

# New Mexico Energy, Minerals and Natural Resources Department

**Bill Richardson**  
Governor

Jim Noel  
Cabinet Secretary

Karen W. Garcia  
Deputy Cabinet Secretary

Mark Fesmire  
Division Director  
Oil Conservation Division



September 9, 2010

## NOTICE OF HEARING

Chica Energy LLC  
3301 McPherson Road  
Roswell, NM 88201

*Cert. Mail No.: 7002 0510 0003 5125 1617*

Roswell Field Office  
Bureau of Land Management  
2909 W. Second Street  
Roswell, NM 88201-2019

*Cert. Mail No.: 7002 0510 0003 5125 1624*

**CASE NO. 14547: APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION, THROUGH THE COMPLIANCE AND ENFORCEMENT MANAGER, FOR AN ORDER AUTHORIZING THE DIVISION TO RECOGNIZE AN OPERATOR OF RECORD FOR WELLS CURRENTLY OPERATED BY YESO ENERGY, INC.; LEA, EDDY AND CHAVES COUNTIES, NEW MEXICO.**

Ladies and Gentlemen,

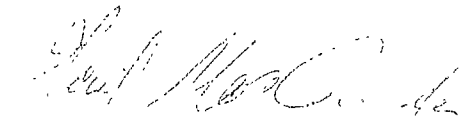
You are hereby notified that the New Mexico Oil Conservation Division (OCD) has filed the above-captioned case seeking an order directing the OCD how to proceed with operator change requests for wells currently operated by Yeso Energy, Inc. (OGRID 221710), including the pending application for operator change filed by Judah Oil LLC (OGRID 245872). The Acting Division Director of the OCD has directed the Oil Conservation Commission to hear the case, and has directed that the case be heard with Case No. 14472, a case filed by COG Operating, LLC (OGRID 229137) regarding one of the Yeso wells.

A copy of the OCD's application for hearing in Case No. 14547 is enclosed, with a copy of the order issued by the Acting Division Director setting the matter for hearing. The record in Case No. 14472 is available on the OCD's website, [www.emnrd.state.nm.us/ocd/index.htm](http://www.emnrd.state.nm.us/ocd/index.htm). Go to "OCD Online," "Imaging," and "Case Files," enter 14547 for the case number, and hit "Continue."

The hearing in Case No. 14547 and Case No. 14472 will take place before the Oil Conservation Commission on **Thursday, October 7, 2010 at 9:00 a.m.**, in Porter Hall, First Floor, 1220 South St. Francis Drive in Santa Fe, New Mexico. **If you intend to present evidence at the hearing, you should file a pre-hearing statement and include copies of the exhibits you propose to offer in evidence at the hearing. The pre-hearing statement and exhibits should be filed at least four business days in advance of the hearing and you must serve copies on the other parties or their attorneys, as required by 19.15.4.13.B NMAC.** A copy of that rule is enclosed. I have also enclosed a copy of 19.15.4.14 NMAC, which addresses representation at administrative hearings before the Oil Conservation Commission.

If you have questions about the application in Case No. 14547, you may call me at (505) 476-3451. If you have questions about hearing procedures or scheduling, please call OCD Hearing Clerk Florene Davidson at (505) 476-3458.

Sincerely,



Gail MacQuesten  
Assistant General Counsel  
[Gail\\_macquesten@state.nm.us](mailto:Gail_macquesten@state.nm.us)

Encl: Application in Case No. 14547  
Order No. R-13309  
Rule 19.15.4.13.B NMAC  
Rule 19.15.4.14 NMAC

EC: Daniel Sanchez, Compliance and Enforcement Manager  
Larry "Buddy" Hill, Supervisor, District 1  
Randy Dade, Supervisor, District 2

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

APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION, THROUGH THE COMPLIANCE AND ENFORCEMENT MANAGER, FOR AN ORDER AUTHORIZING THE DIVISION TO RECOGNIZE AN OPERATOR OF RECORD FOR WELLS CURRENTLY OPERATED BY YESO ENERGY, INC.; LEA, EDDY AND CHAVES COUNTIES, NEW MEXICO.

