

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

**IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
DIVISION FOR THE PURPOSE OF
CONSIDERING:**

**CASE NO. 14106
ORDER NO. R-13005**

APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION, THROUGH THE ENFORCEMENT AND COMPLIANCE MANAGER, FOR A COMPLIANCE ORDER AGAINST XERIC OIL & GAS CORPORATION; (1) FINDING THAT THE OPERATOR KNOWINGLY AND WILLFULLY VIOLATED 19.15.3.101.B NMAC AS TO 69 WELLS AND 19.15.4.201 NMAC; (2) 19.15.13.1115 NMAC AS TO 80 WELLS; (3) REQUIRING OPERATOR TO POST THE REQUIRED SINGLE-WELL FINANCIAL ASSURANCES FOR THE 69 NON-COMPLIANT WELLS BY A DATE CERTAIN; (4) REQUIRING OPERATOR TO BRING THE 80 INACTIVE WELLS BACK INTO COMPLIANCE WITH RULE 201 AND/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.

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on September 4, 2008, at Santa Fe, New Mexico, before Examiners Terry Warnell and David K. Brooks.

NOW, on this 10th day of October, 2008, the Division Director, having considered the testimony, the record and the recommendations of the Examiner,

FINDS THAT:

(1) Due public notice has been given, and the Division has jurisdiction of this case and of the subject matter.

(2) Xeric Oil and Gas Corporation ("Operator") is the operator of the following 69 oil and/or gas wells in Lea County, New Mexico (the "subject wells"):

<u>Name</u>	<u>API No.</u>
Crosby Deep #002	30-025-24287
Crosby Deep #004	30-025-25985

East Pearl Queen Unit #001	30-025-03189
East Pearl Queen Unit #004	30-025-03186
East Pearl Queen Unit #007	30-025-03183
East Pearl Queen Unit #008	30-025-03182
East Pearl Queen Unit #009	30-025-03185
East Pearl Queen Unit #011	30-025-03175
East Pearl Queen Unit #012	30-025-03174
East Pearl Queen Unit #014	30-025-03184
East Pearl Queen Unit #015	30-025-03181
East Pearl Queen Unit #016	30-025-03180
East Pearl Queen Unit #018	30-025-03216
East Pearl Queen Unit #021	30-025-03237
East Pearl Queen Unit #022	30-025-03235
East Pearl Queen Unit #023	30-025-03236
East Pearl Queen Unit #026	30-025-03222
East Pearl Queen Unit #028	30-025-03215
East Pearl Queen Unit #029	30-025-03208
East Pearl Queen Unit #030	30-025-03213
East Pearl Queen Unit #036	30-025-03221
East Pearl Queen Unit #037	30-025-03219
East Pearl Queen Unit #039	30-025-03295
East Pearl Queen Unit #042	30-025-03298
East Pearl Queen Unit #046	30-025-03302
East Pearl Queen Unit #056	30-025-23302
East Pearl Queen Unit #057	30-025-23409
East Pearl Queen Unit #059	30-025-23427
East Pearl Queen Unit #077	30-025-31106
Mesa Queen Unit #010	30-025-20340
Mesa Queen Unit #011	30-025-20230
Mesa Queen Unit #018	30-025-20313
Mesa Queen Unit #020	30-025-20269
Mexico U #001	30-025-12512
Mexico U #003	30-025-30954
South Pearl Queen Unit #003	30-025-21772
South Pearl Queen Unit #006	30-025-03315
South Pearl Queen Unit #007	30-025-03316
West Pearl Queen Unit #103	30-025-03247
West Pearl Queen Unit #107	30-025-03231
West Pearl Queen Unit #108	30-025-03234
West Pearl Queen Unit #110	30-025-03254
West Pearl Queen Unit #112	30-025-03244
West Pearl Queen Unit #117	30-025-03241
West Pearl Queen Unit #118	30-025-03248
West Pearl Queen Unit #119	30-025-03240
West Pearl Queen Unit #120	30-025-03224
West Pearl Queen Unit #121	30-025-03225
West Pearl Queen Unit #122	30-025-03228
West Pearl Queen Unit #124	30-025-03229
West Pearl Queen Unit #125	30-025-03227
West Pearl Queen Unit #126	30-025-03226
West Pearl Queen Unit #127	30-025-03242

