

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

2006 JUN 8 AM 11 52
NMOCD - ACOI-5-A

IN THE MATTER OF MAR OIL & GAS CORP.,

Respondent.

**AMENDED
AGREED COMPLIANCE ORDER**

Pursuant to the New Mexico Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38, as amended ("Act"), the Director of the Oil Conservation Division ("OCD") and Mar Oil & Gas Corp. ("Operator") enter into this Amended Agreed Compliance Order ("Amended Order") that replaces ACOI-5, entered into by Operator and the OCD on January 24, 2005.

Under this Amended Order, Operator agrees to pay a penalty for failing to comply with ACOI-5, to bring wells identified herein into compliance with the Act and OCD Rule 201 [19.15.4.201 NMAC] in accordance with the following agreed schedule and procedures, and agrees to pay penalties as set out below if it fails to meet the schedule set out in this Amended Order.

FINDINGS

1. The OCD is the state division charged with administration and enforcement of the Act, and rules and orders adopted pursuant to the Act.
2. Operator is a corporation doing business in the state of New Mexico, operating wells under OGRID 151228.
3. OCD Rule 201 [19.15.4.201 NMAC] states, in relevant part:

"A. The operator of any of the following wells, whether cased or uncased, shall be responsible for the plugging thereof: wells drilled for oil or gas; or service wells including but not limited to seismic, core, exploration or injection wells.

B. A well shall be either properly plugged and abandoned or placed in approved temporary abandonment in accordance with these rules within 90 days after:

....

....

(3) a period of one year in which a well has been continuously inactive."

4. On January 24, 2005, the OCD executed agreed compliance order ACOI-5 with Operator, under which Operator agreed to bring 44 identified inactive wells into compliance with Rule 201 under an agreed schedule. ACOI-5 required Operator to file a monthly compliance report identifying the wells returned to compliance under the order, and pay a penalty (after a one month grace period) if it failed to meet its monthly compliance schedule.
5. Operator last filed a monthly compliance report under ACOI-5 in September 2005. Operator has reported that it returned 12 of the wells identified in ACOI-5 to compliance as defined in that agreement as of June 1, 2006. According to the schedule set out in ACOI-5 Operator should have returned 29 wells to compliance by the end of May 2006.
6. According to Operator, the following wells originally covered by ACOI-5 remain out of compliance:

30-025-04434	Eumont Hardy Unit #032
30-025-04435	Eumont Hardy Unit #042
30-025-23169	Sawyer 4 State #001
30-025-23054	Adlong 5, #001
30-025-23851	Eumont Hardy Unit #048
30-025-00519	Malmar Unit #309
30-025-00518	Malmar Unit #310
30-025-00514	Malmar Unit #211
30-025-00516	Malmar Unit #0316
30-025-00542	Malmar Unit #101
30-025-00541	Malmar Unit #102
30-025-00534	Malmar Unit #204
30-025-00532	Malmar Unit #206
30-025-00540	Malmar Unit #112
30-025-00538	Malmar Unit #114
30-025-01468	Malmar Unit #103
30-025-23951	SFPRR #013
30-025-23616	SFPRR #009
30-025-23623	SFPRR #008
30-025-23588	SFPRR #005
30-025-23625	SFPRR #011
30-025-23624	SFPRR #010
30-025-25556	SFPRR #023
30-025-27145	Pearl Marr
30-025-25329	Santa Fe #003
30-025-06230	Eumont Hardy Unit #009
30-025-06229	Eumont Hardy Unit #010
30-025-06225	Eumont Hardy Unit #018
30-025-06226	Eumont Hardy Unit #020

7. The following wells, not covered by ACOI-5, have been inactive for a continuous period exceeding 15 months and have not been properly plugged and abandoned or placed on approved temporary abandonment status:

30-025-06265	Eumont Hardy Unit #004
30-025-06217	Eumont Hardy Unit #016
30-025-06423	Eumont Hardy Unit #028
30-025-06679	Eumont Hardy Unit #046
30-025-01470	Malmar Unit #104
30-025-01469	Malmar Unit #106
30-025-24746	State 5 #001
30-025-24278	TP #001