CASE NO. 19-547

APPLICATION FOR HEARING

1 Yeso Energy, Inc (Yeso) is a corporation operating wells in New Mexico under OGRID 221710.

2 According to the records of the Oil Conservation Division (OCD), Yeso is the operator of record of the following wells:

**221710 YESO ENERGY, INC.**

**TOTAL WELL COUNT:4**

PRINTED ON: TUESDAY, AUGUST 17, 2010

Property	Well Name	Lease Type	ULSTR	OCD UL	API	Well Type	Pool	Last Prod/Inj	In Add. Bond
32902	DALTON FEDERAL #001	F	H-29-17S-29E	H	30-015-25259	O	28509 GRAYBURG JACKSON, SR-Q-G-SA	4/2006	
32758	DOW B 28 FEDERAL #001	F	P-28-17S-31E	P	30-015-28676	O	74605 CEDAR LAKE; MORROW, EAST (GAS)	4/2006	
	DOW B 28 FEDERAL #001	F	P-28-17S-31E	P	30-015-28676	O	96591 WILDCAT CEDAR LAKE; MISSISSIPPIAN	4/2006	
32913	GULF MCKAY FEDERAL #001	F	N-34-18S-32E	N	30-025-25471	O	50490 QUERECHO PLAINS, DELAWARE	4/2006	
32912	MORGAN FEDERAL #001	F	3-6-10S-30E	C	30-005-20667	C	80960 MANY GATES, MORROW (GAS)	4/2006	

3 The Gulf McKay Federal #001 is located in Lea County, the Morgan Federal #001 is located in Chaves County, the Dalton Federal #001 and the Dow "B" 28 Federal #001 are located in Eddy County

4 The wells for which Yeso is operator of record are subject to multiple OCD compliance orders, the most recent being Order R-12930-B. That Order found Yeso to be out of compliance with 19-15-25-8 NMAC (the inactive well rule) as to 12 wells, including the four wells for which Yeso remains operator of record. The Order required Yeso to plug and abandon each of the wells "or transfer each of said wells to another operator, not affiliated with Yeso and approved by the Division, not later than March 15, 2010" (Emphasis added). The Order further authorized the OCD to plug any non-compliant wells after the March 15, 2010 deadline.

5 When a well is subject to an order requiring or compliance with 19 15 25 8 NMAC (the inactive well rule) the OCD may deny a change of operator if the new operator has not entered into an agreed compliance orders setting a schedule for compliance with the existing order 19 15 9.9 C NMAC

6 Several operators have expressed interest in becoming operator of record of some or all of the Yeso wells

- COG Operating, LLC (COG), OGRID 229137, has expressed an interest in the Dow "B" 28 Federal Well No. 1. COG filed Case No. 14,472 seeking an order cancelling Yeso's authority and terminating spacing units related to that well. Order R-13294 terminated the authority of Yeso to act as operator of the Dow "B" 28 Federal Well No. 1, and provided that COG shall file an application with the OCD "to use the well for disposal operations without the necessity of a change of operator that would be ordinarily required." Case No. 14,472 is now before the Oil Conservation Commission for *de novo* review. To date, COG has not filed an application to become operator of record for the well.
- Chica Energy LLC (Chica), OGRID 271866, filed an application for change of operator to become operator of record for all the Yeso wells, which at the time of the request included several state or fee wells that have since been plugged by the OCD. The OCD expressed concern that Chica was affiliated with Yeso, and did not approve the transfer. The initial request to transfer wells from Chica to Yeso was withdrawn and the financial assurances posted by Chica released. However, Chica has expressed an intent to file a request to become operator of record of just Yeso's federal wells (which would include the Dow "B" 28 Federal Well No. 1). Chica's new application for the federal wells remains in "draft" status and has not been submitted to the OCD for approval.
- Judah Oil LLC (Judah), OGRID 245872, is the only operator that has a pending request for operator change. It seeks three Yeso wells, including the Dow "B" 28 Federal No. 1.

7. All wells for which Yeso is operator of record are federal wells

8. The OCD asks that this matter be set for hearing to afford all interested parties the opportunity to present arguments as to how operator change requests for the Yeso wells should be handled, and that an order be issued providing the OCD with guidance on how to proceed.

9. By separate letter, the OCD is requesting Division Director Fesmire to set this matter for hearing before the Oil Conservation Commission, and have the case heard with Case No. 14,472 -- COG's application to cancel Yeso's authority as to the Dow "B" 28 Federal Well No. 1.

