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Energy, Minerals and Natural Resources Department

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BY CERTIFIED ELECTRONIC MAIL

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NOTICE OF VIOLATION

S BIG OAK TREE 26 36 31 FEDERAL COM #128H (30-025-49256)

The Director of the Oil Conservation Division (“OCD”) issues this Notice of Violation (“NOV”) pursuant to 19.15.5.10 NMAC.

(1) *Alleged Violators:* Ameredev Operating, LLC, OGRID 372224 (“Operator”).

(2) *Citation, Nature, and Factual and Legal Basis for Alleged Violation(s):*

19.15.5.11 ENFORCEABILITY OF PERMITS AND ADMINISTRATIVE ORDERS: *A person who conducts an activity pursuant to a permit, administrative order or other written authorization or approval from the division shall comply with every term, condition and provision of the permit, administrative order, authorization or approval.*

19.15.7.14 SUNDRY NOTICES AND REPORTS ON WELLS (Form C-103):

C. Report of commencement of drilling operations. *Within 10 days following the commencement of drilling operations, the operator shall file a report of commencement on form C-103. The report shall indicate the hour and the date the operator spudded the well.*

D. Report of results of test of casing and cement job; report of casing alteration. *The operator shall file a report of casing and cement test within 10 days following the setting of each string of casing or liner. The operator shall file the report on form C-103 and include a detailed description of the test method employed and the results obtained by the test and any other pertinent information 19.15.16.10 NMAC requires. The report shall also indicate the top of the cement and the means by which the operator determined the top. It shall also indicate any changes from the casing program previously authorized by the well.*

19.15.7.15 REQUEST FOR ALLOWABLE AND AUTHORIZATION TO TRANSPORT OIL AND GAS (Form C-104): *An operator shall file with the division a complete form C-104 to request the division assign an allowable to a newly completed or re-completed well or a well completed in an additional pool or issue an operator authorization to transport oil or gas from the well.*

19.15.7.16 WELL COMPLETION OR RECOMPLETION REPORT AND LOG (Form C-105):

A. Within 45 days following the completion or recompletion of a well, the operator shall file form C-105 with the division accompanied by a summary of special tests conducted on the well, including drill stem tests. In addition, the operator shall file a copy of electrical and radio-activity logs run on the well with form C-105. If the division does not receive form C-105 with attached logs and summaries within the specified 45-day period, the division shall withhold the allowable for the well or suspend injection authority, as appropriate, until the operator has complied with 19.15.7.16 NMAC.

19.15.7.24 OPERATOR'S MONTHLY REPORT (Form C-115):

B. An operator shall file form C-115 using the division's web-based online application on or before the 15th day of the second month following the month of production. An operator may apply to the division for exemption from the electronic filing requirement based upon a demonstration that such requirement would be an economic or other hardship.

C. If an operator fails to file a form C-115 that the division accepts, the division shall, within 30 days of the appropriate filing date, notify the operator by electronic mail or letter of its intent to cancel the operator's authorization to transport or inject if the operator does not file an acceptable and complete form C-115. The notice shall inform the operator of the right to request a hearing pursuant to 19.15.4.8 NMAC. If the operator does not either file an acceptable and complete form C-115 or request a hearing on the proposed cancellation within 60 days of the original due date of the form C-115, the division may cancel the operator's authority to transport from or inject into all wells it operates.

19.15.16.14.B (3) Directional surveys required.

An operator shall run a directional survey on each well drilled pursuant to Subsection B of 19.15.16.14 NMAC. The operator shall file a directional survey, in division-approved format, with the division upon the well's completion. The division shall not approve a form C-104 for the well until the operator files the directional survey. [...]

19.15.16.21 WATER USE REPORT:

A. For a hydraulically fractured well, an operator shall report, on form C-103 or C-105, the amount of water reported on the disclosure required by Subsection B of 19.15.16.19 NMAC and the breakdown of that amount by (1) produced water; (2) water other than produced water that has 10,000 or more mg/l TDS; (3) water other than produced water that has more than 1,000 mg/l TDS but less than 10,000 mg/l TDS; (4) and water other than produced water that has 1,000 mg/l TDS or less.

