

# **OIL CONSERVATION DIVISION**

**CASE NO.**  
*14294*

**EXHIBIT**  
**3**

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

**APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION, THROUGH THE ENFORCEMENT AND COMPLIANCE MANAGER, FOR A COMPLIANCE ORDER AGAINST YESO ENERGY, INC. FINDING THAT THE OPERATOR IS IN VIOLATION OF 19.15.7.24 NMAC, 19.15.8.9 NMAC AND 19.15.25.8 NMAC, REQUIRING OPERATOR TO PROPERLY PLUG AND ABANDON ALL ITS WELLS BY A DATE CERTAIN, AND IN THE EVENT OF NON-COMPLIANCE AUTHORIZING THE DIVISION PLUG AND ABANDON THE WELLS AND FORFEIT THE APPLICABLE FINANCIAL ASSURANCE, EDDY, LEA AND CHAVES COUNTIES, NEW MEXICO.**

**CASE NO. 14294**

**TESTIMONY OF DANIEL SANCHEZ**

My name is Daniel Sanchez.

Since November 22, 2004, I have been the Compliance and Enforcement Manager of the Oil Conservation Division (OCD) of the Energy, Minerals and Natural Resources Department.

My duties as Compliance and Enforcement Manager include supervising the four district offices of the OCD and the Environmental Bureau of the OCD, and overseeing the enforcement and compliance actions of the OCD.

I have researched the compliance history of Yeso Energy, Inc. (Yeso), and the allegations made in the application in Case 14294.

**OCD Exhibit 4** is a printout of the Well List for Yeso taken from the OCD's website. The Well List contains all wells that have not been plugged and released, and compiles information about the wells from the regulatory filings of the operators. OCD personnel routinely rely on the Well List in conducting their normal business operations, and the Well List

is also routinely used and relied upon by operators and members of the public. A search of the Well List for wells operated by "Yeso Energy, Inc." shows that Yeso is the operator of record for the following wells under OGRID 221710:

Connie C State #001, 30-015-25366, G-25-19S-28E  
Connie C State #002, 30-015-02301, H-25-19S-28E  
Connie C State #003, 30-015-25587, K-25-19S-28E  
Connie C State #004, 30-015-25648, B-25-19S-28E  
Connie C State #017, 30-015-02302, D-25-19S-28E  
Dalton Federal #001, 30-015-25259, H-29-17S-29E  
Dow B 28 Federal #001, 30-015-28676, P-28-17S-31E (pool 74605)  
Dow B 28 Federal #001, 30-015-28676, P-28-17S-31E (pool 96591)  
Gulf McKay Federal #001, 30-025-25471, N-34-18S-32E  
Laguna Grande #001, 30-015-21636, I-28-23S-29E  
Lambchop 20 #1, 30-015-27220, B-20-24S-25E  
Morgan Federal #001, 30-005-20667, 3-6-10S-30E  
Shirley Kay State #001, 30-015-25855, B-32-19S-31E

NMSA 1978, Section 70-2-14(B) provides, in relevant part, "If any of the requirements of the Oil and Gas Act [70-2-1 NMSA 1978] or the rules promulgated pursuant to that act have not been complied with, the oil conservation division, after notice and hearing, may order any well plugged and abandoned by the operator or surety or both in accordance with division rules."

In Case 14294, the OCD is asking for an order requiring Yeso to plug and abandon all its wells, or transfer all its wells to another operator, by a date certain. This request is made pursuant to NMSA 1978, Section 70-2-14(B), based on Yeso's history of non-compliance with OCD rules. The OCD also asks that the order authorize the OCD to plug and abandon Yeso's wells and forfeit the applicable financial assurances if Yeso fails to transfer or plug the wells by the deadline set in the order.

**Violation of 19.15.7.24 NMAC (production reporting requirements):**

Rule 19.15.7.24 NMAC requires operators to file a monthly production report for each non-plugged well completion for which the division has approved a form C-104.

65 According to the affidavit of Jane Prouty, OCD's Automation and Records Bureau Chief,  
66 Yeso has not filed monthly production reports for the production months of May, June, July or  
67 August of 2006, and has filed no monthly production reports after May 2007. And during those  
68 months that are missing production reports, Yeso had wells with approved C-104s.

