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**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. 13373
ORDER NO. R-_____**

**APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION FOR AN
ORDER DETERMINING THAT ORBIT ENERGY INC. KNOWINGLY AND
WILLFULLY VIOLATED 19.15.4.201 NMAC; REQUIRING ORBIT ENERGY INC. TO
BRING FIVE WELLS INTO COMPLIANCE WITH 19.15.4.201 NMAC; ASSESSING
APPROPRIATE CIVIL PENALTIES; AND IN THE EVENT OF NON-COMPLIANCE,
AUTHORIZING THE DIVISION TO PLUG SAID WELLS AND FORFEIT THE
APPLICABLE FINANCIAL ASSURANCES; ROOSEVELT COUNTY, NEW MEXICO.**

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on December 16, 2004, at Santa Fe, New Mexico, before Examiner William V. Jones.

NOW, on this ____ day of December, 2004, 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 its subject matter.

(2) Orbit Energy Inc. ("Orbit") is the current operator of the following wells, all located in Roosevelt County, New Mexico ("subject wells"):

Farrell Federal #010, API 30-041-10446, F-28-7S-33E

James McFarland #004, API 30-041-10567, L-20-7S-33E

Humble Federal #005, API 30-041-20116, B-26-7S-32E

State BA #001, API 30-041-10003, A-34-7S-35E

State BA #002, API 30-041-20048, H-34-7S-35E

(3) The New Mexico Oil Conservation Division ("Division") seeks an order determining that Orbit knowingly and willfully violated 19.15.4.201 NMAC, imposing a civil penalty for that violation, and requiring Orbit to bring the subject wells into compliance with 19.15.4.201 NMAC by a date certain, either by: (i) restoring these wells to production, injection or other Division-approved beneficial use; (ii) causing these wells to be properly plugged and abandoned in accordance with 19.15.4.202 NMAC; or (iii) securing Division authority to maintain these wells in temporary abandonment status in accordance with 19.15.4.203 NMAC. The Division also seeks authority to forfeit the applicable financial assurances and plug and abandon the subject wells if Orbit fails to comply with the compliance deadline set by the order.

(4) In accordance with the provisions of 19.15.14.1207 NMAC, notice of this application was provided to Orbit; however, no one representing Orbit appeared at the hearing.

(5) The evidence presented by the Division demonstrates that

- a. Orbit is the operator of record for the five subject wells;
- b. The five subject wells have been inactive for a period in excess of one year plus 90 days;
- c. The five subject wells have not been plugged and abandoned pursuant to 19.15.4.202 NMAC;
- d. The five subject wells have not been placed on temporary abandonment status pursuant to 19.15.4.203 NMAC;
- e. On January 17, 2003, the Division entered Order No. R-11887 to "Orbit Enterprises, Inc.," the prior operator of the five subject wells, requiring it to plug and abandon the State BA Well No. 1 and the State BA Well No. 2;
- f. On June 13, 2003, before Orbit acquired the subject wells from "Orbit Enterprises, Inc.," a Division deputy inspector met with a representative of Orbit, advised him that the State BA Well No. 1

and the State BA Well No. 2 were out of compliance with 19.15.4.201 NMAC, and provided Orbit with plugging procedures for those two wells;

- g. At the June 13, 2003 meeting with the Division deputy inspector, the Orbit representative assured the deputy inspector that the State BA Well No. 1 and the State BA well No. 2 would be plugged in a month or two;
- h. When Orbit acquired the subject wells in April 2004 it was put on notice that each of the five subject wells was out of compliance with 19.15.4.201 NMAC, and Orbit was required to post additional bonding for each of the five subject wells;
- i. By letter dated August 26, 2004, the Division again notified Orbit that the Farrell Federal #010, the James McFarland #004 and the Humble Federal #005 were out of compliance with 19.15.4.201 NMAC;
- j. Orbit's obligation to plug and abandon the subject wells is secured with two cash bonds: cash bond No. 772 in the amount of \$50,000 and cash bond No. 773 in the amount of \$40,000.

(6) Orbit has knowingly and willfully violated 19.15.4.201 NMAC by failing, after a period of inactivity exceeding one year plus ninety days, to plug and abandon the subject wells, place them on temporary abandonment status, or return them to a Division-approved beneficial use.

(7) The subject wells should be brought into compliance with 19.15.4.201 NMAC on or before January 30, 2005.

(8) Should Orbit not meet this January 30, 2005 compliance deadline, the Division Director should then be authorized to take such action as is deemed necessary to forfeit the applicable financial assurances, properly plug and abandon the subject wells, and recover from the operator additional costs the Division may incur to properly plug and abandon these wells.

IT IS THEREFORE ORDERED THAT:

(1) Orbit Energy Inc. is assessed a civil penalty of \$5,000 for its knowing and willful failure to comply with 19.15.4.201 NMAC.

(2) Orbit Energy Inc. is required to bring the following wells, located in Roosevelt County, New Mexico, into compliance with 19.15.4.201 NMAC on or before January 30, 2005:

Farrell Federal #010, API 30-041-10446, F-28-7S-33E

James McFarland #004, API 30-041-10567, L-20-7S-33E

Humble Federal #005, API 30-041-20116, B-26-7S-32E

State BA #001, API 30-041-10003, A-34-7S-35E

State BA #002, API 30-041-20048, H-34-7S-35E

(3) Should Orbit Energy Inc. fail or refuse to bring the subject wells into compliance with 19.15.4.201 NMAC on or before January 30, 2005, the Division shall then take such actions as are necessary to: (i) immediately forfeit the cash bonds posted for the subject wells and deposit the proceeds in the Oil and Gas Reclamation Fund; (ii) plug and abandon the subject wells in accordance with 19.15.4.202 NMAC; and (iii) recover from Orbit Energy Inc. additional costs the Division may incur to properly plug and abandon the wells and remediate the sites.

(4) 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.

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

MARK FESMIRE, P.E.
Director

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