B. All such reports shall be compiled and reported monthly on the division section of the department website.

19.15.27.8 VENTING AND FLARING OF NATURAL GAS:

G (2). *Monthly reporting of vented and flared natural gas. For each well or facility at which venting or flaring occurred, the operator shall separately report the volume of vented natural gas and volume of flared natural gas for each month in each category listed below. Beginning October 1, 2021, the operator shall gather data for quarterly reports in a format specified by the division and submit by February 15, 2022 for the fourth quarter and May 15, 2022 for the first quarter. Beginning April 2022, the operator shall submit a form C-115B monthly on or before the 15th day of the second month following the month*

in which it vented or flared natural gas. The operator shall specify whether it estimated or measured each reported volume. In filing the initial report, the operator shall provide the methodology (measured or estimated using calculations and industry standard factors) used to report the volumes and shall report changes in the methodology on future forms. The operator shall make and keep records of the measurements and estimates, including records showing how it calculated the estimates, for no less than five years and make such records available for inspection by the division upon request. [...]

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1. On July 27, 2021, Operator submitted an Application for Permit to Drill (“APD”), which OCD approved July 29, 2021.
2. On February 06, 2022, Operator submitted drilling sundries for surface, intermediate, and production strings, which also reflected a Spud date of August 20, 2021. OCD approved all sundries on March 02, 2022.
3. On February 28, 2022, Operator resubmitted drilling sundries for surface, intermediate and production strings. OCD approved on March 02, 2022.
4. On March 05, 2022, Operator submitted an application for recompletion, which states November 16, 2021, as first production date.
5. On March 10, 2022, Operator submitted a second identical application for recompletion.
6. On March 10, 2022, Operator submitted a C-104 completion packet reflecting first oil date of November 16, 2021.
7. On March 10, 2022, Operator submitted the C-105 with the above C-104. The C-105 reflected that Operator ran a Gamma Ray log. Operator has not submitted this log, or the Water Use report.
8. On March 21, 2023, an interest owner contacted the OCD, claiming they have been receiving royalty checks for the last 14 months but cannot verify the amount is correct as there is no reported production data on the OCD website.
9. On April 18, 2023, OCD conducted a site inspection and confirmed the well was producing.
10. OCD’s database shows no reports of C-115, C-115B, or C-129s for this well.
11. Operator submitted the items in Table 1 late:

Item	Due On	Submitted on	Rule
Spud Notice	8/30/2021	2/6/2022	19.15.7.14.C
Surface Casing Sundry	12/17/2021	2/6/2022	19.15.7.14.D
Surface Casing Cement Top Job	12/18/2021	2/6/2022	19.15.7.14.D
Intermediate Casing Sundry	12/17/2021	2/6/2022	19.15.7.14.D
Production Casing Sundry	12/17/2021	2/6/2022	19.15.7.14.D
C-104	11/16/2021	3/10/2022	19.15.7.15
C-105	12/17/2021	3/10/2022	19.15.7.16

Table 1, Late Submissions

12. Operator failed to submit the items in Table 2:

Item	Due On	Submitted on	Rule
C-102 As Drilled	11/16/2021	NA	19.15.5.11
Directional Survey	11/16/2021	NA	19.15.16.14.B
Log Submission of Gamma Ray	12/17/2021	NA	19.15.7.16

Water Use Reports	12/17/2021	NA	19.15.16.21
C-115s for the following months			
Nov-21	Jan-22	NA	19.15.7.24
Dec-21	Feb-22	NA	19.15.7.24
Jan-22	Mar-22	NA	19.15.7.24
Feb-22	Apr-22	NA	19.15.7.24
Mar-22	May-22	NA	19.15.7.24
Apr-22	Jun-22	NA	19.15.7.24
May-22	Jul-22	NA	19.15.7.24
Jun-22	Aug-22	NA	19.15.7.24
Jul-22	Sep-22	NA	19.15.7.24
Aug-22	Oct-22	NA	19.15.7.24
Sep-22	Nov-22	NA	19.15.7.24
Oct-22	Dec-22	NA	19.15.7.24
Nov-22	Jan-23	NA	19.15.7.24
Dec-22	Feb-23	NA	19.15.7.24
Jan-23	Mar-23	NA	19.15.7.24
Feb-23	Apr-23	NA	19.15.7.24
Mar-23	May-23	NA	19.15.7.24
C-115Bs for the following reporting periods			
Quarter 4 2021	Feb-22	NA	19.15.27.8
Quarter 1 2022	May-22	NA	19.15.27.8
Apr-22	Jun-22	NA	19.15.27.8
May-22	Jul-22	NA	19.15.27.8
Jun-22	Aug-22	NA	19.15.27.8
Jul-22	Sep-22	NA	19.15.27.8
Aug-22	Oct-22	NA	19.15.27.8
Sep-22	Nov-22	NA	19.15.27.8
Oct-22	Dec-22	NA	19.15.27.8
Nov-22	Jan-23	NA	19.15.27.8
Dec-22	Feb-23	NA	19.15.27.8
Jan-23	Mar-23	NA	19.15.27.8
Feb-23	Apr-23	NA	19.15.27.8
Mar-23	May-23	NA	19.15.27.8

Table 2, Missing Submissions

(3) *Compliance*: No later than five (5) business days after issuance of this NOV, Operator shall:

- 1) Submit all C-115 Production Reports.
- 2) Submit all C-115B Venting and Flaring Reports.
- 3) Submit the Water Use Report.
- 4) Submit the Gamma Ray Log and Directional Survey.
- 5) Continue to submit all monthly reports.

