

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

**IN RE NOTICE OF VIOLATION
ISSUED TO JIM PIERCE**

**CASE NO. 24009
ORDER NO. R-22991**

ORDER

This matter came before the Director of the New Mexico Oil Conservation Division (“Division” or “OCD”) on the Notice of Violation (“NOV”) issued to Jim Pierce, OGRID #99439 (“Operator”) on or about September 25, 2023. The Division Examiner conducted a public hearing on December 7, 2023. The Director, having considered the testimony and evidence presented, and being otherwise fully advised in the premises, enters the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. The Division has jurisdiction over the parties and the subject matter herein.
2. On September 25, 2023, the Division issued the NOV, which alleged one violation (OCD Ex. 3):
 - A. Operator has more inactive wells out of compliance with 19.15.25.8 NMAC than are allowed by 19.15.5.9(A)(4)(a) NMAC. At the time of the NOV, Operator was the registered operator of 9 wells in New Mexico. Under 19.15.5.9(A)(4)(a) NMAC, as the operator of 100 wells or less, Operator was not permitted to have more than 2 inactive wells out of compliance with 19.15.25.8 NMAC, which requires inactive wells to be plugged and abandoned or placed into approved temporary abandonment status. At the time of the NOV, Operator had 9 inactive

wells, found in OCD Ex. 2, which were not plugged and abandoned or placed into temporary abandonment status.

3. For these violations, the Division requested an Order:
 - B. requiring the Operator to plug and abandon all 9 of the wells listed in OCD Ex. 2 by a date certain or, if the Operator failed to plug and abandon the wells, to allow the Division to do so,
 - C. terminating Operator's authority to transport from the 9 registered wells identified in OCD Ex. 2;
 - D. assessing civil penalties for violations of 19.15.5.9(A)(4)(a) NMAC: \$4,050.00;
4. The NOV informed the Operator of OCD's informal resolution process and informed Operator that in the event the NOV was not resolved informally, OCD would request a hearing on December 7, 2023.
5. Operator did not contact the Division during the informal resolution period.
6. On November 7, 2023, the Division filed and served on Operator the Docketing Notice and requested a hearing (OCD Ex. 6) pursuant to 19.15.5.10 NMAC.
7. Operator did not file an Answer to the NOV as permitted by 19.15.5.10 (E)(2)(b) NMAC.
8. A hearing on the NOV was held on December 7, 2023 before the Division Hearing Examiner. The hearing was held virtually via the WebEx platform. Operator did not appear at the December 7, 2023 hearing. The Division appeared through its counsel, Chris Moander.
9. The Division presented the testimony of two witnesses, Nicholas Karns, Compliance Officer and Bond Administrator with the Division's Administrative and Compliance

Bureau, and Sheila Apodaca, OCD Paralegal. The Division offered 8 exhibits in support of the testimony, all of which were received in evidence without objection.

10. Mr. Karns gave unrefuted evidence that the violations listed in the NOV were ongoing as documented by the business records derived from the Division's compliance database. *See* OCD Ex. 2 (Operator remains out of compliance with inactive well requirements. 19.15.5.9(A)(4)(a) NMAC. As of September 25, 2023, Operator had 9 wells of which 9 were inactive wells that had not been plugged and abandoned or placed in approved temporary abandonment status).
11. OCD provided reliable and relevant evidence of the calculations used to determine the proposed penalty amounts in accordance with OCD penalty guidance. OCD Ex. 3, p. 4.
12. Based on the testimony and evidence presented at the hearing, the Director concludes that Operator violated 19.15.5.9(A)(4)(a) NMAC by failing to plug and abandon inactive wells.
13. The Oil and Gas Act provides that “[i]n assessing a penalty authorized by this section, the division shall take into account the seriousness of the violation, any good faith efforts to comply with the applicable requirements, any history of noncompliance under the Oil and Gas Act and other relevant factors.” NMSA 1978, § 70-2-31(C).
14. The Director concludes that the sanctions proposed by the Division are reasonable pursuant to 19.15.5.10(B) NMAC and are supported by the evidence in the administrative record.

IT IS THEREFORE ORDERED:

1. Operator's authority to transport from all wells is hereby suspended until such time as Operator is compliant with all production reporting, financial assurance, and inactive well requirements.
2. Operator shall plug and abandon all 9 wells listed in OCD Ex. 2 no later than 30 days after issuance of this Order.
3. If Operator fails to plug and abandon the wells as ordered herein, the Division is authorized to plug the wells and forfeit the financial assurance for the wells. Operator shall pay the excess cost to plug and abandon the wells no later than 30 days after actual or attempted service of the Division's written demand.
4. Operator is assessed a civil penalty in the amount of four-thousand and fifty dollars (\$4,050.00). OCD agreed to waive these penalties given that Operator is no longer in business and has no assets available for recoupment.
5. The Division retains jurisdiction of this matter for the entry of such further orders as it may deem necessary.

**STATE OF NEW MEXICO
OIL CONSERVATION DIVISION**



**DYLAN FUGE
ACTING DIRECTOR**

Date: 12/21/23