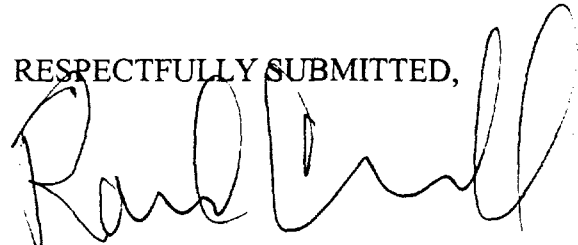
ii. to declare forfeiture of the bond, if any, and to take such action to foreclose on the bond, and

iii. to recover from the Operator any costs of plugging the wells in excess

of the amount of the bond, if any.

D. For such other relief as the Division deems just and proper.

RESPECTFULLY SUBMITTED,

A handwritten signature in black ink, appearing to read "Rand Carroll", written over the typed name.

RAND CARROLL

Legal Counsel

New Mexico Oil Conservation Division

2040 South Pacheco

Santa Fe, NM 87505

(505) 827-8156

(9) This paragraph has been moved and renumbered to 19 NMAC 15.N.1207.A.(6).
[1-1-86...2-1-96; A, 7-15-99]

(10) This paragraph has been moved and renumbered to 19 NMAC 15.N.1207.A.(7).
[1-1-86...2-1-96; A, 7-15-99]

(11) This paragraph has been moved and renumbered to 19 NMAC 15.N.1207.A.(8).
[1-1-86...2-1-96; A, 7-15-99]

1207.B. Type and Content of Notice. Any notice required by this rule shall be sent by certified mail, return receipt requested, to the last known address of the person to whom notice is to be given at least 20 days prior to the date of hearing of the application and shall include: a copy of the application; the date, time and place of the hearing; and the means by which protests may be made. [1-1-86...2-1-96; A, 7-15-99]

1207.C. At the hearing, the applicant shall make a record, either by testimony or affidavit signed by the applicant or its authorized representative, that: (a) the notice provisions of this rule have been complied with; (b) the applicant has conducted a good-faith diligent effort to find the correct address of all persons entitled to notice; and (c) pursuant to this rule, notice has been given at that correct address as required by this rule. In addition, the record shall contain the name and address of each person to whom notice was sent and, where proof of receipt is available, a copy of the proof. [1-1-86...2-1-96; A, 7-15-99]

1207.D. Evidence of failure to provide notice as required in this rule may, upon proper showing, be considered cause for reopening the case. [1-1-86...2-1-96; A, 7-15-99]


1207.E. In the case of an administrative application where the required notice was sent and a timely filed protest was made, the Division shall notify the applicant and the protesting party in writing that the case has been set for hearing and the date of the hearing. No further notice is required. [7-15-99]

1208 PLEADINGS: COPIES [9-15-55...2-1-96; A, 7-15-99]

1208.A. For pleadings and correspondence filed in cases pending before a Division Examiner, two copies must be filed with the Division. For pleadings and correspondence filed in cases pending before the Commission, five copies must be filed with the Division. The Division will disseminate copies to the members of the Commission. The party filing the pleading or correspondence shall at the same time either hand deliver or transmit by facsimile or electronic mail to any party who has entered an appearance therein or the attorneys of record, a copy of the pleading or correspondence. An appearance of any interested party shall be made either by letter addressed to the Division or in person at any proceeding before the Commission or before a Division Examiner, with notice of such appearance to the parties of record. [9-15-55...2-1-96; A, 7-15-99]

1208.B. Parties to an adjudicatory proceeding must file a prehearing statement three days in advance of a scheduled hearing before the Division or the Commission. The statement must include: the names of the parties and their attorneys; a concise statement of the case; the names of all witnesses the party will call to testify at the hearing; the approximate time the party will need to present its case; and identification of any procedural matters that are to be resolved prior to the hearing. [7-15-99]

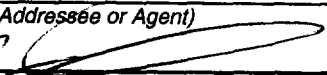
Is your RETURN ADDRESS completed on the reverse side?

SENDER: <ul style="list-style-type: none">■ Complete items 1 and/or 2 for additional services.■ Complete items 3, 4a, and 4b.■ Print your name and address on the reverse of this form so that we can return this card to you.■ Attach this form to the front of the mailpiece, or on the back if space does not permit.■ Write "Return Receipt Requested" on the mailpiece below the article number.■ The Return Receipt will show to whom the article was delivered and the date delivered.		I also wish to receive the following services (for an extra fee): 1. <input type="checkbox"/> Addressee's Address 2. <input type="checkbox"/> Restricted Delivery Consult postmaster for fee.	
3. Article Addressed to: Aetna Casualty & Surety Co. 151 Farmington Ave. Hartford, CT 06156		4a. Article Number Z 549 495 519	
		4b. Service Type <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Certified <input type="checkbox"/> Express Mail <input type="checkbox"/> Insured <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> COD	
		7. Date of Delivery DEC 12 1994	
5. Received By: (Print Name)		8. Addressee's Address (Only if requested and fee is paid)	
6. Signature: (Addressee or Agent) X 			

PS Form 3811, December 1994 Domestic Return Receipt

Thank you for using Return Receipt Service.

Is your RETURN ADDRESS completed on the reverse side?

SENDER: <ul style="list-style-type: none">■ Complete items 1 and/or 2 for additional services.■ Complete items 3, 4a, and 4b.■ Print your name and address on the reverse of this form so that we can return this card to you.■ Attach this form to the front of the mailpiece, or on the back if space does not permit.■ Write "Return Receipt Requested" on the mailpiece below the article number.■ The Return Receipt will show to whom the article was delivered and the date delivered.		I also wish to receive the following services (for an extra fee): 1. <input type="checkbox"/> Addressee's Address 2. <input type="checkbox"/> Restricted Delivery Consult postmaster for fee.	
3. Article Addressed to: Merit Energy Company 12222 Merit Drive, Suite 1500 Dallas, TX 75251		4a. Article Number Z 549 495 529	
		4b. Service Type <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Certified <input type="checkbox"/> Express Mail <input type="checkbox"/> Insured <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> COD	
		7. Date of Delivery 12/12/94	
5. Received By: (Print Name)		8. Addressee's Address (Only if requested and fee is paid)	
6. Signature: (Addressee or Agent) X 			

PS Form 3811, December 1994 Domestic Return Receipt

Thank you for using Return Receipt Service.