

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

**IN THE MATTER OF THE  
NOTICE OF VIOLATION ISSUED TO  
FLARE OIL, INC.**

**CASE NO. 21669  
ORDER NO. R-21751**

**ORDER**

This matter came before the Director of the New Mexico Oil Conservation Division (“Division”) on the Notice of Violation (“NOV”) issued to Flare Oil, Inc., OGRID #7899 (“Flare”). The Division conducted a public hearing on June 2, 2021, and having considered the testimony and evidence presented, and being otherwise fully advised in the premises, enters the following findings, conclusions and order:

**FINDINGS OF FACT**

1. The Division has jurisdiction over the parties and the subject matter herein.
2. The Division gave notice of the hearing as required by 19.15.5.10 NMAC.
3. Flare is a foreign corporation registered in the state of Texas.
4. At the hearing on June 2, 2021, the Division presented the testimony of one witness, Mr. Daniel Sanchez, Chief of the Division’s Administrative and Compliance Bureau, and offered 12 exhibits in support of his testimony.
5. On January 27, 2021, the Division issued the NOV, which alleged 4 violations:
  - a. Flare’s operator registration is invalid. 19.15.9.8(B)(4) NMAC requires an operator which is a corporation to be registered to do business in the state of New Mexico. The regulation requires the operator to register with the New Mexico Public Regulation Commission, but in 2013, pursuant to NMSA 1978, §8-4-7, the New Mexico Secretary of State assumed responsibility for this function, and revoked Flare’s authorization to do business in the state of

New Mexico. For this violation, the Division requested an order revoking Flare’s operator registration and authority to transport from all wells.

b. Flare changed its address of record without informing the Division within 30 days of the change as required by 19.15.9.8(C) NMAC. On January 5, 2021, the Division sent an NOV to Flare at its address of record. However, after the certified mail was returned, the Division determined that Flare’s owner had deceased several years earlier. The Division then identified Flare’s registered agent from the Texas Secretary of State’s database, and successfully served the NOV to the registered agent by certified mail at two separate addresses. For this violation, the Division requested an order revoking Flare’s operator registration and authority to transport from all wells, and also proposed to assess a civil penalty of one thousand two hundred dollars (\$1,200).

c. Flare has more inactive wells than allowed by 19.15.5.9(A)(4)(a) NMAC. Flare is the registered operator of 5 wells in the state of New Mexico. Because Flare operates less than 100 wells, it must plug and abandon, or place into approved temporary abandonment status, those inactive wells that exceed the threshold of 2 wells or 50 percent of all wells. Flare has 5 wells that are inactive and none of which have been plugged and abandoned or placed into approved temporary abandonment status:

<u>API</u>	<u>Well</u>	<u>Last Reported Production</u>
30-015-23604	Federal BV #1	10/2016
30-015-22451	Ingalls #1	10/2016
30-015-28273	Ingalls #2	10/2016
30-025-27359	Perro Grande #1	10/2016
30-015-23349	State IL Com #1	10/2016

For this violation, the Division requested an order requiring Flare to plug and abandon the wells, or to allow the Division to do so, and if the Division plugs and abandons the wells, to forfeit the financial assurance for the wells and require Flare to pay the excess cost to plug and abandon the wells. The Division also proposed to assess a civil penalty of nine hundred dollars (\$900).

d. Flare does not have sufficient financial assurance for inactive wells as required by 19.15.5.9(D) NMAC. Flare is the registered operator of 3 inactive wells which do not have blanket financial assurance or sufficient one well financial assurance.

<u>API</u>	<u>Well</u>	<u>Existing FA</u>	<u>Required FA</u>
30-015-22451	Ingalls #1	\$ 7,500	\$ 51,374
30-015-28273	Ingalls #2	\$ 3,816	\$ 37,632
30-015-23349	State IL Com #1	\$ 10,000	\$ 42,934

For this violation, the Division requested an order requiring Flare to provide one well or blanket financial assurance for the wells, and proposed to assess a civil penalty of three thousand six hundred dollars (\$3,600).

6. The NOV provides that a process is available for the informal review and resolution of the alleged violations in the NOV. If the NOV is not resolved informally within 30 days after service of notice, the Division will hold a hearing. 19.15.5.10(C)(1)(f) NMAC. Flare did not contact the Division during the informal resolution period, which expired on or about March 5, 2021.

7. On March 12, 2021, the Division filed and served the Docketing Notice.

8. Flare did not file an answer to the Docketing Notice and the NOV as required by 19.15.5.10(E)(2)(b) NMAC.

9. Flare did not appear at the hearing.

### **CONCLUSIONS OF LAW**

10. The Division is authorized, when it determines that a person is violating, or has violated, the Oil and Gas Act (“Act”), or any provision of a rule, order, permit, or authorization issued under the Act, to seek compliance and civil penalties by issuing a notice of violation. NMSA 1978, §70-2-31(A).

11. The Division followed the requirements of the Act and the rules in issuing a Notice of Violation which described the alleged violations and possible sanctions and provided an opportunity for an informal resolution of the violations. The Division fulfilled the requirements to properly serve Flare with the Notice of Violation and the Notice of Docketing.

12. Based on the evidence presented, the Director concludes that Flare violated:

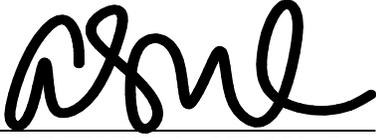
- a) 19.15.9.8(B)(4) NMAC, by failing to maintain its registration to do business in the state of New Mexico;
- b) 19.15.9.8(C) NMAC, by changing its address of record without informing the Division within 30 days of the change;
- c) 19.15.5.9(A)(4)(A) NMAC, by failing to plug and abandon inactive wells; and
- d) 19.15.5.9(D) NMAC, by failing to maintain sufficient financial assurance for inactive wells.

13. The Act and the rules authorize a series of possible sanctions for violations. NMSA 1978, §70-2-31(B); 19.15.5.10(B) NMAC. Based on the evidence presented, the Director concludes that the proposed sanctions are appropriate for the violations.

### **ORDER**

1. Flare's operator registration is hereby revoked.
2. Flare's authority to transport from all wells is hereby revoked.
3. Flare shall plug and abandon the 5 wells identified in paragraph 5(c) no later than 30 days after issuance of this Order.
4. If Flare fails to plug and abandon the 5 wells identified in paragraph 5(c) no later than 30 days after issuance of this Order, the Division shall be authorized to plug and abandon the wells and to forfeit the financial assurance for the wells, and Flare shall pay the excess cost to plug and abandon the wells no later than 30 days after actual or attempted service of the Division's written demand.
5. Flare is assessed civil penalties in the amount of five thousand seven hundred dollars (\$5,700). Flare shall pay the full amount of the civil penalty assessed in this Order no later than 30 days after the Director serves the Order unless Flare files a notice of appeal to the Oil Conservation Commission.
6. The Division retains jurisdiction of this matter for the entry of such further orders as it may deem necessary.

**STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION**



**ADRIENNE SANDOVAL  
DIRECTOR**  
AES/bb

**Date:** 6/15/2021