

State of New Mexico
Energy, Minerals and Natural Resources Department

Michelle Lujan-Grisham
Governor

Melanie A. Kenderdine
Cabinet Secretary-Designate

Benjamin Shelton
Deputy Secretary (Acting)

Gerasimos Razatos, Division Director (Acting)
Oil Conservation Division



BY ELECTRONIC MAIL

Amanda Garcia
Regulatory Supervisor
ExxonMobil Upstream Company
XTO Energy
6401 Holiday Hill Road
Midland, Texas 79707

Re: Oil Conservation Division Authorization for ExxonMobil Upstream Company to Plug and Abandon Well(s)

Ms. Garcia:

The Oil Conservation Division ("OCD") received your request of November 11, 2024, requesting authorization for ExxonMobil Upstream Company ("XTO"), to plug and abandon the following wells: Artesia State #001, API # 30-015-24256; Hondo Federal, API # 30-015-01513; and State D #001, API # 30-015-24717. Sellers & Fulton, LLC, ("S&F") is the registered operator of these wells and XTO is the leaseholder where the well is located. As the leaseholder, XTO Energy may be deemed a responsible operator for purposes of plugging and remediation activities or for indemnification of costs incurred by OCD for such activities.

On November 27, 2024, OCD issued Final Order No. R-23566 ("R-23566"). R-23566 setting forth plugging compliance deadlines to be met by S&F. That R-23566 is incorporated herein as though set forth in full.

OCD hereby authorizes XTO, to plug and abandon the above-identified well on OCD's behalf pursuant to its authority under R-23566.

Please contact Assistant General Counsel, Christy Treviño at (505)-607-4524 or Christy.Trevino@emnrd.nm.gov, with questions, including the submission of plugging sundries as OCD will not be transferring operatorship to you and will need to place the plugging sundries into the well files.

Regards,

Gerasimos Razatos
Director (Acting)

1/24/2025

Date

cc: EMNRD-OGC

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

**OIL CONSERVATION DIVISION,
PETITIONER**

v.

**SELLERS & FULTON OIL, LLC
RESPONDENT**

**CASE NO. 24905
ORDER NO. R-23566**

ORDER

This matter came before the Director of the New Mexico Oil Conservation Division (“Division” or “OCD”) on the Notice of Violation (“NOV”) dated on or about August 16, 2024, issued to Sellers & Fulton Oil, LLC OGRID #371978 (“Respondent”). The Division’s Hearing Examiner conducted a public hearing on November 21, 2024. The Director, having considered the testimony and evidence presented, and being otherwise fully advised in the premises **FINDS, CONCLUDES AND ORDERS:**

FINDINGS OF FACT

- 1) The Division has jurisdiction over the parties and the subject matter herein.
 - 2) On or about August 16, 2024, the Division issued a NOV, which alleged 3 categories of ongoing violations as demonstrated by OCD Ex.4:
 - a) Respondent is the operator of record of 36 inactive wells which the Division showed were not “plugged and abandoned” or placed into “temporary abandonment status.”
- OCD Ex. 3-A. Under 19.15.5.9(A)(4)(a) NMAC Respondent was not permitted to have more than two inactive wells out of compliance. 19.15.25.8 NMAC requires inactive

wells be plugged and abandoned or placed into approved temporary abandonment status.

- b) Respondent was in violation of 19.15.8.9 NMAC by lacking financial assurance for twenty wells. OCD Ex. 3-B.
 - c) Respondent was in violation of 19.15.7.24 NMAC by not filing the required monthly production reports (Form C-115). OCD Ex 3-C. Respondent last filed Form C-115 for any well in September of 2021.
- 3) The NOV outlined the following relief:
- a) Respondent shall plug and abandon all thirty-six wells listed in OCD Ex. 3-A within 30 days after the issuance of this Order or failing to do so, the Division would assume the liability,
 - b) Respondent's financial assurance is hereby forfeited,
 - c) Respondent's authority to transport from the thirty-six registered wells identified in OCD Ex. 3-A is hereby terminated, and
 - d) Respondent is hereby held civilly liable for violations of 19.15.5.9(A)(4)(a), 19.15.8.9 and 19.15.7.24 NMAC in the amount of \$89,100.00.
- 4) The NOV informed Respondent of OCD's informal resolution process. Respondent did contact the Division during the informal resolution period, however failed to provide any evidence that the alleged violations had not occurred.
- 5) Respondent did not file a prehearing statement to enter an appearance or otherwise present evidence pursuant to 19.15.5 NMAC.

