

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, THROUGH THE ENFORCEMENT AND COMPLIANCE MANAGER, FOR A COMPLIANCE ORDER AGAINST SOUTHWESTERN, INC. REQUIRING OPERATOR TO INCREASE THE AMOUNT OF FINANCIAL ASSURANCE FOR ONE WELL TO MEET CURRENT REQUIREMENTS, FINDING THAT THE OPERATOR IS IN VIOLATION OF 19.15.1.40.A(2) NMAC BASED ON ITS FAILURE TO TAKE THE CORRECTIVE ACTION REQUIRED UNDER ORDER NO. R-12909, AND FORMALLY ASSESSING A PENALTY UNDER ORDER NO. R-12909, LEA COUNTY, NEW MEXICO.

CASE NO. 14135

APPLICATION FOR COMPLIANCE ORDER
AGAINST SOUTHWESTERN, INC.

1. Southwestern, Inc. ("Operator") is a corporation operating three wells in New Mexico under OGRID 21386.
2. Operator is the operator of record for the State VC #001, API 30-025-03035, in Unit Letter L, Section 36, Township 17 South, 35 East, in Lea County, New Mexico. The measured depth of the well is 9074 feet
3. In 1977 Operator posted a \$7,500 single-well surety bond, No. A-E-71331-57, through American Employers' Insurance Company to secure its obligation to plug and abandon the State VC #001 well. OneBeacon Insurance Company has taken over bonds issued by American Employers' Insurance Company.
4. Effective Jan. 1, 2008, the amount required for a single-well financial assurance for wells in Lea County increased to \$5,000 plus \$1 per foot of measured depth. Rule 19.15.3.101.C NMAC. Under the current rule, the amount required for the State VC #001 for a single-well financial assurance is \$14,074.

5. OCD records show that the State VC #001 well has not reported activity since October 2002, and is neither plugged and abandoned in accord with 19.15.4.202 NMAC nor on approved temporary abandonment status in accord with 19.15.4.203 NMAC.

6. On May 16, 2007, during a routine inspection OCD inspectors found the equipment at the State VC #1 well to be leaking and contaminating the soil. Efforts to contact Operator by phone and mail were unsuccessful.

7. On September 18, 2007, the OCD filed an application for a compliance order against Southwestern in Case 14007, asking the examiner to find Southwestern in violation of Rule 19.15.3.100.C NMAC (requiring operators to keep the OCD informed of their current address and emergency contact information), Rule 19.15.1.13.B NMAC (providing that operators shall conduct their operations in a manner that will prevent waste of oil and gas and the contamination of fresh waters, and shall not allow oil or gas to leak from equipment), Rule 19.15.3.116.D NMAC (requiring the responsible person to complete division-approved corrective action for releases), and Rule 19.15.4.201 NMAC (requiring operators to plug and abandon or temporarily abandon a well in accordance with Division rules within 90 days after a period of one year of continuous inactivity), and seeking penalties for those violations.

8. Case 14007 was originally scheduled for hearing on the October 18, 2007 docket. Operator requested, and was granted, a continuance until November 1, 2007. Operator did not appear at the November 1, 2007 hearing.

9. At the hearing in Case 14007, the OCD presented evidence that after the application was filed and before the November 1 hearing, Operator cleaned up the

contamination at the State VC #001, and provided the required contact information. The OCD proceeded under Rule 19.15.4.201 NMAC, seeking an order setting a deadline for plugging the well, and authority for the OCD to plug the well and forfeit the applicable financial assurance if the Operator failed to meet that deadline. The OCD also pursued its request for a penalty, asking for a \$6,000 penalty, but stating that it would waive the penalty if the operator met the plugging deadline set by the order or any extension of that deadline granted by order.

10. On February 25, 2008, the Director issued Order No. R-12909 in Case No. 14007. The order provides, in relevant part:

(1) Southwestern, Inc. or SW, Inc. "operator") [OGRID 21386] is hereby directed to bring the following well into compliance with 19.15.4.201 NMAC on or before April 30, 2008:

State VC Well No. 1 (API No. 30-025-03035) located in Unit L of Section 36, Township 17 South, Range 35 East, NMPM, Lea County, New Mexico.

(2) Prior to beginning work on this well, the operator shall obtain approval for any such work from the supervisor of the Division's Hobbs district office and shall notify the District Office of the date and time this work is to commence so the Division may witness the work.

(3) In the event the operator fails to bring this well into compliance as directed above or obtain, prior to April 1, 2008 from the Division director, approval of a schedule to bring this well into compliance, then:

(a) The Division is authorized to plug and abandon the subject well and reclaim the well location;

(b) the Division is authorized to forfeit any applicable financial assurance for plugging and abandonment and reclamation costs; and

(c) the Division is authorized to take necessary and appropriate measures to recover from the operator any costs of plugging the subject well and cleanup of the well site in excess of the amount of any applicable financial assurance.

(d) the Division is authorized to collect a penalty in the amount of \$6,000 from this operator.

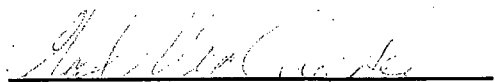
11. Southwestern did not seek approval of a schedule for returning the State VC Well No. 1 to compliance, and has not returned the State VC Well No. 1 to compliance.

12. Rule 19.15.1.40.A(2) NMAC provides that an operator is in compliance with its provisions if the operator "is not subject to a division or commission order, issued after notice and hearing, finding the operator to be in violation of an order requiring corrective action."

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

- A. Determining that the Operator is in violation of the financial assurance requirements of Rule 19.15.3.101.C NMAC as to the State VC #001, and requiring Operator to post a financial assurance for the well in the correct amount by a date certain;
- B. Finding Operator to be in violation of Order No. R-12909 because of its failure to complete the following corrective action required by that order: returning the State VC #001 to compliance with Rule 19.15.4.201 NMAC;
- C. Recognizing that Operator failed to meet the deadlines set in Order No. R-12909 and formally assessing the \$6,000 penalty provided for in Order No. R-12909; and
- D. For such other and further relief as the Director deems just and proper under the circumstances.

RESPECTFULLY SUBMITTED,
this 3rd day of May 2008 by


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- Case No. 14135. Application of the New Mexico Oil Conservation Division for a Compliance Order against Southwestern Inc. The Applicant seeks an order finding that operator is in violation of the financial assurance requirements of Rule 19.15.3.101.C NMAC as to one well and requiring operator to post a financial assurance for the well in the correct amount, finding operator to be in violation of Order No. R-12909 because of its failure to complete the corrective action required by that order, and formally assessing the civil penalty imposed by that order. The affected well is: State VC #001, 30-025-03035, L-36-17S-35E. The well is located approximately eight miles west of Humble City in Lea County, New Mexico.