

# EXHIBIT A

## State of New Mexico Energy, Minerals and Natural Resources Department

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**Michelle Lujan Grisham**  
Governor

**Sarah Cottrell Propst**  
Cabinet Secretary

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Deputy Cabinet Secretary

**Adrienne Sandoval, Division Director**  
Oil Conservation Division



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

December 21, 2020

Estate of Dwight A. Tipton  
1008 West Broadway  
Hobbs, New Mexico 88240

Zac Zimmerman  
Zimmerman Oil & Gas Exploration, Inc.  
2009 South Main Street  
Lovington, New Mexico 88260

### **NOTICE OF VIOLATION**

The Director of the Oil Conservation Division (“OCD”) issues this Notice of Violation (“NOV”) pursuant to 19.15.5.10 NMAC.

(1) *Alleged Violators:* Dwight A. Tipton, OGRID # 6550 (“Tipton”) and Zimmerman Oil & Gas Exploration, Inc., OGRID # 239769 (“Zimmerman”).

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

#### **19.15.9.9 CHANGE OF OPERATOR:**

**A.** *A change of operator occurs when the entity responsible for a well or a group of wells changes. A change of operator may result from a sale, assignment by a court, a change in operating agreement or other transaction. Under a change of operator, wells are moved from the OGRID number of the operator of record with the division to the new operator’s OGRID number.*

**B.** *The operator of record with the division and the new operator shall apply for a change of operator by jointly filing a form C-145 using the division’s web-based online application. If the operator of record with the division is unavailable, the new operator shall apply to the division for approval of change of operator without a joint application. The operator shall make such application*

*in writing and provide documentary evidence of the applicant's right to assume operations. The new operator shall not commence operations until the division approves the application for change of operator.*

Tipton passed away on March 24, 2020. Upon information and belief, Zimmerman is operating Tipton's wells identified in Exhibit A, but commenced to operate and continues to operate the wells without OCD's approval of a change of operator.

**19.15.5.9(A)(4)(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....*

Tipton is registered as the operator of sixty-two (62) wells of which four (4) wells 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>
30-005-61904	Plains 29 #004	11/2018
30-005-61992	Plains 29 #006	11/2018
30-005-61908	Mabel #005	4/2019
30-005-62032	Mabel #007Y	8/2019

**19.15.8.9 CATEGORIES AND AMOUNTS OF FINANCIAL ASSURANCE FOR WELL PLUGGING:**

**A. Applicability.** *An operator who has drilled or acquired, is drilling or proposes to drill or acquire an oil, gas or injection or other service well within this state shall furnish a financial assurance acceptable to the division in accordance with 19.15.8.9 NMAC and in the form of an irrevocable letter of credit, plugging insurance policy or cash or surety bond running to the state of New Mexico conditioned that the well be plugged and abandoned and the location restored and remediated in compliance with commission rules, unless the well is covered by federally required financial assurance.*

...

**C. Active wells.** *An operator shall provide financial assurance for wells that are covered by Subsection A of 19.15.8.9 NMAC and are not subject to Subsection D of 19.15.8.9 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 in the following amounts covering all the wells of the operator subject to Subsection C of 19.15.8.9 NMAC:*

- (a) \$50,000 for one to 10 wells;
- (b) \$75,000 for 11 to 50 wells;
- (c) \$125,000 for 51 to 100 wells; and
- (d) \$250,000 for more than 100 wells.

**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;

Tipton is registered as the operator of 62 wells and has a blanket plugging financial assurance of \$50,000. For active wells, Tipton is required to provide a blanket plugging financial assurance of \$125,000. For inactive wells, Tipton is required to provide a blanket plugging financial assurance of \$150,000 or one well financial assurance for the following inactive wells in the specified amounts:

Table 2:

<u>API</u>	<u>Well</u>	<u>Existing FA</u>	<u>Required FA</u>
30-005-61904	Plains 29 #004	0	\$29,608
30-005-61992	Plains 29 #006	0	\$29,600

(3) *Compliance:* No later than thirty (30) days after receipt of this NOV, Tipton and Zimmerman shall (a) file an application for change of operator for Tipton's wells; (b) plug and abandon two (2) wells listed in Table 1; (c) submit blanket plugging financial assurance for active wells in the amount of \$125,000; and (d) submit one well financial assurance in the specified amounts for the inactive wells listed 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:

(a) Civil Penalty:	19.15.5.9(A)(4)(a) NMAC:	\$ 1,000
	19.15.8.9(C)(2)(c) NMAC:	\$ 10,500
	19.15.5.9(D)(1) NMAC:	\$ 15,000
	19.15.9.9(B) NMAC:	\$ 60,000

The civil penalty calculations are attached. OCD may recalculate the civil penalty for additional violations occurring on or after the date of this NOV.

(b) Plug and Abandon Wells: OCD will request an order requiring Tipton and Zimmerman shall plug and abandon two (2) wells listed in Table 1, or alternatively, OCD will request an order authorizing it to plug and abandon two (2) wells.

(c) Financial Assurance: OCD will request an order requiring Tipton and Zimmerman to provide and forfeit financial assurance as applicable.

(d) Termination of Authorization to Transport: OCD will request an order terminating Tipton and Zimmerman's authority to transport from the wells identified in Exhibit A.

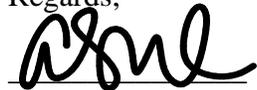
OCD will take into consideration the alleged violator's good faith effort to comply with the applicable requirements.

*(5) Informal Review and Resolution:* A process is available for the informal review and resolution of the alleged violation(s) in the NOV. To initiate the informal review process, contact the OCD employee identified at the end of this letter. If OCD and the alleged violator agree to resolve the alleged violations in the NOV, the agreement will be incorporated into a stipulated final order signed by both parties and stating that the alleged violator admits OCD's jurisdiction to file the NOV, consents to the specified relief, including the civil penalty, if any, and waives the right of review by the Oil Conservation Commission.

*(6) Hearing:* If this Notice of Violation is not resolved within thirty (30) days of receipt of service, OCD will hold a hearing on March 3, 2021. Please see 19.15.5.10 NMAC for more information regarding the hearing. However, please note that the hearing does not prohibit OCD from negotiating with the alleged violator at any time to settle the NOV.

For more information regarding this NOV, contact Daniel Sanchez, OCD Compliance and Enforcement Manager, at (505) 476-3493 or [Daniel.Sanchez@state.nm.us](mailto:Daniel.Sanchez@state.nm.us).

Regards,



Adrienne Sandoval  
Director

cc: OCD Southern District  
Office of Legal Counsel, EMNRD