

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

IN THE MATTER AND CONSIDERATION OF:

**AMENDED APPLICATION OF ALPHA ENERGY
PARTNERS, LLC, FOR COMPULSORY
POOLING, EDDY COUNTY, NEW MEXICO**

**OCD CASE NO. 25166
OCC CASE NO. 25694
ORDER NO. 23961**

**AMENDED APPLICATION OF ALPHA ENERGY
PARTNERS II, LLC, FOR COMPULSORY
POOLING, EDDY COUNTY, NEW MEXICO**

**OCD CASE NO. 25495
OCC CASE NO. 25696
ORDER NO. 23977**

**AMENDED APPLICATION OF ALPHA ENERGY
PARTNERS II, LLC, FOR COMPULSORY
POOLING, EDDY COUNTY, NEW MEXICO**

**OCD CASE NO. 25496
OCC CASE NO. 25695
ORDER NO. 23989**

**REPLY TO AMERICAN ENERGY RESOURCES, LLC'S RESPONSE TO ALPHA'S
MOTION FOR AN EVIDENTIARY HEARING TO DETERMINE WHETHER
THE SAIK #001 WELL SHOULD BE PLUGGED**

Alpha Energy Partners, II, LLC, and affiliate AEP II Operating, LLC (collectively "Alpha"), through its undersigned attorneys, submits to the Oil Conservation Commission ("Commission" or "OCC") this Reply ("Reply") to American Energy Resources, LLC's ("AER") Response to Alpha's Motion for an Evidentiary Hearing to Determine Whether the Saik #001 Well Should be Plugged. In support of its Reply, Alpha states the following:

A. Introduction:

1. In the status conference on November 13, 2025, the OCC Counsel advised that "maybe it's time to peel off the Band-Aid in this particular case," noting that the above-referenced cases ("Subject Cases") could provide an opportunity for the Oil Conservation Division

(“Division” or “OCD”) to resolve issues and “reach finality on the status of the this [Saik] well.” Transcript (“Tr.”) dated Nov. 13, 2025, Case Nos. 25694-25695 at 40: 4-19. Through an evidentiary hearing, the Commission would have the opportunity to “peel off the Band-Aid” and resolve a number of issues that have been festering under the operation of the Saik #001 Well (API No. 30-015-20971) (“Saik Well”) since 2017, the year the Energy, Minerals, and Natural Resources Department (“EMNRD”) issued the Letter of Violation to the Operator of the Saik Well dated March 2, 2025 (“NOV Letter”). *See id.*; *see also* NOV Letter, Exhibit 1, Alpha’s Motion Requesting an Evidentiary Hearing (“Alpha’s Motion Re: the Saik Well”).

2. Not only would a hearing on the status of the Saik Well resolve ongoing regulatory issues, but such a hearing could also resolve the *de novo* appeal, and the Commission has a legal obligation to exhaust all administrative options capable of resolving the dispute at the agency-level before referral to district court. *See U.S. West Commc’ns, Inc. v. N.M. State Corp. Comm’n*, 1998-NMSC-032, ¶ 9; *see also* Paragraphs 10 and 11 in Alpha’s Motion Re: the Saik Well. When a new operator executes a C-145 Change of Operator Form, that operator assumes all responsibility and liability for the well, including existing violations and any requirement to plug the well when deemed and/or ordered necessary by the OCD/OCC. *See* NOV Letter, Agreed-to-Items #2 and #4. The Commission is fully aware of existing allegations that the Saik Well constitutes an orphan well, and addressing orphan wells—particularly older wells in deteriorated condition—is a current priority within EMNRD. *See, e.g.*, Tr. dated Nov. 13, 2025, Case Nos. 25694-96, at 40: 5-12 (OCC Counsel’s commentary on orphan wells).

3. It is clear that there are ongoing regulatory concerns related to the Saik Well, as identified by OCC Counsel. *Id.* at 16-17. AER itself confirms this reality by the manner in which it attacks—disrespectfully—Mr. Jessie Tremaine, Legal Director of the Division, for undertaking a thorough evaluation of the Saik Well rather than rubber-stamping development. *See* Response to

Alpha's Motion Requesting the Commission to Determine that AER's Representations of Purported Shut-in Payments Were Knowingly Made in Bad Faith ("Response to Alpha's Motion Re: the Saik Well"), ¶ 12. AER's own characterization of the Division's evaluation demonstrates that the OCD Legal Director harbors serious concerns regarding whether AER should be allowed to operate and develop the Saik Well. *See id.* Accordingly, in addition to the options and benefits proposed by OCC Counsel, the Commission's obligation to exhaust administrative remedies, and AER's own admissions regarding the Division's concerns, Alpha sets forth the following arguments supporting the need for the OCC to hold an evidentiary hearing to determine whether the Saik Well should be plugged.

B. AER Intentionally Provided the Division with False and Inaccurate Production Reports on the Saik Well from January to November 2025.

4. An operator is required to file a form C-115 for each non-plugged well setting forth "complete information and data indicated on the forms in the order, format and style the director prescribes." 19.15.7.24(A). The director of the OCD has prescribed required reporting information through the C-115 Instructions, available on the OCD website. Under the Production category of the form, the operator must report: (1) "Barrels" of Oil/Condensate produced (Column 12); (2) "Barrels" of water produced (Column 13); (3) actual "MCF Gas Produced" (Column 14); and (4) the actual number of "Days Produced" (Column 15). *See* C-115 Instructions, p. 15. Since the Saik Well is a gas well, the operator must report the actual volume of gas produced over the full reporting period. Furthermore, under the Disposition of Oil, Gas, and Water category, the operator must report: (1) actual Gas BTU or Oil API gravity (Column 18); (2) actual volume of gas (MCF) for the entire month (Column 20); and (3) identification of the transporter (Column 21).

