



New Mexico Energy, Minerals and Natural Resources Department

Susana Martinez
Governor

Brett F. Woods, Ph.D.
Acting Cabinet Secretary

Daniel Sanchez
Acting Division Director
Oil Conservation Division



February 14, 2011

Nadel and Gussman HEYCO LLC
P.O. Box 193
Roswell, NM 88202

Nadel and Gussman HEYCO LLC
ATT: Tammy R Link
P. O. Box 1936
Roswell, NM 88202

NON-DENIAL OF APD(S) DESPITE NON-COMPLIANCE WITH INACTIVE WELL REQUIREMENTS

Re: **Nadel and Gussman HEYCO LLC, OGRID No. 258462**

- Aid State #8, API 30-015-38142, Eddy County, New Mexico

Dear Operator:

The Director of the Oil Conservation Division ("OCD") or his designee **may deny a permit to drill, deepen or plug back** if the applicant is not in compliance with 19.15.5.9(A) NMAC [Part 5.9(A)]. See 19.15.14.10(A) NMAC. An Operator is not in compliance with Part 5.9(A) if the Operator:

- does not meet the financial assurance requirements of 19.15.8 NMAC;
- is subject to a division or commission order finding the operator to be in violation of an order requiring corrective action;
- has a penalty assessment that has been unpaid for more than 70 days since the issuance of the order assessing the penalty; or
- has more than the allowed number of wells out of compliance with 19.15.25.8 NMAC (inactive well rule).

According to the attached inactive well list, your company is currently out of compliance with Part 5.9(A) due to having too many wells in violation of 19.15.25.8 NMAC [Part 25.8] that are not subject to an inactive well agreed compliance order ("ACOI"). See Part 5.9(A)(4) NMAC.



As an operator of **188** wells, your company may have no more than **5** wells in violation of Part 25.8. Your company has **6** wells in violation of Part 25.8.1

If the non-compliance with Part 5.9 is caused by the operator having more than the allowed number of wells out of compliance with Part 25.8, the director or director's designee shall consider the number of wells not in compliance, the length of time the wells have been out of compliance and the operator's efforts to bring the wells into compliance.

Based on my evaluation of the above criteria, I have decided, as the Acting Director, not to deny your APD application on the basis of your company being out of compliance with Part 5.9 due to too many wells in violation of Part 25.8. **My decision not to deny your APD on the basis of Part 5.9 does not constitute approval of your APD by the OCD.**

Please note, however, that the OCD cannot assign an allowable to a well or issue authorization to transport oil or natural gas from a well if the operator is out of compliance with Part 5.9. See 19.15.16.19(A) NMAC. Therefore, if your company is not in compliance with Part 5.9(A) at the time it requests an allowable and authorization to transport, its request will be denied.

To come into compliance with Part 5.9(A) as to inactive wells the operator must reduce the number of wells on its inactive well list or otherwise demonstrate that it has no more than the tolerated number of wells out of compliance with the inactive well rule. A well will be removed from the inactive well list when the operator takes one of the following actions:

1. plugs the wellbore and files an approved C-103 reporting the plugging;
2. places the well on approved temporary abandonment status;
3. returns the well to production or other beneficial use and files a C-115 reporting that production or use; or
4. enters into an ACOI with the OCD covering the well.

An ACOI sets a schedule for returning the operator's inactive wells to compliance and imposes a penalty if the schedule is not met. If you would like to discuss entering into an ACOI for your non-compliant inactive wells, please contact OCD attorney Sonny Swazo at (505) 476-3463 or sonny.swazo@state.nm.us.²

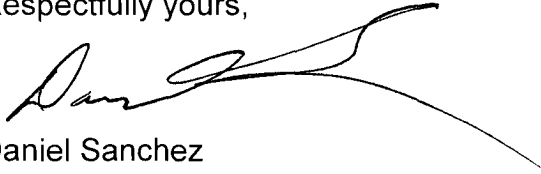
¹ To check an operator's compliance with the inactive well rule, go to the OCD's website at www.emnrd.state.nm.us/ocd. On the left-hand side of the main window, click on "OCD Online"; select "E-Permitting"; click on "Compliance"; click on "Inactive Well List." Leave the search terms as "Exclude Wells Under ACOI," "Exclude Wells in Approved TA Period," and "15" months from last production or injection. Enter the operator's name or OGRID and select "Get Report." The report will list wells operated by that operator that are presumed to be out of compliance with the division's inactive well rule, and that will be considered in determining if the operator is out of compliance with Part 5.9(A).

² Please note that Agreed Compliance Orders are offered at the discretion of the OCD, and that not all Operators are eligible to enter into such agreements.

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Respectfully yours,

A handwritten signature in black ink, appearing to read 'Daniel Sanchez', with a long, sweeping horizontal line extending to the right.

Daniel Sanchez
Acting Division Director
Division Enforcement & Compliance Manager

EC: Donna Mull, Division Compliance Officer
Larry "Buddy" Hill, District I Supervisor
Randy Dade, District II Supervisor
Charlie Perrin, District III Supervisor
Ed Martin, District IV Supervisor