

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 YESO ENERGY, INC. FINDING THAT THE
OPERATOR IS IN VIOLATION OF 19.15.7.24 NMAC, 19.15.8.9 NMAC AND 19.15.25.8
NMAC, REQUIRING OPERATOR TO PROPERLY PLUG AND ABANDON ALL ITS
WELLS BY A DATE CERTAIN, AND IN THE EVENT OF NON-COMPLIANCE
AUTHORIZING THE DIVISION PLUG AND ABANDON THE WELLS AND FORFEIT
THE APPLICABLE FINANCIAL ASSURANCE, EDDY, LEA AND CHAVES
COUNTIES, NEW MEXICO.

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CASE NO. 14294

PRE-HEARING STATEMENT OF THE OIL CONSERVATION DIVISION

The Oil Conservation Division (OCD) submits this entry of appearance and pre-hearing statement pursuant to 19.15.4.13.B NMAC.

APPEARANCES

APPLICANT

Oil Conservation Division

APPLICANT'S ATTORNEY

Gail MacQuesten
Oil Conservation Division
Energy, Minerals and Natural
Resources Department
1220 S. St. Francis Drive
Santa Fe, NM 87505
(505) 476-3451
FAX: 476-3462
E-mail: gail.macquesten@state.nm.us

RESPONDENT

Yeso Energy, Inc.
c/o Corporation Service Company
125 Lincoln Avenue, Suite 223
Santa Fe, NM 87501

RESPONDENT'S ATTORNEY

No entry of appearance filed at this time.

U.S. Specialty Insurance Company

No entry of appearance filed at this time.

3/27/09 wjt

13403 Northwest Freeway
Houston, TX 77040

STATEMENT OF CASE

The OCD seeks an order pursuant to NMSA 1978, Section 70-2-14(B) requiring Yeso Energy, Inc. (Yeso) to plug and abandon all its wells by a date certain, and authorizing the OCD to plug the wells and forfeit the applicable financial assurances if Yeso fails to meet that deadline.

NMSA 1978, Section 70-2-14(B) provides:

“If any of the requirements of the Oil and Gas Act [70-2-1 NMSA 1978] or the rules promulgated pursuant to that act have not been complied with, the oil conservation division, after notice and hearing, may order any well plugged and abandoned by the operator or surety or both in accordance with division rules. If the order is not complied with in the time period set out in the order, the financial assurance shall be forfeited.”

The OCD will show that Yeso violated the following rules promulgated under the Oil and Gas Act:

1. Failure to file production reports: 19.15.7.24 NMAC.

19.15.7.24 NMAC requires operators to file a monthly production report for each non-plugged well completion for which the division has approved a form C-104.

Yeso has not filed monthly production reports for the production months of May, June, July or August of 2006, had has filed no monthly production reports for production months after May 2007. During the applicable time period, Yeso had wells with approved C-104s.

2. Failure to comply with financial assurance requirements: 19.15.8.9 NMAC.

The rule on financial assurances, effective January 1, 2008, requires the operator of a state or fee well that has been inactive for a period of more than two years to post a single-well financial assurance in the prescribed amount, even if the well is also covered by a blanket financial assurance. See 19.15.8.9 NMAC.

Yeso operates 5 wells that require single well financial assurances. Three of the wells have no single well financial assurance. The remaining two wells have single well financial assurances, but the amount posted is not adequate under the rule.

3. Failure to comply with the inactive well rule: 19.15.25 NMAC.

19.15.25.8 NMAC requires an operator to plug and abandon or temporarily abandon a well in accordance with OCD rules within 90 days after a period of one year of continuous inactivity. The remaining rules in Part 25 set out the procedure for properly plugging a well.

All of the wells operated by Yeso have been inactive for a continuous period in excess of one year plus ninety days, are not plugged and abandoned and are not on approved temporary abandonment status.

The OCD seeks relief under NMSA 1978, Section 70-2-14(B) because other enforcement efforts against Yeso have been unsuccessful. The OCD entered into an inactive well agreed compliance order with Yeso to address the inactive well situation; Yeso did not comply. The OCD cancelled Yeso's authority to transport or inject pursuant to 19.15.7.24 NMAC because of Yeso's failure to file production reports; Yeso continued to inject and has not corrected its filings. The OCD brought compliance case 13921 against Yeso and obtained an order requiring Yeso to plug some of its inactive wells or return them to compliance; Yeso has not complied. The OCD brought compliance case 14008 against Yeso regarding its failure to file timely production reports, and its transportation and injection after cancellation; Yeso has not filed the missing reports. The OCD seeks relief under NMSA 1978, Section 70-2-14(B) to force Yeso to plug its wells or transfer them to a responsible operator.

OCD'S PROPOSED EVIDENCE

WITNESS: Dorothy Phillips, OCD Financial Assurance Administrator
ESTIMATED TIME: Testimony by affidavit

WITNESS: Jane Prouty, Bureau Chief of OCD's Automation and Records Bureau
ESTIMATED TIME: Testimony by affidavit, and in person if necessary. 20 minutes

Witness: Daniel Sanchez, OCD Compliance and Enforcement Manager
ESTIMATED TIME: 10 minutes, if pre-filed written testimony is accepted; otherwise 1 and ½ hours

PROCEDURAL MATTERS

1. The OCD intends to offer the testimony of Dorothy Phillips and Jane Prouty by affidavit. It requests notice if testimony by affidavit will not be allowed, so that Ms. Phillips can be made available for hearing. The OCD intends to have Ms. Prouty available at hearing to supplement her affidavit, if necessary.

2. The OCD will offer the pre-filed written testimony of Daniel Sanchez. A copy of Mr. Sanchez' testimony, and the exhibits Mr. Sanchez will introduce, are attached to this pre-hearing statement. Mr. Sanchez will appear at the hearing to summarize his testimony, introduce the exhibits, and adopt the pre-filed written testimony under oath. He will be available for cross-examination, and the applicant will have the opportunity to object to portions of his testimony, and to the introduction of exhibits referenced in his testimony. If the OCD is not allowed to introduce Mr. Sanchez' pre-filed written testimony, it will proceed with his live testimony. The time estimate for the hearing will need to be adjusted accordingly.

Respectfully submitted
this 20th day of March 2009 by



Gail MacQuesten
Oil Conservation Division
Energy, Minerals and Natural
Resources Department
1220 S. St. Francis Drive
Santa Fe, NM 87505
(505) 476-3451

Attorney for the Oil Conservation Division

CERTIFICATE OF SERVICE

20th I hereby certify that a copy of the foregoing pleading was mailed by first class mail this day of March 2009 to Yeso Energy, Inc. c/o Corporation Service Company and to U.S. Specialty Insurance Company at the addresses listed above.


Gail MacQuesten