

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

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APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION COMPLIANCE AND ENFORCEMENT BUREAU FOR A COMPLIANCE ORDER AGAINST JIM PIERCE FOR WELLS OPERATED IN EDDY COUNTY, NEW MEXICO.

CASE NO. 15590

APPLICATION

The New Mexico Oil Conservation Division Compliance and Enforcement Bureau ("Bureau"), through its undersigned attorney, hereby files this application with the Oil Conservation Division ("OCD or Division") pursuant to the provisions of NMSA 1978, §70-2-12 for a compliance order (1) determining operator Jim Pierce, c/o Phil Brewer ("Operator") is out of compliance with 19.15.5.9, 19.15.8, and 19.15.25.8 NMAC; (2) requiring Operator to return to compliance with 19.15.5.9, 19.15.8, and 19.15.25.8 NMAC; and (3) in the event of non-compliance, finding the Operator in violation of a Division Order for each day after the deadline established in the sought order to obtain compliance, declaring the wells abandoned, and authorizing the OCD to plug the violating wells in accordance with a Division-approved plugging program and restore and remediate the location, recover costs from the Operator's financial assurance as permitted by 19.15.8.13 NMAC, and seek indemnification as permitted by NMSA 1978, § 70-2-14(E). This application deals specifically with the Operator's violations of OCD rules regarding financial assurance and inactive wells and does not include all violations that may exist. OCD retains its right to bring a compliance action for any other existing and future violations. In support of this application, the Bureau states:

1. The Operator is a New Mexico sole proprietor that operates nine (9) wells in Eddy County, New Mexico, under OGRID No. 99439. See *Exhibit 1: Inactive Well List and Financial Assurance Report*, attached hereto and incorporated by reference as if set forth in its entirety.

2. The Operator's address of record with OCD is: P. O. Box 298, Roswell, NM, 88202.

3. OCD was notified that Jim Pierce passed away on September 6, 2007. Fawn Alcorn Pierce was appointed Successor Personal Representative of Decedent's estate on February 24, 2016 by the Chaves County District Court.

4. NMSA 1978, § 70-2-14 requires that each person, firm, corporation, or association who operates any oil, gas, or service well within the state, as a condition precedent to drilling or producing the well, furnish financial assurance in the form of an irrevocable letter of credit or a cash or surety bond or a well-specific plugging insurance policy to OCD running to the benefit of the state and conditioned that the well be plugged and abandoned in compliance with OCD rules.

5. 19.15.8.9(C) NMAC states that an operator shall cover a well that has been in temporary abandonment for more than two years by either a one-well financial assurance or a blanket plugging financial assurance for wells in temporarily abandoned status.

6. 19.15.8.9(D)(2) NMAC requires the amounts of single well financial assurance to be based upon the well's depth and location. In Chaves, Eddy, Lea, McKinley, Rio Arriba, Roosevelt, Sandoval, and San Juan counties, the amount shall be

five-thousand dollars (\$5,000.00) plus one dollar (\$1.00) per foot of projected depth of proposed well or measured depth of existing well. 19.15.8.9(D)(2)(a) NMAC.

7. The Operator has seven (7) single well bonds filed with OCD, from RLI Insurance Company, in the amount of five thousand dollars (\$5,000.00) each, totaling thirty-five thousand dollars (\$35,000.00). See *Exhibit 1*.

8. No single well financial assurance on file with OCD from the Operator is compliant with the amounts required by 19.15.8.9(D) NMAC. The total amount of deficiency is twenty thousand sixty-three dollars (\$20,063.00). See *Exhibit 1*.

9. RLI Insurance Company's address of record is: 8 Greenway Plaza, STE 400, Houston, TX 77046.

10. 19.15.5.9(A) NMAC states that an operator is in compliance with Subsection A of 19.15.5.9 NMAC if the operator:

(1) currently meets the financial assurance requirements of 19.15.8 NMAC;

(2) is not subject to a division or commission order, issued after notice and hearing, finding the operator to be in violation of an order requiring corrective action;

(3) does not have a penalty assessment that is unpaid more than 70 days after issuance of the order assessing the penalty; and

(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 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 50 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.

11. 19.15.25.8 NMAC requires an operator to plug and abandon or temporarily abandon a well within 90 days after: (1) a 60-day period following the suspension of drilling operations; (2) a determination that a well is no longer usable for beneficial purposes; or (3) a period of one year in which a well has been continuously inactive.

12. The Operator currently has nine (9) wells out of a total of nine (9) wells out of compliance with 19.15.25.8 NMAC, exceeding the amount allowed under 19.15.5.9(A)(4) NMAC. See *Exhibit 1*.

13. On June 29, 2016, the Bureau sent the Operator notice that it was out of compliance with 19.15.5.9 NMAC by having too many wells in violation of 19.15.25.8 NMAC. OCD did not receive a response from the Operator.

