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

APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION, THROUGH THE ENVIRONMENTAL BUREAU CHIEF, FOR AN ORDER REQUIRING MARALO, LLC TO REMEDIATE HYDROCARBON CONTAMINATION AT AN ABANDONED WELL AND BATTERY SITE; (Jay Anthony Complaint) LEA COUNTY, NEW MEXICO

CASE 13142

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Oil Conservation Division

MARALO, LLC'S REPLY TO THE NEW MEXICO OIL CONSERVATION DIVISION'S AND ANTHONY'S RESPONSE IN OPPOSITION TO MARALO LLC'S MOTION TO DISMISS

Maralo, LLC ("Maralo") submits this reply brief in response to the New Mexico Oil Conservation Division ("OCD") and Anthony's Response to Maralo, LLC's Motion to Dismiss the OCD's Application for an order requiring remediation of hydrocarbon contamination and in support of Maralo, LLC's Motion to Dismiss and shows as follows:

INTRODUCTION

Maralo submitted a Motion to Dismiss the OCD's application for remediation because it is an attempt to enforce Oil Conservation Division Rule 310 retroactively and to punish Maralo even though it did nothing in violation of the rule.

The OCD claims that the rule's present form was written in 1950 and 1935. This is incorrect. The OCD is ignoring the distinct and critical differences in the language of the rule over time. Furthermore, in the OCD's Response, they insinuate that Maralo has existing and continuing contamination on the land. It is impossible for Maralo to have continued contaminating the land when it is no longer the operator, has not operated the property for almost 20 years, and has no present connections to the Humble Oil Well.

The OCD claims that they are not applying the rule retroactively but prospectively. This is incorrect. "A statute or regulation is considered retroactive if it impairs vested rights acquired under prior law or requires new obligations, imposes new duties, or affixes new disabilities to past transactions." *Howell v. Heim*, 882 F.2d 541 (N.M. 1994). OCD's action follows the definition of a retroactive law. It is obvious that the Division is ignoring the United States Constitution, New Mexico Constitution, and case law, for all three frown upon the enforcement of laws retroactively because it is a deprivation of an entity's due process rights. Every action Maralo took on the property was legal and consistent with applicable rules and regulations at the time. The alleged violations are not the result of Maralo's actions, but rather changes in the language of OCD's rules.

In Anthony's Response, he claims that the OCD has unlimited power as an administrative agency and ignores the fact that all administrative agencies, both federal and state, are limited by the statutes that created them. Without limits on administrative agencies, the constitutional principles of a democratic society would fail, for a central overbearing governmental entity would be created.

Anthony claims that New Mexico case law allows statutes to be applied retroactively. In some instances that is correct – but if, and only if, the enabling statute clearly allows retroactive enforcement. Unlike the OCD's enabling statute, the statutes cited by Anthony clearly allowed for retroactive enforcement. When analyzing a law to see if it may be retroactively applied, the analysis must be closely tailored to the specific statute, rule, or regulation's granting power. It is not a general rule that New Mexico enforces all statutes retroactively. That would be a clear violation of both the United

States Constitution and the New Mexico Constitution since each prohibits ex post facto laws and retroactive application and enforcement of laws.

SUMMARY OF THE ARGUMENT

1. Maralo was not in violation of OCD Rule 310 when operating the Humble Oil Well on the Anthony property.
2. The division is retroactively applying Rule 310 to Maralo.
3. Retroactive application of these rules violate federal constitutional law and New Mexico constitutional and state law.

ARGUMENT

Maralo did not violate Rule 310 while operating the Humble Well. Maralo plugged and abandoned the Humble Well years ago, - well before this application was sought. Moreover, Maralo ceased using open pits for disposal purposes long before the no pit law was enacted. Prior to that law, when Maralo did use open pits, they were never used to store oil. It is important to understand that before the no pit order, it was legal to use surface disposal pits. For example, the 1935 and 1950 versions of Rule 310 did not ban or regulate the use of pits for salt water disposal. See Exhibit "A". They simply prohibited the storage of oil. Maralo did not use the pits to store oil. Using them for other purposes, such as salt water disposal, reserve pits, and overflow pits and was legal under the 1935 and 1950 rules. Maralo, thus, did not violate Rule 310 when the pits were actually in use.