69 **Violation of 19.15.8.9 NMAC (financial assurance requirements):**

70 Rule 19.15.8.9 NMAC requires operators to post financial assurances for wells on  
71 privately owned or state owned lands in New Mexico that have not been plugged and released,  
72 conditioned that the well will be plugged and abandoned and the location restored and  
73 remediated in compliance with OCD rules.

74 Effective January 1, 2008, the operator of a state or fee well that has been inactive for a  
75 period of more than two years must post a one-well financial assurance for the well, even if the  
76 well is also covered by a blanket financial assurance. See Rule 19.15.8.9.C NMAC.

77 Also effective January 1, 2008, the amounts required under Rule 19.15.8.9.D NMAC for  
78 single well financial assurances increased. The current amount required for a well in Eddy  
79 County is \$5,000 plus \$1 per foot of measured depth. See 19.15.8.9.D(2) NMAC.

80 The financial assurances posted by Yeso for the wells it operates are identified in the  
81 affidavit of Dorothy Phillips, and copies of the financial assurances are attached as exhibits to  
82 Ms. Phillips' affidavit.

83 Yeso has posted a \$50,000 blanket bond, and three single well bonds. However, five of  
84 its wells require single well financial assurances, and the single well bonds that it has posted for  
85 two of those wells are not in the amounts required by the current rule.

86 **OCD Exhibit 5** is a copy of the Inactive Well Additional Financial Assurance Report for  
87 Yeso, taken from the OCD's website. The OCD posts the Inactive Well Additional Financial

88 Assurance Report to help operators check their compliance with the new single well financial  
89 assurance requirements. The report lists each well for which the operator is the operator of  
90 record, and provides information from the OCD's databases about that well that will help the  
91 operator determine if additional financial assurances are due.

92 The column marked "Last Prod/Inj" gives the date of the last reported production or  
93 injection for the well. The column marked "Inactive Additional Bond Due" will tell the operator  
94 which wells are subject to the single well financial assurance requirements. If there is a date in  
95 that column, it means that the well is a state or fee well that has reported production at some  
96 time. (If a state or fee well is listed that has never reported production, the computer does not  
97 assume that the well requires a single well financial assurance. It is possible that the listing  
98 indicates that a permit to drill was issued at some point in the past, but the well was not drilled.)  
99 The date in the column is simply a date two years from the last reported date of production or  
100 injection – the date a single well financial assurance will be required if the well does not report  
101 any additional production or injection. In Yeso's case, five wells have dates in the "Inactive  
102 Additional Bond Due" column, and all have been inactive for more than two years. The  
103 "Measured Depth" column lists the measured depth of the well, as reported by the operator,  
104 which is used to calculate the amount of the single well financial assurance required. The  
105 "Required Bond Amount" column shows the amount of the single well financial assurance  
106 required, based on the depth and location of the well. A "Y" in the "Bond Required Now"  
107 column means that the well should be covered by a single well financial assurance now. If a  
108 financial assurance in the correct amount has been posted by the operator, that amount will  
109 appear in the "Bond in Place" column. If the operator has not posted a single well financial  
110 assurance for the well, or if the operator has posted a single well financial assurance that is less

111 than the required amount, a "0" will appear. Finally, a "Y"  
112 in the "In Violation" column indicates that the operator is in violation of the single well financial  
113 assurance requirements as to that well.

114 According to OCD Exhibit 5, Yeso has 5 wells that currently require a single well  
115 financial assurance, and Yeso is in violation of the single well financial assurance requirements  
116 on all 5 of the wells. All 5 of the wells are located in Eddy County, so they all require a single  
117 well financial assurance in the amount of \$5,000 plus \$1 per foot of measured depth.