14. On June 17, 2016, the Bureau sent the Operator notice via certified mail that it was out of compliance with 19.15.8.9 NMAC by not having adequate financial assurance on file with OCD. The domestic return receipt indicates the notice was delivered on June 23, 2016.

15. The Operator has not contacted OCD to resolve the outstanding compliance issues.

WHEREFORE, the Bureau, by and through its compliance and enforcement manager, hereby applies to the Director to enter an Order:

- A. Determining that the Operator is in violation of 19.15.8, 19.15.5.9, and 19.15.25.8 NMAC;
- B. Requiring the Operator to provide OCD with acceptable financial assurance within thirty (30) days of the issuance of an order;
- C. Requiring the Operator to return to compliance with 19.15.5.9(A)(4) and 19.15.25.8 NMAC within sixty (60) days of the issuance of an order by returning the wells to production, plugging the wells pursuant to 19.15.25 NMAC, or transferring the wells to an operator who is compliant with 19.15.5.9 NMAC;
- D. In the event of non-compliance with the sought Division Order by the dates established by OCD, finding the Operator in violation of a Division order, declaring the violating wells abandoned and authorizing the Division to plug the subject wells in accordance with a Division-approved plugging program and restore and remediate the location and recover costs from the Operator's financial assurance as required by 19.15.8.13 NMAC and seek indemnification as permitted by NMSA 1978, § 70-2-14(E);
- E. For such other and further relief as the Director deems just and proper under the circumstances.

RESPECTFULLY SUBMITTED,
November 1, 2016 by



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Case No. 15590. **Application of The New Mexico Oil Conservation Division Compliance and Enforcement Bureau for a Compliance Order against Jim Pierce, for Wells Operated in Eddy County, NEW MEXICO.** The New Mexico Oil Conservation Division Compliance and Enforcement Bureau (“Bureau”), through its undersigned attorney, hereby files this application with the Oil Conservation Division (“OCD or Division”) pursuant to the provisions of NMSA 1978, §70-2-12 for a compliance order (1) determining operator Jim Pierce, c/o Phil Brewer (“Operator”) is out of compliance with 19.15.8 NMAC; (2) requiring the Operator to return to compliance with 19.15.8 NMAC; and (3) in the event of non-compliance, finding the Operator in violation of a Division Order for each day after the deadline established in the sought order to obtain compliance, declaring the wells abandoned, and authorizing OCD to plug the violating wells in accordance with a Division-approved plugging program and restore and remediate the location, recover costs from the Operator’s financial assurance as permitted by 19.15.8.13 NMAC, and seek indemnification as permitted by NMSA 1978, § 70-2-14(E).

Application for Compliance Order

Jim Pierce, OGRID 99439

Exhibit 1: Well List and Financial Assurance Report

Well Name	Lease Type	ULSTR	OCD Unit Letter	API no.	Last Prod/Inj	Inactive Additional Bond Due	Measured Depth (ft)	Required Bond Amount	Bond Required Now	Bond In Place	Bond No.	In Violation	Variance
KEOHANE FEDERAL #001	F	7-06-19S-30E	M	30-015-04591	Feb-13		Unknown			\$0.00			
LEONARD STATE #002	S	N-01-19S-29E	N	30-015-03543	Feb-04	3/1/2006	2600	\$7,600.00	Y	\$5,000.00	RLB0007425	Y	\$2,600.00
MOUNTAIN STATES FEDERAL #001	F	1-35-18S-29E	P	30-015-25140	May-15		3505			\$0.00			
STATE P #001	S	H-36-18S-29E	H	30-015-03509	Aug-01	9/1/2003	2868	\$7,868.00	Y	\$5,000.00	RLB0007558	Y	\$2,868.00
STATE P #002	S	G-36-18S-29E	G	30-015-10125	Aug-01	9/1/2003	2890	\$7,890.00	Y	\$5,000.00	RLB0007559	Y	\$2,890.00
STATE R #003	S	P-01-19S-29E	P	30-015-03540	Jul-15	8/1/2017	2227	\$7,227.00		\$5,000.00	RLB0007560		\$2,227.00
STATE S #002	S	A-12-19S-29E	A	30-015-03582	Mar-14	4/1/2016	2443	\$7,443.00	Y	\$5,000.00	RLB0002766	Y	\$2,443.00
TENNECO STATE #001	S	4-02-19S-29E	D	30-015-24904	May-13	6/1/2015	3535	\$8,535.00	Y	\$5,000.00	RLB0003662	Y	\$3,535.00
TENNECO STATE #002	S	3-02-19S-29E	C	30-015-25000	May-13	6/1/2015	3500	\$8,500.00	Y	\$5,000.00	RLB0003663	Y	\$3,500.00