Since Maralo did not violate Rule 310 or any other OCD rules while operating the Humble Well, the enforcement of the current version Rule 310 against Maralo for prior conduct is retroactive enforcement of an administrative rule. It is against both federal

constitutional law and New Mexico constitutional law to retroactively enforce Rule 310 against Maralo. In *Howell v. Heim*, the court addressed the problem of retroactive application of administrative agency rules and regulations. 118 N.M. at 506. The Court stated that the right to enact and enforce the rules and regulations of an administrative agency must be found in the enabling statute. *Id.* The enabling statute also limits the administrative agency according to the *Howell* court. *Id.* Finally, the Court stated that just because a fact situation arises where it would be best to apply retroactive powers; those powers do not automatically arise from that fact situation. *Id.*

In *Howell*, the court found that an administrative agency was enforcing its rule prospectively because the issue was whether the individual could continue receiving benefits. This case does not support the OCD's contention that it is prospectively applying Rule 310, the OCD is not regulating Maralo's future behavior, but is punishing it for past conduct. The OCD claims that any time a property condition exists on a rule's effective date, and even though that condition results solely from events occurring prior to that day, that a statute is not being applied retroactively. This is a misinterpretation of the case law.

In *Gasden Federation of Teachers v. The Board of Education of the Gadsden Independent School District*, the New Mexico Appellate court differentiates and explains what the *Howell* Court meant when they stated that a statute or rule is not retroactively construed if the condition exists when the rule was enacted. 1996 NMCA 69, 13-20. In the case of *Howell*, the petitioner was seeking future benefits and actions that were no longer going to exist because of a rule terminating the benefits. See generally *Howell*, 118 N.M. 500. This was a prospective rule for it limited a future action and did not

punish or take away a right in the past. In *Gasden*, a rule was being enforced retroactively for it affected the rights under a past contract. This affected a past action and an existing contract right that had been taken away and was not concerning a future action. 1996 NMCA 69.

Maralo's actions were all in the past. Maralo ceased all operations on this well many years ago and had ceased all pit use prior to the enactment of the current version of Rule 310. Since no activity occurred after the enactment of the Rule, any enforcement of Rule 310 is punishing Maralo retroactively for an action that was legal at the time it occurred.

Retroactive enforcement is simply not favored and in New Mexico, there is a presumption against any retroactive enforcement of a statute, rule, or regulation. See *Bowen v. Georgetown University Hospital*, 488 U.S. 204 (1988 at 208); *Green v. United States*, 378 U.S. 149, 160 (1964); *Kaiser Aluminum and Chemical Corporation v. Bonjorno*, 494 U.S. 827, 837 (1990); *Coleman v. United Engineers and Constructors, Incorporated*, 878 P.2d 996, 1001 (N.M. 1994); *Gadsden Federation of Teachers v. The Board of Education of the Gadsden Independent School District*, 1996 122 N.M.C.A. 69, 13.

Unless the OCD can prove its enabling statute clearly supports retroactive enforcement, it is discouraged. See *Coleman*, 878 P. 2d at 1001. The statute upon which Rule 310 comes from is silent regarding retroactive application of Rule 310. See discussion in Maralo's Brief in Support of Maralo, LLC's Motion to Dismiss. Silence does not equal permission to retroactively apply Rule 310. In interpreting a statute's language to see if it applies retroactively, you must first look at the words of the statute

and then secondly the legislative history. You cannot presume or assume that silence regarding retroactivity in a statute means that it can be applied retroactively. In fact, the presumption is reversed. There is actually a presumption that when a statute is silent, the statute must be enforced prospectively unless there is clear evidence regarding legislative history that would suggest that its retroactive application was intended. See Coleman, 878 P.2d at 1001.

