

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

APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION, THROUGH THE ENFORCEMENT AND COMPLIANCE MANAGER, FOR A COMPLIANCE ORDER AGAINST XERIC OIL & GAS CORPORATION, FINDING THAT THE OPERATOR IS IN VIOLATION OF 19.15.3.101.B NMAC AS TO 69 WELLS & 19.15.4.201 NMAC &/OR 19.15.13.1115 NMAC AS TO 80 WELLS; DETERMINING THAT THE REFERENCED VIOLATIONS ARE KNOWING & WILLFUL AND IMPOSING PENALTIES; REQUIRING OPERATOR TO POST THE REQUIRED SINGLE-WELL FINANCIAL ASSURANCES FOR THE 69 NON-COMPLIANT WELLS BY A DATE CERTAIN; REQUIRING OPERATOR TO BRING THE 80 INACTIVE WELLS BACK INTO COMPLIANCE WITH RULE 201 &/OR RULE 1115 BY A DATE CERTAIN; AND IN THE EVENT OF NON-COMPLIANCE WITH ANY ASPECT OF THE ORDER, DECLARING THE WELLS ABANDONED, AUTHORIZING THE DIVISION TO PLUG THE WELLS AND FORFEITING ANY APPLICABLE FINANCIAL ASSURANCE - LEA COUNTY, NEW MEXICO.

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CASE NO. 14106

PRE-HEARING STATEMENT

The Oil Conservation Division submits this pre-hearing statement pursuant to OCD Rule 1211 [19.15.14.1211 NMAC].

APPEARANCES

APPLICANT

OIL CONSERVATION DIVISION

APPLICANT'S ATTORNEY

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RESPONDENT

XERIC OIL & GAS CORP.

RESPONDENT'S ATTORNEY

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STATEMENT OF THE CASE

The Oil Conservation Division (OCD) seeks a compliance order and penalties against Xeric Oil & Gas Corporation ("Xeric"). Xeric is the Operator of Record for the 88 wells identified and referenced by the Application. **Division Rule 201** [19.15.4.201 NMAC]

requires an operator to plug and abandon or temporarily abandon a well in accordance with Division rules within 90 days after a period of one year of continuous inactivity, and **Division Rule 101.B** [19.15.3.101.B NMAC] requires that Operators post additional financial assurance/one-well financial assurance for all state or fee wells that have been inactive/in temporary abandonment for more than two years.

Based upon production reports and data submitted by Xeric to the OCD, at the time of the filing of this Application for Hearing, Xeric had 69 wells in violation of Rule 101.B and 80 wells in violation of Rule 201, with some wells falling into both categories [for a total of 88 wells]. If, however, it is Xeric's contention that any of the specified wells are, indeed, active and thus not in violation of one or both of these two Rules, then Xeric has violated **Division Rule 1115** [19.15.13.1115 NMAC], which requires Operators to accurately report production on a monthly basis to the OCD.

Since the filing of the Application, the number of Xeric wells in violation of Rule 201 for inactivity has *increased* from 80 to 83, and to the knowledge of the OCD, since the filing of the Application, Xeric has not returned to production, obtained an approved temporary abandonment status for, or plugged and abandoned any of the wells originally noted to be in violation of Rule 201 at the time the Application of filed. Additionally, since the filing of the Application, the number of Xeric wells in violation of Rule 101.B for financial assurance requirements has *increased* from 69 to 76, with Xeric now owing a total of \$813,151.00 in single-well financial assurances pursuant to Rule 101.B. To the best of the knowledge of the OCD, Xeric has not posted any single-well financial assurances since the date the Application was filed in March of 2008.

The OCD made significant efforts to advise Xeric of the existing violations and attempt to obtain compliance from Xeric prior to filing its Application with the Division, to no avail. Moreover, subsequent to the filing of the Application, the OCD made multiple attempts to gain Xeric's cooperation and obtain compliance with Rules 101 and 201, and even provided Xeric with numerous additional opportunities and extensions of time to come into compliance. Despite all of this, Xeric has not brought even one of the wells identified in the Application for Case No. 14106 into compliance with either Rule 101 or 201. It is therefore the position of the OCD that the longstanding and continuing violations alleged in the Application in this matter were, and continue to be, **knowing and willful** on the part of Xeric.

The OCD seeks an Order stating the following in this case:

1. Requiring Xeric to submit any and all delinquent C115s reflecting any as-yet unreported production for the subject wells by a date certain.
2. Requiring that, by a date certain, Xeric bring each of the 80 wells specified in the Application as inactive (in violation of Rule 201) into compliance with Rule 201 by either returning it to beneficial use, plugging and abandoning it or seeking and receiving approval for a designation of approved temporary abandoned status.

3. Requiring that by a date certain, Xeric be required to post each and every single-well financial assurance required pursuant to Rule 101 (currently a total of \$813, 151 for 76 wells).
4. Requiring that Xeric pay a monetary penalty assessment in an amount consistent with the severity (88 wells in violation of one or both of the identified Rules at the time of filing) and duration (over ten years in some instances with regard to violations of Rule 201) of Xeric's willful violations, pursuant to NMSA 1978, Section 70-2-31(A), specifically for its knowing and willful violations of Rules 101, 201 and/or Rule 1115 NMAC (independent of and in addition to any other penalty assessment(s) Ordered in this matter for other violations of the OCD Rules and/or the New Mexico Oil and Gas Act).
5. Further, if the subject wells are not brought into compliance as described above by the deadline set by the Order:
 - (1) Assessing a penalty against Xeric of not less than \$1,000.00 for each full week of non-compliance with the Order;
 - (2) Authorizing the Division to plug the subject wells in accordance with a Division-approved plugging program;
 - (3) Authorizing the Division to forfeit any applicable financial assurances posted in relation to the subject wells; and
 - (4) For such other and further relief as the Director deems just and proper under the circumstances.

APPLICANT'S PROPOSED EVIDENCE

WITNESS:

ESTIMATED TIME:

Daniel Sanchez, Enforcement & Compliance Manager
 Jane Prouty, Automation and Records Bureau
 Dorothy Phillips, Financial Assurance Administrator

60 minutes
 Affidavit
 Affidavit

PROCEDURAL MATTERS

None.

Respectfully submitted
this 28th day of August, 2008 by



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Resources Department
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Attorney for the Oil Conservation Division

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was emailed to counsel for Xeric, Ms. Ocean Munds-Dry, Esq. at OMundsDry@HollandHart.com, this 28th day of August, 2008.



Mikal Altomare