

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

NMOCD-06- 151

**IN THE MATTER OF MARALEX DISPOSAL, LLC.
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 ("OCD") issues this Order to MARALEX DISPOSAL, LLC. ("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 limited liability corporation authorized to do business in the State of New Mexico under Public Regulation Commission ("PRC") SCC number 2146058 with a mailing address of 5001 Tarry Terrace, Farmington, New Mexico 87402 and its registering agent being James R. Graves, III, at the before listed address. Maralex has OGRID number 193838.
- 3) Maralex operates the Centerpoint SWD #1, Unit Letter P, Section 24, Township 31 North, Range 11 West, API #30-045-33464, Rio Arriba County, New Mexico.
- 4) On Friday, July 21, 2006, New Mexico Oil Conservation Division (hereinafter "OCD") Deputy Oil and Gas Inspector Monica Kuehling went to the Maralex Resources, Inc. (hereinafter "Maralex") Centerpoint SWD #1 well to inspect the well site. The inspection revealed the pit was almost full of mud and there was no fence around the drilling pit.
- 5) An OCD investigation found the following:
 - a. The OCD Aztec District Office approved a permit to drill and the pit permit on November 9, 2005.
 - b. The well was spudded April 30, 2006.

- c. The 7-inch casing string was set June 16, 2006.
 - d. The drilling rig left the well site on June 17, 2006.
 - e. The drilling pit was never fenced prior to July 21, 2006.
 - f. Maralex indicated they either forgot to call the company to fence the pit or the company they called failed to fence the pit.
 - g. As a result of its investigation, the OCD issued Notice of Violation (3-06-37) to Maralex, alleging a knowing and willful violation of OCD Rule 50.C(2)(F) (failing to fence the drilling pit).
 - h. OCD Rule 50.C(2)(f) requires that “[a]ll pits shall be fenced or enclosed to prevent access by livestock, and fences shall be maintained in good repair.
 - i. OCD Rule 50.G(2) allows the OCD to “grant an exemption from any requirement if the operator demonstrates that the granting of such exemption will not endanger fresh water, public health or the environment.”
- 6) At the Administrative Conference on August 23, 2006, Maralex presented the following:
- a. Maralex does not feel they willfully violated OCD Rule 50.C(2)(f).
 - b. Maralex had intended to have the pit fenced as soon as the rig moved off location.
 - c. Failure to fence the pit was due to heavy workloads by all involved, resulting in an inadvertent omission rather than a willful violation.
 - d. A mitigating factor is also that prior to the spud of the well, the landowner informed Maralex that there would be no livestock on the property, obviating the need for a fence. Also, the landowner preferred not to have a fence put around the reserve pit.
- 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.”

II. CONCLUSION

- 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) Maralex is subject to civil penalties under NMSA 1978, § 70-2-31(A) at the Centerpoint SWD #1 for one knowing and willful violation of OCD Rule C(2)(f) (failure to fence the drilling pit).

III. ORDER AND CIVIL PENALTY

- 1) Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty against Maralex totaling **One Thousand Dollars (\$1,000.00)** for one violation of Rule 50.C(2)(f).
- 2) Maralex shall timely close the pit in accordance with OCD rules.
- 3) The 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.
- 4) 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 paragraphs 2 and 3;
 - 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;
- 5) 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 19th ^{Oct} day of September 2006.

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

ACCEPTANCE

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

MARALEX DISPOSAL, LLC.

By: 

Title: Manager

Date: 10/6/06