Both the Division and Anthony argue that the prohibition of retroactive application of the rules hinders and curtails the OCD's powers as an administration agency. This does not justify retroactive enforcement because the OCD as an administrative agency is not unlimited in its grant of power. The Court in *Public Service Company of New Mexico v. New Mexico Environmental Improvement Board* clearly sets out the boundaries of an administrative body in New Mexico by stating, "administrative bodies are the creatures of statutes. As such, they have no common law or inherent powers and connect only as to those matters that are within the scope of the authority delegated to them." 89 N.M. 223, 226 (N.M. Ct. App. 1976) quoting *Maxwell Land Grant Company v. Jones*, 213 P. 1034 (1923).

Anthony argues that this case sets out that New Mexico allows great power to be given to its administrative agencies. However, he failed to read the full body of the case, for the Court goes on to state that an administrative agency is permitted to accomplish the legislative intent or policy but their limitation is that an administrative agency is not allowed to amend or enlarge its authority under the guise of making rules and regulations. *Id.* at 227. It shows that the court does uphold the boundaries that are in place on administrative agencies and will not allow them to extend their statutory boundaries

further. Thus, OCD is bound under the New Mexico statutes that set forth its powers. Those powers are set out more clearly and can be seen in the Brief in Support of Maralo, LLC's Motion to Dismiss Maralo, LLC from Remediation of Hydrocarbon Contamination. As Maralo set out in the brief retroactivity would definitely be outside of the boundaries of the statute.

As noted, rules such as Rule 310 may only be retroactively enforced if the legislature clearly provides the OCD this authority. See *Coleman,* 878 P.2d at 1001. Both the Division and Anthony argue that this presumption does not exist and that case law has stated that any environmental statute can be enforced retroactively. Anthony specifically cites CERCLA as a statute that has been given retroactive enforcement. However, CERCLA was intended by the United States Congress to be applied retroactively and courts have consistently found that to be true. See *Franklin County Convention Facility Authority v. American Premier Underwriters, Incorporated*, 240 F.3d 534 (6th Cir. 2000). But it does not follow that just because CERCLA, a federal statute, could be retroactively applied that every statute in every state can be considered retroactively enforceable. The New Mexico case law cited by both the OCD and Anthony contain statutes, which unlike the OCD's authority, specifically allow retroactive enforcement.

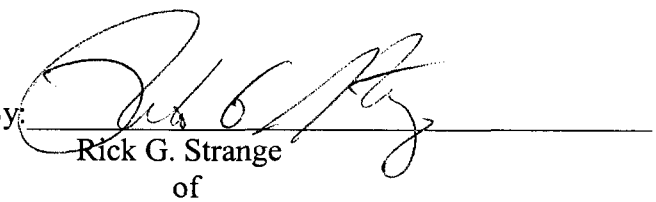
Finally, the OCD and Anthony argue that public policy demands the retroactive application of Rule 310 to Maralo; however, by making this statement, both are admitting that they are using Maralo simply to make an example of them. This public policy argument goes against the United States Constitution, the New Mexico Constitution, and case law. Allowing an agency to take on the broadest power possible just to set an example also goes against the constitutional division of the powers.

Maralo is not questioning the authority of OCD to make rules and regulations to and to enact the rules and regulations that they have made. Those rules cannot be applied retroactively or else the OCD will violate both U.S. Constitutional and State Constitutional laws.

CONCLUSION AND PRAYER

Maralo did not violate any of the versions of Rule 310 that were in place when Maralo operated the Humble Well. The OCD and Anthony can provide no evidence to the contrary. Further, the OCD and Anthony can show no evidence that Maralo is still polluting or creating pollution on this date. Without such evidence, no remedial plan is required. Further, the OCD has no power to enforce Rule 310 retroactively. By doing so, they are violating the United States Constitutional law and the State law. This application is an attempt to punish Maralo and is not based in any law or fact that the OCD or Anthony has produced and therefore the application should be dismissed. Maralo prays further for general relief.

