

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

**IN RE BAR V BARB, LLC
Respondent.**

**CASE NO. 24773
ORDER NO. R-23410**

ORDER

This matter came before the Director of the New Mexico Oil Conservation Division (“Division” or “OCD”) on the Notice of Violation (“NOV”) dated on or about July 23, 2024, issued to Bar V Barb LLC, OGRID #371067 (“Operator”). The Division’s Hearing Examiner conducted a public hearing on September 12, 2024. The Director, having considered the testimony and evidence presented, and being otherwise fully advised in the premises, finds, concludes and orders:

FINDINGS OF FACT

1. The Division has jurisdiction over the parties and the subject matter herein.
2. On or about July 23, 2024, the Division issued the NOV, which alleged three violations (OCD Ex.2):
 - a. Operator allegedly violated 19.15.5.9(A)(4)(a) NMAC. At the time of the NOV, Operator was the registered operator of twelve 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 two 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 twelve inactive wells which were not plugged and abandoned or placed into temporary abandonment status as demonstrated by OCD Ex. 2-A.

- b. Operator allegedly violated 19.15.8.9 NMAC by lacking financial assurance for three wells.
 - c. Operator allegedly violated 19.15.7.24 NMAC by not filing the required monthly production reports, form C-115, as demonstrated by OCD Ex 2-B. Operator had not submitted a C-115 for any well since at least April 2023.
3. The NOV requested the following relief:
- a. Operator shall plug and abandon all twelve wells listed in OCD Ex. 2-A by a certain date or failing to do so, the Division would assume that duty,
 - b. Operator's financial assurance shall be forfeited,
 - c. Operator's authority to transport from the twelve registered wells identified in OCD Ex. 2-A shall be terminated,
 - d. Operator is civilly liable for violations of 19.15.5.9(A)(4)(a) NMAC in the amount of \$4,500.00, for violations of 19.15.8.9 NMAC in the amount of \$1,350.00, and for violations of 19.15.7.24 NMAC in the amount of \$21,600.00.
4. The NOV informed Operator of OCD's informal resolution process, and in the event Operator did not respond to the NOV, that a formal hearing would occur on the September 12, 2024 docket.
5. Operator did not contact the Division during the informal resolution period or provide any evidence that the alleged violations had not occurred. Operator did not file a prehearing statement to enter an appearance or otherwise present evidence pursuant to 19.15.5 NMAC.

6. On August 12, 2024, OCD filed and served the Docketing Notice and formally requested a hearing. Operator did not answer the NOV as contemplated by 19.15.5.10(E)(2)(b) NMAC.
7. The Division provided Operator with notice of the September 12, 2024 hearing as required under 19.15.5.10 NMAC.
8. A hybrid hearing (in-person at Pecos Hall in Santa Fe, NM and virtually through Microsoft Teams) on the NOV was held on September 12, 2024 before a Division Hearing Examiner. Operator did not appear.
9. The Division presented sworn testimony through the Affidavits of Nicholas Karns, Compliance Officer and Bond Administrator with the Division's Administrative and Compliance Bureau, and Shelia Apodaca, OCD Law Clerk.
10. The Division provided evidence of notice of the Docketing Statement. OCD Ex. 4 & 5.
11. Five Exhibits were admitted into evidence without objection in support of the NOV.
12. Mr. Karns, who was previously qualified as an expert in administrative compliance before the Division, provided the following evidence in support of the ongoing violations:
 - a. As of September 12, 2024, Operator remained out of compliance with the inactive well requirements of 19.15.5.9(A)(4)(a) NMAC. As of June 27, 2024, Operator had twelve wells, all of which were inactive wells that had not been plugged and abandoned or placed in approved temporary abandonment status. OCD Ex. 2-A.
 - b. Operator remained out of compliance with 19.15.8.9 NMAC by lacking financial assurance for three wells. OCD Ex. 2-B.

- c. Operator remained out of compliance with 19.15.7.24 NMAC, because Operator had not filed the required C-115 production reports since September 2019. OCD Ex 2-C.
- 13. OCD provided Final Order R-21756 dated June 24, 2021 that required Operator to plug and abandon ten of the subject wells. Operator failed to comply with the Order. OCD Ex 2-D.
- 14. On September 9, 2024 Operator sent an email to OCD Counsel disputing the ownership of the subject wells. OCD Ex. 5.
- 15. 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). OCD provided evidence that the penalties were reasonable and in accordance with the law. OCD Ex. 2-E.

CONCLUSIONS OF LAW

- 16. The Division has met its burden to show by a preponderance of evidence that Operator has violated 19.15.5.9(A)(4)(a) NMAC by failing to plug and abandon twelve inactive wells.
- 17. Operator has violated 19.15.8.9 NMAC by lacking financial assurance for three of the subject wells.
- 18. Operator has violated 19.15.7.24 NMAC by failing to submit the required C-115 forms for all subject wells.
- 19. The civil penalties calculated by the Division are allowed by law, reasonable under 19.15.5.10(B) NMAC, and are supported by the evidence in the Administrative and Hearing Records.

ORDER

20. Operator's authority to transport from subject wells is hereby suspended until such time as Operator is compliant with this Order and the NM Oil and Gas Act.
21. Operator shall plug and abandon all twelve wells listed in OCD Ex. 2-A no later than 30 days after issuance of this Order.
22. If Operator fails to plug and abandon the subject wells as directed herein, the Division shall be authorized to plug and abandon the wells and to forfeit the financial assurance for the wells. Such plugging activities may include necessary reclamation or remediation work associated with wells that have been partially plugged and abandoned, 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. If the excess costs to the Division are not received, the Division may seek indemnification.
23. 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**



**GERASIMOS RAZATOS
ACTING DIRECTOR**

DATED: September 20, 2024