

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

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**APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION
COMPLIANCE AND ENFORCEMENT BUREAU FOR A COMPLIANCE
ORDER AGAINST DC ENERGY, LLC, FOR WELLS OPERATED IN LEA
COUNTY, NEW MEXICO.**

CASE NO. 15432

APPLICATION

The New Mexico Oil Conservation Division Compliance and Enforcement Bureau, ("Bureau") through its undersigned attorney, hereby files this application with the Oil Conservation Division ("OCD or Division") pursuant to the provisions of N.M. Stat. Ann. §70-2-12 for a compliance order (1) determining operator DC Energy, LLC ("Operator") is out of compliance with OCD rules 19.15.26, 19.15.16, 19.15.29, 19.15.25, and 19.15.5.9 NMAC; (2) requiring Operator to return to compliance with OCD rules; and (3) in the event of non-compliance, finding the Operator in violation of a Division order, declaring the wells abandoned and authorizing 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 as permitted by § 70-2-14(E), NMSA 1978. In support of this application, the OCD states:

1. Operator is a New Mexico limited liability company that operates seven wells in Lea County, New Mexico, under OGRID No. 268370. See *Exhibit 1: Well List*, attached hereto and incorporated by reference as if set forth in its entirety.

2. Operator's address of record with OCD is: PO Box 328, Andrews, TX 79714.
3. The New Mexico Secretary of State has Operator registered under corporation number 4208674, and identifies Dan Johnson as the organizer.
4. Operator filed a chapter 11 bankruptcy petition in the District of New Mexico on September 30, 2014, and converted its case to a case under chapter 7 on August 11, 2015.
5. Neither OCD nor the Bureau were scheduled in the bankruptcy case, and the Bureau had no knowledge of the case until on or about December 14, 2015.
6. Clarke C. Coll is the duly appointed and serving chapter 7 trustee for Operator. The Trustee's address is P.O. Box 2288, Roswell, New Mexico 88202.
7. The bankruptcy pleadings provide two additional addresses for Operator: P.O. Box 12977, Palm Desert, California 92255; and 483 Falcon View Circle, Palm Desert, California 92211
8. Operator has one blanket cash plugging bond filed with the OCD in the amount of \$50,000. The cash bond is on deposit with Wells Fargo Bank, N.A. ("Bank"). The existence of the bankruptcy may impair the Division's statutory right to proceed against the bond.
9. Bank's address of record is: 101 N. Phillips Avenue, Sioux Falls, SD 57104
10. On December 3, 2014, Operator failed a mechanical integrity test ("MIT") on its Gregory El Paso Federal No. 004 salt water disposal well.

11. 19.15.26.11 NMAC requires the operator to test an injection well to assure its continued mechanical integrity. Failure of an MIT may endanger underground sources of drinking water. 19.15.26.10.C. NMAC. Should a well fail an MIT the Division may shut-in the well until the operator has identified and corrected the failure. 19.15.26.10.E. NMAC.

12. 19.15.16.11 NMAC requires the operator of a well that appears to have defective casing or faulty cement that may contaminate fresh water to notify the OCD within 5 working days and to proceed with diligence to use the appropriate method and means to eliminate the hazard. If the hazard of waste or contamination of fresh water cannot be eliminated, the operator shall properly plug and abandon the well.

13. Because the Gregory El Paso Federal No. 004 failed the required MIT, on December 4, 2014, Bureau issued a letter of violation to Operator, directing the immediate shut-in of the well. The letter of violation required Operator to repair the well by March 8, 2015.

14. As of the date of this Application, to Bureau's knowledge, no remedial action has been performed on the Gregory El Paso Federal No. 004.

15. 19.15.26.12.C.(1) NMAC states that "[w]henver there is a continuous one year period of non-injection into all wells in an injection or storage project or into a salt water disposal well or special purpose injection well, the division shall consider the project or well abandoned, and the authority for injection shall automatically terminate ipso facto."

16. On Tuesday, December 15, 2015, the Bureau conducted inspections of Operator's well sites.

17. During the inspection, the Bureau found evidence of unauthorized releases of oil, produced water, condensate or oil field waste, or other oil field related chemicals, contaminants or mixture of the chemicals or contaminant at the associated tank batteries for both the Gregory and Mexico wells. Operator did not report the releases to OCD.

18. The Bureau believes the releases pose a threat to the public health and/or the environment.

19. 19.15.29 NMAC requires an operator to notify the Division's environmental bureau chief within 24 hours of a release of a volume that may with reasonable probability be detrimental to water or exceed the standards in Subsections A and B or C of 19.15.30.9 NMAC.

20. For releases that endanger public health or the environment, 19.15.29.11 NMAC requires the responsible person to address releases in accordance with a remediation plan submitted to and approved by the division or with an abatement plan submitted in accordance with 19.15.30 NMAC.

21. Operator has neither reported the releases to the OCD, nor submitted a Division approved remediation plan as required by 19.15.29-30 NMAC.