Respectfully submitted,



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document was forwarded on the 27th day of October, 2003, to the following counsel of record:

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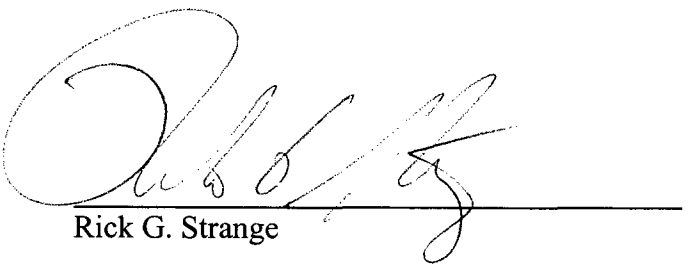

Rick G. Strange

EXHIBIT "A"

BEFORE THE OIL CONSERVATION COMMISSION OF THE STATE OF NEW MEXICO

IN THE MATTER OF THE HEARINGS CALLED BY THE OIL CONSERVATION COMMISSION OF THE STATE OF NEW MEXICO FOR THE PURPOSE OF CONSIDERING:

CASE NO. 189
ORDER NO. 850

RULES AND REGULATIONS

ORDER OF THE COMMISSION

BY THE COMMISSION:

After due notice and hearings in Santa Fe, New Mexico, on September 7, 1949, and November 1, 1949, the Commission finds that certain rules, regulations and orders should be adopted and others repealed.

IT IS THEREFORE ORDERED:

1. All rules, regulations and orders heretofore issued by the Commission are repealed and rescinded, effective January 1, 1950, except the following orders which are of a special nature and are not of statewide application, they being:

a. All orders heretofore issued granting permission for specific unorthodox locations.

b. Orders relating to approval of unit agreements No. 570, 583, 603, 602, 628, 629, 648, 655, 656, 676, 677, 684, 706, 717, 731, 737, 755, 759, 772, 774, 786, 794, 796, 836.

c. Orders relating to Carbon Black Plants No. 650, 651, 724, 806.

d. Orders relating to spacing in the Fulcher Basin Pool No. 541, 647, 748, 815.

e. Orders relating to specific five (5) spot locations No. 733, 819, 826, 821, 828, 844.

f. Order No. 799 relating to spacing in the Blanco Pool.

g. Orders relating to specified pressure maintenance projects as follows:
   (1) Loco Hills Pressure Maintenance Association, 339, 484, 498, 540, 562.
   (2) Maljamar Cooperative Repressuring Agreement, 485, 495, 736, 793.
   (3) Grayburg Unit Association, 659, 791, 802.
   (4) Culbertson-Irwin Pressure Maintenance Project, 388.
   (5) Langlie Unitized Pressuring Project, 340.

h. Orders relating to pooling of interests in specified leases, No. 739, 780.

i. Order No. 795 relating to a specific tank battery.

j. Orders relating to dual completions on specified wells, No. 740, 750, 801, 810, 816, 829, 838.

k. Order No. 831 rescinding the bonus discovery allowable.

l. Order No. 779 relating to 80-acre spacing in the Crossroads Pool.

m. Section 2 of Order No. 835, relating to gas-oil ratios.

n. Order 846, establishing 80-acre spacing in Bagley-Hightower Pool.

o. Order 33, relating to the proration plan for Monument Pool, Lea County, New Mexico.

p. Order 398, relating to proration plan for Hobbs Pool.

q. Orders No. 66 and 67, relating to carbon dioxide.

2. This order shall not affect in any way the validity of any statewide proration order heretofore issued.

3. An exception from the rules and regulations hereby adopted is granted until March 31, 1950, as to all presently existing oil and gas wells that have been in the past and are presently operated or the products thereof utilized in a manner differing from the requirements herein, but in compliance with former rules and regulations. If during said period the operator of any such well files with the Commission an application for a permanent exception for such well from the requirements of these rules and regulations, the temporary exception herein granted shall continue in force until the Commission has acted on such application.

4. The following rules and regulations are hereby adopted, effective January 1, 1950.
DONE at Santa Fe, New Mexico, on this 9th day of December, 1949.

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION

THOMAS J. MABRY, CHAIRMAN

GUY SHEPARD, MEMBER

R. R. SPURRIER, SECRETARY

New Mexico Oil Conservation Commission, Rules and Regulations,
Effective Jan. 1, 1950

RULE 306. VENTED CASINGHEAD GAS

Pending arrangement for disposition for some useful purpose, all vented casinghead gas shall be burned, and the estimated volume reported on Form C-115.

