

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

AMENDED APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION, THROUGH THE ENFORCEMENT AND COMPLIANCE MANAGER, FOR A COMPLIANCE ORDER AGAINST NACOGDOCHES OIL AND GAS, INC. [OGRID 256689], FINDING THAT THE OPERATOR IS IN VIOLATION OF 19.15.8.9 NMAC AS TO 39 WELLS & EITHER 19.15.25.8 OR 19.15.7.24 NMAC AS TO 121 WELLS; REQUIRING THAT NOG PLUG AND ABANDON ALL 183 OF ITS WELLS IN NEW MEXICO BY A DATE CERTAIN; AND IN THE EVENT OF NON-COMPLIANCE AUTHORIZING THE DIVISION TO DO SO, FORFEITING ANY APPLICABLE BONDS, PURSUANT TO SECTION 70-2-14(B) NMSA 1978.

CASE NO. 14326

PRE-HEARING STATEMENT

The Oil Conservation Division submits this pre-hearing statement pursuant to OGD Rule 19.15.4.10 NMAC.

APPEARANCES

APPLICANT
OIL CONSERVATION DIVISION

APPLICANT'S ATTORNEY

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RESPONDENT
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STATEMENT OF THE CASE

The Oil Conservation Division (OCD) brings this action, seeking an Order requiring operator Nacogdoches Oil and Gas, Inc. (NOG) to plug (or transfer) each of the one-hundred, twenty-one (121) wells specifically identified in the Application/Amended Application by a date certain. In March of 2008, the OCD began working with NOG as NOG prepared to transfer the wells from the previous operator (Mountain States

Petroleum) into its name, and to address questions regarding what was needed for NOG to bring the wells into compliance with OCD Rules.

At the time that NOG acquired the wells from Mountain States, a large number of the acquired wells were in active in violation of OCD Rule 19.15.25.8 NMAC and/or required additional bonding pursuant to OCD financial assurance requirements (OCD Rule 19.15.8.9 NMAC), with such bonding being required prior to the OCD granting approval for the transfer of operatorship from Mountain States to NOG. The total amount owed in additional bonding, based upon production reported by Mountain States for the wells to be transferred, was \$576,174. The OCD met with NOG representatives, however, and explained that the presumption of inactivity derived from the production reports filed by the operator and upon which the requirement of additional bonding is based, could be rebutted in certain circumstances, if sufficient evidence was produced to suggest that particular wells were, in actuality, not inactive. The OCD worked closely with NOG representatives, reviewing various documents submitted by NOG purporting to reflect activity for a number of the wells. Ultimately, the OCD agreed that NOG had submitted sufficient evidence regarding 47 wells to *temporarily* rebut the presumption of inactivity that had been created by the official production reports filed for those wells. The OCD did not therefore require NOG to post individual bonds for those 47 wells in order to proceed with the transfer of the wells, and instead only required NOG to post a total of approximately \$140,000 in additional bonds for those remaining wells for which NOG had not rebutted the presumption of inactivity.

The well transfer of operatorship was resubmitted by NOG and approved by the OCD on November 6, 2008. NOG was informed, however, that while it had succeeded in rebutting the presumption of inactivity temporarily, which had allowed it to proceed with the operator-transfer of the wells, it was still required to follow up by filing the formal production reports confirming that the wells were not inactive, at which time the wells would officially be eliminated from the financial assurance noncompliance list. By the date of filing of the original application in this matter (4/23/09), NOG had formally reported production for only 8 of those 47 wells. At that time, NOG owed additional bonding for 39 wells in a total amount of \$264,945 pursuant to OCD Rule 19.15.8.9. NOG has now apparently reported production for an additional 10 wells, reducing the total number of wells on the financial assurance noncompliance list to 29, with a total owed of \$189,684.

As more fully articulated in the Application/Amended Application, NOG also has a significant number of wells in inactive status in violation of 19.15.25.8 NMAC (or for which proper reporting of production is not/has not been performed, in violation of Rule 19.15.7.24 NMAC).

Since effectuating the well transfer into NOG's name, NOG representatives have not only failed to follow through with the additional commitments regarding the filing of supporting documentation, such as production reports, for those wells that the OCD

agreed to consider the presumption of inactivity rebutted, but has increasingly exhibited a blatant disregard for OCD Rules.

NOG has had well over a year to bring its wells into compliance. During that time period, NOG has had numerous OCD personnel and resources at its disposal for doing so, and has still failed and refused to meet even the basic requirement of maintaining all requisite financial assurances for operation. Given the gross degree of noncompliance of NOG, and the other facts regarding NOGs pattern and practice of operations that will be further fleshed out through testimony at hearing, the OCD is requesting that an Order be issued requiring that NOG plug all of the wells identified in the application (or, alternatively, to transfer those wells to another, unaffiliated operator) by a date certain, or in the event that Operator fails to do so, pursuant to Section 70-2-14(B) NMSA 1978, authorizing the Division to plug all such wells and forfeit any applicable financial assurance(s).

APPLICANT'S PROPOSED EVIDENCE

WITNESS:

ESTIMATED TIME:

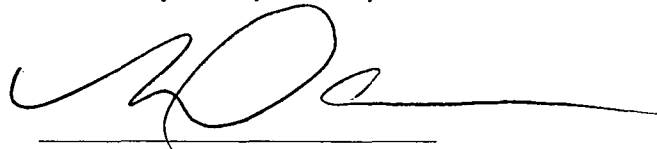
Daniel Sanchez, Enforcement & Compliance Manager
Monica Kuehling, Compliance Officer
Dorothy Phillips, Financial Assurance Administrator

60 minutes
60 minutes
Affidavit

PROCEDURAL MATTERS

None.

Respectfully submitted
this 1st day of July, 2009 by



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was emailed to counsel for Nacogdoches at jamesbruc@aol.com this 1st day of July, 2009.

A handwritten signature in black ink, appearing to read 'Mikal Altomare', written over a horizontal line.

Mikal Altomare