

OCD EXHIBIT A
State of New Mexico
Energy, Minerals and Natural Resources Department

Michelle Lujan Grisham
Governor

Sarah Cottrell Propst
Cabinet Secretary

Todd E. Leahy, JD, PhD
Deputy Cabinet Secretary

Adrienne Sandoval, Division Director
Oil Conservation Division



**BY CERTIFIED MAIL -RETURN RECEIPT REQUESTED
AND ELECTRONIC MAIL**

January 27, 2021

Bonnie D. Berger
Registered Agent
Flare Oil, Inc.
OGRID #7899

233 E. Maxxan Street
Suite 46
Pt. Isabel, TX 78578-4507

33840 S. Garcia
73 Abalone Circle
Pt. Isabel, TX 78578-4507

NOTICE OF VIOLATION

The Director of the Oil Conservation Division (“OCD”) issues this Notice of Violation (“NOV”) pursuant to 19.15.5.10 NMAC.

(1) *Alleged Violator:* Flare Oil, Inc., OGRID # 7899 (“Flare”).

(2) *Citation, Nature, and Factual and Legal Basis for Alleged Violation(s):*

19.15.9.8 OPERATOR REGISTRATION:

- C.** *An operator shall inform the division of its current address of record and emergency contact names and telephone numbers by submitting changes in writing to the division’s financial assurance administrator in the division’s Santa Fe office within 30 days of the change.*

Flare changed its address of record without informing OCD in writing within 30 days of the change. As a result, OCD’s first attempt to serve this NOV failed.

19.15.9.8 OPERATOR REGISTRATION:

B. *The division may deny registration as an operator if:*

...

(4) the applicant is a corporation or limited liability company and is not registered with the public regulation commission to do business in New Mexico; or

(5) the applicant is a limited partnership and is not registered with the New Mexico secretary of state to do business in New Mexico.

Flare is not authorized to do business in the state of New Mexico. Pursuant to NMSA Section 8-4-7, the Secretary of State assumed responsibility for the function of the former corporations bureau of the Public Regulation Commission. The Secretary of State revoked Flare’s authorization to do business in the state of New Mexico.

19.15.5.9(A)(4)(a) NMAC: *An operator is in compliance with Subsection A of 19.15.5.9 NMAC if the operator...*

(4) has no more than the following number of wells out of compliance with 19.15.25.8 NMAC that are not subject to an agreed compliance or final order setting a schedule for bringing the wells into compliance with 19.15.25.8 NMAC and imposing sanctions if the schedule is not met:

(a) two wells or fifty percent of the wells the operator operates, whichever is less, if the operator operates 100 wells or less...

Flare is registered as the operator of five (5) wells identified below, all of which are out of compliance with 19.15.25.8 NMAC and not subject to an agreed compliance or final order, exceeding the threshold of two (2) inactive wells:

Table 1:

<u>API</u>	<u>Well</u>	<u>Last Reported Production</u>
30-015-23604	Federal BV #1	10/2016
30-015-22451	Ingalls #1	10/2016
30-015-28273	Ingalls #2	10/2016
30-025-27359	Perro Grande #1	10/2016
30-015-23349	State IL Com #1	10/2016

On February 13, 2018, OCD sent a letter advising Flare that it exceeded the threshold of two (2) inactive wells in violation of 19.15.5.9 NMAC. Flare did not respond to the letter.

19.15.8.9 CATEGORIES AND AMOUNTS OF FINANCIAL ASSURANCE FOR WELL PLUGGING:

A. Applicability. *An operator who has drilled or acquired, is drilling or proposes to drill or acquire an oil, gas or injection or other service well within this state shall furnish a financial assurance acceptable to the division in accordance with 19.15.8.9 NMAC and in the form of an irrevocable letter of credit, plugging insurance policy or cash or surety bond running to the state of New Mexico conditioned that the well be plugged and abandoned and the location*

restored and remediated in compliance with commission rules, unless the well is covered by federally required financial assurance.

....