West Pearl Queen Unit #128	30-025-03249
West Pearl Queen Unit #129	30-025-03243
West Pearl Queen Unit #130	30-025-03250
West Pearl Queen Unit #134	30-025-03262
West Pearl Queen Unit #135	30-025-03261
West Pearl Queen Unit #140	30-025-03283
West Pearl Queen Unit #143	30-025-03286
West Pearl Queen Unit #153	30-025-03265
West Pearl Queen Unit #154	30-025-03266
West Pearl Queen Unit #163	30-025-22870
West Pearl Queen Unit #164	30-025-23083
West Pearl Queen Unit #169	30-025-25365
West Pearl Queen Unit #191	30-025-30861
West Pearl Queen Unit #192	30-025-30867
West Pearl Queen Unit #195	30-025-31021
West Pearl Queen Unit #202	30-025-31125

(3) The Oil Conservation Division (the "Division") filed this application seeking an order pursuant to Section 70-2-14 NMSA 1978 and Division Rule 101.H directing Operator to properly plug and abandon the subject wells, or otherwise bring the subject wells into compliance with Division Rule 201, by a date certain. The Division further seeks assessment of civil penalties by reason of the Operator's failure to bring the subject wells into compliance with Rule 201 and failure to file production reports as required by Rule 1115. In event of Operator's failure to comply with such order, the Division seeks an authorization to plug said wells and forfeiture of Operator's applicable financial assurance.

(4) At the Hearing, the Division appeared through counsel and presented the following testimony:

(a) Operator has not filed production reports on any of the above-identified 69 wells for more than two years.

(b) None of the subject wells has been plugged and abandoned in accordance with Division Rule 202, nor is any of them currently in approved temporary abandonment status in accordance with Division Rule 203.

(c) Xeric has on file with the Division, as blanket financial assurance, cash bond No. OCD-218, secured by an assignment of cash collateral on deposit with Wells Fargo Bank, Hobbs, New Mexico.

(d) Operator has not filed single-well financial assurance for any of these wells as required by Rule 101.

(e) Despite having been notified multiple times of the implementation of Rule 101.B and its specific obligation to post additional

financial assurances, Xeric has failed and refused to do so as to the above 69 subject wells.

(f) Xeric has therefore knowingly and willfully violated Rule 101.B as to the 69 above-identified wells.

(5) In this case, Operator has violated requirements of Division rules promulgated pursuant to the Oil and Gas Act by failing to file required production reports.

(6) Division Rule 101.H authorizes the Director to order the operator to plug and abandon any well not in compliance with Rule 201, and to restore the location thereof, by a date certain, and further authorizes the Director to forfeit the operator's financial assurance upon failure or refusal of the operator to comply.

(7) Section 70-2-31(A) NMSA 1978 provides that any person who knowingly and willfully violates any provision of the Oil and Gas Act or any provision of any rule or order issued pursuant to that act shall be subject to a civil penalty of not more than one thousand dollars (\$1,000) for each violation, and that, in the case of a continuing violation, each day of violation shall constitute a separate violation.

(8) The evidence in this case demonstrates that Operator's failure to plug inactive wells and Operator's failure to file production reports for the months of April, 2006 through and including December, 2007 were knowing and willful violations of the applicable Division Rules.

(9) Additional civil penalties, pursuant to Section 70-2-31(A) should be assessed against Operator for its knowing and willful violations described in Finding Paragraph (8).

