

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

**IN THE MATTER OF THE HEARING CALLED BY  
THE OIL CONSERVATION DIVISION FOR THE  
PURPOSE OF CONSIDERING:**

**CASE NO. 15462  
ORDER NO. R-14172**

**APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION  
COMPLIANCE AND ENFORCEMENT BUREAU FOR A COMPLIANCE ORDER  
AGAINST TOM. R. CONE FOR WELLS OPERATED IN EDDY AND LEA  
COUNTIES, NEW MEXICO**

**ORDER OF THE DIVISION**

**BY THE DIVISION:**

This case came on for hearing at 8:15 a.m. on March 31, 2016, at Santa Fe, New Mexico, before Examiner Michael McMillan.

NOW, on this 18<sup>th</sup> day of July 2016, the Division Director, having considered the testimony, the record and the recommendations of the Examiner,

**FINDS THAT:**

(1) Due public notice has been given, and the Division has jurisdiction of this case and of the subject matter

(2) The Oil Conservation Division (Division) seeks a compliance order against Tom R. Cone ("Cone" or "Operator") finding the Operator is in violation of Division Rules 19.15.5.9 NMAC, 19.15.25.8 NMAC, and 19.15.8.9 NMAC, as to the twenty-two wells listed in Exhibit "A", attached hereto, (the "subject wells"), and declaring the subject wells abandoned by the Operator. The subject wells and corresponding violations are summarized as follows:

- (a) the wells are inactive, and exceed the amount allowed under Division Rule 19.15.5.9 NMAC; and
- (b) the subject wells are in violation of Division Rule 19.15.8.9 NMAC for financial assurance.

(3) The Division further seeks authorization to plug and abandon the subject wells and forfeit the applicable financial assurances and recover costs from the Operator in accordance with Division Rule 19.15.8.13 NMAC.

(4) The subject wells are located in Eddy and Lea Counties, New Mexico.

(5) No other party appeared at the hearing, or otherwise opposed the granting of this application.

(6) The Division provided testimony relating to its inspection of the subject wells. Division's evidence and testimony indicated that:

- (a) The subject wells have been inactive for a period exceeding 90 days plus one year;
- (b) the Operator is in violation of Division Rule 19.15.5.9.A (4) NMAC which requires an operator to have a maximum of two inactive wells if operator has less than 100 wells;
- (c) the last monthly production supplied to the Division for the subject wells was in 2009;
- (d) the road into the Gulf Federal Well No. 1 (API 30-025-00909) and Gulf Federal Well No. 2 (API 30-025-00910), both located in Unit F, Section 19, Township 19 South, Range 32 East, NMPM, Lea County, New Mexico, is fenced off from the pavement;
- (e) the road into the Southern California Petroleum Federal Well No. 1 (API 30-025-00906), located in Unit G, Section 19, Township 19 South, Range 32 East, NMPM, Lea County, New Mexico, is fenced off from the pavement;
- (f) Division's inspection noted that the subject wells and associated tank batteries are not properly maintained;
- (g) Division sent certified mail notice of this hearing to Cone to the address on file with the Division. Cone did not sign return receipt; and
- (h) Consequently, Division provided notice of the application by publication prior to hearing in a newspaper of general circulation in Eddy and Lea Counties, New Mexico, Lea County being the last known address for the Operator, and Lea and Eddy Counties being the counties in which the properties are located.

(7) The subject wells are all completed and are currently shut-in.

(8) The subject wells have been inactive in excess of a period of one (1) year plus 90 days, and are not plugged or abandoned, nor placed in temporary abandonment status in violation of Division Rule 19.15.25.8 NMAC.

(9) The current condition of the subject wells and associated well locations represent a potential danger to the environment and the general public.

The Division concludes as follows:

(10) Cone is the operator of record for the subject wells and is responsible for compliance with the Oil and Gas Act and Division rules.

(11) Records indicate that there are currently no active plugging bonds on file with the Division applicable to the subject wells.

(12) Since the subject wells are located on Federal lands, there may be existing plugging bonds held by the United States Bureau of Land Management ("BLM").

(13) 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."*

(14) Division Rule 19.15.5.10(B) NMAC authorizes the Division to commence compliance proceedings for violation of a provision of the Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38 or a provision of a rule or order issued pursuant to the Act.

(15) As established by the evidence provided at hearing, the Operator is in violation of Division Rules 19.15.5.9 NMAC (the inactive well rule), 19.15.8.9 NMAC (the financial assurance rule), and 19.15.25.8 NMAC (wells properly abandoned rule).

(16) Cone should assess and determine the status of the subject wells as to beneficial use as required by Division Rule 19.15.25.8 NMAC and as to mechanical integrity as required by Division Rule 19.15.26.11 NMAC, and report to the Division.

(17) Cone should be required to plug and abandon the subject wells found not to be beneficial and, in the event of non-compliance, the Division should be authorized to plug and abandon the subject wells, and to restore and remediate the well locations utilizing any and all financial assurance available to the Division. The Division should also be authorized to recover additional costs from the Operator if the financial assurance is insufficient for the cost of plugging and abandoning the subject wells.

(18) The Division should consult with BLM to ascertain the existence of plugging bonds for the subject wells, and to determine a process by which BLM may direct

forfeiture of these applicable financial assurance funds, and transfer these funds to the Division to help pay the costs of plugging the wells.

