

State of New Mexico
Energy, Minerals and Natural Resources Department

Michelle Lujan Grisham
Governor

Sarah Cottrell Propst
Cabinet Secretary

Todd E. Leahy, JD, PhD
Deputy Cabinet Secretary

Adrienne Sandoval, Division Director
Oil Conservation Division



**BY CERTIFIED MAIL - RETURN RECEIPT REQUESTED
AND ELECTRONIC MAIL**

August 12, 2021

Shannon Hayes
Accountant
Primal Energy Corporation
211 Highland Cross, Suite 227
Houston, TX 77073
s.hayes@primalenergy.net

NOTICE OF VIOLATION

The Director of the Oil Conservation Division (“OCD”) issues this Notice of Violation (“NOV”) pursuant to 19.15.5.10 NMAC. A process is available to informally discuss and resolve the NOV. OCD will not request a hearing on the NOV until the end of this process, which runs for 30 days from the date of your receipt of this letter. OCD will extend this process if it would facilitate informal resolution of the NOV. To initiate this process, contact the OCD employee identified at the end of this letter.

(1) *Alleged Violator:* Primal Energy Corporation, OGRID # 154303 (“Operator”).

(2) *Citation, Nature, and Factual and Legal Basis for Alleged Violation(s):*

19.15.5.9(A) NMAC:

An operator is in compliance with Subsection A of 19.15.5.9 NMAC if the operator...

(4) has no more than the following number of wells out of compliance with 19.15.25.8 NMAC that are not subject to an agreed compliance or final order setting a schedule for bringing the wells into compliance with 19.15.25.8 NMAC and imposing sanctions if the schedule is not met:

(a) two wells or fifty percent of the wells the operator operates, whichever is less, if the operator operates 100 wells or less;

- (b) *five wells if the operator operates between 101 and 500 wells;*
- (c) *seven wells if the operator operates between 501 and 1000 wells; and*
- (d) *10 wells if the operator operates more than 1000 wells.*

Operator is the registered operator of ten (10) wells. The ten (10) wells identified in Table 1 are out of compliance with 19.15.25.8 NMAC and are not subject to an agreed compliance or final order:

Table 1:

<u>API</u>	<u>Well</u>	<u>Last Production Reported</u>
30-015-27635	BIG EDDY UNIT #127	Dec-09
30-025-30812	COCHISE-KING GAS COM #001	Jul-06
30-025-09337	COCHISE-KING GAS COM #002	Jul-06
30-025-11103	FOWLER HAIR #001	Oct-02
30-025-11105	FOWLER HAIR #003	Jul-13
30-025-11107	FOWLER HAIR #005	Jul-04
30-025-24609	HARRISON #001	Feb-10
30-025-24749	HARRISON #002	Feb-10
30-025-24641	JUDY #001	Aug-12
30-025-26262	JUDY #003	Aug-12

19.15.8.9 NMAC:

D. Inactive wells. *An operator shall provide financial assurance for wells that are covered by Subsection A of 19.15.8.9 NMAC that have been in temporarily abandoned status for more than two years or for which the operator is seeking approved temporary abandonment pursuant to 19.15.25.13 NMAC in one of the following categories:*

- (1) *a one well financial assurance in the amount of \$25,000 plus \$2 per foot of the projected depth of a proposed well or the depth of an existing well; the depth of a well is the true vertical depth for vertical and horizontal wells and the measured depth for deviated and directional wells; or*
- (2) *a blanket plugging financial assurance covering all wells of the operator subject to Subsection D of 19.15.8.9 NMAC:*
 - (a) *\$150,000 for one to five wells;*
 - (b) *\$300,000 for six to 10 wells;*
 - (c) *\$500,000 for 11 to 25 wells; and*
 - (d) *\$1,000,000 for more than 25 wells.*

Operator currently has ten (10) wells that have been inactive for more than two years and for which there is insufficient financial assurance as identified in Table 2:

Table 2:

<u>API</u>	<u>Well</u>	<u>Existing FA</u>	<u>Required FA</u>	<u>Due</u>
30-015-27635	BIG EDDY UNIT #127	0	39,000	Jan-12
30-025-30812	COCHISE-KING GAS COM #001	0	32,050	Aug-08
30-025-09337	COCHISE-KING GAS COM #002	0	32,344	Aug-08
30-025-11103	FOWLER HAIR #001	0	32,062	Nov-04
30-025-11105	FOWLER HAIR #003	0	32,126	Aug-15
30-025-11107	FOWLER HAIR #005	0	32,310	Aug-06
30-025-24609	HARRISON #001	0	31,924	Mar-12
30-025-24749	HARRISON #002	0	32,220	Mar-12
30-025-24641	JUDY #001	0	32,242	Sep-14
30-025-26262	JUDY #003	0	32,000	Sep-14

19.15.7.24 NMAC:

- A. An operator shall file a form C-115 for each non-plugged well completion for which the division has approved a form C-104 and for each secondary or other enhanced recovery project or pressure maintenance project injection well or other injection well within the state, setting forth complete information and data indicated on the forms in the order, format and style the director prescribes. The operator shall estimate oil production from wells producing into common storage as accurately as possible on the basis of periodic tests.*
- B. An operator shall file the reports 19.15.7.24 NMAC requires using the division's web-based online application on or before the 15th day of the second month following the month of production, or if such day falls on a weekend or holiday, the first workday following the 15th. An operator may apply to the division for exemption from the electronic filing requirement based upon a demonstration that such requirement would operate as an economic or other hardship.*

Operator is the registered operator of ten (10) wells. Operator has not submitted the required C-115 for any well since at least 2017.

(3) *Compliance:* No later than thirty (30) days after receipt of this NOV, Operator shall (a) submit production reports for the wells identified in Table 1; (b) plug and abandon at least eight (8) wells listed in Table 1; and (c) provide inactive well blanket plugging financial assurance of \$300,000 or increase the one well financial assurance to the specified amounts in Table 2.

(4) *Sanction(s):* OCD may impose one or more of the following sanctions:

- civil penalty
- modification, suspension, cancellation, or termination of a permit or authorization
- plugging and abandonment of a well

- remediation and restoration of a well location and associated facilities, including the removal of surface and subsurface equipment and other materials
- remediation and restoration of a location affected by a spill or release
- forfeiture of financial assurance
- shutting in a well or wells
- any other remedy authorized by law

For the alleged violations described above, OCD proposes the following sanctions:


- Plug and Abandon Wells: OCD will request an order requiring Operator to plug and abandon eight (8) wells listed in Table 1, and alternatively, an order authorizing OCD to plug and abandon those wells.
- Financial Assurance: OCD will request an order requiring Operator to provide an inactive well blanket plugging financial assurance of \$300,000 or additional one well financial assurance in the specified amounts in Table 2, and alternatively, an order forfeiting financial assurance.
- Termination of Authorization to Transport: OCD will request an order terminating Operator's authority to transport from all wells.
- Civil Penalties: OCD proposes to assess civil penalties as specified below. The civil penalty calculations are attached. OCD has taken into consideration the alleged violator's good faith effort to comply with the applicable requirements. Copies of the civil penalty calculations are attached.

Civil Penalty: 19.15.5.9(A)(4)(a) NMAC:	\$ 3,000.00
19.15.8.9 NMAC:	\$ 3,000.00
19.15.7.24 NMAC	\$ 12,000.00

(5) *Hearing*: If this NOV cannot be resolved informally, OCD will hold a hearing on October 6, 2021. Please see 19.15.5.10 NMAC for more information regarding the hearing. Even if OCD schedules a hearing, you can request an informal resolution at any time.

For more information regarding this NOV, contact Karen Collins, at (505) 490-2162 or Karen.Collins@state.nm.us.

Regards,


Adrienne Sandoval
Director

cc: Office of Legal Counsel, EMNRD