RULE 307. USE OF VACUUM PUMPS

Vacuum pumps or other devices shall not be used for the purpose of creating a partial vacuum in any stratum containing oil or gas.

RULE 308. SALT OR SULPHUR WATER

Operators shall report monthly on Form C-115, the amount or percentage of salt or sulphur water produced with the oil by each well making 2% or more water.

RULE 309. CENTRAL TANK BATTERIES

Oil shall not be transported from a lease until it has been received and measured in tanks located on the lease. At the option of the operator, common tankage may be used to receive the production from as many as 8 units of the same basic lease, provided adequate tankage and other equipment is installed so that the production from each well can be accurately determined at reasonable intervals.

RULE 310. OIL TANKS AND FIRE WALLS

Oil shall not be stored or retained in earthen reservoirs, or in open receptacles. Dikes or fire walls shall not be required except such fire walls must be erected and kept around all permanent oil tanks, or battery of tanks that are within the corporate limits of any city, town, or village, or where such tanks are closer than 150 feet to any producing oil or gas well or 500 feet to any highway or inhabited dwelling or closer than 1000 feet to any school or church; or where such tanks are so located as to be deemed an objectionable hazard within the discretion of the Commission. Where fire walls are required, fire walls shall form a reservoir having a capacity one-third larger than the capacity of the enclosed tank or tanks.

RULE 311. TANK CLEANING PERMIT

No tank bottom shall be removed from any tank used for the storage of crude petroleum oil unless and until application for tank-cleaning permit is approved by Agent of the Commission. To obtain approval, owner shall submit Commission's Form C-117 reporting an accurate gauge of the contents of the tank and the amount of merchantable oil determinable from a representative sample of the tank bottom by the standard centrifugal test as prescribed by the American Petroleum Institute's code for measuring, sampling, and testing crude oil. Number 25, Section 5. The amount of merchantable oil shall be shown as a separate item on Commission Form C-115, and shall be charged against the allowable of the unit or units producing into such tank or pit where such merchantable oil accumulated. Nothing contained in this rule shall apply to the use of tank bottoms on the originating lease where owner retains custody and control of the tank bottom or to the treating of tank bottoms by operator where the merchantable oil recovered is disposed of through a duly authorized transporter and is reported on Commission Form C-115. Nothing contained in this Rule shall apply to reclaiming of pipe line break oil or the treating of tank bottoms at a pipe line station, crude oil storage terminal or refinery or to the treating by a gasoline plant operator of oil and other catchings collected in traps and drips in the gas gathering lines connected to gasoline plants and in scrubbers at such plants.

RULE 312. TREATING PLANT

No treating plant shall operate except in conformity with the following provisions:

(a) Before construction of a treating plant and upon written application for treating plant permit stating in detail the location, type, and capacity of the plant contemplated and method of processing proposed, the Commission in not less than 20 days will set such application for hearing to determine whether the proposed plant and method of processing will actually and efficiently process, treat and reclaim tank bottom emulsion and other waste oils, and whether there is need for such a plant at the proposed location thereof. Before actual operations are begun, the permittee shall file with the Commission a surety bond of performance satisfactory to the Commission and payable in the amount of $25,000.00 to the Commission of the State of New Mexico.

(b) Such permit, if granted, shall be valid for 1 year, sha
Commission at any time after hearing is had on 10 days' notic
operator to an approved Certificate of Compliance and Authori
Form C-110, for the total amount of products secured from

processed. Any operating treating plant shall, on or before the 15th day of each calendar month, file at the nearest office of the Commission, a monthly report on Commission Form C-118, which report when fully completed and approved by an authorized agent of the Commission, may be used to support a Commission Form C-110 for the net oil on hand at the end of the reported period. In no event shall Commission Form C-110 be issued for moving the products of a treating plant without supporting Commission Form C-118 being completed and approved.

(c) None of the provisions of this rule are applicable to the recovery of wash-in oil, creek oil, or pit oil where such oil is picked up and returned to the lease on which produced or where such oil is disposed of by owner to an authorized transporter and accounted for on Commission Form C-110. Before any person other than owner shall pick up, reclaim or salvage wash-in oil, creek oil, or pit oil, a permit to do so shall be obtained from owner or operator of lease and from the duly authorized agent of the Commission. Application for permit shall state the name and location of the lease, the number of well or wells from which the oil was produced, or the source of such oil and the name of the owner, operator or manager.

