

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

AUG 14 2018 PM04:53

**APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION  
COMPLIANCE AND ENFORCEMENT BUREAU FOR A COMPLIANCE ORDER  
AGAINST CANO PETRO OF NEW MEXICO, INC., FOR WELLS OPERATED IN  
CHAVES AND ROOSEVELT COUNTIES, NEW MEXICO.**

**CASE NO. 16040**

**CASE NO. 16359**

**PRE-HEARING STATEMENT**

Applicant Oil Conservation Division Compliance and Enforcement Bureau (“OCD” or “Bureau”) is seeking an order declaring:

1. That Cano Petro of New Mexico, Inc., (“Cano” or “Operator”) is out of compliance with 19.15.5.9(A)(4), 19.15.8, 19.15.17, 19.15.25.8, 19.15.29, and 19.15.36 NMAC.
2. That Operator must comply with OCD Rules by a date certain.
3. That Operator address all releases as required by the OCD environmental bureau.
4. That Operator perform a division approved groundwater study, and a division approved abatement plan if necessary.
5. If Operator does not comply with Division order, find that Operator is out of compliance with a Division order, shutting in all producing wells, declare the wells abandoned, and authorize the OCD to plug the violating wells in accordance with a Division-approved plugging program and restore and remediate the location, recover costs from the Operator’s financial assurance as permitted by 19.15.8.13 NMAC, and seek indemnification and costs as permitted by NMSA 1978, § 70-2-14(E).

The Bureau supports the approval because of the following:

1. Notice of Hearing was properly served as required by 19.15.4.9 NMAC and 19.15.4.10 NMAC.
2. The Operator was notified of the divisions intent to commence enforcement action as required by 19.15.5.9(B) NMAC.
3. The Bureau will present evidence that Operator currently has 291 wells out of compliance with Division Rule 19.15.25.8 NMAC, exceeding the amount allowed by 19.15.5.9(A)(4) NMAC.
4. The Bureau will present evidence that fourteen wells require additional financial assurance because they have been inactive for more than 2 years in violation of 19.15.8 NMAC.

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5. The Bureau will present evidence of multiple unaddressed releases, both reported and unreported, that pose a threat to ground water and the environment and have not been remediated or abated as required by 19.15.29 and 19.15.30 NMAC.
6. The Bureau will present evidence of multiple unclosed pits at its wells that could pose a threat to groundwater or the environment in violation of 19.15.17.13(D) NMAC.
7. The Bureau will present evidence that there is a large stockpile of contaminated soil, stored in an unlined area could pose a threat to groundwater or the environment in violation of the provisions of 19.15.36 NMAC governing the operations of surface waste management facilities.

### **PETITIONERS'S PROPOSED EVIDENCE**

**WITNESS:** ESTIMATED TIME: 10 minutes  
Daniel Sanchez, OCD Compliance and Enforcement Manager  
Testimony on compliance regarding inactive wells and financial assurance

**WITNESS:** ESTIMATED TIME: 20 minutes  
Jim Griswold, OCD Environmental Bureau Chief  
Testimony on compliance issues regarding violations of 19.15.17, 19.15.25, and 19.15.36 NMAC.

**WITNESS:** ESTIMATED TIME: 10 minutes  
Marilyn Gruebel  
New Mexico State Land Office Units/Commingling Manager  
Testimony on the status of the Cato San Andres Unit related to production, and economics on site.

**WITNESS:** ESTIMATED TIME: 10 minutes  
Jim Jacobsen  
New Mexico Assistant Attorney General  
Testimony related to bankruptcy filing of Cano Petro of New Mexico Inc.

The Bureau reserves the right to call additional witnesses not listed herein on rebuttal.

### **EXHIBITS**

The OCD anticipates seven exhibits, 1 through 11. Exhibit 1 is a power point presentation to aid its witnesses' testimony describing the condition existing at multiple sites operated by Cano.

Exhibit 2 is general information regarding the operator contained in OCD and New Mexico Secretary of State records for identification purposes.

Exhibits 3 and 4 are copies of OCD On line's inactive well list, and additional financial assurance report, respectively.

Exhibit 5 is an analysis of Cano's inactive well list and bonding requirements, compared to the actual cost of plugging as established by the Commission in Case 16078

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regarding the Commission's rules on Financial Assurance and Plugging and Abandonment of Wells.

Exhibit 6 is a summary of the annual production by Cano from the calendar years of 2007 through 2017 and source information from OCD Online.

Exhibit 7 is a copy to the notice of violation sent to Cano to meet the requirements of 19.15.5.9 NMAC that was sent at least 60 days prior to the commencement of hearing as required by 19.15.5.9(B) NMAC.

Exhibit 8 is a copy of Commission Order R-9210, where the Commission adopted the rules requiring inactive wells to be plugged and abandoned in the interest of protection correlative rights and eliminating waste.

Exhibit 9 is a review of Environmental hazards existing on site prepared by Jim Griswold.

Exhibits 10 and 11 are information provided by Marilyn Gruebel detail the historic and current operations of the Cato San Andres Unit.

### **PROCEDURAL MATTERS**

Counsel for U.S. Specialty Insurance Co. has notified the Commission that Operator filed a Chapter 11 Bankruptcy Petition in the United States Bankruptcy Court for the Northern District of Oklahoma. In lieu of the petition, U.S. Specialty Insurance Co. requested a stay of the Commission proceedings. The Bureau opposes this request because the proceeding exempt from the automatic stay pursuant to Bankruptcy Code Section 362(b)(4)'s exception for exercise of "police and regulatory power" and noted so in its response filed with the Commission.

Respectfully submitted  
this 14<sup>th</sup> day of August, 2018 by



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Compliance and Enforcement Bureau*

## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was electronically mailed to the following party on August 14, 2018:

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