

State of New Mexico  
Energy, Minerals and Natural Resources Department

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Deputy Cabinet Secretary

Jami Bailey  
Division Director  
Oil Conservation Division



October 10, 2012

Nadel and Gussman Heyco, LLC  
P.O. Box 193  
Roswell, New Mexico 88202

**NON-DENIAL OF APD(S) DESPITE NON-COMPLIANCE WITH  
INACTIVE WELL REQUIREMENTS**

Re: **Nadel and Gussman Heyco, LLC - OGRID #258462**

- Young Deep Unit #40H, P-09-T18S-R32E, 510' FSL & 330' FWL, Lea County, New Mexico

Dear Operator:

You have requested a permit to drill, deepen or plug back for the well/s identified above. Unfortunately, according to the attached inactive well list, your company is out of compliance with 19.15.5.9(A) NMAC [Part 5.9(A)] due to having too many wells in violation of 19.15.25.8 NMAC [Part 25.8] (inactive well rule) that are not subject to an inactive well agreed compliance order ("ACOI"). See Part 5.9(A)(4) NMAC. As an operator of 197 wells, your company may have no more than 5 wells in violation of Part 25.8. Your company has 8 wells in violation.<sup>1</sup>

The Director of the Oil Conservation Division ("OCD") or her designee **may deny a permit to drill, deepen or plug back** if the applicant is not in compliance with Part 5.9(A). See 19.15.14.10(A) NMAC.

An Operator is not in compliance with Part 5.9(A) if the Operator:

- does not meet the financial assurance requirements of 19.15.8 NMAC;

<sup>1</sup> To check an operator's compliance with the inactive well rule, go to the OCD's website at [www.emnrd.state.nm.us/ocd](http://www.emnrd.state.nm.us/ocd). On the left-hand side of the main window, click on "OCD Online"; select "E-Permitting"; click on "Compliance"; click on "Inactive Well List." Leave the search terms as "Exclude Wells Under ACOI," "Exclude Wells in Approved TA Period," and "15" months from last production or injection. Enter the operator's name or OGRID and select "Get Report." The report will list wells operated by that operator that are presumed to be out of compliance with the division's inactive well rule, and that will be considered in determining if the operator is out of compliance with Part 5.9(A).

- is subject to a division or commission order finding the operator to be in violation of an order requiring corrective action;
- has a penalty assessment that has been unpaid for more than 70 days since the issuance of the order assessing the penalty; or
- has more than the allowed number of wells out of compliance with 19.15.25.8 NMAC (inactive well rule).

As the Director's designee I have decided **not to deny** your APD application on the basis of 5.9. However, **my decision not to deny your APD on the basis of Part 5.9 does not constitute approval of your APD by the OCD District Office, which may impose specific requirements.**

**Please note, however, that the OCD cannot assign an allowable to a well or issue authorization to transport oil or natural gas from a well if the operator is out of compliance with Part 5.9. See 19.15.16.19(A) NMAC. Therefore, if your company is not in compliance with Part 5.9(A) at the time it requests an allowable and authorization to transport, its request will be denied.**

To come into compliance with Part 5.9(A) as to inactive wells you must reduce the number of wells on your inactive well list or otherwise demonstrate that you have no more than the tolerated number of wells out of compliance with the inactive well rule. A well will be removed from the inactive well list when you take one of the following actions:

1. plug the wellbore and file an approved C-103 reporting the plugging;
2. place the well on approved temporary abandonment status;
3. return the well to production or other beneficial use and file a C-115 reporting production or use; or
4. enter into an ACOI with the OCD covering the well.

An ACOI sets a schedule for returning the operator's inactive wells to compliance and imposes sanctions if the schedule is not met. If you would like to discuss entering into an ACOI for your non-compliant inactive wells, please contact OCD attorney Sonny Swazo at (505) 476-3463 or [sonny.swazo@state.nm.us](mailto:sonny.swazo@state.nm.us).<sup>2</sup> Attached is an information sheet explaining Part 5.9.

This non-denial of your APD(s) for the above identified well(s) despite non-compliance with inactive well requirements automatically expires six months from today's date unless an APD for the above well(s) is approved within that time by the OCD District Office.

Respectfully yours,



Daniel Sanchez  
Division Enforcement & Compliance Manager

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<sup>2</sup> Please note that Agreed Compliance Orders are offered at the discretion of the OCD, and that not all Operators are eligible to enter into such agreements.

October 10, 2012

Page 3

EC: E.L. Gonzales, District I Supervisor  
Randy Dade, District II Supervisor  
Charlie Perrin, District III Supervisor  
Ed Martin, District IV Supervisor  
Cindy Herrera-Murillo, District I, Geological Petroleum Technician  
Sonny Swazo, Assistant General Counsel-Santa Fe  
Theresa Duran-Saenz, Legal Assistant-Santa Fe

## **INFORMATION SHEET FOR PART 5.9**

Oil Conservation Division (OCD) Rule 19.15.5.9 NMAC, commonly known as “Part 5.9,” requires operators to meet certain minimum compliance standards for the wells they already operate before they can drill, acquire, produce or inject into additional wells. If an operator is out of compliance as defined by Part 5.9, the OCD:

- May deny registration by the operator or certain related entities. See 19.15.9.8(B) NMAC.
- May deny applications for change of operator that would transfer wells to the operator. See 19.15.9.9(C) NMAC.
- Must deny injection permits. See 19.15.26.8(A) NMAC.
- May deny APDs. See 19.15.14.10(A) NMAC.
- Must deny allowable and authorizations to transport. See 19.15.16.19(A) NMAC.

