

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

NMOCD-06-142

IN THE MATTER OF WESTERLY EXPLORATION, 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 **WESTERLY EXPLORATION, INC. ("Westerly")** 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. Westerly is a corporation doing business in New Mexico, registered with the Public Regulation Commission as a corporation under number PRC 0737585. Westerly is an active entity with a principal and mailing address of P.O. Box 122389, Fort Worth, Texas 76121-2389. Its registered agent for service of process in New Mexico is CT Corporation Systems. Westerly has been assigned OGRID # 22568.
3. Westerly is the operator of the Regina Ranch Federal 32 #7, Unit Letter M, Section 32, Township 23 North, Range 1 West, API #30-043-20989, Sandoval County, New Mexico.
4. On June 7, 2006, Roger Herrera of the Bureau of Land Management (hereinafter, "BLM") called OCD Deputy Oil and Gas Inspector Denny Foust to report that during their May 18, 2006 field inspection, the BLM discovered a breached drilling pit on the Westerly Regina Ranch Federal 32 #1.
5. On June 8, 2006, OCD Deputy Oil and Gas Inspector Kelly Roberts conducted an inspection of the location and found the pit had been closed.
6. Upon conducting further investigation it was determined:
 - a) The permit to drill was approved on October 21.

- b) The well was spud on November 20, 2005.
 - c) No application for a pit permit has been received by the OCD, nor had a pit permit been issued.
 - d) Rule 50.A provides, “[d]ischarge into, or construction of, any pit or below-grade tank is prohibited absent possession of a permit issued by the division,” unless an exception is granted by the OCD.
 - e) Constructing a drilling pit without a permit is a violation of OCD Rule 50.A. Westerly had no permit to construct the pit nor had the OCD granted an exception to the permit requirement.
7. Westerly knowing and willfully violated Rule 50.A by failing to obtain a pit permit for a drilling pit at the Regina Ranch Federal 32 #7 well.
8. As a result of its investigation, OCD issued **Notice of Violation (3-06-32)** to Westerly alleging a violation of OCD Rule 50.A.
9. In response to the Notice of Violation, Westerly’s agent, Walsh Engineering, has provided the following information:
- a. The APD for the well was started in May 2004 and approved by BLM on October 4, 2004.
 - b. The well was not spud November 20, 2005.
 - c. The time between the filing and drilling contributed to the oversight.
 - d. To help prevent this issue in the future, Walsh Engineering now submits the pit application form with each APD package.

II. CONCLUSIONS

1. The OCD has jurisdiction over the parties and subject matter in this proceeding.
2. Westerly 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. Westerly is subject to civil penalties under NMSA 1978, § 70-2-31(A) at the Regina Ranch Federal 32 #7 for one violation of OCD Rule 50.A.

III. ORDER AND CIVIL PENALTY

1. Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty totaling **One Thousand Dollars (\$1,000.00)** against Westerly for one knowing and willful violation of OCD Rule 50.A.

2. 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.
3. Because Westerly has closed the drilling pit, no further action in that matter is required, provided there is not discovered any addition violations of OCD rules or entities rules, regulations or law.
4. By signing this Order, Westerly expressly:
 - a. acknowledges the correctness of the Findings and Conclusions set forth in this order;
 - b. agrees to comply with ordering paragraph 1 and 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 11th day of ~~August~~ ^{Sept.} 2006.

By: _____

Mark Fesmire, PE, Director
Oil Conservation Division

ACCEPTANCE

Westerly Exploration, Inc. hereby accepts the foregoing Order, and agrees to all of the terms and provisions set forth in the order.

WESTERLY EXPLORATION, INC.

By: _____

Title: K. C. Weiner, President

Date August 29, 2006