THE DIVISION ALSO FINDS THAT:

(10) Xeric Oil and Gas Corporation ("Operator") is the operator of the following 80 oil and/or gas wells in Lea County, New Mexico (the "subject wells"):

<u>Name</u>	<u>API No.</u>
Crosby Deep #001	30-025-23891
Crosby Deep #002	30-025-24287
Crosby Deep #003	30-025-11870
Crosby Deep #004	30-025-25985
East Pearl Queen Unit #001	30-025-03189
East Pearl Queen Unit #004	30-025-03186
East Pearl Queen Unit #007	30-025-03183
East Pearl Queen Unit #008	30-025-03182
East Pearl Queen Unit #009	30-025-03185
East Pearl Queen Unit #011	30-025-03175
East Pearl Queen Unit #012	30-025-03174

East Pearl Queen Unit #014.	30-025-03184
East Pearl Queen Unit #015	30-025-03181
East Pearl Queen Unit #016	30-025-03180
East Pearl Queen Unit #018	30-025-03216
East Pearl Queen Unit #021	30-025-03237
East Pearl Queen Unit #022	30-025-03235
East Pearl Queen Unit #023	30-025-03236
East Pearl Queen Unit #026	30-025-03222
East Pearl Queen Unit #028	30-025-03215
East Pearl Queen Unit #029	30-025-03208
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East Pearl Queen Unit #036	30-025-03221
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East Pearl Queen Unit #039	30-025-03295
East Pearl Queen Unit #042	30-025-03298
East Pearl Queen Unit #046	30-025-03302
East Pearl Queen Unit #056	30-025-23302
East Pearl Queen Unit #057	30-025-23409
East Pearl Queen Unit #059	30-025-23427
East Pearl Queen Unit #077	30-025-31106
East Pearl Queen Unit #084	30-025-30869
Gregory A #005	30-025-11884
Gregory A #007	30-025-11867
Gregory C #001	30-025-11865
Gregory El Paso Federal #004	30-025-11871
Mesa Queen Unit #006	30-025-00396
Mesa Queen Unit #010	30-025-20340
Mesa Queen Unit #011	30-025-20230
Mesa Queen Unit #015	30-025-20347
Mesa Queen Unit #018	30-025-20313
Mesa Queen Unit #020	30-025-20269
Mesa Queen Unit #025	30-025-23483
Mexico U #001	30-025-12512
Mexico U #003	30-025-30954
South Pearl Queen Unit #003	30-025-21772
South Pearl Queen Unit #005	30-025-03328
South Pearl Queen Unit #006	30-025-03315
South Pearl Queen Unit #007	30-025-03316
South Pearl Queen Unit #008	30-025-03317
South Pearl Queen Unit #011	30-025-03325
South Pearl Queen Unit #016	30-025-03321
South Pearl Queen Unit #019	30-025-03319
South Pearl Queen Unit #021	30-025-03342
South Pearl Queen Unit #022	30-025-03341
West Pearl Queen Unit #103	30-025-03247
West Pearl Queen Unit #107	30-025-03231
West Pearl Queen Unit #108	30-025-03234
West Pearl Queen Unit #112	30-025-03244
West Pearl Queen Unit #117	30-025-03241
West Pearl Queen Unit #118	30-025-03248
West Pearl Queen Unit #119	30-025-03240

West Pearl Queen Unit #120	30-025-03224
West Pearl Queen Unit #122	30-025-03228
West Pearl Queen Unit #124	30-025-03229
West Pearl Queen Unit #125	30-025-03227
West Pearl Queen Unit #126	30-025-03226
West Pearl Queen Unit #127	30-025-03242
West Pearl Queen Unit #128	30-025-03249
West Pearl Queen Unit #129	30-025-03243
West Pearl Queen Unit #134	30-025-03262
West Pearl Queen Unit #135	30-025-03261
West Pearl Queen Unit #140	30-025-03283
West Pearl Queen Unit #143	30-025-03286
West Pearl Queen Unit #153	30-025-03265
West Pearl Queen Unit #154	30-025-03266
West Pearl Queen Unit #164	30-025-23083
West Pearl Queen Unit #167	30-025-23313
West Pearl Queen Unit #169	30-025-25365
West Pearl Queen Unit #180	30-025-30868

(11) Based upon production reported by Xeric, the 80 wells identified above, operated by Operator in New Mexico, have been inactive for a continuous period exceeding one year plus 90 days, and are neither plugged and abandoned in accord with 19.15.4.202 NMAC nor on approved temporary abandonment status in accord with 19.15.4.203 NMAC.

(12) The Division presented evidence that demonstrates the following:

(a) Operator has not filed production reports on any of the above-identified 80 wells for more than two years.