- 6) On August 14, 2024, OCD filed and served the Docketing Notice and formally requested a hearing. Respondent did not answer the NOV in conformance with 19.15.5.10(E)(2)(b) NMAC.
- 7) The Division provided Respondent with notice of the November 7, 2024, hearing pursuant to 19.15.5.10 NMAC. The November 7, 2024 hearing was continued to November 21, 2024 due to inclement weather state office closure. Respondent was immediately informed of the date change of the hearing. Respondent offered no indication as to whether he would appear virtually or in person.
- 8) At the hybrid hearing (in-person at Pecos Hall in Santa Fe, NM and virtually through Microsoft Teams) the NOV was the first agenda item on November 21, 2024, and the Hearing Examiner announced the case several times providing Respondent with the opportunity to be heard. Respondent did not appear virtually or in person.
- 9) The Division presented the Affidavits of Nicholas Karns, Compliance Officer and Bond Administrator with the Division's Administrative and Compliance Bureau, and Sara Griego, OCD Law Clerk.
- 10) The Division provided evidence of notice of the Docketing Statement. OCD Ex. 5.
- 11) Eight Exhibits were admitted into evidence without objection in support of the NOV.
- 12) Mr. Karns, who was previously qualified as an expert in administrative compliance before the Division, provided the following evidence in support of the ongoing violations:
 - a) As of November 21, 2024, Respondent remained out of compliance with the inactive well requirements of 19.15.5.9(A)(4)(a) NMAC. Respondent was the registered

operator of 36 wells, all of which were inactive and not plugged and abandoned or placed in approved temporary abandonment status. OCD Ex. 3-A.

- b) Respondent remained out of compliance with 19.15.8.9 NMAC by lacking financial assurance for twenty wells. OCD Ex. 3-B.
 - c) Respondent remained out of compliance with 19.15.7.24 NMAC, because Respondent had not filed the required C-115 production reports since September 2021. OCD Ex 4-C.
- 13) 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). OCD provided evidence that the penalties were reasonable and lawful. OCD Ex. 3-D.

CONCLUSIONS OF LAW

- 14) The Division met its burden to show by a preponderance of evidence that:
- a) Respondent has violated 19.15.5.9(A)(4)(a) NMAC by failing to plug and abandon 36 inactive wells.
 - b) Respondent has violated 19.15.8.9 NMAC by lacking financial assurance for twenty (20) of the subject wells.
 - c) Respondent has violated 19.15.7.24 NMAC by failing to submit the required C-115 forms for all subject wells.

- 15) The civil penalties calculated by the Division are lawful, reasonable under 19.15.5.10(B) NMAC, and supported by the evidence in the Administrative and Hearing Records.

ORDER

- 16) Respondent's authority to transport from subject wells is hereby suspended until such time as Respondent is compliant with this Order and the N.M. Oil and Gas Act.
- 17) Respondent shall plug and abandon all 36 listed in OCD Ex. 3-A no later than 30 days after issuance of this Order.
- 18) Respondent is hereby liable for civil penalties in the amount of \$89,100.00.
- 19) If Respondent fails to plug and abandon the subject wells as directed herein, the Division is hereby authorized to plug and abandon the wells and to forfeit the financial assurance for the wells. Such plugging activities may include necessary reclamation or remediation work associated with wells that have been partially plugged and abandoned, Respondent shall pay the excess costs to plug and abandon the wells no later than 30 days after actual or attempted service of the Division's written demand. If the excess costs to the Division are not received, the Division may seek indemnification.
- 20) 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**



**GERASIMOS RAZATOS
ACTING DIRECTOR**

Sante Fe Main Office
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General Information
Phone: (505) 629-6116

Online Phone Directory
<https://www.emnrd.nm.gov/ocd/contact-us>

State of New Mexico
Energy, Minerals and Natural Resources
Oil Conservation Division
1220 S. St Francis Dr.
Santa Fe, NM 87505

CONDITIONS

Action 424784

CONDITIONS

Operator: SELLERS&FULTON OIL LLC 422 W Main Suite 5 Artesia, NM 88210	OGRID: 371978
	Action Number: 424784
	Action Type: [IM-SD] Well File Support Doc (ENG) (IM-AWF)

CONDITIONS

Created By	Condition	Condition Date
jagarcia	None	1/27/2025