22. NMSA 1978, Sections 70-2-12 and 70-2-38 authorize the Division to plug and abandon wells and restore and remediate the location of abandoned wells.

23. 19.15.25.8.B NMAC requires an operator to plug and abandon or temporarily abandon a well within 90 days after: (1) a 60 day period following the suspension of drilling activities; (2) a determination that a well is no longer usable for a beneficial purpose; or (3) a period of one year of continuous inactivity.

24. 19.15.8.13 NMAC authorizes the Division Director to order the Operator to plug and abandon any well not in compliance with 19.15.25.8 NMAC and restore and remediate the location by a date certain.

25. 19.15.5.9.A(4) NMAC states that an operator is compliant with Subsection A of 19.15.5.9 NMAC if no more than the following number of wells it operates are out of compliance with 19.15.25.8 NMAC (Wells to be Properly Abandoned): two wells or 50 percent of the wells the operator operates, whichever is less, if the operator operates 100 wells or less; five wells if the operator operates between 101 and 500 wells; seven wells if the operator operates between 501 and 1000 wells; and 10 wells if the operator operates more than 1000 wells.

26. Operator currently has 4 wells out of a total of 6 wells out of compliance with 19.15.25.8 NMAC, exceeding the amount allowed under 19.15.5.9.A(4) NMAC.

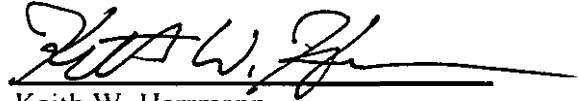
WHEREFORE, the Bureau, by and through its compliance and enforcement manager, hereby applies to the Director to enter an Order:

- A. Determining that Operator violated 19.15.16.11 NMAC by not proceeding with diligence to eliminate the hazard to fresh water when the Gregory El Paso Federal #004 well, API No. 30-025-11871, failed an MIT test on December 3, 2014;
- B. Requiring Operator to eliminate the hazard of waste or contamination of fresh water from the Gregory El Paso Federal #004 well, API No. 30-025-11871, in accordance with 19.15.16.11 NMAC by a date certain;
- C. Determining that Operator is in violation of 19.15.29 NMAC by not reporting releases at the Gregory and Mexico tank batteries;

- D. Requiring Operator to perform corrective action as required by 19.15.29.11 NMAC;
- E. Determining that the following wells have been inactive for a period in excess of one year plus 90 days and are not in compliance with Division Rule 19.15.25.8 NMAC and requiring Operator to plug and abandon the violating wells by a date certain;
1. Crosby Deep #002, API No. 30-025-24287
 2. Crosby Deep #004, API No. 30-025-25985
 3. Gregory El Paso Federal #001, API No. 30-025-11871
- F. Determining that Operator is out of compliance with Division Rule 19.15.5.9 NMAC;
- G. In the event of non-compliance with the sought Division order by the dates established by the Division, finding the Operator in violation of a Division order, declaring the violating wells abandoned and authorizing the Division to plug the subject wells in accordance with a Division-approved plugging program and restore and remediate the location and recover costs from the Operator's financial assurance as required by 19.15.8.13 NMAC and seek indemnification as permitted by § 70-2-14(E), NMSA 1978. ;

H. For such other and further relief as the Director deems just and proper under the circumstances.

RESPECTFULLY SUBMITTED,
this 22nd day of December, 2015
by

A handwritten signature in black ink, appearing to read "Keith W. Herrmann", written over a horizontal line.

Keith W. Herrmann
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Attorney for the Compliance and
Enforcement Bureau

Case No. 15432. **Application Of The New Mexico Oil Conservation Division Compliance And Enforcement Bureau for a Compliance Order against DC Energy, LLC, for Wells Operated in Lea County, New Mexico.** The New Mexico Oil Conservation Division Compliance and Enforcement Bureau in the above styled case seeks a compliance order (1) determining operator DC Energy, LLC (“Operator”) is out of compliance with OCD rules 19.15.26, 19.15.16, 19.15.29, 19.15.25, and 19.15.5.9 NMAC; (2) requiring Operator to return to compliance with OCD rules; and (3) in the event of non-compliance, finding the Operator in violation of a Division order, declaring the wells abandoned and authorizing 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 as permitted by § 70-2-14(E), NMSA 1978.

Exhibit 1: Well List

Well API No.	Name	Lease Type	Well Type	Last Production	ULSTR
30-025-24287	Crosby Deep #002	Private	Salt Water Disposal	Nov. -2012	G-33-25S-37E
30-025-25985	Crosby Deep #004	Federal	Oil	Sept.-2009	C-33-25S-37E
30-025-20491	Gregory El Paso Federal #001	Federal	Gas	Nov.-2009	O-33-25S-37E
30-025-11871	Gregory El Paso Federal #004	Federal	Salt Water Disposal	Nov. 2014	K-33-25S-37E
30-025-12513	Mexico U #002	State	Oil	Mar.-2015	G-8-19S-38E
30-025-31933	Mexico U #004	State	Oil	Mar.-2015	B-8-19S-38E