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

IN THE MATTER OF  
THE 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

RESPONDENTS DAN and COLLEEN JOHNSON'S  
PRE-HEARING STATEMENT

Respondents, Dan and Colleen Johnson (the "Respondents" or the "Johnsons")  
provisionally provide this Pre-Hearing Statement as required by the rules of the Division.

**APPEARANCES**

**RESPONDENTS**

Dan and Colleen Johnson

**RESPONDENTS' ATTORNEYS**

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**APPLICANT**

OCD Compliance and  
Enforcement Officer

**APPLICANT'S ATTORNEY**

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## **STATEMENT OF THE CASE**

Applicant New Mexico Oil Conversation Division Compliance and Enforcement Bureau (the "Bureau") seeks a compliance order against Operator DC Energy, LLC ("DC Energy"). The requests an order (1) determining that the 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, recovering costs from the Operator's financial assurance as permitted by 19.15.8.13 NMAC, and seeking indemnification as permitted by § 70-2-14(E), NMSA 1978.

The Bureau alleges that four of the six wells operated by DC Energy are in non-compliance for being inactive and unreported unauthorized releases because of actions of DC Energy, LLC, as operator. Two (2) of those wells are actually owned by Respondents, Dan and Colleen Johnson, and are not in non-compliance. Mexico U#002 and Mexico U#004 are both owned by Dan and Colleen Johnson. Both Mexico U#002 and Mexico U#004 are working, active oil wells, for which the Johnsons have been providing, and will continue providing reports to OCD.

DC Energy, LLC ("DC Energy") is listed by OCD as the operator of the six wells identified by OCD in Exhibit 1 to the Application. DC Energy was organized by Dan Johnson, as alleged, but DC Energy was sold in early 2013 to Tomahawk Resources, LLC, an entity owned principally by Jerome Richter. Prior to the sale of DC Energy and during the entirety of the Johnsons' ownership of the wells, all the wells were in compliance. The sale documents required the buyer to replace the bond on file, which was posted by the Johnsons, and to execute

change of operator documents to change the operator of the Mexico U wells to Dan Johnson. The buyer did not replace the bond. The buyer did not change the operator for the Mexico U wells. When the Johnsons began preparing pleadings to compel the buyer to do so and to otherwise enforce the sale agreements, the buyer placed DC Energy in bankruptcy. The bankruptcy case stayed the Johnsons' enforcement actions and prevented the Johnsons from taking any action with respect to the wells claimed by DC Energy as bankruptcy assets. The bankruptcy remains pending at this time, and the stay remains in place, continuing to prevent the Johnsons from taking any action with respect to any allegedly non-compliant wells.

The Mexico U wells have never been claimed by DC Energy as bankruptcy assets, have never been scheduled as bankruptcy assets, and are not bankruptcy assets. In fact, DC Energy has explicitly disclaimed any interest in the Mexico U wells. The bond has never been claimed or scheduled as a bankruptcy asset.

Shortly after the sale, Mr. Richter caused OCD to list Mr. Richter as the administrator of DC Energy. Mr. Richter caused OCD to enter new addresses for DC Energy. Consequently, OCD did not notify the Johnsons of the order and events of which OCD complains.

The Johnsons have sought to change the records to become the operators of the Mexico U wells but to no avail, apparently because of Mr. Richter's failures.

The Johnsons have been told that there is a buyer who is prepared to repair and restore (and, if necessary, remediate) the disposal system at Gregory El Paso Federal No. 4 in order to bring it back on line. There is a substantial need in the area for a commercial disposal.

There are no issues with Gregory El Paso Federal No. 1, or the Crosby Deep well that require immediate action.

The Johnsons request that the relief requested by the Bureau be denied, and/or that the hearing be postponed.

#### **PROPOSED EVIDENCE**

<u><b>Witnesses</b></u>	<u><b>Estimated Time</b></u>	<u><b>Exhibits</b></u>
Dan Johnson Owner of Mexico U Wells	Approx. 30 minutes	Approx. 8

#### **Potential Witnesses**

Colleen Johnson  
Jerry Richter (unavailable)  
George Willis  
Nat Willis  
Clarke Coll, Chapter 7 Trustee for DC Energy, LLC

#### **PROCEDURAL MATTERS**

The Application, legal notice for publication, or other notices that may have been provided in this matter do not comply with the requirements of 19.15.4.8 and/or 19.15.4.9.B(2) NMAC of the Division's rules. Although the Johnsons provisionally provide this Pre-Hearing Statement, they waive no rights with respect to these omissions and errors by the Bureau.

Respectfully submitted,

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By: /s/ James M. Feuille  
**JAMES M. FEUILLE**  
New Mexico Bar No. 145552  
Attorneys for Dan and Colleen Johnson

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was served to counsel of record by electronic mail this 14<sup>th</sup> day of January, 2016:

Keith W. Herrmann  
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Energy, Minerals, and Natural Resources  
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/s/ James M. Feuille  
**JAMES M. FEUILLE**