In addition, the OCD may, after notice and hearing, revoke previously issued injection permits if the operator is out of compliance with Part 5.9. See 19.15.26.8(A) NMAC.

To stay in compliance with Part 5.9, an operator must:

- Keep current with the financial assurance requirements for well plugging. See 19.15.5.9(A)(1) NMAC.
- Comply with orders requiring corrective action. See 19.15.5.9(A)(2) NMAC.
- Pay properly assessed penalties. See 19.15.5.9(A)(3) NMAC.
- Have no more than a certain number of wells out of compliance with the inactive well rule. See 19.15.5.9(A)(4) NMAC.

**FINANCIAL ASSURANCE REQUIREMENTS:** The OCD’s financial assurance requirements for well plugging are set out in 19.15.8.9 NMAC. The OCD requires all state or fee wells to be covered by a financial assurance. The OCD does not require financial assurances for Federal or Indian wells.

The operator must either post a blanket financial assurance in the amount of \$50,000 to cover its state or fee wells, or post single-well financial assurances for each state or fee well in the amount set by the rule.

If the operator chooses to post a blanket financial assurance, it must also post single-well financial assurances for each state or fee well that has been inactive for more than two years that has not been plugged and released. Note that a single-well financial assurance is required even if the well is on approved temporary abandonment status, and even if the wellbore of the well has been plugged. To check compliance with this requirement, go to [www.emnrd.state.nm.us/OCD](http://www.emnrd.state.nm.us/OCD), OCD Online, E-Permitting, Compliance, Financial Assurance. Insert the operator name or OGRID, and hit “Get Report.” The report will list all the wells for that operator that have not been plugged and released. Wells currently in violation of the single-well financial assurance requirement will have a “Y” in the far right column, titled “In Violation.”

For information on how to post financial assurances, please contact OCD Financial Assurance Administrator Dorothy Phillips, (505) 476-3461, [Dorothy.phillips@state.nm.us](mailto:Dorothy.phillips@state.nm.us).

**CORRECTIVE ACTION REQUIREMENTS:** If an operator fails to take an action required by a hearing order or an agreed compliance order, the OCD may go to hearing to obtain a formal order finding the operator “in violation of an order requiring corrective action.” Once such an order is issued and becomes final, the operator will be out of compliance with Part 5.9 until that order is lifted. To lift the order, the operator must

## Inactive Well List

Total Well Count: 197 Inactive Well Count: 8

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District	API	Well	ULSTR	OCD Unit	OGRID	Operator	Lease Type	Well Type	Last Production	Formation/Notes	Status	TA Exp Date
1	30-025-30601	CHEVRON 12 FEDERAL #003	B-12-18S-32E	B	258462	NADEL AND GUSSMAN HEYCO, LLC	F	O	06/2010			
1	30-025-30606	FEDERAL AF #002	N-8-18S-32E	N	258462	NADEL AND GUSSMAN HEYCO, LLC	F	O	05/2006	BS INT TO RECOMPLETE BLM 08/15/2012		
2	30-015-23001	LOCO HILLS WELCH #002	N-4-18S-29E	N	258462	NADEL AND GUSSMAN HEYCO, LLC	P	G	02/2009			
1	30-025-27535	YOUNG DEEP UNIT #008	A-9-18S-32E	A	258462	NADEL AND GUSSMAN HEYCO, LLC	F	O	03/2011	BONE SPRING		
1	30-025-28400	YOUNG DEEP UNIT #009	L-3-18S-32E	L	258462	NADEL AND GUSSMAN HEYCO, LLC	F	O	03/2011	BONE SPRING NON COMPLIANCE W/BLM 03/3/11		
1	30-025-29015	YOUNG DEEP UNIT #014	B-9-18S-32E	B	258462	NADEL AND GUSSMAN HEYCO, LLC	F	O	05/2011	BONE SPRING / HORIZONTAL DRL		
1	30-025-29047	YOUNG DEEP UNIT #016	E-9-18S-32E	E	258462	NADEL AND GUSSMAN HEYCO, LLC	F	I	07/1994	BONE SPRING BLM DENIED TA 11/27/09	T	10/14/2009
1	30-025-33462	YOUNG DEEP UNIT #033	M-3-18S-32E	M	258462	NADEL AND GUSSMAN HEYCO, LLC	F	O	05/2010	BONE SPRING		

WHERE Ogrid:258462, County:All, District:All, Township:All, Range:All, Section:All, Production(months):15, Excludes Wells Under ACOI, Excludes Wells in Approved TA Period