

**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. 15825
ORDER NO. R-14501**

**APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION
COMPLIANCE AND ENFORCEMENT BUREAU FOR A COMPLIANCE ORDER
AGAINST GARNER'S WELL SERVICE, LLC FOR A WELL OPERATED IN LEA
COUNTY, NEW MEXICO.**

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on October 12, 2017, at Santa Fe, New Mexico, before Examiner Phillip R. Goetze.

NOW, on this 27th day of November, 2017, 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) The Oil Conservation Division Compliance and Enforcement Bureau (the "Bureau") seeks a compliance order against Garner's Well Service, LLC (the "Operator") finding the Operator is in violation of NMSA 1978 Section 70-2-14 (2015) as to one well (the "Subject Well") and declaring the Subject Well in violation of the requirement for financial assurance. The Subject Well is identified as the Fort Family 9 State Well No. 1 (API No. 30-025-38266) located 2086 feet from the South line and 766 feet from the West line (Unit L) of Section 9, Township 14 South, Range 34 East, NMPM, in Lea County, New Mexico.

(3) The Bureau further seeks an order requiring the Operator to provide acceptable financial assurance for the Subject Well in accordance with Division Rule 19.15.8.9 NMAC within 30 days.

(4) The Bureau appeared at the hearing through legal counsel and presented the following testimony:

- (a) The Operator is registered under OGRID No. 247070.
 - (b) The Bureau identified the Subject Well as qualifying as “inactive” because the Subject Well has not been used for beneficial purposes for a period that exceeds one (1) year plus 90 days and has not been placed in approved temporary abandonment status.
 - (c) The Bureau maintains a public database, through its *E-permitting* website, summarizing the well status for all current operators in New Mexico. This database also identifies the wells in violation of the financial assurance requirements along with the corresponding amount for each well necessary to satisfy the applicable financial assurance requirement.
 - (d) The Subject Well has been inactive in excess of a period of one year plus 90 days, and is not plugged or abandoned, nor placed in status of approved temporary abandonment based on the production reports which determine the inactive well list. Therefore, the inactive Subject Well is classified with a status of “temporary abandonment” as defined in Division Rule 19.15.2.7(T)(3) NMAC.
 - (e) The Bureau stated that the additional bonding amount for the individual Subject Well was calculated using the procedures found in Division Rule 19.15.8.9(D) NMAC.
 - (f) The Bureau stated the amount of the outstanding financial assurance for the Subject Well was currently \$15,640.00.
 - (g) The Bureau attempted notification of the Operator for voluntary compliance regarding the violation in Division correspondences dated June 1, 2016, June 16, 2016, and June 29, 2016.
 - (h) Following the unsuccessful attempts of notification for voluntary compliance, the Bureau provided two separate notices of the hearing application for a compliance order via certified mail and by publication in a newspaper of general circulation in the county in which the Subject Well is located as required under Rule 19.15.4.12(B) NMAC. The two certified mailings to the Operator were not accepted for delivery.
 - (i) Based on Division records, the Subject Well is not included in an agreed compliance order between the Division and the Operator.
- (5) No other party appeared at the hearing or otherwise opposed the granting of the Bureau’s application.

The Division concludes as Follows:

(6) Garner's Well Service, LLC is the Operator of record for the Subject Well and is responsible for compliance with the Oil and Gas Act and Division Rules.

(7) NMSA 1978, Section 70-2-14(A) provides, in relevant part: "*In addition to the blanket plugging financial assurance, the oil conservation division may require a one-well financial assurance on any well that has been held in a temporarily abandoned status for more than two years.*"

(8) Division Rule 19.15.5.10(B) NMAC authorizes the Division to commence compliance proceedings for violation of a provision of the Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38, or a provision of a rule or order issued pursuant to the Act.

(9) As established by the evidence provided at hearing, the Operator is in violation of Division Rule 19.15.8.9 NMAC. The Operator is required to have additional financial assurance on the Subject Well, as it has been in temporary abandonment for more than two years and the Operator has failed to provide the Division with the requisite financial assurance for the Subject Well.

(10) Garner's Well Service, LLC should be required to provide the requisite financial assurance for the Subject Well.

IT IS THEREFORE ORDERED THAT:

(1) Garner's Well Service, LLC shall provide the required additional financial assurance in the amount of \$15,640.00 for the Fort Family 9 State Well No. 1 (the "Subject Well"; API No. 30-025-38266) located 2086 feet from the South line and 766 feet from the West line (Unit L) of Section 9, Township 14 South, Range 34 East, NMPM, in Lea County, New Mexico, within thirty (30) days of the issuance date of this Order.

(2) If Garner's Well Service, LLC fails to comply with Ordering Paragraph (1), the Operator shall be in violation of this Order pursuant to Division Rule 19.15.8.9(C) NMAC.

(3) If after thirty (30) days the Operator has not commenced the work described in Ordering Paragraph (1), Garner's Well Service, LLC shall be in violation of this order and the Division shall be authorized:

- (a) to plug and abandon the Subject Well that is out of compliance with Division rules;
- (b) to restore and remediate the well location;
- (c) to direct forfeiture of the applicable financial assurance of the Operator;

- (d) to recover costs from the Operator in accordance with Division rule 19.15.8.13 NMAC; and
 - (e) to seek indemnification from the Operator as provided in NMSA 1978, Section 70-2-14(E) if there are not sufficient funds recovered from financial assurance to cover all costs the Division incurs plugging and abandoning the wells and restoring and remediating the well locations.
- (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

David R. Catanach

DAVID R. CATANACH
Director