(4) *Sanction(s)*: OCD may impose one or more of the following sanctions:

- civil penalty
- modification, suspension, cancellation, or termination of a permit or authorization

- shutting in a well or wells
- plugging and abandonment of a well
- remediation and restoration of a well location and associated facilities, including the removal of surface and subsurface equipment and other materials
- remediation and restoration of a location affected by a spill or release
- forfeiture of financial assurance
- any other remedy authorized by law

For the alleged violations described above and consistent with applicable law, OCD proposes the following sanctions (one or more of which may ultimately be selected):

Civil Penalties: OCD proposes a cumulative total of **\$2,412,000** for forty-two separate violations related to the **S BIG OAK TREE 26 36 31 FEDERAL COM #128H (30-025-49256)** as detailed in the civil penalty calculations, attached and incorporated as **Exhibit A**. The civil penalties were calculated as of June 14, 2023. OCD may recalculate the civil penalties for ongoing violations occurring on or after the date of issuance of this NOV and will take into consideration Operator's good faith effort to comply with the applicable requirements.

Revocation of Authorization to Transport: OCD also notifies Operator that if this NOV results in a Division or Commission order that it intend to review whether to revoke Operator's authorization to transport for this or any other well for which Operator has failed to submit production reports. Any such revocation will be subject to applicable requirements at 19.15.4.8 NMAC.

Demand for Third-party Verification: In the process of reviewing the compliance of the referenced well, OCD identified numerous deficiencies in reporting required pursuant to 19.15.27 NMAC. OCD notes that Operator appears to have submitted quarterly and monthly C-115B reports generally, however, information related to the **S BIG OAK TREE 26 36 31 FEDERAL COM #128H (30-025-49256)** and other specific wells or facilities appears to have been omitted from the C-115B reports. OCD further observes that no C-129 reports have been received for this well. As such, Operator's submitted waste data and natural gas capture percentage require third-party verification. Pursuant to 19.15.27.9.C NMAC, Operator is required to retain a third party approved by the Division to conduct an audit of its operations. The audit must "*verify any data or information collected,*" "*make recommendations to correct or improve the collection and reporting of data and information*" by the operator, and "*submit a report of the verification and recommendations to the division.*" Please be advised that you must submit your proposed third party to the OCD no later than July 14, 2023. Following approval, the audit report must be submitted to the OCD ***no later than August 18, 2023***, absent a demonstration of need acceptable to the OCD. Finally, the rule requires that an operator implement the recommendations coming out of any such third-party audit in the manner approved by the Division. Once your report is received, the Division will provide its review and approval of or make any recommendations about implementation of its natural gas waste rule, which may include making corrections to past reports.

(5) Informal Review and Resolution: A process is available for the informal review and resolution of the alleged violations in the NOV. To initiate the informal review process, contact the OCD employee identified at the end of this letter. If OCD and the alleged violator agree to resolve the alleged violations in the NOV, the agreement will be incorporated into a stipulated final order signed by both parties and stating that the alleged violator admits OCD's jurisdiction to file the


NOV, consents to the specified relief, including the civil penalty, if any, and waives the right of review by the Oil Conservation Commission.

(6) *Hearing*: If this Notice of Violation is not resolved within thirty (30) days of receipt of service, OCD will hold a hearing on September 7, 2023. Please see 19.15.5.10 NMAC for more information regarding the hearing. However, please note that the hearing does not prohibit OCD from negotiating with the alleged violator at any time to settle the NOV.

(7) *Audit Request*: For approval of a third party to verify your reporting, and if you have any questions about the third-party verification requirements of the rule, contact Jesse Tremaine, at (505) 231-9312, or jessek.tremaine@emnrd.nm.gov and Justin Wrinkle at (505) 670-0802 or justin.wrinkle@emnrd.nm.gov.

For more information regarding this NOV, please contact Jesse Tremaine, Assistant General Counsel, at (505) 231-9312 or jessek.Tremaine@emnrd.nm.gov or Chris Moander, Assistant General Counsel, at (505) 709-5687 or chris.moander@emnrd.nm.gov.

Regards,


Dylan M. Euge
Director

6/29/2023

Date

cc: EMNRD-OGC