

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

**IN RE NOTICE OF VIOLATION
ISSUED TO NANCY WILCOX E. QUALLS**

**CASE NO. 24512
ORDER NO. R-23250**

ORDER

This matter came before the Director of the New Mexico Oil Conservation Division (“Division” or “OCD”) on the Notice of Violation (“NOV”) issued to Nancy Wilcox E. Qualls, OGRID #15501 (“Operator”) on or about March 27, 2024. The Division conducted a public hearing on June 13, 2024. The Director, having considered the testimony and evidence presented, and being otherwise fully advised in the premises, enters the following findings, conclusions, and order:

FINDINGS

1. The Division has jurisdiction over the parties and the subject matter herein.
2. On March 27, 2024, the Division issued the NOV, which alleged three violations (OCD Ex. 4):
 - a. Operator has more inactive wells out of compliance with 19.15.25.8 NMAC than are allowed by 19.15.5.9(A)(4)(a) NMAC. At the time of the NOV, Operator was the registered operator of four (4) wells in the state of New Mexico. Under 19.15.5.9(A)(4)(a) NMAC, as the operator of 100 wells or less, Operator was not permitted to have more than two inactive wells out of compliance with 19.15.25.8 NMAC, which requires inactive wells to be plugged and abandoned or placed into approved temporary abandonment status. At the time of the NOV,

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Operator had four (4) inactive wells, found in OCD Ex. 2, which were not plugged and abandoned or placed into temporary abandonment status.

b. Operator does not have sufficient financial assurance for inactive wells. 19.15.8.9(C) NMAC requires blanket plugging inactive well financial assurance of one hundred fifty thousand dollars (\$150,000) for operators with one to five wells. OCD Ex. 3. Operator has four (4) qualifying wells but insufficient financial assurance for such wells.

c. Operator has failed to file the required monthly production reports, form C-115, as required by 19.15.7.24 NMAC. OCD Ex 2. Operator is the registered operator of four (4) wells but has not submitted a C-115 for any well since at least 2015.

3. For these violations, the Division requested an Order:

a. requiring the Operator to plug and abandon all four (4) of the wells listed in OCD Ex. 2 by a date certain or, if the Operator fails to plug and abandon the wells, to allow the Division to do so,

b. terminating Operator's authority to transport from the four (4) registered wells identified in OCD Ex. 2;

c. assessing civil penalties for violations of 19.15.5.9(A)(4)(a) NMAC: \$5,400.00;

d. assessing civil penalties for violations of 19.15.8.9 NMAC: \$1,500.00; and

e. assessing civil penalties for violations of 19.15.7.24 NMAC: \$21,600.00.

4. The NOV informed the Operator of OCD's informal resolution process and stated that if the NOV cannot be resolved informally, OCD will request a hearing on June 13, 2024.

5. Operator did not contact the Division during the informal resolution period.
6. On May 7, 2024, the Division filed and served the Docketing Notice and requested a hearing on June 13, 2024. OCD Ex. 10. OCD did not hear from Operator at any time through completion of the hearing.
7. The Division gave notice of the hearing as required by 19.15.5.10 NMAC. The hearing was then scheduled for June 13, 2024.
8. Operator did not file an answer to the NOV as allowed by 19.15.5.10 (E)(2)(b) NMAC.
9. A hearing on the NOV was held on June 13, 2024, before a Division Hearing Examiner. Operator did not appear at the June 13, 2024 hearing. The Division appeared through its counsel, Chris Moander.
10. The Division presented the testimony of three witnesses, Nicholas Karns, Compliance Officer and Bond Administrator with the Division's Administrative and Compliance Bureau, and Sheila Apodaca and Sara Griego, OCD Law Clerks. The Division offered eleven exhibits in support of the testimony which were all admitted into evidence without objection.
11. Mr. Karns testified in support of the violations listed in the NOV and further testified that those violations were ongoing.
12. The continuing violations were documented by the testimony of Mr. Karns and exhibits that were printouts from the Division compliance system. *See* OCD Ex. 2 & 3.
 - a. Operator remains out of compliance with inactive well requirements.
19.15.5.9(A)(4)(a) NMAC. As of May 31, 2024, the Operator had four (4) wells, of which four (4) were inactive wells that had not been plugged and abandoned or placed in approved temporary abandonment status. OCD

Ex. 2. OCD has no reason to believe this situation changed as of June 13, 2024.

- b. Operator remains out of compliance with financial assurance for inactive well requirements. 19.15.8.9 NMAC. As of May 31, 2024, the Operator had four (4) wells, of which four (4) were inactive wells that did not have sufficient financial assurance. OCD Ex. 3. OCD has no reason to believe this situation changed as of June 13, 2024.

- 13. OCD provided documentation of the calculations used to determine the proposed penalty amounts in accordance with OCD penalty guidance. OCD Ex. 5.

CONCLUSIONS

- 14. Based on the testimony and evidence presented at the hearing, the Director concludes that Operator violated and is continuing to violate:

- a. 19.15.5.9(A)(4)(a) NMAC, by failing to plug and abandon inactive wells.

As the operator of four (4) inactive wells on March 27, 2024, Operator was permitted to have no more than two inactive wells not in compliance with 19.15.25.8 NMAC, which requires inactive wells to be plugged and abandoned or placed into approved temporary abandonment status. As of March 27, 2024, Operator had four (4) inactive wells that were not plugged and abandoned or placed into temporary abandonment status.

OCD Ex. 2.

- b. 19.15.8.9 NMAC, by failing to provide sufficient financial assurance for inactive wells. As the operator of four (4) inactive wells on March 27, 2024, Operator needed to have a blanket plugging financial assurance of

one hundred and fifty thousand dollars (\$150,000) for one to five wells.

As of March 27, 2024, Operator had four (4) inactive wells that did not have sufficient financial assurance. OCD Ex. 3.

- c. 19.15.7.24 NMAC, by failing to submit the required C-115 forms for any well. Operator has not submitted the required C-115 forms for any well since at least 2015.

- 15. The Director is authorized to order a well to be plugged and abandoned by an operator if the Director concludes that the Operator is violating the Oil and Gas Act or the rules. “If any of the requirements of the Oil and Gas Act 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.” NMSA 1978, § 70-2-14(B).
- 16. The Oil and Gas Act provides that “[i]n assessing a penalty authorized by this section, the division shall take into account the seriousness of the violation, any good faith efforts to comply with the applicable requirements, any history of noncompliance under the Oil and Gas Act and other relevant factors.” NMSA 1978, §70-2-31(C).
- 17. The Director concludes that the sanctions proposed by the Division are allowed by law, 19.15.5.10(B) NMAC, and are supported by the record in this case.

ORDER

- 1. Operator’s authority to transport from all wells is hereby suspended until such time as Operator is compliant with all production reporting, financial assurance, and inactive well requirements.

2. Operator shall plug and abandon all four (4) of the wells listed in OCD Ex. 2 no later than 30 days after issuance of this Order.
3. If Operator fails to plug and abandon the wells as provided in Ordering paragraph 2 within 30 days of issuance of this Order, the Division shall be authorized to plug and abandon the wells and to forfeit the financial assurance for the wells. Operator 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.
4. Operator is assessed civil penalties in the amount of twenty-eight thousand and five hundred dollars (\$28,500), however these penalties are hereby waived given that Operator is no longer in business and has no assets available for recoupment.
5. The Division retains jurisdiction of this matter for the entry of such further orders as it may deem necessary.

**STATE OF NEW MEXICO
OILCONSERVATION DIVISION**



**DYLAN RUGE
ACTING DIRECTOR**

Date: 6/18/2024