

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

**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; LEA
COUNTY, NEW MEXICO.**

CASE NO. 13142
De Novo

AMENDED APPLICATION
FOR ORDER DIRECTING REMEDIATION

1. Maralo, LLC ("Maralo") is the current operator of record of the Humble State Well No. 3 (API No. 30-025-09831) and associated tank battery and pits, located in Unit A, Section 36, Township 25 South, Range 36 East, Lea County, New Mexico ("the site").
2. Ralph Lowe drilled the Humble State Well No. 3 in 1945 and operated the well and the associated tank battery and pits until his death.
3. Mr. Lowe's daughter, Mary Ralph Lowe, was one of the organizers of "Maralo, Inc.," which replaced Ralph Lowe as operator of record for the well in 1974. According to records filed with the Oil Conservation Division ("OCD"), "Maralo, Inc." plugged and abandoned the Humble State Well No. 3 in 1988.
4. In 1999, the OCD approved a request for an operator name change from "Maralo, Inc." to "Maralo, LLC." "Maralo, LLC" is registered to do business in New Mexico under SCC number 2017929. The Public Regulation Commission web site shows no listing for "Maralo, Inc."
5. The OCD's Environmental Bureau began an investigation of the Humble State Well No. 3 and associated tank battery and pits in response to the surface owner's complaint that water samples taken from a water well adjacent to the tank battery showed elevated levels of chlorides.
6. At the time of the Environmental Bureau's initial site inspection in 2001 the tank or tanks used at the battery site had been removed. OCD inspectors observed chunks of petroleum contaminated soil ranging from smaller pieces up to softball size or larger covering an area surrounding the former tank battery. It appeared to the inspectors that the material had been spread across or disked across the area.

7. OCD inspectors observed three unlined pits at the site. One pit, approximately 75' square, is located to the south of the former tank battery. Two pits, each approximately 150' square, are located to the west of the former tank battery. OCD inspectors observed a rim of hard oil-contaminated soils around each of the three pits. It appeared to the inspectors that the pits had been covered or buried, but that the oil had resurfaced around the rims.

8. Water samples taken by OCD inspectors from the water well at the site confirmed some chloride contamination of groundwater above the New Mexico Water Quality Control Commission standard, but did not show petroleum contamination of the water.

9. In 2001, OCD investigators collected one soil sample from the surface of the tank battery area, and five samples from the pits at depths ranging from zero to 8 feet. Laboratory analysis of the soil samples showed negligible levels of chlorides. However, the soil sample taken in 2001 at a level of zero to 12 inches in the area of the tank battery showed 35,700 mg/Kg of total petroleum hydrocarbons (TPH) and 0.685 mg/Kg of xylene; the soil sample taken from the surface of one of the pits contained 23,900 mg/Kg of TPH; and a soil sample taken from one of the pits at a depth of three to four feet contained 20,900 mg/Kg TPH.

10. In 2002, OCD investigators returned to take additional soil samples at depths ranging from 2 feet to 27 feet. Again, laboratory analysis of the soil samples showed negligible levels of chlorides. Laboratory analysis of soil samples taken from two locations at the site contained up to 25,400 mg/Kg of total petroleum hydrocarbons (TPH); up to 0.179 mg/Kg of benzene; up to 0.432 mg/Kg of ethylbenzene; and up to 0.921 mg/Kg of xylene.

11. According to testimony from a former Lowe/Maralo employee at the division hearing in this matter, Ralph Lowe used the pits to dispose of produced water until 1968, and the water, although low in chlorides, contained oil in emulsion. The employee also testified that the oil tanks at the battery site had overflowed on occasion.

12. The Oil and Gas Act, Chapter 70, Article 2 NMSA 1978 ("the Act"), grants the Commission and the OCD broad enforcement powers, including "jurisdiction, authority and control of and over all persons, matters or things necessary or proper to enforce effectively the provisions of this act or any other law of this state relating to the conservation of oil or gas...." Section 70-2-6, NMSA 1978. Similar language has described the powers of the Commission since its creation in 1935. See Laws, 1935, ch. 72, Section 4.