RULE 313. EMULSION, BASIC SEDIMENTS, AND TANK BOTTOMS

Wells producing oil shall be operated in such a manner as will reduce as much as practicable the formation of emulsion and B. S. These substances and tank bottoms shall not be allowed to pollute streams or cause surface damage. If tank bottoms are removed to surface pits, the pits shall be fenced and the fence shall be kept in good repair.

OIL CONSERVATION COMMISSION OF NEW MEXICO

ORDER NO. 4

GENERAL RULES AND REGULATIONS GOVERNING THE CONSERVATION OF OIL AND GAS IN NEW MEXICO

INTRODUCTION

Pursuant to power delegated by an Act of the Twelfth Regular Session of the Legislature of the State of New Mexico, Chapter 72, Laws of 1935, especially the power delegated by Sections 9 and 10 thereof, the Oil Conservation Commission of the State of New Mexico, hereinafter designated as the "Commission", hereby and herein makes and promulgates the following general rules and regulations which are found by the Commission, after notice and hearing as required by law, held at Santa Fe, New Mexico, June 28th, 1935, to be reasonably necessary to prevent present and imminent waste of oil and gas, as defined by law, and otherwise to carry out the purposes of said Act. These rules and regulations shall become effective August 12, 1935.

RULE 1. SIGNS ON WELLS

ry well shall be identified by a sign, posted on the derrick le, otherwise on a substantial post not more than twenty n such well, and such signs shall be of durable construction lettering thereon shall be kept in a legible condition and large enough to be legible under normal conditions at a of fifty feet. The wells on each lease or property shall ered consecutively beginning with No. 1, unless some other of numbering was adopted by the owner prior to the of these rules and regulations. Each sign shall show the of the well, the name of the lease (which shall be different lease), the name of the lessee, owner or operator, and the by quarter, section, township and range.

RULE 2. GENERAL SPACING RULES

rules for the spacing of oil and gas wells are as follows:

"Wildcat" wells shall not be drilled closer than 330 ny lease or property line or less than 660 feet from any ell. "Wildcat" wells, according to the meaning used herein, shall be those which are located not less than two miles from any

commercial or potentially commercial oil or gas well, and that are outside the boundaries of proven oil or gas fields or areas that may be designated by the Commission. Plugged and abandoned wells shall not be considered in applying this rule.

The Commission may, after notice and hearing, grant exceptions to this rule, provided such exceptions will create neither waste nor hazards conducive to waste. Such exceptions may be granted when surface conditions render it impracticable without unreasonable expense to drill a well at a location in conformity with this rule, or when a separately owned tract is so small or so shaped that a location in conformity with this rule is impossible.

(b) The foregoing rule with reference to "Wildcat" wells shall also apply to all other wells, unless and until the Commission, after notice and hearing, adopts special rules for the spacing of wells in proven oil or gas fields or in areas that the Commission may designate.

RULE 3. WELL RECORD

During the drilling of every well, the owner, operator, contractor, driller, or other person responsible for the conduct of drilling operations, shall keep at the well a detailed and accurate record of the well, reduced to writing from day to day, which shall be accessible to the Commission and its agents at all reasonable times. A copy of the record shall be furnished to the Commission at its request, but shall be kept confidential, if the operator so requests in writing, for a period not to exceed ninety days after the completion of the well, provided that the report or data therein, when pertinent, may be introduced in evidence in any public hearing before the Commission or any Court, regardless of the request that the report be kept confidential.

If so ordered by the Commission, samples of drill cuttings shall be kept in the State by the owner of the well and shall be accessible to the Commission and its agents at all reasonable times.

RULE 4. DEVIATION TESTS

Whenever any well is drilled or deepened, tests to determine the deviation from the vertical shall be taken at intervals of not more than 500 feet. Directional surveys may be required by the Commission whenever in its judgment the location of the bottom of the well is in doubt.

