

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

IN RE SMITH & MARRS, INC.

CASE NO. 22166

**NEW MEXICO OIL CONSERVATION DIVISION'S
PRE-HEARING STATEMENT**

The New Mexico Oil Conservation Division (“OCD”) submits this Pre-Hearing Statement in accordance with 19.15.5.10(E)(2)(e) NMAC.

I. WITNESSES

OCD will present one witness, Ms. Karen Collins, of OCD’s Administrative and Compliance Bureau, 1220 S. St. Francis Drive, Santa Fe, New Mexico.

II. DIRECT TESTIMONY

On March 25, 2021, OCD issued a Notice of Violation to Smith & Marrs, Inc. (“SMI”). Exhibit 1. The NOV alleges three violations and requests specific relief.

First, SMI has more than two (2) inactive wells. 19.15.9(A)(4)(a) NMAC states that an operator with less than 100 wells must plug and abandon or place into approved temporary abandonment status those inactive wells that exceed the threshold of two (2) wells or 50 percent of all wells. SMI is registered as the operator of eleven (11) wells, eight (8) of which are inactive and none of which have been plugged and abandoned or placed into approved temporary abandonment status. Exhibit 1, Table 1. For this violation, OCD requests an order requiring SMI to plug and abandon the wells by a date certain or to allow OCD to do so, and if OCD plugs and abandons the wells, to forfeit the financial assurance for the wells and require SMI to pay the excess cost to plug and abandon the wells. OCD also proposes to assess a civil penalty of eighteen hundred dollars (\$1800) for exceeding the inactive well threshold. Exhibit 3.

Second, SMI does not have sufficient financial assurance for active wells. 19.15.8.9(C) NMAC requires blanket plugging financial assurance of \$75,000 for operators with eleven to fifty wells. SMI is the registered operator of eleven (11) wells but has provided only \$50,000 in blanket financial assurance. For this violation, OCD proposes a civil penalty of three hundred dollars (\$300). Exhibit 4.

Third, SMI does not have sufficient financial assurance for inactive wells. 19.15.5.9(D) NMAC requires an operator to provide single well or blanket financial assurance for inactive wells. SMI is registered as the operator of eight (8) inactive wells for which there is insufficient one well financial assurance and no blanket financial assurance. Exhibit 1, Table 2. For this violation, OCD proposes a civil penalty of twenty-four hundred dollars (\$2400). Exhibit 5.

SMI accepted service of the NOV through counsel on May 5, 2021. Mr. Ernest Padilla, counsel for SMI, and Mr. Ames, prior OCD counsel in this matter, discussed resolution of the NOV by email. Mr. Ames attempted to continue reaching SMI through counsel into July. Mr. Ames communicated to counsel using PadillaLawNM@outlook.com. Upon information and belief, SMI last communicated with OCD on or about July 21, 2021, using the same email. Mr. Ames served OCD's Notice of Docketing to the same email on August 18, 2021, copying undersigned counsel. Exhibit 2. OCD has not received any response from counsel or SMI generally. SMI did not file an answer to the NOV Docketing Notice as allowed by 19.15.5.10(E)(2)(b) NMAC.

OCD requests an order revoking SMI's operator registration, terminating SMI's authority to transport from all wells, requiring SMI to plug and abandon inactive wells or alternatively, authorizing OCD to plug and abandon inactive wells, forfeiting financial assurance for inactive

wells, requiring SMI to pay the excess cost to plug and abandon inactive wells, and assessing civil penalties against SMI in the amount of four thousand five hundred dollars (\$4,500).

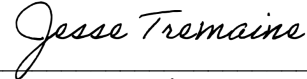
III. EXHIBITS

Exhibit 1	Notice of Violation
Exhibit 2	Notice of Docketing Statement
Exhibit 3	Civil Penalty Calculation - 19.15.5.9(A)(4)(a) NMAC
Exhibit 4	Civil Penalty Calculation - 19.15.5.9(C) NMAC
Exhibit 5	Civil Penalty Calculation - 19.15.5.9(D) NMAC

III. PROCEDURAL MATTERS

OCD reserves the right to call rebuttal witnesses.

Respectfully submitted,



Jesse K. Tremaine
Assistant General Counsel
New Mexico Energy, Minerals and
Natural Resources Department
1220 South St. Francis Drive
Santa Fe, New Mexico 87505
Tel (505) 231-9312
Fax (505) 476-3220
Jessek.tremaine@state.nm.us

CERTIFICATE OF SERVICE

I certify that on September 29, 2021, I served this pleading by electronic mail only on:

Ernest Padilla
P.O. Box 2523
Santa Fe, NM 87504
PadillaLawNM@outlook.com
padillalaw@qwestoffice.net
Attorney for Smith & Marris, Inc.

Joshua Olguin
Smith & Marris, Inc.
P.O. Box 863
Kermit, Texas 79745
joshuaa125@yahoo.com
joshua@pocores.com



Jesse K. Tremaine