**IT IS THEREFORE ORDERED THAT:**

(1) Tom R. Cone ("Cone" or "Operator") shall bring into compliance with Division Rule 19.15.25.8 NMAC within sixty (60) days of the issuance date of this order, the twenty-two (22) inactive wells identified in Exhibit "A" (the "subject wells") by accomplishing one of the following with respect to each well:

- (a) causing the well to be plugged and abandoned in accordance with Division Rule 19.15.25.8 NMAC and in accordance with a Division-approved plugging program;
- (b) restoring the well to production if the well is an oil and gas well; or
- (c) causing the well to be temporarily abandoned with Division approval in accordance with Division Rule 19.15.25.13 NMAC.

(2) All subject wells are subject to the authority of the United States Bureau of Land Management and Cone shall secure approval from that agency for any activity required under this order.

(3) If the Operator has not completed the requirements detailed in Ordering Paragraph (1) within the prescribed time period, Cone shall be in violation of this order and the Division shall be authorized:

- (a) to plug and abandon the subject wells that are out of compliance with Division rules; and
- (b) to recover costs from either the Operator or the United States Bureau of Land Management in accordance with Division Rule 19.15.8.13 NMAC; and NMSA 1978, Section 70-2-14 (E) if funds available from applicable financial assurance are not sufficient to cover all costs the Division incurs plugging and abandoning the wells.

(4) If the Operator cannot complete the work described in ordering Paragraph (1) within the specified time, the Operator shall file, prior to the expiration date in the ordering paragraph, an application for hearing to request an extension. At hearing, the Operator shall provide evidence of the work completed to date, shall show cause for the extension, and shall provide an alternate schedule to complete the work.

(5) Jurisdiction of this case is retained for the entry of such further orders as the Division may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.



SEAL

STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION

*David R. Catanach*

DAVID R. CATANACH  
Director

EXHIBIT "A"  
CASE NO. 15462  
ORDER NO. R-14172

Identity No. For Case	API Well No.	Well Name	Well No.	Operator Name	Type	Status	Surface Owner	OCD UL-Sec-Twp-Rng	Footage FNL/FSL	Footage FEL/FWL	County	OCD Exhibit 3: Inactive Well
1	30-015-03457	Cone 22 Federal	1	Tom R. Cone	O	A	F	M-22-18S-29E	330 S	330 W	Eddy	Yes
2	30-015-05739	Donnelly Pan American	1Y	Tom R. Cone	O	A	F	G-5-19S-31E	2310 N	2260 E	Eddy	Yes
3	30-015-04597	Federal 13	1	Tom R. Cone	O	A	F	E-13-19S-30E	1980 N	330 W	Eddy	Yes
4	30-015-04599	Federal 13	2	Tom R. Cone	O	A	F	F-13-19S-30E	1650 N	1750 W	Eddy	Yes
5	30-015-05765	Federal 18	1	Tom R. Cone	O	A	F	2-18-19S-31E	2310 N	660 W	Eddy	Yes
6	30-015-20146	Federal 18	3	Tom R. Cone	O	A	F	H-18-19S-31E	231 N	330 E	Eddy	Yes
7	30-025-00909	Gulf Federal	1	Tom R. Cone	O	A	F	F-19-19S-32E	1980 N	1650 W	Lea	Yes
8	30-025-00910	Gulf Federal	2	Tom R. Cone	O	A	F	F-19-19S-32E	1980 N	2310 W	Lea	Yes
9	30-025-20876	Gulf Federal	3	Tom R. Cone	O	A	F	F-19-19S-32E	1650 N	1678 W	Eddy	Yes
10	30-015-05597	North Shugart Queen	1	Tom R. Cone	O	A	F	C-21-18S-31E	990 N	1650 W	Eddy	Yes
11	30-015-05592	North Shugart Queen	2	Tom R. Cone	O	A	F	D-21-18S-31E	990 N	330 W	Eddy	Yes
12	30-015-05586	North Shugart Queen	3	Tom R. Cone	O	A	F	H-20-18S-31E	2310 N	330 E	Eddy	Yes
13	30-015-05591	North Shugart Queen	4	Tom R. Cone	O	A	F	E-21-18S-31E	2310 S	330 W	Eddy	Yes
14	30-015-05593	North Shugart Queen	5	Tom R. Cone	O	A	F	F-21-18S-31E	2310 N	1650 W	Eddy	Yes
15	30-015-05598	North Shugart Queen	6	Tom R. Cone	O	A	F	K-21-18S-31E	2310 S	1650 W	Eddy	Yes
16	30-015-05599	North Shugart Queen	7	Tom R. Cone	O	A	F	L-21-18S-31E	2310 S	330 W	Eddy	Yes
17	30-015-05588	North Shugart Queen	8	Tom R. Cone	O	A	F	I-21-18S-31E	2310 S	330 E	Eddy	Yes
18	30-015-05587	North Shugart Queen	9	Tom R. Cone	O	A	F	P-20-18S-31E	990 S	660 E	Eddy	Yes
19	30-015-05590	North Shugart Queen	10	Tom R. Cone	O	A	F	M-21-18S-31E	990 S	330 W	Eddy	Yes
20	30-015-05600	North Shugart Queen	11	Tom R. Cone	O	A	F	N-21-18S-31E	330 S	1980 W	Eddy	Yes
21	30-025-00906	Southern California Petroleum Federal	1	Tom R. Cone	G	A	F	G-19-19S-32E	1980 N	1980 E	Lea	Yes
22	30-025-04600	Southern California Petroleum Federal	1	Tom R. Cone	G	A	F	H-14-19S-30E	2310 N	330 E	Eddy	Yes

Type: O - oil well; G - gas well; Status: A - active; E - expired temporary abandonment (TA) Surface Owner: P - private; S - state; F - federal