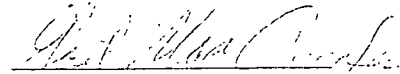
WHEREFORE, the Compliance and Enforcement Manager of the Oil Conservation Division hereby applies to the Director to enter an order:

A. setting for hearing the issue of how operator change requests for Yeso be handled, including the pending application for operator change filed by Judah Oil LLC;

B. directing the OCD how to proceed with operator change requests for the Yeso wells, and

C for such other and further relief as the Director deems just and proper under the circumstances

Respectfully Submitted,  
This 17<sup>th</sup> day of August 2010 by



Gail MacQuesten  
Assistant General Counsel  
Energy, Minerals and Natural Resources Dept  
Oil Conservation Division  
1220 S St Francis Drive  
Santa Fe, NM 87505  
(505) 476-3451

Certificate of Service

I hereby certify that I mailed a copy of this pleading by first class mail to the following

Yeso Energy, Inc  
P.O. Box 2248  
Roswell, NM 88202-00248

Santa Fe, NM 87504  
*Attorney for COG*

Chica Energy LLC  
3003 McPherson Road  
Roswell, NM 88201

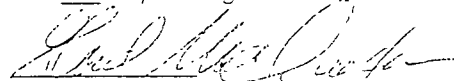
James Bruce  
P.O. Box 1056  
Santa Fe, NM 87504  
*Attorney for Yeso and Chica*

Judah Oil LLC  
P.O. Box 568  
Artesia, NM 88210

BLM Carlsbad Field Office  
Attn: Jim Stovall, Field Manager  
620 E. Greene St.  
Carlsbad, NM 88220

Scott Hall  
Montgomery & Andrews, P.A.  
P.O. Box 2307

this 16<sup>th</sup> day of August 2010.

  
Gail MacQuesten

Case No \_\_\_\_\_ Application of the New Mexico Oil Conservation Division The Applicant seeks an order authorizing the Oil Conservation Division to recognize an operator of record for wells currently operated by Yeso Energy, Inc , OGRID 221710 The affected wells are Dalton Federal #001, 30-015-25259, H-29-17S-29E (located near Loco Hills in Eddy County), Dow B 28 Federal #001, 30-015-28676, P-28-17S-31E (located approximately 5 miles southeast of Maljamar in Lea County), Guli McKay Federal #001, 30-025-25471, N-34-18S-32E (located approximately 12 miles southeast of Maljamar in Lea County), and Morgan Federal #001, 30-005-20567, 3-6-10S-30E (located approximately 15 miles northwest of Caprock in Chaves County)

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

APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION,  
THROUGH THE COMPLIANCE AND ENFORCEMENT MANAGER, FOR  
AN ORDER AUTHORIZING THE DIVISION TO RECOGNIZE AN OPERATOR  
OF RECORD FOR WELLS CURRENTLY OPERATED BY YESO ENERGY, INC.,  
LEA, EDDY AND CHAVES COUNTIES, NEW MEXICO.

CASE NO 14547  
Order No. R-13309

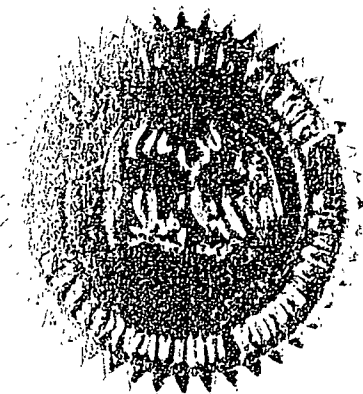
ORDER DIRECTING THE OIL CONSERVATION COMMISSION TO HEAR CASE,  
AND CONSOLIDATING AND SETTING CASES

This matter came before the Acting Division Director upon the written request of the Compliance and Enforcement Manager, filed August 19, 2010.


The Acting Division Director finds that the application in Case No. 14547 and Case No. 14472, which is currently before the Oil Conservation Commission on *de novo* review, arise from common facts, and the resolution of the issues in one case will likely affect the resolution of the other case. The Acting Division Director further finds that hearing the matters together will promote administrative efficiency. The Acting Division Director therefore exercises his discretion pursuant to 19 15.4.20.B NMAC to direct the Oil Conservation Commission to hear Case No 14547. Case No.14547 shall be heard with Case No. 14472.

To allow sufficient time for publication of notice, the hearing in these matters shall be set for October 7, 2010

