



THE JICARILLA APACHE NATION

P.O. BOX 507 • DULCE, NEW MEXICO • 87528-0507

ORDINANCE OF THE LEGISLATIVE COUNCIL

GOVERNMENT

RE: Revision of the Jicarilla Apache Nation Code Title 18, Oil and Gas Ordinance

Ordinance No. 2019-O-030-02

WHEREAS, the Legislative Council is the governing body of the Jicarilla Apache Nation and is vested with inherent powers of the Jicarilla Apache Nation under Article XI, Section 1 of the Revised Constitution; and

WHEREAS, the Legislative Council has the authority and the obligation under Article XI, Section 1(d) of the Revised Constitution to promote the peace, safety, property, health and general welfare of the people of the Jicarilla Apache Reservation; and

WHEREAS, Title 18 of the Jicarilla Apache Nation Code (“J.A.N.C.”), Oil & Gas Ordinance (“Title 18”) provides for the regulation of oil and gas development on the Jicarilla Apache Reservation (“Reservation”); and

WHEREAS, it is necessary to update the Nation’s Codes periodically or as the need arises and the Jicarilla Oil & Gas Administration (“JOGA”) recommends changes to J.A.N.C. Title 18; and

WHEREAS, a number of leases contain very low producing or stripper wells, whereby Operator’s delay the costs of plugging and abandonment (“P&A”) by continuing to produce minimal quantities of hydrocarbons (“oil or gas”) or the Operators shut them in for a period of time to avoid the two (2) year Bureau of Land Management (“BLM”) shut-in regulation before the well is declared abandoned in order to delay or avoid the P&A’ng and reclamation costs or until the Operator can sell/divest these assets and transfer the costs to a subsequent buyer, the net result is that a large number of low producing or stripper wells provide little or no revenue to the Nation, yet these wells have a high end-of-life cost, i.e., P&A, that could result in abandonment and the Nation being responsible to P&A these wells and reclaim the well sites and access roads; and



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WHEREAS, the JOGA requests that the department be authorized to require each Operator to justify or prove their self-determined economic analysis that these low producing or stripper wells are economic and produce in ‘paying quantities’; and

WHEREAS, the Operator, in an informal hearing process as determined by JOGA and written into the JOGA Administrative Manual, shall provide by substantial evidence and economic analysis that the JOGA identified low producing wells can be operated economically, and if not, Operator shall agree to provide a plan for P&A’ng and reclamation of the well sites and access roads for the O&G wells that do not meet the Operator’s economic limits as determined by evidence presented at the hearing documented in a written report by the JOGA Director, the final decision being appealable in accordance with Title 18; and

WHEREAS, the JOGA recommends that the following section be modified, CHAPTER 10: OIL AND GAS OPERATING REQUIREMENTS, § 1 – OPERATING REQUIREMENTS, (A), which would state, *“To require dry or abandoned wells to be plugged in the following cases; 1) each newly completed or recompleted well in which oil and/or gas is not encountered in paying quantities, 2) producing wells that are no longer capable of producing oil and/or gas in paying quantities, with the economic data provided to the JOGA with the burden of proof being with the Operator, with no well to be temporarily abandoned more than thirty (30) days nor any well to be temporarily abandoned for more than twelve (12) months from the date JOGA instituted these proceedings.”*; and

WHEREAS, in addition, the JOGA requests that an economic certification of wells and a list of “legacy wells” (well sites and lease roads that have not been reclaimed following plugging and abandonment) be provided at the same time that Operators request approval for record title assignments, subleases, operating rights, and designation of operator on oil and gas leases; and

WHEREAS, the JOGA recommends that the following section be added to Title 18, CHAPTER 8: RECORD TITLE ASSIGNMENTS, SUBLEASES, DESIGNATIONS OF OPERATOR AND OPERATING AUTHORIZATION ON OIL AND GAS LEASES, §7 – REQUIRED INFORMATION, (F), which would state, *“A certification by the assignor, lessee and/or designated operator or party granting operating authorization that all wells on the subject lands are economic, and if not, will provide a plugging and abandonment/reclamation plan for those wells deemed to be uneconomic, a plan that will be carried out prior to the approval by the Director”*; and

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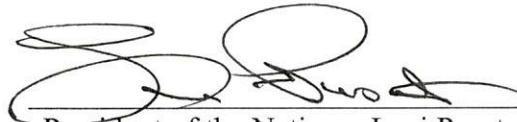
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WHEREAS, the JOGA recommends that the following section be added to Title 18, CHAPTER 8: RECORD TITLE ASSIGNMENTS, SUBLEASES, DESIGNATIONS OF OPERATOR AND OPERATING AUTHORIZATION ON OIL AND GAS LEASES, §7 – REQUIRED INFORMATION, (G), which would state, “*A certification by the assignor, lessee and/or designated operator or party granting operating authorization that all well locations on the subject lands that have been plugged and abandoned have been reclaimed, and if not, will provide a reclamation plan for those well sites and lease roads not yet reclaimed, a plan that will be carried out within a reasonable time prior to or after approval by the Director*”; and

WHEREAS, the Legislative Council finds that it is in the best interest of the Nation to adopt the recommended changes to allow the Nation to maximize revenue through the efficient development of its oil and gas resources while providing for the P&A’ng of uneconomic wells protecting the Nation’s cultural and environmental resources.

NOW, THEREFORE, BE IT ORDAINED, the Legislative Council of the Jicarilla Apache Nation hereby approves the revised Title 18 – Oil and Gas Ordinance and the revisions are incorporated in the Jicarilla Apache Nation Code, superseding all previous Ordinances.



President of the Nation – Levi Pesata

CERTIFICATION

The foregoing Ordinance was enacted upon by the Legislative Council of the Jicarilla Apache Nation on the 4th day of February, 2019, by a vote of 8 for, 0 against, 0 abstaining, at a duly called meeting at which a quorum of the Legislative Council members were present.

ATTEST:



Secretary of the Nation – Merldine Oka