

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

2007 MAR 2 PM 12 46 NMOCD-07-167

**IN THE MATTER OF MARALEX RESOURCES, INC.
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 regulations 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 (hereinafter "OCD") issues this Order to **Maralex Resources, Inc.** (hereinafter "Maralex") directing compliance with the Act and OCD Rules, and assessing a penalty for violations of the Act and OCD rules.

I. FINDINGS

- 1) The OCD is the state division charged with administration and enforcement of the Act and OCD Rules.
- 2) Maralex is a foreign for-profit Corporation authorized to do business in the State of New Mexico under Public Regulation Commission ("PRC") SCC number 1493774. Maralex has a mailing address of P.O. Box 338, Ignacio, Colorado 81137-0338, with a principal address of 75 Road 4990, Bloomfield, New Mexico. Its registered agent is Victoria A. Velez, 423 Mustang Lane, Bloomfield, New Mexico 87413. Maralex has been assigned OGRID number 13998.
- 3) Maralex operates the Trading Post 31 Well #1, Section 31, Township-25 North, Range-10 West, San Juan County, New Mexico, API #30-045-33233. *Aug*
- 4) C-115s filed by Maralex show that Trading Post 31 #1 well was in production before receiving an approved C-104, Request for Allowable and Authorization to Transport. As a result, the OCD did a document review on the well.
- 5) The OCD's investigation and review of the Trading Post 31 #1 well documents found the following:
 - a. Casing sundries and a deviation report were received by the OCD from Maralex on September 9, 2006.
 - b. On September 13, 2006, the OCD received a Form C-104, Request for Allowable

and Authorization to Transport, on the well. The C-104 could not be processed until the logs and Form 3160-4, Completion Report, were received.

- c. On September 20, 2006, the OCD received Form 3160-4, Completion Report, from the Bureau of Land Management ("BLM"). However, Form 3160-4 was incomplete and could not be processed until missing information was provided. The missing information included the names of the formation tops and the depth below the grade surface of the formation tops.
 - d. Form 3160-4 did show that Trading Post 31 Well #1 was spud July 7, 2006, and completed and ready to produce on August 31, 2006.
 - e. By e-mail sent to production@maralexresources.com on September 28, 2006, Deputy Oil and Gas Inspector Karen Sharp requested Maralex provide the depth of the formation tops, as well as a set of logs, for the Trading Post 31 Well #1; without this information, Ms. Sharp could not process the C-104, Request for Allowable and Authorization to Transport.
 - f. A second e-mail request was sent to Maralex on November 6, 2006. Ms. Sharp advised Maralex that she could not process the C-104, Request for Allowable and Authorization to Transport, until the requested information was received. Ms. Sharp also pointed out that because production reports indicated that the well was producing without an OCD approved C-104, the well was out of compliance.
 - g. The required logs were finally provided on November 9, 2006, but not the formation tops and the depth below the grade surface of the formation tops; therefore, the OCD was still unable to process Form 3160-4, Completion Report.
 - h. By e-mail dated November 13, 2006, Ms. Sharp again requested the formation tops depth on the well, advising that once the information was received the OCD could process the C-104, Request for Allowable and Authorization to Transport.
 - i. On November 16, 2006 the OCD received from Maralex the formation tops depth. Form C-104, Request for Allowable and Authorization to Transport, was processed by OCD the same day. However, Maralex submitted a C-115 showing that the well had already been in production for approximately sixty (60) days.
 - j. Maralex reported the well produced for eleven (11) days in September 2006, twenty-seven (27) days in October, and twenty-eight (28) days in November 2006.
- 6) OCD Rule 1104.A [19.15.13.1104.A NMAC] requires that before the OCD "may assign an allowable to a newly completed or re-completed well ... or issue an operator authorization to transport oil or natural gas from such a well," the operator must have filed a complete Form C-104, Request for Allowable and Authorization to Transport, and "provided a sworn and notarized tabulation of all deviation tests run on the well, and directional surveys with calculated bottom hole location"

- 7) NMSA 1978, §70-2-31(A) provides that “[a]ny 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.”
- 8) NMSA 1978, §70-2-33(A) defines person as “any individual estate, trust receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate or other entity.”
- 9) As a result of its investigation, the OCD issued **Notice of Violation (3-07-01)** to Maralex, alleging a knowing and willful violation of OCD Rule 1104 by producing Trading Post 31#1 without an allowable being assigned by the OCD pursuant to an approved C-104.
- 10) At the Administrative Conference on January 23, 2007 and a follow up conference on February 22, 2007, Maralex presented the following information:
 - a. Jeremy Golob, Maralex, would never have turned on the well if he hadn’t believed the OCD had approved the C-104;
 - b. Mr. Golob assumed the OCD had approved the C-104 because their gas gather, Enterprise, will not transport from the well without one having been approved. Because Enterprise was willing to transport, Maralex assumed the OCD had approved the C-104.
 - c. It was an error, not an intentional violation of OCD rules, that Maralex produced the well without an approved C-104.
 - d. Maralex was not aware that the OCD puts comments and requirements of approval onto scanned images of submitted documents, and that an operator must review the C-104 on-line, rather than receiving a hard copy through the mail. Therefore, Maralex had not looked at the scanned image to determine if the OCD had any concerns about the submitted Request for Authorization.
 - e. Although the OCD e-mailed Maralex its request for additional information, Maralex does not regularly check that particular e-mail address and was not aware, until November 2006, of the September 28, 2006 e-mail from OCD Inspector Karen Sharp requesting additional information before the C-104 could be approved.
 - f. Maralex has provided additional names and addresses to the OCD for e-mail contact, so that this will not happen again.
 - g. In the future, Maralex engineers will review the forms, including C-104s, before submitting them to the OCD to ensure that the information on the form is correct and complete.

- h. Maralex believes that it was an oversight, not a knowing and willful violation, that it produced this well prior to receiving an approved C-104.

II. CONCLUSIONS

- 1) The OCD has jurisdiction over the parties and subject matter in this proceeding.
- 2) Maralex 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).
- 3) Based on the facts as presented, the OCD concludes that Maralex is subject to civil penalties under NMSA 1978, § 70-2-31(A) at the Trading Post 31 Well #1 for knowingly and willfully violating OCD Rule 1104 by producing Trading Post 31 Well #1 without an allowable being assigned by the OCD, pursuant to an approved C-104.

III. ORDER AND CIVIL PENALTY

- 1) Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty against Maralex totaling **Five Thousand Dollars (\$5,000.00)**. This penalty is based on Maralex violating OCD Rule 1104 five (5) times, with each two-week period, beginning September 1, 2006 through November 16, 2006, calculated as a separate violation. Each violation is assessed at one thousand dollars (\$1,000.00).
- 2) The Five Thousand Dollar (\$5,000.00) civil penalty shall be paid at the time Maralex 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.
- 3) By signing this Order, Maralex expressly:
 - a. acknowledges the correctness of the Findings and Conclusions set forth in this Order;
 - b. agrees to comply with Ordering paragraph 2;
 - 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.
- 4) Nothing in this Order relieves Maralex 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 Maralex of its responsibility for compliance with any other federal, state or local laws and/or regulations.

Done at Santa Fe, New Mexico this 7th day of ^{March}~~February~~ 2007.

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

ACCEPTANCE

MARALEX RESOURCES, INC. hereby accepts the foregoing Order, and agrees to all of the terms and provisions as set forth in the Order.

MARALEX RESOURCES, INC.

Subject to preservation of
all constitutional rights

By: [Signature]

Title: President

Date: 2/27/07