(b) The subject wells have been inactive for more than two years, triggering the requirement of Rule 201.B(1) that these wells be plugged and abandoned or placed in approved temporary abandonment status.

(c) Operator has not filed single-well financial assurance for any of these wells as required by Rule 101.

(d) Based upon production records submitted by Xeric pursuant to Rule 1115, a number of the above-identified wells have been inactive in excess of ten years.

(13) Xeric presented the following testimony:

(a) Xeric is a small company; Adam Hirschfeld is President and Ronald St. John is Vice President.

(b) Hirschfeld and St. John testified that they purchased Xeric on March 5, 2008, the same day this Compliance Order was issued.

(c) Both Mr. Hirschfeld and Mr. St. John testified they would be willing to enter into an Agreed Compliance Order.

(d) Mr. Hirschfeld testified he knew OCD was concerned about inactive wells and financial assurance compliance.

(e) Mr. Hirschfeld and Mr. St. John have made no attempts to contact OCD prior to purchasing Xeric.

IT IS THEREFORE ORDERED THAT:

(1) Xeric Oil & Gas Corporation (OGRID 25482) shall file single-well financial assurances for each of the subject wells (list attached) by November 28, 2008.

(2) Operator shall submit true and accurate reports electronically on any and all delinquent form C-115s reflecting any as yet unreported production for the above-mentioned wells, not later than December 31, 2008.

(3) Operator shall properly plug each of the subject wells, in accordance with Division Rules 202.A and 202.B(1) and (2), and with a plugging procedure approved by the Division's Hobbs District Office, or shall otherwise bring each such well into compliance with Rule 201 (by placing such wells in approved temporary abandonment status or returning them to production), on or before January 30, 2009. No well shall be deemed in compliance with Rule 201 or this Order until Operator shall have filed true and accurate production reports (form C-115) with the Division with respect to such well for all months for which such reports are due.

(4) Operator shall pay the civil penalty previously assessed in the amount of Eighty-Eight Thousand Dollars (\$88,000) by reason of Operator's knowing and willful failure to return the subject wells to compliance with Division Rule 201.

(5) In the event that Operator fails to comply with Ordering Paragraphs (1), (2) and (3) within the times provided, the Division may proceed to plug and abandon any or all of the subject wells, and to restore the well sites, and any applicable financial assurance shall be forfeited to the Division. If the Division incurs costs in plugging the subject wells or restoring the well sites exceeding the amount recoverable from applicable financial assurance, the Division may bring suit to recover the excess costs so incurred from the Operator.

(6) Operator shall pay the penalties provided in Ordering Paragraph (4) by delivery of a certified check or cashier's check to the Division's Santa Fe Office on or before January 30, 2009.

(7) In the event Operator fails to comply with any provision of this Order within the time provided, the Division may, after notice and hearing, assess additional penalties, not to exceed \$1,000 per day, per well, per violation.

(8) Jurisdiction of this case is retained for the entry of such further orders as the Division may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.



SEAL

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

A handwritten signature in black ink, appearing to read "Mark E. Fesmire".

MARK E. FESMIRE, P.E.
Director

LIST OF 88 WELLS

<u>Name</u>	<u>API No.</u>
Crosby Deep #001	30-025-23891
Crosby Deep #002	30-025-24287
Crosby Deep #003	30-025-11870
Crosby Deep #004	30-025-25985
East Pearl Queen Unit #001	30-025-03189
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Gregory C #001	30-025-11865
Gregory El Paso Federal #004	30-025-11871
Mesa Queen Unit #006	30-025-00396
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Mesa Queen Unit #015	30-025-20347
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Mesa Queen Unit #020	30-025-20269
Mesa Queen Unit #025	30-025-23483
Mexico U #001	30-025-12512
Mexico U #003	30-025-30954

Name	API No.
South Pearl Queen Unit #003	30-025-21772
South Pearl Queen Unit #005	30-025-03328
South Pearl Queen Unit #006	30-025-03315
South Pearl Queen Unit #007	30-025-03316
South Pearl Queen Unit #008	30-025-03317
South Pearl Queen Unit #011	30-025-03325
South Pearl Queen Unit #016	30-025-03321
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