



CERTIFIED MAIL

RETURN RECEIPT NO. 7001 1140 0002 4294 9923

May 5, 2003

Mr. Roger C. Anderson
New Mexico Energy, Minerals and
Natural Resources Department
Oil Conservation Division
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

RECEIVED

MAY 08 2003

ENVIRONMENTAL BUREAU
OIL CONSERVATION DIVISION

Re: Humble State #3 Tank Battery Site
Lea County, New Mexico

Dear Mr. Anderson:

Maralo, LLC is in receipt of your letter dated April 22, 2003, wherein you advise that the OCD is rescinding the April 11, 2001 abatement plan requirement although you request a work plan be submitted to eliminate surface damage at the captioned site.

We call your attention to letter dated April 23, 2001 from our attorney, Mr. Rick G. Strange with the Cotton, Bledsoe, Tighe & Dawson firm (copy enclosed), wherein he clearly states that Rule 19 is inapplicable.

Because we have had no response to our previous correspondence (4/23/01) and due to the significant passage of time, we believe you agree with our position on Rule 19, but if you have information that requires further review or discussion, I am certain Mr. Strange would be willing to discuss it further with your legal counsel.

Yours very truly,

Joe C. Pulido, CPL
Manager

JCP/sg
Enclosure

cc: Mr. Rick G. Strange
Cotton, Bledsoe, Tighe & Dawson

BEFORE EXAMINER
OIL CONSERVATION DIVISION
EXHIBIT NO. <u>10</u>
CASE NO. <u>13142</u>

COTTON, BLEDSOE, TIGHE & DAWSON

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RICK G. STRANGE

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Email: rstrange@cbtd.com

April 23, 2001

Mr. Roger Anderson
New Mexico Energy, Minerals and
Natural Resources Department
Oil Conservation Division
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

Re: Abatement Plan AP-26, Humble State #3 Tank Battery Site
Jal, New Mexico

Dear Mr. Anderson:

Maralo, LLC has asked us to respond to your letter dated April 11, 2001. In that letter, you ask us to submit a plan to investigate the extent of contamination at the site of the former Maralo Humble State #3 Tank Battery Site located in Unit A, Section 36, Township 25 South, Range 36 East. In your correspondence, you indicate that Maralo is required to submit to the OCD by June 11, 2001 a Stage 1 investigation proposal pursuant to OCD Rule 19.E.1 and 19.E.3. As you are no doubt aware, Rule 19 of the New Mexico Oil and Gas Regulations was promulgated in February 1997. Maralo's wells in that area were plugged in 1988 and the battery was remediated in 1993. We have had no operations on the site since. Rule 19, therefore, is inapplicable, and any attempt to apply it retroactively now would, in my opinion, be unconstitutional. If you disagree, I would be happy to review any information you have or to discuss this matter with your legal counsel. If we have not heard from you within a reasonable period of time, we will assume that you agree with our assessment and will close our file.

Very truly yours,

COTTON, BLEDSOE, TIGHE & DAWSON

By: 

Rick G. Strange

RGS/sm



NEW MEXICO ENERGY, MINERALS and NATURAL RESOURCES DEPARTMENT

BILL RICHARDSON

Governor

Joanna Prukop
Cabinet Secretary

Lori Wrotenbery

Director

Oil Conservation Division

July 9, 2003

Mr. Rick G. Strange
Cotton, Bledsoe, Tighe & Dawson
500 W. Illinois, Suite 300
Midland, TX 79701-4337

Re: Maralo LLC
Humble State #3 Tank Battery Site
Lea County, New Mexico

Dear Mr. Strange:

On April 11, 2001, the Division notified Maralo LLC that it would require an abatement plan pursuant to OCD Rule 19 [19.15.1.19 NMAC] to remedy fresh water contamination believed to exist at the referenced site. By letter dated April 23, 2001, you, on behalf of Maralo, advised us of your contention that Rule 19 is inapplicable because it was adopted subsequent to Maralo's abandonment of the facility.

By letter dated April 22, 2003, the Division notified Maralo that we were rescinding the requirement of an abatement plan because we had determined that there was insufficient evidence of water pollution to impose such a requirement at this time. The Division further notified Maralo, however, that we were requiring a work plan to remedy surface pollution resulting from tank bottoms at the referenced site.

Maralo responded by letter of May 5, 2003 referencing your letter of April 23, 2001.

Although OCD does not agree with your position regarding the application of Rule 19, our rescinding the abatement plan requirement moots that issue. Rule 313 [19.15.5.313 NMAC], which is the basis for the demand set forth in our letter of April 22, 2003, was originally adopted in 1950.

We accordingly reiterate our requirement of a work plan to address the surface contamination issues. The plan should be filed not later than August 15, 2003.

Please contact me at 505-476-3450 if you have questions or wish to discuss this matter further.

Very truly yours,

David K. Brooks
Assistant General Counsel

cc. William C. Olson
OCD Senior Hydrologist

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RICK G. STRANGE

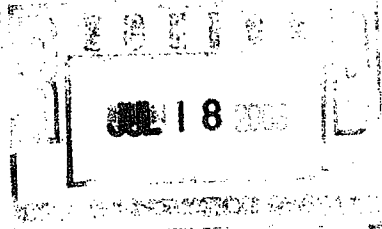
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July 16, 2003



Mr. David K. Brooks
Assistant General Counsel
New Mexico Energy, Minerals and Natural
Resources Department
Oil Conservation Division
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

Re: Humble State #3 Tank Battery Site
Lea County, New Mexico

Dear Mr. Brooks:

Thank you for your letter dated July 9th. I have reviewed that with my client and provide this response.

Your letter references Rule 313 and indicates this rule was originally adopted in 1950. That rule has been amended, as recently as May 15, 2000. We ceased operations on this lease in 1988. Any subsequent changes to the rule would not apply to us. I do not have the exact text of the rule as it existed in 1988, but even looking at its most current version, I fail to see where this provides your agency with the authority to order us to remediate a site that has not been used for 15 years. Accordingly, we must respectfully decline your request to submit a work plan. If you have any legal authority allowing your agency to retroactively impose this proposed requirement, I would appreciate the opportunity to review the same.

Very truly yours,

COTTON, BLEDSOE, TIGHE & DAWSON

By:

Rick G. Strange

RGS/sm