5. Because the gas meter had been removed from the Saik Well, AER could not have measured the actual volume of gas produced and sold from this well. AER admits that it did not

measure or record gas production during the reported months. *See* Response to Alpha's Motion Re: the Saik Well, ¶ 2.

6. Instead, AER claims that it conducted an unspecified "test," without describing its nature, methodology, duration, or evidentiary basis. *See* Response to Alpha's Motion Re: the Saik Well, ¶ 3. *See id.* A pressure test, for example, measures PSI—not volumetric flow—and cannot substitute for monthly production measurement. Thus, AER's unsupported assertion that such a test could measure gas production constitutes another false representation to the Division and Commission.

7. AER's bad faith is evident from its statement that "it is possible to have reported in good faith 1 MCF for the months of September, October November 2025;" thus, AER fails to state it actually reported the measured amounts and volume of total gas produced over the course of those months. *See id.* at ¶ 4. AER provides no evidence that 1 MCF reflects actual production. Given the Saik Well's current dilapidated condition, the reported production appears fabricated.

8. Gas is not stored like oil. When gas is produced, its flow must be metered, disposed of by an active pipeline to a gatherer, or vented and/or flared into the atmosphere. Division rules allow estimation by periodic testing only for oil produced into common storage—not gas. *See* 19.15.7.24(A) NMAC. AER's admission that the gathering line for the Saik Well has been, and currently is capped, demonstrates the total lack of disposition (selling) of the gas to a gatherer, which therefore cannot be reported on the C-115. *See id.* Thus, the only remaining possibility for attempting to assess any kind of flow of gas is by venting or flaring, which AER does not address. For the Saik Well, venting and flaring as a test is not possible because (1) the OCD production report shows zero production from venting and/or flaring and zero data reported on the C-115B; and (2) the OCD prohibits venting and flaring of gas during production operations except for

certain very narrow exceptions which AER neither addresses nor is qualified under the rules to enact. *See* 19.15.27.8(D) NMAC.

9. Accordingly, OCC Counsel's proposal to "peel off the band-aid" of the Saik Well and examine whatever irregular regulatory issues are festering underneath is the only reasonable path to resolution. Furthermore, OCD Legal Director's cautious approach is not arbitrary or capricious, as claimed by AER; it is commendable and necessary to protect correlative rights, prevent waste, and safeguard the environment from outdated orphaned wells. *See* Response Alpha's Motion Re: the Saik Well, ¶ 12. The Division and the Commission deserve the benefit of an evidentiary hearing pursuant to the existing NOV Letter to determine the actual status and fate of the Saik Well.

C. AER's False and Bad Faith Reporting of Production Forfeits AER's Request for a Stay of the Division's Pooling Orders

10. AER submits its request for a stay with unclean hands. Under the *Tenneco* test standard, AER fails to meet the required showing. AER participated in Division proceedings long before belatedly filing a C-145 form—eight (8) years after acquiring antiquated leases in 2017—and admits the well was non-producing from 2010 to 2024. *See* Response to Alpha's Motion Re: the Saik Well, ¶ 2. Thus, AER received due process when the Division adjudicated and approved the overlapping units of the Hollywood Star wells and the Saik Well.

11. The Division routinely approves overlapping units where correlative rights are protected and waste avoided. Given serious doubts that the Saik Well produced gas in 2025 and considering the condition of the well and the manner by which AER falsely reported production, owners in the Saik Unit will not be harmed by the production of the Hollywood Star wells. In fact, the owners in the overlapping Saik Unit (N/2 of Section 17) will directly benefit by receiving their share of production from the Hollywood Star wells. If a stay is granted, not only will the owners

in the N/2 of Section 17 be denied their rightful share of production, but the Commission will be denying production to the more than 700 owners who have been patiently waiting years for their correlative rights to be realized in the Hollywood Star Unit.

12. When the evidence presented to the Commission indicates—as it does here—that AER acted in bad faith by falsely claiming, through an unspecified test, 1 MCF of production each month in 2025 from a well that has no meter for measuring gas flow and that has a capped gathering line prohibiting the disposition of gas, granting a stay would violate every tenet of the *Tenneco* test. AER has not shown likelihood of success or absence of public harm. The public interest demands integrity in evaluating non-producing and orphaned wells, and AER's conduct warrants heightened scrutiny.

Conclusion:

Prudent operators, such as Alpha, who have invested immense amounts of time, energy, and resources to responsibly develop and produce the state's natural resources deserve to have their efforts protected by the Division and the Commission. Thus, for the reasons stated above, Alpha respectfully requests that the Commission deny AER's request for a stay and grant Alpha's request for an evidentiary hearing to evaluate the status of the Saik Well. If AER can show its non-producing well warrants development, which the evidence thus far indicates AER cannot, then AER's Saik Unit can co-exist with Alpha's overlapping unit as approved by the Division's Pooling Order; however, if AER cannot make such a showing after a hearing and due process has been provided, then the Saik Well should be plugged, which would directly benefit all the owners of the Subject Lands and the state of New Mexico.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was filed with the New Mexico Oil Conservation Commission and was served on counsel of record, or on the party of record, if no counsel was provided, via electronic mail on December 16, 2025:

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