

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

NMOCD-OGA-04-48

PSEM050D634961

**IN THE MATTER OF MARALEX RESOURCES, INCORPORATED,  
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, INCORPORATED, ("Maralex") directing compliance with the Act and OCD Rules, and assessing a penalty for violations of the Act and OCD rules.

**FINDINGS**

1. The OCD is the state division charged with administration and enforcement of the Act and OCD Rules.
2. Maralex is a Colorado corporation authorized to do business in the State of New Mexico under Public Regulation Commission ("PRC") SCC number 1493774 with a mailing address of Post Office Box 338, Ignacio, CO 81137, and its registering agent being James R Graves, III, 5001 Tarry Terrace, Farmington, New Mexico 87402.
3. On May 18, 2004, Deputy Oil and Gas Inspector Denny Foust inspected the Blancett FC #2A well site and discovered a drilling pit with several liner tears that extended below the liquid level. The liquid in this pit was flowing across the surface of the ground over the berm on the northwest and southwest corners.
4. An OCD investigation established the following facts:
  - a. The Blancett FC #2A was completed on March 2, 2004.
  - b. One hundred and sixty barrels of produced water from another well were used in the drilling fluid of the referenced well.
  - c. The drilling pit was located within seventy-five feet of the Animas River.
  - d. On May 18, 2004, Deputy Inspector Denny Foust inspected the well and found that the pit was full of water and the water level was even with the surface of the ground. Desiccation cracks were visible in the mud on the bottom of the pit through the water. This indicated that the drilling mud had reached some degree of dryness prior to the pit filling with water.
  - e. Water, presumably from nearby irrigation or a nearby ditch, was present and seeping out of the

ground near the pit. The flow of this water into and through the pit allowed the pit liquids to mix with the ground water through the tears in the synthetic pit liner extending below the surface of the liquid in the pit.

- f. This mixing of water had been observed by Jim Graves of Maralex several days prior to May 18.
- g. The mixture of the pit liquids with ground water was a "release" as defined by 19.15.1.7.R.(3).
- h. Because the drilling fluids had contained produced water, there was reasonable probability that this release would be detrimental to water and therefore this was a "major release" requiring immediate notification by 19.15.1.7.116.B.(1).
- i. Maralex violated OCD Rule 116 by failing to provide verbal notification to the OCD district office and the OCD Environmental Bureau within 24 hours of the discovery of the major release.
- j. After observing the mixing of water in the pit with the torn liner, Maralex took no action to prevent further mixing such as diverting the water away from the pit, or repairing the liner.
- k. Rule 13.B. states in relevant part, "All operators...shall at all times conduct their operations in or related to the drilling...of oil, gas....wells....in a manner that will prevent...the contamination of fresh waters...."
- l. Rule 710.A. states in part, "No person, including any transporter may dispose of produced water on the surface of the ground. . . in any manner which will constitute a hazard to fresh water supplies."
- m. By allowing the mixing of waters and contact with groundwater through the torn liner Maralex violated Rule 13.B. and Rule 710.A.
- n. Rule 50.B.(3)(b) states in relevant part, "For each pit in existence on April 15, 2004 that has not received an exemption..., the operator shall submit a notice not later than April 15, 2004 indicating either that use of the pit ...will continue or that such pit...will be closed."
- o. By not notifying the OCD of the existence of the Blancett FC #2A drilling pit by April 15, 2004, Maralex violated Rule 50.B.(3)(b).

- 5. Maralex fully cooperated with the OCD in this investigation.
- 6. Maralex has closed the pit in accordance with an OCD approved program.
- 7. Maralex has changed their internal reporting processes to respond to incidents as this more quickly.
- 8. No further testing will be required at this time.

### **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, Section 70-2-33(A) subject to civil penalties under NMSA 1978, Section 70-2-31(A) for knowing and willful violations of the Oil and Gas Act or OCD Rules.
3. Maralex is subject to civil penalties under NMSA 1978, Section 70-2-31(A) for violating Rule 13.B.[19.15.1.12.B. NMAC], Rule 50.B.(3)(b) [19.15.2.50.B.(3)(b) NMAC], Rule 116.B.(1)(d) [19.15.3.116.B(1)(d) NMAC], and Rule 710.A.[19.15.3.710.A. NMAC].

### **ORDER AND CIVIL PENALTY**

1. Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty totaling three thousand dollars (\$3,000) against Maralex. This is based on a one day violation of Rule 13.B.[19.15.1.12.B. NMAC], a one day violation of Rule 116.B.(1)(d) [19.15.3.116.B(1)(d) NMAC], and a one day violation of Rule 710.A.[19.15.3.710.A. NMAC].
2. A penalty will not be assessed at this time for the violation of Rule 50.B.(3)(b) [19.15.2.50.B.(3)(b) NMAC], but Maralex is admonished that full compliance with Rule 50 is necessary in order to avoid future enforcement actions.
3. The civil penalty shall be paid within sixty days of receipt of this order. Payment shall be made by certified or cashier's check made 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 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; and
  - 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 (NMSA 1978, Sections 70-2-1 through 70-2-38, as amended).

Done at Santa Fe, New Mexico, this 3<sup>rd</sup> day of January 2004/5

By: \_\_\_\_\_

Mark Fesmire, PE, Director  
Oil Conservation Division

**ACCEPTANCE**

Maralex Resources, Inc. hereby accepts the foregoing order, and agrees to all of the terms and provisions set forth in the order.

MARALEX RESOURCES, INC.

By: 

Title: Engineering Manager

Date Dec. 17, 2004