

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

**IN RE NOTICE OF VIOLATION
ISSUED TO LLJ VENTURES, LLC
dba MARKER OIL & GAS**

**CASE NO. 22223
ORDER NO. R-22176**

ORDER

This matter came before the Director of the New Mexico Oil Conservation Division (“Division” or “OCD”) on the Notice of Violation (“NOV”) issued to LLJ Ventures, LLC dba Marker Oil & Gas, OGRID #372279 (“Operator”). The Division conducted a public hearing on December 1, 2021. The Director, having considered the testimony and evidence presented, and being otherwise fully advised in the premises, enters the following findings, conclusions and order:

FINDINGS

1. The Division has jurisdiction over the parties and the subject matter herein.
2. On July 20, 2021, the Division issued the NOV, which alleged three violations (OCD ex. 2):
 - a. Operator has more inactive wells out of compliance with 19.15.25.8 NMAC than are allowed by 19.15.5.9(A)(4)(b) NMAC. At the time of the NOV, Operator was the registered operator of 165 wells in the state of New Mexico. Under 19.15.5.9(A)(4)(b) NMAC, as the operator of between 101 and 500 wells, Operator was not permitted to have more than five inactive wells not in compliance with 19.15.26.8 NMAC, which requires inactive wells to be plugged and abandoned or placed into approved temporary abandonment status. At the

time of the NOV, Operator had 116 inactive wells, listed in Table 1 of the NOV, which were not plugged and abandoned or placed into temporary abandonment status.

b. Operator does not have sufficient financial assurance for active wells. At the time of the NOV, Operator was registered as the operator of 64 state and private wells, listed in Table 2 of the NOV, that were subject to the active well financial assurance requirements and for which no financial assurance had been provided. 19.15.8.9(C) NMAC requires either single well financial assurance or a blanket plugging well financial assurance of one hundred twenty-five thousand dollars (\$125,000) for operators with 51 to 100 qualifying active wells.

c. Operator does not have sufficient financial assurance for inactive wells. At the time of the NOV, Operator was registered as the operator of 30 state and private wells, listed in Table 3 of the NOV, that were subject to the inactive well financial assurance requirements and for which either no or inadequate financial assurance had been provided. 19.15.8.9(D) NMAC requires either one well financial assurance for each well or blanket plugging inactive well financial assurance of one million dollars (\$1,000,000) for operators with more than 25 qualifying inactive wells. At the time of the NOV, Operator had no blanket financial assurance and a total of \$12,904 in single well financial assurance for two wells. The single well financial assurance amounts did not meet the amounts needed for single well financial assurance. The actual and required amounts are listed in the NOV.

3. For these violations, the Division requested an Order:
 - a. requiring the Operator to plug and abandon 111 of the wells listed in Table 1 of the NOV by a date certain or, if the Operator fails to plug and abandon the wells, to allow the Division to do so,
 - b. requiring the Operator to provide blanket plugging financial assurance in the amount of \$125,000 for the wells identified in Table 2;
 - c. requiring the Operator to provide either blanket plugging financial assurance of \$1,000,000 or one well financial assurance in the required amounts for the wells identified in Table 3;
 - d. terminating LLJ's authority to transport from the sixty four (64) registered wells identified in Table 2;
 - e. assessing civil penalties as specified below for violations of:
 - 19.15.5.9(A)(4)(a) NMAC: \$44,400;
 - 19.15.8.9(C) NMAC: \$22,400; and
 - 19.15.8.9(D) NMAC: \$10,500.
4. The NOV informed the Operator of the informal resolution process and stated that if the NOV cannot be resolved informally, OCD will request a hearing on October 6, 2021.
5. Operator did not contact the Division during the informal resolution period.
6. On September 22, 2021, the Division filed and served the Docketing Notice and requested a hearing on October 6, 2021. OCD ex. 3, 4. Marker agreed that he signed for the Notice. (Tr. 19).

7. The Division gave notice of the hearing as required by 19.15.5.10 NMAC. The hearing was scheduled for October 6, 2021, and was continued to December 1, 2021 to allow the Operator more time to answer the NOV.
8. Operator did not file an answer to the NOV as allowed by 15.15.5.10 (E)(2)(b) NMAC.
9. A hearing on the NOV was held on December 1, 2021 before a Division Hearing Examiner. Operator appeared through its owner, Larry Marker (“Marker”). The Division appeared through its counsel, Jesse Tremaine.
10. The Division presented the testimony of one witness, Rob Jackson, Compliance Officer and Bond Administrator with the Division’s Administrative and Compliance Bureau. The Division offered 15 exhibits in support of the testimony.
11. Mr. Jackson testified in support of the violations listed in the NOV and further testified that those violations were ongoing.
12. The continuing violations were documented by the testimony of Mr. Jackson and exhibits that were printouts from the Division compliance system.
 - a. Operator remains out of compliance with inactive well requirements. 19.15.5.9(A)(4)(b) NMAC. As of November 24, 2021, Operator had 150 wells of which 87 were inactive wells that had not been plugged and abandoned or placed in approved temporary abandonment status. (OCD Ex. 10, 14; Tr. 24, 32-33).
 - b. Operator remains out of compliance with the financial assurance requirements for active wells. 19.15.8.9(C) NMAC. As of November 29, 2021, Operator is registered as the operator of 50 wells that are subject to the active well financial assurance requirements. The rules require either a blanket bond of