118 I have reviewed the single-well financial assurances posted by Yeso. Copies of the single  
119 well financial assurances are attached to the affidavit of Ms. Dorothy Phillips. The following  
120 summarizes the single well financial assurance requirements for the 5 wells identified on OCD  
121 Exhibit 5 as being out of compliance with the single well financial assurance requirements:

- 122 a. The Connie C State #001, 30-015-25366, has a measured depth of 3,500 feet, and  
123 requires a single well financial assurance in the amount of \$8,500. **Yeso Energy**  
124 **Inc. has not posted a single well financial assurance for this well.**  
125
- 126 b. The Connie C State #002, 30-015-02301, has a measured depth of 3,500 feet, and  
127 requires a single well financial assurance in the amount of \$8,500. **Yeso Energy**  
128 **Inc. has not posted a single well financial assurance for this well.**  
129
- 130 c. The Connie C State #003, 30-015-25587, has a measured depth of 3,525 feet, and  
131 requires a single well financial assurance in the amount of \$8,525. **Yeso Energy,**  
132 **Inc. has posted a financial assurance in the amount of \$5,000; it needs \$3,525**  
133 **in additional financial assurance for this well.**  
134
- 135 d. The Connie C State #004, 30-015-25648, has a measured depth of 3494 feet, and  
136 requires a single well financial assurance in the amount of \$8,494. **Yeso Energy,**  
137 **Inc. has posted a financial assurance in the amount of \$5,000; it needs \$3,494**  
138 **in additional financial assurance for this well.**  
139
- 140 e. The Connie C State #017, 30-015-02302, has a measured depth of 2037 feet, and  
141 requires a single well financial assurance in the amount of \$7,037. **Yeso Energy**  
142 **Inc. has not posted a single well financial assurance for this well.**  
143  
144

145 **Violation of 19.15.25 NMAC (inactive well requirements):**  
146

147 Rule 19.15.25.8 NMAC requires an operator to plug and abandon or temporarily abandon  
148 a well in accordance with Division rules within 90 days after a period of one year of continuous  
149 inactivity.

150 Rule 19.15.25.10.D NMAC provides that, as soon as practical, but not later than one year  
151 after the completion of plugging operations, the operator shall level the location, remove  
152 deadmen and other junk, and take other measures necessary or required by the OCD to restore  
153 the location to a safe and clean condition. In addition, the operator is required to close all pits  
154 and below-grade tanks. See 19.15.25.10.E NMAC.

155 Rule 19.15.25.11 NMAC provides that within 30 days after completing all restoration  
156 work the operator shall file with the OCD a record of the work done. The OCD shall not  
157 approve the record of plugging or release a bond until the operator has filed the necessary reports  
158 and the OCD has inspected and approved the location.

159 All of the wells operated by Yeso Energy, Inc. have been inactive for a continuous period  
160 in excess of one year plus 90 days, and are neither plugged and abandoned in accord with  
161 19.15.25.10 NMAC nor on approved temporary abandonment status in accord with 19.15.25.13  
162 NMAC.

163 OCD Exhibit 5, the Inactive Well Additional Financial Assurance Report, also identifies  
164 the last reported production or injection for Yeso's wells.

165 Ten of Yeso's wells have reported production or injection at some point. However, those  
166 ten wells have not reported production or injection for at least one year plus ninety days. In fact,  
167 the most recent reported production or injection is from April 2006. I have reviewed the well

files for the ten Yeso wells that have reported production or injection. None of the ten wells is on approved temporary abandonment status, or properly plugged and abandoned.

Two of Yeso's wells have never reported production or injection: the Lambchop 20 #001 and the Shirley Kay State #001. According to the well files for those wells, both wells have been drilled and they are not properly plugged and abandoned and they are not on approved temporary abandonment status.

The most recent documents in the well file for the Lambchop 20 #001 are a C-103 filed by Yeso on July 10, 2003, indicating that remedial work had been done on the well and that it was shut in pending gas contract and right of way. A C-105 Well Completion or Recompletion Report and Log filed by Yeso on July 15, 2003 states that Yeso re-entered the well in 2003. Copies of the C-103 and C-105 are **OCD Exhibits 6 and 7**. It is clear from the well file that the Lambchop 20 #001 has been drilled, and has been inactive for a continuous period in excess of one year plus ninety days. It is not on approved temporary abandonment status, and has not been plugged and abandoned.

The Shirley Kay State #001 was drilled in 1988, according to the C-105 from the well file **OCD Exhibit 8**. It has never reported production or injection. The OCD issued a Notice of Violation to Yeso regarding the well's inactivity on June 21, 2005. A copy is **OCD Exhibit 9**. It is clear from the well file that the Shirley Kay State #001 has been drilled, and has been inactive for a continuous period in excess of one year plus ninety days. It is not on approved temporary abandonment status, and has not been plugged and abandoned.

Rule 19.15.8.13 NMAC authorizes the 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.



