

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

ACO 08- 240

**IN THE MATTER OF CIMAREX ENERGY CO. OF COLORADO,
Respondent.**

**AGREED ORDER DIRECTING COMPLIANCE
AND ASSESSING CIVIL PENALTY**

Pursuant to the New Mexico Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38, as amended (Act), and the rules promulgated under the Act, the Director of the Oil Conservation Division of the Energy Minerals and Natural Resources Department of the State of New Mexico (OCD) issues this Order to Cimarex Energy Co. of Colorado (Cimarex) directing compliance with the Act and OCD rules, and assessing a penalty for violations of the Act and OCD rules.

I. FINDINGS & DETERMINATIONS BY THE OCD

1. The OCD is the state division charged with administration and enforcement of the Act and OCD rules.
2. Cimarex is a corporation operating wells in New Mexico under OGRID 162683.
3. Cimarex is the operator of record for wells located in New Mexico, including the following wells:
 - Crow Flats 16 State Com #002, 30-015-35556
 - Homer State Com #001, 30-015-35559
4. In April 2007 the OCD approved applications for permits to drill from Cimarex for the Crow Flats 16 State Com #002 and the Homer State Com #001, and according to Sundry Notices filed by Cimarex with the OCD, Cimarex drilled both wells in July 2007.
5. According to OCD records, no production has been reported for either the Crow Flats 16 State Com #002 or the Homer State Com #001 well.
6. According to records provided by the Royalty Management Division of the State Land Office (SLO), the Crow Flats 16 State Com #002 well has been producing from August 2007 through January 2008, and \$719,504.00 in royalties are being held in suspense for that well because a production unit number (PUN)/lease number does not exist for the well.

7. According to records provided by the Royalty Management Division of the SLO, the Homer State Com #001 well has been producing from August 2007 through January 2008, and \$105,691.00 in royalties are being held in suspense for that well because a PUN/lease number does not exist for the well.
8. A PUN/lease number cannot be generated until the OCD has approved a C-104 form, authorizing the operator to transport oil or natural gas from the well.
9. The OCD has not approved a C-104 form for either of the two wells identified above.
10. In written correspondence with the SLO, Cimarex personnel acknowledged that they did not have approved C-104s for the two wells identified above. In conversations with SLO personnel, Cimarex personnel stated that the OCD was not approving C-104s for Cimarex because Cimarex had too many wells out of compliance with the inactive well rule [19.15.4.201 NMAC], and they knew the OCD would not approve C-104s for the wells while they were out of compliance. See 19.15.1.40.A(4) NMAC [Rule 40] and 19.15.13.1104 NMAC.
11. Rule 19.15.13.1104 NMAC [Rule 1104] sets out the requirements for obtaining an assignment of allowable and authorization to transport oil or natural gas from a newly completed well, which include the filing of a C-104 for approval.
12. Rule 19.15.10.803.B NMAC [Rule 803.B] provides, in relevant part, that gas produced without an approved form C-104 designating the gas transporter and the oil or condensate transporter for said well shall be considered to be unauthorized production.
13. Rule 19.15.10.804 NMAC [Rule 804] provides, in relevant part, that “all off-lease transportation of crude oil or lease condensate by motor vehicle shall be pursuant to an approved form C-104....”
14. Rule 19.15.13.1115 NMAC [Rule 1115] sets out the requirements for reporting production.
15. NMSA 1978, Section 70-2-31(A) provides that “any person who knowingly and willfully violates any provision of the Oil and Gas Act or any provision of any rule or order issued pursuant to that act shall be subject to a civil penalty of not more than one thousand dollars (\$1,000) for each violation. For purposes of this subsection, in the case of a continuing violation, each day of violation shall constitute a separate violation.”
16. NMSA 1978, Section 70-2-33(A) defines “person” to include “any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate or other entity.”
17. On May 23, 2008, the OCD issued Notice of Violation (5-08-01) to Cimarex, alleging violations of Rules 1104, 803.B, 804, and 1115.

18. On May 30, 2008, the OCD conducted a compliance conference with Cimarex.

II. STATEMENTS & ADDITIONAL INFORMATION PROVIDED BY CIMAREX

19. At the compliance conference conducted on May 30, 2008, Cimarex provided the following information:

- a. Cimarex acknowledged that it produced both wells without approved C-104s.
- b. Cimarex indicated that it strongly supports the objective of rule 40. Accordingly, it had an internal Rule 40 compliance tracking procedure in place, to assure that their inactive well list remained at seven (7) wells or less. Due to increased activity, loss of key personnel, loss of a plugging rig, and communication breakdown between the production and regulatory departments, their tracking program proved inadequate.
- c. Cimarex denied that it intended to deceive the OCD regarding the production.
- d. Cimarex has instituted new internal procedures to improve the tracking of its inactive wells, to maintain compliance with Rule 40. These new procedures will now be the responsibility of a single department within the production operations group.
- e. Cimarex has instituted new internal procedures to ensure that wells without approved C-104s will be shut in. These new procedures will now be the responsibility of a single department within the production operations group.
- f. Cimarex has applied for C-104s for the two wells, and is currently in compliance with Rule 40.

III. CONCLUSIONS OF THE OCD

20. The OCD has jurisdiction over the parties and subject matter in this proceeding.
21. Cimarex is a person as defined by NMSA 1978, § 70-2-33(A) that may be subject to civil penalties under NMSA 1978, §70-2-31(A).
22. Cimarex is subject to civil penalties under NMSA 1978, § 70-2-31(A) for violating Rules 1104, 803.B, 804 and/or 1115.A as to the Crow Flats 16 State Com #002 and the Homer State Com #001.

IV. ORDER & CIVIL PENALTY ASSESSMENT

23. Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty against Cimarex totaling \$12,000 for violations of Rules 1104, 803.B, 804 and/or 1115.A as to the Crow Flats 16 State Com #002 and the Homer State Com #001.

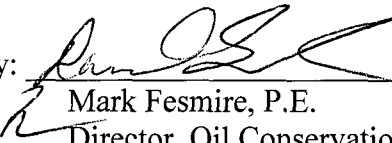
24. The civil penalty shall be paid at the time Cimarex executes this Order. Payment shall be made by check payable to the "New Mexico Oil Conservation Division," and mailed or hand-delivered to the New Mexico Oil Conservation Division, Attention: Director, 1220 South Saint Francis Drive, Santa Fe, New Mexico 87505.

25. By signing this Order, Cimarex expressly:

- a. acknowledges the authority of the OCD to render the above "Findings & Determinations," "Conclusions" and "Order & Civil Penalty Assessment";
- b. agrees to comply with the Order, specifically as articulated in Section "IV," Paragraphs 23 and 24, above;
- c. waives any right, pursuant to the Oil and Gas Act or otherwise, to a hearing either prior or subsequent to the entry of this Order or to an appeal from this Order;
- d. agrees that if it fails to comply with this Order, the Order may be enforced by suit or otherwise to the same extent and with the same effect as a final Order of the Division entered after notice and hearing in accordance with all terms and provisions of the Oil and Gas Act;

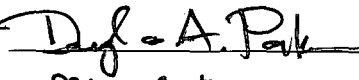
29. Nothing in this Order relieves Cimarex of its responsibility for compliance with any other federal, state or local laws and/or regulations.

Done at Santa Fe, New Mexico this 12th day of June 2008.

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

ACCEPTANCE

CIMAREX ENERGY CO. OF COLORADO (OGRID 162683) hereby accepts the foregoing Order, and agrees to all of the terms and provisions as set forth in the Order.

By: 
Title: DRILLING & COMPLETION MANAGER
Date: 6/9/08