

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

**ACO 08- 237**

**IN THE MATTER OF MGM OIL & GAS CO.,  
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 MGM Oil & Gas Co. ("MGM") 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. MGM is a corporation operating wells in New Mexico under OGRID 14771.
3. On December 14, 2004 the OCD filed the amended application in Case 13374, alleging that MGM had falsely reported production on the following six inactive wells in violation of NMSA 1978, Section 70-2-31(B)(2) and Rule 19.15.13.115.A NMAC [Rule 1115.A], and alleging that the wells were in violation of the inactive well rule, Rule 19.15.4.201 NMAC [Rule 201]:

|                           |              |
|---------------------------|--------------|
| Kemnitz Wolfcamp Unit #6  | 30-025-01918 |
| Kemnitz Wolfcamp Unit #9  | 30-025-01921 |
| Kemnitz Wolfcamp Unit #19 | 30-025-01272 |
| Kemnitz Wolfcamp Unit #21 | 30-025-01274 |
| Kemnitz Wolfcamp Unit #22 | 30-025-01273 |
| Kemnitz Wolfcamp Unit #28 | 30-025-01944 |
4. MGM subsequently entered into Agreed Compliance Order 46 ("ACO 46") to resolve the issues in Case 13374, and that case was dismissed.
5. In ACO 46, MGM acknowledged filing false reports of production on five of the six wells identified in Case 13374 in violation of NMSA 1978, Section 70-2-31(B)(2) and Rule 1115.A, and paid a penalty of \$2,500. MGM claimed that it had production in the Kemnitz Wolfcamp Unit #9.

6. Under the terms of ACO 46 MGM also agreed to return the non-producing wells identified in the order to compliance with Rule 201, and agreed to the following:

Within one week of restoring one of the subject wells to production MGM must conduct a 24-hour test to measure oil, gas and water produced from the well, and conduct the test annually thereafter. MGM shall provide at least 24-hour notice to the OCD prior to conducting the tests. Test results must be submitted on a C-104. A well "restored to production" by swabbing must successfully pass the mechanical integrity test required under 19.15.4.203 NMAC.

ACO 46, page 5, paragraph 4 (emphasis added). These terms were also the subject of a December 21, 2004 letter from the OCD to counsel for MGM during negotiations on the agreed compliance order.

7. MGM plugged the Kemnitz Wolfcamp Unit #6, 30-025-01918, filed C-115 reports indicating that the four remaining identified wells were returned to production, and filed initial test results on C-104s. It did not, however, conduct annual tests on the four wells returned to production and submit the test results, as required by ACO 46.
8. 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."
9. On February 21, 2008, the OCD issued Notice of Violation (1-08-01) to MGM, alleging a violation of the terms of ACO 46 as to the following four wells identified in that order: Kemnitz Wolfcamp Unit #19, Kemnitz Wolfcamp Unit #21, Kemnitz Wolfcamp Unit #22, and Kemnitz Wolfcamp Unit #28.
10. NOV (1-08-01) also alerted MGM that the OCD had conducted well site inspections on the wells identified in Case 13374, and that it appeared that the following five wells reporting production were not active:

|                           |              |
|---------------------------|--------------|
| Kemnitz Wolfcamp Unit #9  | 30-025-01921 |
| Kemnitz Wolfcamp Unit #19 | 30-025-01272 |
| Kemnitz Wolfcamp Unit #21 | 30-025-01274 |
| Kemnitz Wolfcamp Unit #22 | 30-025-01273 |
| Kemnitz Wolfcamp Unit #28 | 30-025-01944 |

The OCD required MGM to confirm production on these wells.

## **II. STATEMENTS & ADDITIONAL INFORMATION PROVIDED BY MGM**

11. At a compliance conference conducted on April 9, 2008 and during phone calls following up on the conference, MGM provided the following information:

a. MGM confirmed that it had filed the initial test results for the four wells returned to production, but did not file annual test results, as required by ACO 46.

b. MGM stated that the Kemnitz Wolfcamp Unit #9, #19, #21, #22, and #28 were in fact producing, although some or all of the wells were not producing on the day of the OCD's site inspection because they were temporarily shut-in due to weather conditions.

c. After reviewing its production reports with the OCD at the conference, MGM confirmed that it is averaging gas production among certain wells.

## **III. CONCLUSIONS OF THE OCD**

12. The OCD has jurisdiction over the parties and subject matter in this proceeding.

13. MGM 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).

14. MGM is subject to civil penalties under NMSA 1978, § 70-2-31(A) for violating ACO 46's requirement that it conduct annual tests and file test results as to the following wells: Kemnitz Wolfcamp Unit #19, Kemnitz Wolfcamp Unit #21, Kemnitz Wolfcamp Unit #22, and Kemnitz Wolfcamp Unit #28.

15. MGM shall conduct 24-hour tests to measure oil, gas and water produced from the following wells, witnessed by the OCD, and submit those test results on a C-104:

- |                             |              |
|-----------------------------|--------------|
| • Kemnitz Wolfcamp Unit #9  | 30-025-01921 |
| • Kemnitz Wolfcamp Unit #19 | 30-025-01272 |
| • Kemnitz Wolfcamp Unit #21 | 30-025-01274 |
| • Kemnitz Wolfcamp Unit #22 | 30-025-01273 |
| • Kemnitz Wolfcamp Unit #28 | 30-025-01944 |

16. MGM shall review the reporting requirements of 19.15.13.1136 NMAC [Rule 1136] and 19.115.6.403 NMAC [Rule 403] and obtain approval for allocation measurement prior to filing reports allocating production among wells.

## **IV. ORDER & CIVIL PENALTY ASSESSMENT**

17. Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty against MGM totaling \$4,000 for violations of ACO 46's annual testing requirements as to the following four wells: Kemnitz Wolfcamp Unit #19, Kemnitz Wolfcamp Unit #21, Kemnitz Wolfcamp Unit #22, and Kemnitz Wolfcamp Unit #28.

18. The civil penalty shall be paid at the time MGM 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.

19. No later than June 30, 2008, MGM shall conduct a 24-hour test on each of the following wells to measure oil, gas and water produced from the well:

- Kemnitz Wolfcamp Unit #9 30-025-01921
- Kemnitz Wolfcamp Unit #19 30-025-01272
- Kemnitz Wolfcamp Unit #21 30-025-01274
- Kemnitz Wolfcamp Unit #22 30-025-01273
- Kemnitz Wolfcamp Unit #28 30-025-01944

MGM shall notify the OCD at least 48 hours prior to each test, so that the OCD may witness the test. MGM shall file a C-104 reporting the results of each test.

20. MGM shall not file reports allocating production among wells without approval for allocation pursuant to 19.15.13.1136 NMAC [Rule 1136] and 19.15.6.403 NMAC [Rule 403].

21. By signing this Order, MGM 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 17-20, 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;

22. Nothing in this Order relieves MGM of its liability should its operations fail to adequately investigate and remediate contamination that poses a threat to ground water, surface water, human health or the environment. In addition, nothing in this

Order relieves MGM of its responsibility for compliance with any other federal, state or local laws and/or regulations.

Done at Santa Fe, New Mexico this 9<sup>th</sup> day of June 2008.

By: Mark Fesmire

Mark Fesmire, P.E.

Director, Oil Conservation Division

**ACCEPTANCE**

**MGM OIL & GAS CO.** (OGRID 14771) hereby accepts the foregoing Order, and agrees to all of the terms and provisions as set forth in the Order.

By: Greg Maruza

Title: GREG MARUZA

Date: 5/30/2008