8. Operator has requested an amendment to ACOI-5 covering the wells identified in Findings Paragraphs 6 and 7 above, and extending the time for bringing those wells into compliance.
9. Operator states that he was unable to keep to the schedule set in ACOI-5 because of difficulty obtaining cement and rigs, and personnel turnover.
10. NMSA 1978, Section 70-2-31(A) authorizes the assessment of civil penalties of up to one thousand dollars per day per violation against any person who knowingly or willfully violates any provision of the Oil and Gas Act or any rule or order adopted pursuant to the Act.
11. NMSA 1978, Section 70-2-3(A) defines "person" in relevant part as
"any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate or other entity..."

CONCLUSIONS

1. The OCD has jurisdiction over the parties and subject matter in this proceeding.
2. Operator is subject to civil penalties under ACOI-5 for its failure to comply with the schedule set out in that order.
3. The wells identified in Findings Paragraphs 6 and 7 are out of compliance with Rule 201.
4. As operator of the wells identified in Findings Paragraphs 6 and 7, Operator is responsible for returning those wells to compliance with Rule 201.

5. Operator is a “person” as defined by OCD Rule 7.P(2) and may be subject to civil penalties for knowing and willful violations of the Oil and Gas Act or rules or orders adopted pursuant to the Act.

ORDER

1. Taking into account both aggravating and mitigating factors, Operator is assessed a penalty of \$5,000 for its failure to comply with ACOI-5. The payment shall be made by check made out to “New Mexico Oil Conservation Division,” and mailed or hand-delivered to the following address prior to execution of the Amended Order:

EMNRD Oil Conservation Division
1220 South St. Francis Drive
Santa Fe, NM 87505
Attn: Gail MacQuesten

2. Operator agrees to bring at least 10 of the wells identified in Findings Paragraphs 6 and 7 into compliance with OCD Rule 201 by November 30, 2006 by
 - (a) restoring the well to production or other OCD-approved beneficial use and filing a C-115 documenting such production or use;
 - (b) causing the wellbore to be plugged in accordance with OCD Rule 202.B(2) and filing a C-103 describing the completed work; or
 - (c) placing the well on approved temporary abandonment status pursuant to OCD Rule 203.

Transfer of a well identified in Findings Paragraphs 7 and 9 to another operator does not count towards Operator’s obligation to return wells to compliance under the terms of this Amended Order, but does reduce the total number of wells for which Operator is responsible under the terms of this Amended Order.

2. Operator shall file a compliance report by November 30, 2006 using the OCD’s web-based on-line application, identifying each well returned to compliance, stating the date it was returned to compliance, and describing how the well was returned to compliance (restored to production or other approved beneficial use, plugged wellbore, approved temporary abandonment status).
3. When the OCD receives a timely compliance report indicating that Operator has returned at least 10 wells to compliance by November 30, 2006 and verifies the accuracy of that report, the OCD shall issue an amendment to this Amended Order extending its terms for an additional six-month period. OCD shall provide a copy of that amendment to Operator at Operator’s address of record provided pursuant to OCD Rule 100.C. If, in any six-month period, Operator returns more than 10 wells to compliance, the wells in excess of the number required will count towards the Operator’s requirements for the next six-month period.

4. If Operator continues to return wells to compliance at a rate of at least 10 wells each six-month period, OCD shall continue to issue amendments to this Amended Order extending its term for an additional six-month period. The total length of this Agreed Compliance Order, including the initial six-month period and any amendments, shall not exceed two years. At the end of two years, Operator and the OCD may negotiate a new agreed compliance order.
5. If Operator fails to bring at least 10 wells into compliance in any six-month period covered by this Amended Order or amendments issued to this Amended Order pursuant to Ordering Paragraphs 3 or 4, Operator agrees to pay a penalty of \$1000 times the number of wells it failed to bring into compliance under its schedule during the applicable six month period. In the event the Operator encounters unanticipated circumstances that prevent it from meeting its 10-well goal, Operator may file an administrative application with the OCD to request a waiver or reduction of the penalty, and serve the OCD's Enforcement and Compliance Manager with a copy of the application. If the Enforcement and Compliance Manager concurs with the Operator's request, the application may be granted administratively. If the Enforcement and Compliance Manager does not concur with the Operator's request, the application shall be set for hearing. Once Operator pays the penalty or files an administrative application to request a waiver or reduction of the penalty, the OCD may, in its discretion, issue an amendment to this Amended Order extending its terms for an additional six-month period.

