

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

**NMOCD-06-156**

**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 Champlin 5C Unit Letter M, Section 25, Township 27 North, Range 04 West, API # 30-039-29616.
4. On August 21, 2006, OCD Deputy Oil and Gas Inspector Karen Sharp received a spud notice of August 12, 2006 on the Champlin well. However, the file contained no approved permits for the well.
5. On August 22, 2006, Deputy Oil and Gas Inspectors Denny Foust and Kelly Roberts visited the site. They noted that the well sign on site did not include an API number.
6. An OCD investigation found the following:
  - a) Patina commenced drilling operations on the Champlin 5C well on August 12, 2006.
  - b) At that time the OCD had not approved an application for a permit to drill the well.

- c) On August 17, 2006, the OCD received the application for a permit to drill.
  - d) OCD Rule 102.A [19 15.3.102.A NMAC] requires that “the operator shall obtain a permit prior to commencing drilling....”
  - e) OCD Rule 102.B [19 15.3.102.B NMAC] requires that an applicant for a permit to drill a well complete forms C-101 (application for a permit to drill a well) and C-102 (well location and an acreage dedication plat), as well as meeting other enumerated requirements.
  - f) In addition to falling under OCD Rule 102, the referenced well is on Federal land and is, therefore, subject to OCD Rule 1128 [19 15.3.1128 NMAC].
  - g) OCD Rule 1128 provides that “[f]ederal forms shall be used in lieu of state forms when filing application for permit to drill ... wells on federal lands in New Mexico.”
  - h) An OCD Director’s memorandum titled “Operations on Federal and Indian Lands” issued on January 2, 1985, instructs operators to provide “copies of drilling permits, sundry notices, well completion reports, and any other required information on Indian lands wells.” Operators must file “two copies of the forms and permits ... following their approval by the BLM” with the appropriate OCD district office.
  - i) Patina violated OCD Rule 102.A by drilling a well without an OCD approved permit.
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 September 26, 2006, the OCD issued Notice of Violation (3-06-43) to Patina alleging one violation of Rule 102.A. [19.15.3.102A NMAC].
9. At the Administrative Conference held on October 5, 2006, Patina presented the following:
- a. The BLM had approved the permit to drill.
  - b. Patina found OCD’s copy of the APD when conducting a file review.

- c. BLM had returned OCD's copy of the permit to Patina, rather than sending it to the OCD.
- d. In the future, Patina will check the OCD imaging system to determine if a permit has been approved before drilling a well.

## **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 Champlin 5C for one violation of OCD Rule 102A.

## **III. ORDER AND CIVIL PENALTY**

1. Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty against Patina totaling **One Thousand Dollars (\$1,000.00)** for one violation of OCD Rule 102.A.
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 21<sup>st</sup> day of Nov ~~October~~ 2006.

By: [Signature]  
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: [Signature]  
Title: Oil Manager  
Date 10/23/06