D. Inactive wells. An operator shall provide financial assurance for wells that are covered by Subsection A of 19.15.8.9 NMAC that have been in temporarily abandoned status for more than two years or for which the operator is seeking approved temporary abandonment pursuant to 19.15.25.13 NMAC in one of the following categories:

(1) a one well financial assurance in the amount of \$25,000 plus \$2 per foot of the projected depth of a proposed well or the depth of an existing well; the depth of a well is the true vertical depth for vertical and horizontal wells and the measured depth for deviated and directional wells; or

(2) a blanket plugging financial assurance covering all wells of the operator subject to Subsection D of 19.15.8.9 NMAC:

(a) \$150,000 for one to five wells;

(b) \$300,000 for six to 10 wells....

Flare failed to provide one well or blanket financial assurance for the following wells:

Table 2:

<u>API</u>	<u>Well</u>	<u>Existing FA</u>	<u>Required FA</u>
30-015-22451	Ingalls #1	\$ 7,500	\$ 51,374
30-015-28273	Ingalls #2	\$ 3,816	\$ 37,632
30-015-23349	State IL Com #1	\$ 10,000	\$ 42,934

(3) *Compliance:* No later than thirty (30) days after receipt of this NOV, Flare shall:

- (a) Submit formal notification to change its address of record.
- (b) Obtain and notify OCD that it has obtained valid authorization to do business in the state of New Mexico.
- (c) Submit a plan to plug and abandon the wells listed in Table 1.
- (d) Submit one well or blanket financial assurance for the wells listed in Table 2.

(4) *Sanction(s):* OCD may impose one or more of the following sanctions:

- civil penalty
- modification, suspension, cancellation, or termination of a permit or authorization
- plugging and abandonment of a well
- remediation and restoration of a well location and associated facilities, including the removal of surface and subsurface equipment and other materials
- remediation and restoration of a location affected by a spill or release
- forfeiture of financial assurance
- shutting in a well or wells
- any other remedy authorized by law

For the alleged violations described above, OCD proposes the following sanctions:

- a) If Flare fails to take the actions specified in paragraphs 3(a) and (b), Flare's operator registration and authority to transport from all wells shall be revoked.
- b) The wells listed in Table 1 shall be plugged and abandoned.
- c) Flare shall forfeit the financial assurance for the wells listed in Table 1.
- d) Flare shall pay the following civil penalties:

19.15.5.9(A)(4)(a) NMAC:	\$ 900
19.15.5.9(D) NMAC:	\$ 3,600
19.15.9.8(C) NMAC:	\$ 1,200

The civil penalty calculations are attached. OCD may recalculate the civil penalty for additional violations of the cited rules occurring on or after the date of this NOV, and to seek an order to forfeit financial assurance and plug and abandon the wells.

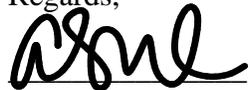
OCD will take into consideration the alleged violator's good faith effort to comply with the applicable requirements.

(5) Informal Review and Resolution: A process is available for the informal review and resolution of the alleged violation(s) in the NOV. To initiate the informal review process, contact the OCD employee identified at the end of this letter. If OCD and the alleged violator agree to resolve the alleged violations in the NOV, the agreement will be incorporated into a stipulated final order signed by both parties and stating that the alleged violator admits OCD's jurisdiction to file the NOV, consents to the specified relief, including the civil penalty, if any, and waives the right of review by the Oil Conservation Commission.

(6) Hearing: If this Notice of Violation is not resolved within thirty (30) days of receipt of service, OCD will hold a hearing on May 5, 2021. Please see 19.15.5.10 NMAC for more information regarding the hearing. However, please note that the hearing does not prohibit OCD from negotiating with the alleged violator at any time to settle the NOV.

For more information regarding this NOV, contact Daniel Sanchez, OCD Compliance and Enforcement Manager, at (505) 476-3493 or Daniel.Sanchez@state.nm.us.

Regards,



Adrienne Sandoval
Director

cc: OCD Southern District
Office of Legal Counsel, EMNRD