DONE at Santa Fe, New Mexico, on August 23, 2010



STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION

  
MARK E. FESMIRE, P.E.  
Acting Director

**19.15.4.13 PLEADINGS, COPIES, PRE-HEARING STATEMENTS, EXHIBITS AND MOTIONS FOR CONTINUANCE:**

**A.** Pleadings. Applicants shall file two sets of pleadings and correspondence in cases pending before a division examiner with the division clerk and six sets of pleadings and correspondence in cases pending before the commission with the commission clerk. For cases pending before the commission, the commission clerk shall disseminate copies of pleadings and correspondence to the commission members. The party filing the pleading or correspondence shall at the same time serve a copy of the pleading or correspondence upon each party who has entered an appearance in the case on or prior to the business day immediately preceding the date when the party files the pleading or correspondence with the division or the commission clerk, as applicable. Parties shall accomplish service by hand delivery or transmission by facsimile or electronic mail to a party who has entered an appearance or, if the party is represented, the party's attorney of record. Service upon a party who has not filed a pleading containing a facsimile number or e-mail address may be made by ordinary first class mail. Parties shall be deemed to have made an appearance when they have either sent a letter regarding the case to the division or commission clerk or made an in person appearance at a hearing before the commission or before a division examiner. A written appearance, however, shall not be complete until the appearing party has provided notice to other parties of record. An initial pleading or written entry of appearance a party other than the applicant files shall include the party's address or the address of the party's attorney and an e-mail and facsimile number if available.

**B.** Pre-hearing statements

(1) A party to an adjudicatory proceeding who intends to present evidence at the hearing shall file a pre-hearing statement, and serve copies on other parties or, for parties that are represented, their attorneys in the manner Subsection A of 19.15.4.13 NMAC provides, at least four business days in advance of a scheduled hearing before the division or the commission, but in no event later than 5.00 p.m. mountain time, on the Thursday preceding the scheduled hearing date. The statement shall include:

- (a) the names of the party and the party's attorney;
- (b) a concise statement of the case;
- (c) the names of witnesses the party will call to testify at the hearing, and in the case of expert witnesses, their fields of expertise;
- (d) the approximate time the party will need to present its case; and
- (e) identification of any procedural matters that are to be resolved prior to the hearing.

(2) A party other than the applicant shall include in its pre-hearing statement a statement of the extent to which the party supports or opposes the issuance of the order the applicant seeks and the reasons for such support or opposition. In cases to be heard by the commission, each party shall include copies of exhibits that it proposes to offer in evidence at the hearing with the pre-hearing statement. The commission may exclude witnesses the party did not identify in the pre-hearing statement, or exhibits the party did not file and serve with the pre-hearing statement, unless the party offers such evidence solely for rebuttal or makes a satisfactory showing of good cause for failure to disclose the witness or exhibit.

(3) A pre-hearing statement filed by a corporation or other entity not represented by an attorney shall identify the person who will conduct the party's presentation at the hearing and include a sworn and notarized statement attesting that the corporation's or entity's governing body or chief executive officer authorizes the person to present the corporation or entity in the matter.

(4) For cases pending before the commission, the commission clerk shall disseminate copies of pre-hearing statements and exhibits to the commission members.

**C.** Motions for continuance. Parties shall file and serve motions for continuance no later than 48 hours prior to time the hearing is set to begin, unless the reasons for requesting a continuance arise after the deadline, in which case the party shall file the motion as expeditiously as possible after becoming aware of the need for a continuance.

[19.15.4.13 NMAC - Rp. 19.15.14.1211 NMAC, 12/1/08]

**19.15.4.14 CONDUCT OF ADJUDICATORY HEARINGS:**

**A.** Testimony. Hearings before the commission or a division examiner shall be conducted without rigid formality. The division or commission shall take or have someone take a transcript of testimony and preserve the transcript as a part of the division's permanent records. A person testifying shall do so under oath. The division examiner or commission shall designate whether or not an interested party's un-sworn comments and observations are relevant and, if relevant, include the comments and

observations in the record.

**B.** Pre-filed testimony. The director may order the parties to file prepared written testimony in advance of the hearing for cases pending before the commission. The witness shall be present at the hearing and shall adopt, under oath, the prepared written testimony, subject to cross-examination and motions to strike unless the witness' presence at hearing is waived upon notice to other parties and without their objection. The parties shall number pages of the prepared written testimony, which shall contain line numbers on the left-hand side.

**C.** Appearances pro se or through an attorney. Parties may appear and participate in hearings either pro se (on their own behalf) or through an attorney. Corporations, partnerships, governmental entities, political subdivisions, unincorporated associations and other collective entities may appear only through an attorney or through a duly authorized officer or member. Participation in adjudicatory hearings shall be limited to parties, as defined in 19.15.4.10 NMAC, except that a representative of a federal, state or tribal governmental agency or political subdivision may make a statement on the agency's or political subdivision's behalf. The commission or division examiner shall have the discretion to allow other persons present at the hearing to make a relevant statement, but not to present evidence or cross-examine witnesses. A person making a statement at an adjudicatory hearing shall be subject to cross-examination by the parties or their attorneys.

[19.15.4.14 NMAC - Rp. 19.15.14.1212 NMAC, 12/1/08]