Example A: Operator X enters into an agreed compliance order under which it agrees to bring 5 wells into compliance in a six-month period. At the end of the six-month period, Operator X has brought only 3 wells into compliance. Operator X pays the \$2000 penalty. The OCD exercises its discretion to issue an amendment extending the term of the agreed compliance order for an additional six-month period, again requiring Operator X to bring at least 5 wells into compliance. During this additional six-month period, Operator brings only one well into compliance. Operator X pays a \$4000 penalty. Although Operator X pays the \$4000 penalty, the OCD exercises its discretion and declines to issue an amendment to extend the terms of the agreed compliance order for an additional six-month period.

Example B: Operator Y enters into an agreed compliance order under which it agrees to bring 10 wells into compliance in a six-month period. Although Y has made arrangements for plugging the 10 wells, due to adverse weather conditions and mechanical difficulties with the available plugging rig, Y is able to plug only 3 wells. Y files an administrative application for hearing seeking to waive the \$7000 penalty, and serves the Enforcement and Compliance Manager with a copy of the application. The Enforcement and Compliance Manager does not concur with the application's request to waive the full amount of the penalty, so the application is set for hearing. The OCD exercises its discretion and issues an

amendment to extend the terms of the agreed compliance order for an additional six-month period.

6. Thirty days after the expiration of the term of this Amended Order and any amendments to this Amended Order issued pursuant to Ordering Paragraphs 3, 4 or 5, any wells identified in Findings Paragraphs 6 and 7 not in compliance with OCD Rule 201 will appear on the inactive well list kept pursuant to OCD Rule 40.F.
7. By signing this Amended Order, Operator expressly:
 - (a) acknowledges the correctness of the Findings and Conclusions set forth in this Amended Order;
 - (b) agrees to return to compliance 10 of the wells identified in Findings Paragraphs 6 and 7 by November 30, 2006, and agrees to comply with the compliance deadlines set by any amendments to this Amended Order;
 - (c) agrees to submit a compliance report as required in Ordering Paragraph 2 and the deadline set by any amendments to this Amended Order;
 - (d) agrees to pay penalties as set out in Ordering Paragraph 5 if it fails to return 10 wells to compliance under the deadlines set by this Amended Order or any amendments to this Amended Order;
 - (e) waives any right, pursuant to the Oil and Gas Act or otherwise, to a hearing either prior to or subsequent to the entry of this Amended Order or to an appeal from this Amended Order; and
 - (f) agrees that the Amended Order and amendments issued pursuant to Ordering Paragraphs 3, 4 or 5 may be enforced by OCD or Oil Conservation Commission Order, by suit or otherwise to the same extent and with the same effect as a final Order of the OCD or Oil Conservation Commission entered after notice and hearing in accordance with all terms and provisions of the Oil and Gas Act.
8. This Amended Order applies only to those wells identified in Findings Paragraphs 6 and 7. Other wells operated by Operator out of compliance with Rule 201 may be subject to immediate enforcement action under the Oil and Gas Act.
9. The Oil Conservation Division reserves the right to file an application for hearing to obtain authority to plug any well identified in Findings Paragraphs 6 and 7 and forfeit the applicable financial assurance if the well poses an immediate environmental threat.

Done at Santa Fe, New Mexico this 8th day of June, 2006

By: 
for Mark Fesmire, P.E.
Director, Oil Conservation Division

ACCEPTANCE

Mar Oil & Gas Corp. hereby accepts the foregoing Amended Order, and agrees to all of the terms and provisions set forth in that Amended Order.

Mar Oil & Gas Corp.

By: _____



(please print name): Leon A. Romeo

Title: President

Date: 6/7/06