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Hand Delivered

National Energy Board
444 Seventh Avenue SW
Calgary, AB T2P 0X8

Re: RESPONSE OF MGM ENERGY CORP. ("MGM Energy") to the Draft Financial Viability and Financial Responsibility Guidelines dated May 13, 2013

MGM Energy provides the following comments on the Draft Financial Viability and Financial Responsibility Guidelines issued by the National Energy Board on May 13, 2013 ("Draft Guidelines").

MGM Energy has been the most active explorer in the Northwest Territories since it began operation in 2007, having safely and successfully drilled 11 wells in the Northwest Territories, including the I-78 well drilled in the 2012-2013 winter drilling season. Since 2006, MGM Energy has amassed a significant land position in the Central Mackenzie Valley and now operates over 800,000 acres of land in the Sahtu Region. With our net land position of 391,000 acres, MGM Energy is one of the largest land holders in the onshore Northwest Territories on an acreage basis.

As a pure northern exploration company, these Draft Guidelines are of particular importance and concern to MGM Energy. MGM Energy's position is that the Draft Guidelines, unless changed, will effectively prevent MGM Energy and other companies from actively exploring on their lands in the Northwest Territories. By eliminating operators like MGM Energy from activity in the Northwest Territories, these Draft Guidelines and the actions of the NEB will significantly negatively impact the level of onshore activity in the Northwest Territories and, by extension, the economic and social opportunities of the North. In addition, the Draft Guidelines create substantial regulatory uncertainty with respect to expectations, outcomes and timelines, and will add to an ever increasing burden on industry while in turn not resulting in any additional safeguards.

Our specific concerns are set out below:

Section 6 – Demonstration of Financial Viability

Section 6 of the Draft Guidelines requires that when confirming Financial Viability, that the Applicant support its application by providing its most recent credit rating reports "which need to be investment grade (B-rating) or above". Very few Canadian E&P companies have an investment grade credit rating. Of the approximately 100 companies listed on the TSX and TSX Venture exchange that are involved in oil and gas activity in Canada and have a value of greater than $25 million, only seven have an investment grade rating or above. These numbers are a stark demonstration that an entire sector of exploration companies (including MGM Energy) would be eliminated from participation in the Northwest Territories should these guidelines be put into effect. There are likely an equal number of private companies of the same size operating in Canada. To impose this condition will preclude activity by any company other than the biggest Canadian and U.S. companies. There are very few

onshore plays in the Northwest Territories other than the Canol shale oil play that are of sufficient size to be of interest to senior and major oil and gas companies. All other on shore plays will only be of interest to smaller companies. To intentionally or through process exclude those companies not only threatens the existence of companies such as ours, but dramatically limits industry activity in the North. Most basins will benefit from and require a vibrant community of junior explorers to fuel exploration and innovation. The Draft Guidelines would preclude the presence of almost all Canadian oil and gas companies by virtue of the requirement that an operator be able to produce credit rating reports that demonstrate investment grade credit rating or above. Moreover, a company's ability to meet such a Financial Viability test is not in fact a measure of its quality and performance as an operator.

Section 3(B)(c) Determining "Cost of Compensation"

Section 3(B)(c) of the Draft Guidelines provides guidance of what should be included in "cost of compensating affected third parties". Companies that intend to conduct oil and gas operations in the Northwest Territories are required to consult with affected parties when they apply for a Land Use Permit and/or Water License. The consultation responsibility is significant and meaningful. Permits are issued only if consultation is deemed adequate by the regulators. In submitting an application to the NEB for Operations Authorization and Approval to Drill a Well, the NEB adopts the preliminary screening conducted by those same regulators that have evaluated the adequacy of our consultation efforts in the context of the Land Use Permit and Water License applications. The Draft Guidelines as presently drafted create substantial uncertainty regarding which regulator is responsible for evaluation of the adequacy of the consultation undertaken by industry and creates the potential for duplication.

In addition, the section provides a list of factors for determining the potential compensation to third parties, which includes "Value of land to the cultural aspects of the northern people and communities". We believe that there is no possible way to objectively value this and therefore it would be impossible to determine.

Definition of "Worst Case Scenario"

The Draft Guidelines are vague as to what is to be considered a "worst case scenario". We believe that clarity is needed as to whether this is a "reasonable", "plausible", "credible" or "probable" event, or simply a possible event. Also, there needs to be clarity to confirm that the "worst case scenario" is a drilling related incident and that the "worst case scenario" is defined with respect to total financial cost and not in terms of non-financial measures.

Role of Insurance in Financial Responsibility

Within Section 1 of the Draft Guidelines, there are references to the applicant demonstrating its "ability to pay" or having "sufficient funds" or the "resources" to fund a worst case scenario. Although later sections in the Draft Guidelines suggest that adequate insurance is one method of demonstrating "Financial Responsibility", it is not clear in Section 1 that insurance is included in the definition of Financial Responsibility. The drafting must be clarified and should reflect that having adequate insurance to cover the "worst case scenario" is sufficient evidence of Financial Responsibility.

"Worst Case Scenario" as a proxy for determining Financial Responsibility

The Draft Guidelines use a "worst case scenario" as the method for determining the amount of letter of credit that will be required for drilling. The letter of credit will be equal to the estimated cost of "stopping and containing an incident". While we agree that some amount of letter of credit should be provided as security

for drilling in case an applicant runs out of funds prior to completion requiring others to pay to complete clean-up of the operations, if the Applicant has sufficient insurance to cover the "worst case scenario", then requiring an additional letter of credit equal to the amount required to "stop and contain an incident" will result in an onerous letter of credit requirement, and amounts to a duplication or "stacking" of security. A substantial letter of credit can be both expensive and difficult, if not impossible, for some companies to obtain. MGM Energy urges that the letter of credit requirements for *onshore activity* be pre-set based on type of drilling activity (shale oil play, onshore gas, conventional oil) so that companies have knowledge before they drill (or, in fact, bid on land) of the letter of credit requirements that will be required in addition to the necessary insurance. MGM Energy makes no comment with respect to the application of these changes to offshore activity.

Section 6 – Demonstration of Financial Viability

Section 6 of the Draft Guidelines requires that when confirming Financial Viability, that the "explanation is to be supported by the submission of the Applicant's audited financial statements". This requirement fails to recognize that audited financial statements are prepared only once a year (at fiscal year-end), whereas an applicant may have raised or received sufficient funds to pay for the proposed operations in the period between one year's audited financial statements and the following year's audited financial statements. As a result, the reference to "financial statements" must instead refer to a company's most recent annual or quarterly financial statements.

Insurance Provisions

There are several new insurance provisions included in the Draft Guidelines, two of which are of concern:

- A requirement for the company to provide "an estimated time required before payout occurs" on the insurance policy. That is impossible to determine as it will be based on the type and amount of claim. An applicant can provide a "best estimate" but it would be the Applicant's own estimate as insurance companies will not confirm what the time required for payout will be.

- That "each policy names the Board as an insured party". Adequate assurance as to coverage is received by the NEB's review of the amount and type of insurance making it unnecessary to add the NEB as an insured party. Furthermore, many insurance providers will not allow for any party (including the Board) to be named as an insured party, making this condition unattainable for a number of operators.

The concerns we have raised in this letter are material. These Draft Guidelines have the potential of creating significant negative consequences to the continuation and participation in oil and gas opportunities in the Northwest Territories. We urge the NEB to give careful consideration to our comments.

Please contact the undersigned if clarification is required.

Yours truly,
MGM Energy Corp.

Henry W. Sykes, QC
President