

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

**IN THE MATTER OF THE HEARING  
CALLED BY THE OIL CONSERVATION  
DIVISION FOR THE PURPOSE OF  
CONSIDERING:**

**CASE NO. 15649  
ORDER NO. R-14354**

**APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION  
COMPLIANCE AND ENFORCEMENT BUREAU FOR A COMPLIANCE ORDER  
AGAINST KERSEY AND COMPANY, FOR WELLS OPERATED IN EDDY  
COUNTY, NEW MEXICO.**

**ORDER OF THE DIVISION**

**BY THE DIVISION:**

This case came on for hearing at 8:15 a.m. on March 30, 2017, at Santa Fe, New Mexico, before Examiners William V. Jones and Phillip R. Goetze.

NOW, on this 23<sup>rd</sup> day of May, 2017, the Division Director, having considered the testimony, the record and the recommendations of Examiner Goetze,

**FINDS THAT:**

(1) Due public notice has been given, and the Division has jurisdiction of this case and of the subject matter.

(2) The Oil Conservation Division, Compliance and Enforcement Bureau (the "Bureau") seeks a compliance order against Kersey and Company (the "Operator") finding the Operator is in violation of NMSA 1978 Section 70-2-14 (2015) as to one well (the "Subject Well") and declaring the Subject Well in violation of the requirement for financial assurance. The Subject Well is identified as the Texaco State Well No. 2 (API No. 30-015-02633) located 1650 feet from the South line and 1650 feet from the East line (Unit J) of Section 7, Township 18 South, Range 28 East, NMPM, in Eddy County, New Mexico.

(3) The Bureau further seeks an order requiring the Operator to provide acceptable financial assurance for the Subject Well in accordance with Division Rule 19.15.8.9 NMAC within 30 days.

(4) The Bureau appeared at the hearing through legal counsel and presented the following testimony:

- (a) The Operator is registered under OGRID No. 12576.
  - (b) The Bureau identified the Subject Well as qualifying as “inactive” because the Subject Well has not been used for beneficial purposes for a period that exceeds one (1) year plus 90 days and has not been placed in approved temporary abandonment status.
  - (c) The Bureau maintains a public database, through its *E-permitting* website, summarizing the well status for all current operators in New Mexico. This database also identifies the wells in violation of the financial assurance requirements along with the corresponding amount for each well necessary to satisfy the applicable financial assurance requirement.
  - (d) The Subject Well has been inactive in excess of a period of one year plus 90 days, and is not plugged or abandoned, nor placed in status of approved temporary abandonment based on the production reports which determine the inactive well list. Therefore, the inactive Subject Well is classified with a status of “temporary abandonment” as defined in Division Rule 19.15.2.7(T)(3) NMAC.
  - (e) The Bureau stated that the additional bonding amount for the individual Subject Well was calculated using the procedures found in Division Rule 19.15.8.9(D) NMAC.
  - (f) The Bureau stated the amount of the outstanding financial assurance for the Subject Well was currently \$7,362.00.
  - (g) The Bureau attempted notification of the Operator for voluntary compliance regarding the violation in Division correspondence dated June 16, 2016, sent via certified mail. The return receipt for the correspondence was never received back and the correspondence remained unclaimed.
  - (h) Following the unsuccessful attempt of notification for voluntary compliance, the Bureau provided notice of the hearing application for a compliance order via certified mail and by publication in a newspaper of general circulation in the county in which the Subject Well is located as required under Rule 19.15.4.12(B) NMAC.
  - (i) Based on Division records, the Subject Well is not included in an agreed compliance order between the Division and the Operator.
- (5) No other party appeared at the hearing or otherwise opposed the granting of the Bureau’s application.

The Division Concludes as Follows:

(6) Kersey and Company is the Operator of record for the Subject Well and is responsible for compliance with the Oil and Gas Act and Division Rules.

(7) NMSA 1978, Section 70-2-14(A) provides, in relevant part: *"In addition to the blanket plugging financial assurance, the oil conservation division may require a one-well financial assurance on any well that has been held in a temporarily abandoned status for more than two years."*

(8) Division Rule 19.15.5.10(B) NMAC authorizes the Division to commence compliance proceedings for violation of a provision of the Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38, or a provision of a rule or order issued pursuant to the Act.

(9) As established by the evidence provided at hearing, the Operator is in violation of Division Rule 19.15.8.9 NMAC. The Operator is required to have additional financial assurance on the Subject Well, as it has been in temporary abandonment for more than two years and the Operator has failed to provide the Division with the requisite financial assurance for the Subject Well.

(10) Kersey and Company should be required to provide the financial assurance obligation for the Subject Well.

**IT IS THEREFORE ORDERED THAT:**

(1) Kersey and Company shall provide the required additional financial assurance in the amount of \$7,362.00 for the Texaco State Well No. 2 (API No. 30-015-02633) located 1650 feet from the South line and 1650 feet from the East line (Unit J) of Section 7, Township 18 South, Range 28 East, NMPM, in Eddy County, New Mexico, within thirty (30) days of the issuance date of this Order.

(2) If Kersey and Company fails to comply with Ordering Paragraph (1), the Operator shall be in violation of this Order pursuant to Division Rule 19.15.8.9(C) NMAC.

(3) Jurisdiction of this case is retained for the entry of such further orders as the Division may deem necessary

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.

STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION



DAVID R. CATANACH  
Director



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