\$75,000 or adequate single well bonds for each well. Operator has neither an appropriate blanket bond nor adequate single well financial assurance covering those wells. Operator has three single well bonds but none of them have the amounts required by regulation. (OCD ex. 15; Tr. 33-38).

c. Operator remains out of compliance with the financial assurance requirements for inactive wells. 19.15.8.9(D) NMAC. Operator is registered as the operator of 21 wells that are subject to the inactive well financial assurance requirements. Operator has neither an appropriate blanket bond nor adequate single well financial assurance covering those wells. (Tr. 38-42).

13. OCD provided documentation of the calculations used to determine the proposed penalty amounts in accordance with OCD penalty guidance (OCD ex. 5, 6, 7; Tr. 20-22).
14. Operator, during cross examination of Mr. Jackson and in direct testimony, raised issues related to a prior blanket bond that had been cancelled and to change of well ownership applications that had not been approved. Operator did not provide any exhibits to support his claims.
15. Operator testified that he understood the regulatory requirements but had not been able to comply for various reasons. Marker stated that he was “well aware of the bonding requirement” (Tr. 54) and that he had appealed the financial assurance rule changes to the Court of Appeals. (Tr. 71, 74). Marker also testified that he had failed to maintain compliance with reporting requirements. (Tr. 92).

Q (Tremaine). How many wells are you behind in reporting on?

A (Marker). Everything that I have got.

Q. How far behind?

A. I'm going to say at least six to eight months.

Q. Are you testifying today that in the last six to eight months these wells have been producing and you have not reported?

A. Some of these wells have been producing and I haven't reported them. Haven't got them reported yet. That'd be a lie if I told you any other.

16. Based on the testimony and evidence presented at the hearing, the Director concludes that Operator violated and is continuing to violate:

a. 19.15.5.9(A)(4)(a) NMAC, by failing to plug and abandon inactive wells. As the operator of 150 inactive wells on November 24, 2021, Operator was permitted to have no more than five inactive wells not in compliance with 19.15.26.8 NMAC, which requires inactive wells to be plugged and abandoned or placed into approved temporary abandonment status. As of November 24, 2021, Operator had 87 inactive wells that were not plugged and abandoned or placed into temporary abandonment status (OCD ex. 14);

b. 19.15.8.9 (C), by failing to provide sufficient active well financial assurance. As of November 29, 2021, Operator had 50 wells that are subject to the active well financial assurance requirements. Operator has neither an appropriate blanket bond nor adequate single well financial assurance covering those wells.; and

c. 19.15.8.9 (D), by failing to provide sufficient inactive well financial assurance. As of November 21, 2021, Operator had 21 wells that were subject to the inactive well

financial assurance requirements. Operator has neither an appropriate blanket bond nor adequate single well financial assurance covering those wells

17. The Oil and Gas Act provides that “[i]n assessing a penalty authorized by this section, the division shall take into account the seriousness of the violation, any good faith efforts to comply with the applicable requirements, any history of noncompliance under the Oil and Gas Act and other relevant factors.” NMSA 1978, §70-2-31(C). The Director notes the significant number of wells involved in these violations and the continuing violations.
18. The Director concludes that the sanctions proposed by the Division are allowed by law, 19.15.5.10(B) NMAC, and are supported by the record in this case.

ORDER

1. Operator’s authority to transport from all wells is hereby suspended until such time as Operator is in compliance with all production reporting, financial assurance, and inactive well requirements.
2. Operator shall plug and abandon at least eighty-two (82) of the wells listed in exhibit 14 no later than 30 days after issuance of this Order.
3. If Operator fails to plug and abandon the wells as provided in Ordering paragraph 2 within 30 days of issuance of this Order, the Division shall be authorized to plug and abandon the wells and to forfeit the financial assurance for the wells. Operator shall pay the excess cost to plug and abandon the wells no later than 30 days after actual or attempted service of the Division’s written demand.
4. Operator is assessed civil penalties in the amount of seventy-seven thousand three hundred dollars (\$77,300).

5. The Division retains jurisdiction of this matter for the entry of such further orders as it may deem necessary.

**STATE OF NEW MEXICO
OIL CONSERVATION DIVISION**



**ADRIENNE SANDOVAL
DIRECTOR**
AES/bb

Date: 7/01/2022