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ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION DIVISION

ACO 08-248

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 ("OCD") issues this Order to **Maralex Resources Inc.**, OGRID 13998, (hereinafter "Maralex") 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) Maralex is a foreign profit Corporation authorized to do business in the State of New Mexico under Public Regulation Commission ("PRC") SCC number 1493774 with a mailing address of record with the OCD of P.O. Box 338, Ignacio, Colorado 81137-0338 and a listed registered agent with the PRC of Victoria A Velez. Maralex has an assigned OGRID number of 13998.
- 3) Maralex is the Operator of Record of the Atlantic 32 #1A, Unit letter C, Section 32, Township 31 North, Range 10 West, API # 30-045-33059, San Juan County New Mexico.
- 4) In mid-March, 2007, due to an article published in the local newspaper, the OCD became aware that a fire had occurred, and further research determined the fire to have been at the above-referenced Maralex site. The OCD contacted Maralex to inquire about the fire, and as a result of that contact, Maralex submitted a C-141 to the OCD on April 9, 2008. On the C-141, Maralex reported that on February 5, 2008 a release of less than 2 MCF of

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natural gas resulted in an explosion inside of the compressor building on the location.

- 5) The Application for Permit to Drill (hereinafter "APD") for the Atlantic 32 #1A was approved by the OCD on May 12, 2005.
- 6) Maralex submitted a sundry to the OCD reporting that the well had been completed on December 28, 2005.
- 7) OCD Rule 116.B(1) [19.15.3.116.B(1) NMAC] requires that "[a] Major Release shall be reported by giving both immediate verbal notice and timely written notice pursuant to Subsection C, Paragraphs (1) and (2) of 19.15.3.116 NMAC."
- 8) Per OCD Rules, a "Major Release" is defined as:
 - a. an unauthorized release of a volume, excluding natural gases, in excess of 25 barrels;
 - b. an unauthorized release of any volume which:
 - i. **results in a fire;**
 - ii. will reach a water course;
 - iii. **may with reasonable probability endanger public health;** or
 - iv. results in substantial damage to property or the environment;
 - c. an unauthorized release of natural gases in excess of 500 mcf; or
 - d. a release of any volume which may with reasonable probability be detrimental to water or cause an exceedance of the standards in Section 19, Subsection B, Paragraphs (1) and (2) or (3) of 19.15.1 NMAC.

Id. Emphasis Added.

- 9) OCD Rules 116.C(1) and 116.C(2) [19.15.3.116.C and 19.15.3.116.C(2) NMAC] establish the requirements for "Contents Of Notification" of a release, and provides the following;

(1) Immediate verbal notification required pursuant to Subsection B of 19.15.3.116 NMAC shall be reported **within twenty-four (24) hours of discovery** to the division district office for the area within which the release takes place. In addition, immediate verbal notification pursuant to Subsection B, Paragraph (1), Subparagraph (d) of 19.15.3.116 NMAC shall be reported to the division's Environmental Bureau

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Chief. This notification shall provide the information required on division Form C-141.

- (2) **Timely written notification** is required to be reported pursuant to Subsection B of 19.15.3.116 NMAC **within fifteen (15) days** to the division district office for the area within which the release takes place by completing and filing division Form C-141. In addition, timely written notification required pursuant to Subsection B, Paragraph (1), Subparagraph (d) of 19.15.3.116 NMAC shall also be reported to the division's Environmental Bureau Chief within fifteen (15) days after the release is discovered. The written notification shall verify the prior verbal notification and provide any appropriate additions or corrections to the information contained in the prior verbal notification.

Id. Emphasis Added.

- 10) Maralex violated OCD Rule 116.B(1) [19.15.3.116.B(1) NMAC] by failing to give immediate verbal notice as defined by Rule 116.C(1) for a release that resulted in a fire and/or that had a reasonable probability to endanger public health.
- 11) Maralex violated OCD Rule 116.B(1) [19.15.3.116.B(1) NMAC] by failing to provide timely written notification within fifteen (15) days as defined by Rule 116.C(2) for a release that resulted in a fire and/or that had a reasonable probability to endanger public health.
- 12) NMSA 1978 Section 70-2-31(A) provides in relevant part, "[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."
- 13) NMSA 1978, section 70-2-33(A) defines "person" in relevant part as "any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate or other entity..."
- 14) As a result of its investigation, on June 4, 2008, the OCD issued Notice of Violation (3-08-11) to Maralex.

II. STATEMENTS & ADDITIONAL INFORMATION PROVIDED BY THE OPERATOR, MARALEX

Maralex provided the following supplemental information and statements during an administrative Conference held on July 3, 2008:

- 15) Maralex's main concern was to take care of the injured employee and his family, and in the process the OCD reports were overlooked.
- 16) The supervisor with Maralex in charge of reporting has been with the company for over three years, and this is the first time anyone has been injured.

III. CONCLUSIONS OF THE OCD

- 17) The OCD has jurisdiction over the parties and subject matter in this proceeding.
- 18) 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).
- 19) Maralex is subject to civil penalties under NMSA 1978, § 70-2-31(A) at the Atlantic 32 #1A for two violations of OCD Rule 116.B(1) [19.15.3.116.B(1) NMAC] (failing to give immediate verbal notification and failing to provide timely written notification within fifteen (15) days).

IV. ORDER & CIVIL PENALTY ASSESSMENT

- 20) Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty against Maralex totaling **Two Thousand Dollars (\$2,000.00)** for the violation of the OCD's Rules.
- 21) 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.

- 22) By signing this Order, Maralex expressly:
- a. acknowledges the authority of the OCD to render the above "Findings & Determinations," "Conclusions" and "Order & Civil Penalty Assessment";
 - c. acknowledges that it is the responsibility of Maralex, as the Operator of Record of wells in New Mexico, to know and comply with Division Rules in the operation of their sites, and that Maralex is ultimately the entity responsible for any noncompliance with Division Rules associated with any site for which it is the Operator of Record.
 - d. agrees to comply with the Order, specifically as articulated in Section "IV," Paragraphs 20 and 21;
 - e. 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;
 - f. 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;
- 23) 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 5th day of August 2008.

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

ACCEPTANCE

MARALEX RESOURCES INC., (OGRID No. 13998), Atlantic 32 #1A, Unit letter C, Section 32, Township 31 North, Range 10 West, API # 30-045-33059 San Juan County, New Mexico, hereby accepts the foregoing Order, and agrees to all of the terms and provisions as set forth in the Order.

MARALEX RESOURCES INC.,

By: 

Title: President

Date: 7/28/08

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