

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

**IN RE DWIGHT A. TIPTON and  
ZIMMERMAN OIL & GAS EXPLORATION, INC.**

**CASE NO. 21842**

**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, Mr. Daniel Sanchez, Chief of OCD’s Administrative and Compliance Bureau, 1220 S. St. Francis Drive, Santa Fe, New Mexico. He has served in this position since 2004. Prior to joining OCD, Mr. Sanchez was an engineer for the New Mexico Public Regulatory Commission, Westinghouse Electric Corporation, and Public Service Company of New Mexico. He holds a B.S. in Mechanical Engineering from New Mexico State University. His qualifications are described in Exhibit 1.

**II. DIRECT TESTIMONY**

On December 21, 2020, OCD issued a Notice of Violation to Dwight A. Tipton (“Tipton”) and Zimmerman Oil & Gas Exploration, Inc. (“Zimmerman”). Exhibit 2. The NOV alleges four violations and requests specific relief.

First, Tipton and Zimmerman violated 19.15.9.9(B) NMAC by failing to transfer Tipton’s wells. Exhibit 3. Tipton passed away on March 24, 2020. Exhibit 4. Zimmerman told OCD that it was operating Mr. Tipton’s wells before his death and continued to operate Tipton’s wells after his death without OCD’s approval of a change of operator. For this violation, OCD requests an

order terminating Zimmerman’s authority to transport from Tipton’s wells. OCD also proposes to assess a civil penalty of sixty thousand (\$60,000). Exhibit 5.

Second, Tipton and Zimmerman violated 19.15.5.9(A)(4)(a) NMAC because they have 4 inactive wells. 19.15.9(A)(4)(a) NMAC states that an operator with less than 100 wells may not have more than 2 wells or 50 percent of its wells out of compliance with 19.15.25.8 NMAC, e.g., the wells have been continuously inactive for a period of more than 15 months and are not plugged and abandoned or in approved Temporary Abandonment (“TA”) in accordance with 19.15.25 NMAC, and 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. Tipton is registered as the operator of 62 wells which Zimmerman operated both before and after Mr. Tipton’s death on March 24, 2020. The 4 wells identified in Table 1 are out of compliance with 19.15.25.8 NMAC, e.g., the wells have been continuously inactive for a period of more than 15 months and are not plugged and abandoned or in approved temporary abandonment in accordance with 19.15.25 NMAC, and 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.

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

On March 1, 2021, Zimmerman filed reports for the wells showing 1 barrel of oil production in September 2020. Exhibit 6. On March 3, 2021, OCD requested that Zimmerman provide additional information to support the representation in these reports because of the timing

and volume of this production and because neither Tipton nor Zimmerman had reported any production from these wells for years. Exhibit 7. On March 4, 2021, Zimmerman responded that it would “double check on the reporting and let you know.” Exhibit 8. On March 9, 2021, OCD advised Zimmerman that it conducted site inspections which indicated that the wells had not produced oil in September 2020, and requested records to corroborate the reports. Exhibit 9. Zimmerman did not respond to OCD’s request. Zimmerman subsequently reported 1 barrel of oil produced from Mabel #005 and Plains 29 #006 in October 2020, but no other production from these wells or Mabel #007Y and Plains 29 #004 in subsequent months. Accordingly, OCD believes that the wells did not produce oil in September 2020 as reported by Zimmerman.

For this violation, OCD requests an order requiring Tipton and Zimmerman to plug and abandon 2 of the inactive wells identified in Table 1 or to allow OCD to do so, and if OCD plugs and abandons the wells, to forfeit the financial assurance for those wells and require Tipton and Zimmerman to pay the excess cost to plug and abandon those wells. OCD also proposes to assess a civil penalty of one thousand dollars (\$1,000). Exhibit 10.

Third, Tipton and Zimmerman do not have sufficient blanket plugging financial assurance. 19.15.8.9(C) NMAC requires an operator to provide one well or blanket plugging financial assurance for all wells in amounts that vary by projected depth of the wells or number of wells. Tipton and Zimmerman are registered as the operator of 62 wells. For 62 wells, 19.15.8.9(C)(2)(c) NMAC requires one well financial assurance for each well or blanket plugging financial assurance in the amount of \$125,000. However, Tipton and Zimmerman have no one well financial assurance and blanket plugging financial assurance of only \$50,000 for the wells.

For this violation, OCD requests an order requiring Tipton and Zimmerman to provide one well financial assurance for each well or blanket plugging financial assurance in the amount of

\$125,000. OCD also proposes to assess a civil penalty of ten thousand five hundred dollars (\$10,500). Exhibit 11.

Fourth, Tipton and Zimmerman do not have sufficient financial assurance for inactive wells. 19.15.8.9(D) NMAC requires an operator to provide one well or blanket financial assurance for inactive wells in amounts that vary by projected depth of the wells or the number of wells. Tipton and Zimmerman are registered as the operator of the 2 inactive wells identified in Table 2, which also identifies the one well financial assurance required for these wells. 19.15.8.9(D)(1) NMAC. Alternatively, Tipton and Zimmerman must provide blanket financial assurance in the amount of \$150,000. 19.15.8.9(D)(2)(b) NMAC.

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

For this violation, OCD requests an order requiring Tipton and Zimmerman to provide one well financial assurance of \$59,208 or blanket financial assurance of \$150,000. OCD also proposes to assess a civil penalty of fifteen thousand dollars (\$15,000). Exhibit 12.

OCD sent the NOV to Tipton at his address of record and to Zimmerman at its address of record and the electronic mail address in OCD's database. Exhibit 13. The NOV was delivered to Tipton on December 26, 2020. Exhibit 14. The NOV was delivered to Zimmerman on December 28, 2020. Exhibit 15. Tipton and Zimmerman did not resolve the NOV during the informal resolution period. OCD filed the Revised Docketing Notice on April 19, 2021, and served Tipton at his address of record and Zimmerman at its address of record and the electronic mail address in OCD's database. Tipton and Zimmerman did not file an answer to the NOV as allowed by 19.15.5.10(E)(2)(b) NMAC.

### III. EXHIBITS

- Exhibit 1 Curriculum Vitae of Daniel Sanchez
- Exhibit 2 Notice of Violation
- Exhibit 3 Tipton Well List
- Exhibit 4 Obituary of Dwight A. Tipton
- Exhibit 5 Civil Penalty Calculation – 19.15.9.9(B) NMAC.
- Exhibit 6 C-145 Reports
- Exhibit 7 OCD Email to Zimmerman, March 3, 2021
- Exhibit 8 Zimmerman Email to OCD, March 4, 2021
- Exhibit 9 OCD Email to Zimmerman, March 9, 2021
- Exhibit 10 Civil Penalty Calculation - 19.15.5.9(A)(4)(a) NMAC
- Exhibit 11 Civil Penalty Calculation - 19.15.8.9(C) NMAC
- Exhibit 12 Civil Penalty Calculation - 19.15.8.9(D) NMAC
- Exhibit 13 Certified Mail for NOVs
- Exhibit 14 USPS Tracking Page for Tipton NOV
- Exhibit 15 USPS Tracking Page for Zimmerman NOV

### IV. PROCEDURAL MATTERS

OCD reserves the right to call rebuttal witnesses.

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

I certify that on May 24, 2021, this pleading was served on:

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

*Certified Mail Only*

Zac Zimmerman  
Zimmerman Oil & Gas Exploration, Inc.  
2009 South Main Street  
Lovington, New Mexico 88260  
[zimmoil@windstream.net](mailto:zimmoil@windstream.net)

*Certified and Electronic Mail*



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Eric Ames