13. Rule 313 [19.15.5.313 NMAC] provides:

Wells producing oil shall be operated in such a manner as will reduce as much as practicable the formation of emulsion and basic sediments. These substances and tank bottoms shall not be allowed to pollute fresh waters or cause surface damage. (Emphasis added.)

This prohibition has been in effect since 1935. See Oil Conservation Commission of New Mexico Order No. 4, rule 16.

14. Rule 310.A [19.15.5.310.A NMAC] provides in relevant part as follows:

Oil shall not be stored or retained in earthen reservoirs, or in open receptacles.

This prohibition has been in effect since 1935. See Oil Conservation Commission of New Mexico Order No. 4, rule 15.

15. To enforce Rule 313's prohibition against allowing emulsions to cause surface damage or pollute fresh waters, and to enforce Rule 310.A's prohibition against retaining oil in earthen reservoirs or open receptacles, the Commission should exercise its enforcement powers under Section 70-2-6 by issuing an order requiring Maralo, the current operator of record, to remediate the ongoing hydrocarbon contamination at the site.

16. Alternatively, the Commission should order Maralo to remediate hydrocarbon contamination at the site under one or more of the following authorities:

a. Section 70-2-12(B), NMSA 1978 authorizes the OCD:

to make...orders for the purposes and with respect to the subject matter stated in this subsection:

...
(18) to ... do all acts necessary and proper to ... restore and remediate abandoned well sites and associated production facilities in accordance with the provisions of the Oil and Gas Act, the rules and regulations adopted under that act

...
(21) to regulate the disposition of nondomestic wastes resulting from the exploration, development, production or storage of crude oil or natural gas to protect public health and the environment....

b. Rule 13.B [19.15.1.13.B NMAC] provides:

all operators, contractors, drillers, carriers, gas distributors, service companies, pipe pulling and salvaging contractors, treating plant operators or other persons shall at all times conduct their operations in or related to the drilling, equipping, operating, producing, plugging and abandonment of oil, gas, injection, disposal, and storage wells or other facilities in a manner that will prevent waste of oil and gas, the contamination of fresh waters and shall not wastefully utilize oil or gas, or allow either to leak or

escape from a natural reservoir, or from wells, tanks, containers pipe or other storage, conduit or operating equipment.

c. Rule 202.B(3) [19.15.4.202.B(3) NMAC] requires the operator, no later than one year after the completion of plugging operations, to take such measures as are necessary or required by the OCD "to restore the location to a safe and clean condition."

d. Rule 116.D [19.15.3.116.D NMAC] provides:

The responsible person must complete division approved corrective action for releases which endanger public health or the environment. Releases will be addressed in accordance with a remediation plan submitted to and approved by the division or with an abatement plan submitted in accordance with Section 19 of 19.15.1 NMAC.

17. Although the statutes and rules cited in paragraph 16, above, took effect after the date Maralo states it plugged and abandoned the well and discontinued use of the site, the Commission may apply these statutes and rules to remediate existing contamination.

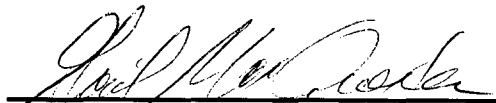
WHEREFORE, the Environmental Bureau Chief of the Division hereby applies to the Commission to enter an order:

A. Directing Maralo to submit a work plan to remediate hydrocarbon contamination existing at the Humble State No. 3 site;

B. Upon approval of said work plan by the Environmental Bureau, to complete remediation of the site in accordance with the work plan; and

C. For such other and further relief as the Commission deems just and proper under the circumstances.

RESPECTFULLY SUBMITTED,



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Case No. 13142 de novo: Amended Application of the New Mexico Oil Conservation Division for an Order Requiring Maralo, LLC to Remediate Hydrocarbon Contamination at an Abandoned Well and Battery Site; Lea County, New Mexico. The Applicant seeks an order requiring Maralo, LLC to remediate contamination at the Humble State Well No. 3 site, located in Unit A, Sec. 36, T 25S, R36 E, Lea County, New Mexico. The site is located approximately 3 miles south, southwest of Jal.