RULE 5. PIT FOR SHALE DRILL CUTTINGS REQUIRED

During the drilling of any well, all clay and soft shale drill cuttings shall be accumulated in an adequate pit provided before drilling is commenced, in order to assure a supply of proper material for mud-laden fluid to confine oil, gas or water to their native strata.

RULE 6. STRATA TO BE SEALED OFF

Before any oil or gas well is completed as a producer, all oil, gas and water strata above the producing horizon shall be sealed or separated in order to prevent their contents from passing into other strata.

RULE 7. SHOOTING AND CHEMICAL TREATING OF WELLS

Wells shall not be shot or chemically treated until the permission of the Commission is obtained. Each well shall be shot or treated in such manner as will not cause injury to the sand, or result in water entering the oil or gas sand, and necessary precautions shall be taken to prevent injury to the casing. If shooting or chemical treating results in irreparable injury to the well or to the oil or gas sand, the well shall be properly plugged and abandoned. (See Rule 42.)

RULE 8. WATER SHUT-OFFS

All water shall be shut off and excluded by a method approved by the Commission from the various oil and gas bearing strata which are penetrated. Water shut-offs shall ordinarily be made by cementing casing or landing casing with or without the use of mud-laden fluid. Drilling shall not be resumed following the landing or cementing of each string of casing until proof is obtained satisfactory to the Commission of a proper oil and gas and water shut-off.

RULE 9. MUD-LADEN FLUID

Mud-laden fluid is a term used herein to designate any mixture of water and finely divided or colloidal material that remains in suspension for a long time. The mud employed shall have suitable physical and chemical properties to accomplish adequately the purpose for which such mud is used.

RULE 10. USE OF MUD-LADEN FLUID IN SETTING CASING

In order to seal off any oil, gas or water stratum during drilling, the owner shall, if the Commission so requires, run the casing and seat it in mud-laden fluid, which fluid shall fill the hole outside the casing to the top, where the level of said fluid shall be maintained.

RULE 11. PULLING OUTSIDE STRINGS OF CASING

In pulling any outside strings of casing from any oil or gas well, the space outside the casing left in the hole shall be kept and left full of mud-laden fluid of adequate specific gravity to seal off all fresh and salt water strata and any strata bearing oil or gas not producing.

RULE 12. ABANDONING WELLS

Before a well is abandoned, it shall be plugged in a manne which will confine permanently all oil, gas and water in the separat strata originally containing them. This operation shall be accom plished by the use of mud-laden fluid, cement and plugs, used singl or in combination as may be approved by the Commission The exact location of abandoned wells shall be shown by a stee marker at least four inches in diameter set in concrete, an extending at least four feet above mean ground level.

RULE 13. BLOW-OUT PREVENTION

In drilling in areas where high pressures are likely to exist all proper and necessary precautions shall be taken for keeping th well under control, including the use of blow-out preventers an high pressure fittings attached to properly anchored and cementec casing strings.

RULE 14. CASING REQUIREMENTS FOR OIL AND GAS PRODUCTION

Oil wells shall be completed with an oil string of casin which shall be properly cemented at a sufficient depth adequatel to protect the oil-bearing stratum. Gas-producing wells shall b cased in a similar manner.

RULE 15. OIL TANKS AND FIRE WALLS

Oil shall not be stored or retained in earthen reservoirs, or i open receptacles. All lease, stock and oil storage tanks shall b protected by a proper fire wall, which wall shall form a reservoi having a capacity one-third larger than the capacity of the enclose tank or tanks. Such tanks shall not be erected, enclosed o maintained closer than 150 feet to the nearest producing well.

RULE 16. EMULSION, B. S., AND WASTE OIL

Wells producing oil shall be operated in such manner as wil reduce as much as practicable the formation of emulsion an B. S. These substances and waste oil shall not be allowed t pollute streams or cause surface damage.

RULE 17. USE OF VACUUM PUMPS

Vacuum pumps or other devices shall not be used for th purpose of creating a partial vacuum in any stratum containin oil or gas.

RULE 18. PROTECTION OF FRESH AND ARTESIAN WATERS

All fresh waters and waters of present or probable future valu for domestic, commercial or stock purposes shall be confined t their respective strata and shall be adequately protected by method