191 NMSA 1978, Section 70-2-12(B)(18) and NMSA 1978, Section 70-2-38 authorize the  
192 OCD to plug and abandon wells, and restore and remediate the location of abandoned wells.

193 **History of compliance actions by the OCD against Yeso:**

194 ACOI 137

195 On July 10, 2006, the OCD entered into Inactive Well Agreed Compliance Order (ACOI)  
196 137 with Yeso Energy, Inc. A copy of ACOI 137 is **OCD Exhibit 10**. The order covered four  
197 wells, including two of the wells at issue in this case: The Connie C State #003 and the Connie  
198 C State #004. Under the terms of the order, Yeso acknowledged that the wells were out of  
199 compliance with the inactive well rule, and agreed to bring them into compliance by December  
200 31, 2006.

201 Yeso transferred one of the four wells to another operator, but did not return the  
202 remaining three wells to compliance. By letter dated January 8, 2007, the OCD notified Yeso  
203 that its ACOI had expired, and that it owed a penalty of \$3,000. A copy of the letter is **OCD**  
204 **Exhibit 11**. Yeso paid the penalty. The Connie C State #003 and the Connie C State #004  
205 remain out of compliance.

206 Cancellation of authority to transport or inject

207 By letter dated November 20, 2006, the OCD cancelled the authority of Yeso to transport  
208 from or inject into the wells it operates. A copy of the letter is **OCD Exhibit 12**. The  
209 cancellation was issued pursuant to 19.15.13.1115.C NMAC, which has been renumbered as  
210 19.15.7.24 NMAC. The letter was issued because of Yeso's failure to submit monthly  
211 production reports for a specific month: May 2006. Yeso still has not submitted reports for  
212 May 2006.

213 Case No. 13921, Order R-12801

214           The OCD brought plugging case No. 13921 on six inactive wells operated by Yeso,  
215 including the Connie C State #003 and the Connie C State #004. Order R-12801, issued August  
216 20, 2007, required Yeso to return the wells to compliance within 30 days, and authorized the  
217 OCD to plug the wells and forfeit the applicable financial assurance if Yeso missed that deadline  
218 The order also imposed a penalty of \$6,000. A copy of Order R-12801 is **OCD Exhibit 13**.  
219 Yeso paid the penalty but has not returned the Connie C State #003 or the Connie C State #004  
220 to compliance.

221           Case No. 14008, Order R-12930

222           The OCD brought compliance case No. 14008 against Yeso in 2007, alleging that Yeso  
223 had failed to file timely production reports, and had continued to transport and inject after the  
224 OCD had cancelled its authority. Order R-12930, issued April 7, 2008, found that Yeso had  
225 knowingly and willfully failed to file production reports, and had injected after its authority to  
226 inject had been cancelled. A copy of the order is **OCD Exhibit 14**. The Order imposed  
227 penalties totaling \$33,000. Those penalties have not been paid.

228           By letter dated August 26, 2008, the OCD notified the attorney for Yeso that Yeso had  
229 not paid the penalty. The letter also notified the attorney for Yeso that Yeso was out of  
230 compliance with the inactive well rule, the financial assurance requirements and the reporting  
231 requirements. A copy of the letter is **OCD Exhibit 15**.


232           **Requested Relief:**

233           The OCD requests an order finding Yeso in violation of the OCD's rules requiring  
234 monthly production reports, inactive wells, and financial assurances, requiring Yeso to plug and  
235 abandon all the wells it operates by a date certain, and authorizing the OCD to plug and abandon

the wells and forfeit the applicable financial assurances if Yeso fails to meet the deadline set in the order.

Such an order would require Yeso to plug and abandon its wells or transfer them to another operator. The goal of this proceeding is to prevent Yeso from operating wells in New Mexico. This relief is sought because of Yeso's history of non-compliance, and because all of the OCD's other efforts to obtain compliance from Yeso have failed.

I, Daniel Sanchez, swear that the foregoing is true and correct.

  
\_\_\_\_\_  
Daniel Sanchez  
Compliance and Enforcement Manager  
Oil Conservation Division

Subscribed and sworn to before me this 18<sup>th</sup> day of March 2009 by Daniel Sanchez.

  
\_\_\_\_\_  
Notary Public.

My commission expires:

01-12-~~2011~~2012