

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

NMOCD-06-114

IN THE MATTER OF PATINA SAN JUAN, INC.

Respondent.

AGREED COMPLIANCE ORDER

Pursuant to the New Mexico Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38, as amended ("Act"), and the rules 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 PATINA SAN JUAN, INC. (hereinafter "Patina") 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. Patina is a foreign profit corporation doing business in New Mexico, registered with the Public Regulatory Commission under number 1956754. Patina is an active entity with a principal and mailing address at 5802 US HWY 64 Farmington New Mexico 87401. Its registered agent for service of process in New Mexico is CT Corporation System, 123 E. Marcy St., Santa Fe, New Mexico 87501. Patina's OGRID is 173252.
3. Patina is the operator of record for the Harms Way 30 #29 Unit Letter M, Section 30, Township 31 North, Range 12 West, API# 30-045-31206.
4. On Tuesday, February 21, 2006, New Mexico OCD Deputy Oil and Gas Inspector Kelly Roberts visited the Patina Harms Way 30 #29. Deputy Inspector Roberts noted that there was oil residue on the drilling pit. The oil was floating on the east end of the pit near the vent pit. There was also standing oil in the vent pit, having apparently been discharged from the well through the vent line. The level of fluid in the lined portion of the pit was high enough to overtop the liner in the area where the vent pit joins the drilling pit.
5. On February 22, 2006, both Deputy Oil and Gas Inspector Denny Foust and Deputy Inspector Roberts visited the site. In addition to the violations listed above, Deputy Inspector Foust noted the well sign did not include an API number.
6. An OCD investigation found the following:
 - a) The well was spud January 3, 2006.

- b) The OCD has no record of any pit permit for this well being received or issued prior to the NOV date.
 - c) OCD Rule 50.A [19.15.2.50.A NMAC] states in relevant part, “[d]ischarge into, or construction of, any pit or below-grade tank is prohibited absent possession of a permit issued by the division, unless otherwise herein provided or unless the division grants an exemption pursuant to Subsection G of 19.15.2.50 NMAC.”
 - d) No exemption to OCD Rule 50.A has been granted on the Patina Harms Way 30 #29.
 - e) Patina violated OCD Rule 50.A by failing to obtain a permit for a drilling pit for the Harms Way 30 #29
 - f) OCD Rule 50.C(2)(e) forbids any “measurable or visible layer of oil ... to accumulate or remain anywhere on the surface of any pit.”
 - g) Patina violated OCD Rule 50.C(2) by allowing oil to stand on the surface of the drilling pit.
 - h) OCD Rule 50.C(2)(b)(i) [19.15.2.50C(2)(b)(i) NMAC] provides that “[e]ach drilling pit or workover pit shall contain, at a minimum, a single liner appropriate for conditions at the site. The liner shall be designed, constructed, and maintained so as to prevent the contamination of fresh water, and protect public health and the environment.”
 - i) Patina violated Rule 50.C by allowing the fluid in the lined portion of the pit to overtop the liner where the flare pit runs into the drilling pit.
 - j) OCD Rule 103.F(5) requires that the API number be shown on all well signs.
 - k) Patina violated Rule 103.F(5) by not having the API # posted on the well sign.
7. NMSA 1978, §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. For purposes of this subsection, in the case of a continuing violation, each day of violation shall constitute a separate violation.”
- 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....”
8. As a result of its investigation, on March 14, 2006 the OCD issued Notice of Violation (3-06-12) to Patina alleging violations of Rules 50.A, C(2)(e), C(2)(b)(i) and 103.F(5).

9. At the Administrative Conference held on April 19, 2006 Patina presented the following information:
- a. The pit was constructed in early 2004, but the well was not drilled until 2006. The time period between building the location and drilling the well was a contributing factor to the violations.
 - b. Patina immediately initiated corrective action and implemented a process improvement plan that will eliminate further violations from occurring. The corrective action that is being implemented includes,
 - i. Prior to drilling, a review of the requirements for pit permits and other stipulations are performed to insure that all requirements are being met. This review will be assigned to a specific person at Patina.
 - ii. A company representative will make a daily inspection of the reserve pit and blow pit. This will insure that if the operations and activities performed during the day have allowed oil to reach the pit, remediation will be initiated.
 - iii. A review of the design and construction of the pit and blow pit will be made immediately to determine the best design possible for the upcoming drilling and completion activities. Results of the review will be implemented during construction of new drilling locations.

II. CONCLUSIONS

1. The OCD has jurisdiction over the parties and subject matter in this proceeding.
2. Patina 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. Patina is subject to civil penalties under NMSA 1978, § 70-2-31(A) at the Harms Way 30 #29 for three violations of OCD Rule 50 and one violation of OCD Rule 103.

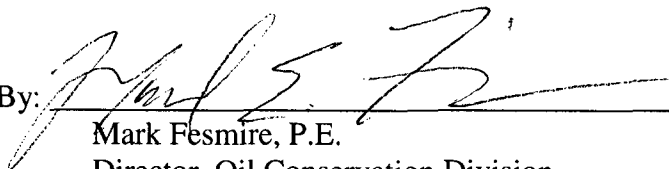
III. ORDER AND CIVIL PENALTY

1. Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty against Patina totaling **Three Thousand Dollars (\$3,000.00)** for one violation each of OCD Rules 50.A, 50.C(2)(b)(i), and 50.C(2)(e). There will be no penalty assessed for violation of OCD Rule 103.F(5), as Patina will immediately post the API number on the well sign.
2. The civil penalty shall be paid at the time Patina 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, Patina 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.
4. Nothing in this Order relieves Patina 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 Patina of its responsibility for compliance with any other federal, state or local laws and/or regulations.


Done at Santa Fe, New Mexico, this 22th day of May 2006.

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

ACCEPTANCE

Patina San Juan, Inc. hereby accepts the foregoing Order, and agrees to all of the terms and provisions set forth in the Order.

Patina San Juan, Inc.

By: 
Title: Production Manager
Date 5/8/06