

New Mexico Energy, Minerals and Natural Resources Department

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Marks & Garner Production Limited Co.
PO Box 1089
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Attn: Quinton Welborn
Also via email: qwelborn@valornet.com

May 12, 2010

USPS Certified Mail No. 7009 0820 0001 4133 2462

Re: Case NO. 14393 Reopened - Order R-13197

Wells:

- Livers Federal Well No.7 30-015-25091
- Livers Well No. 3Y 30-015-02787
- Red Twelve Federal Well No. 1 30-015-25058
- Cave State Well No. 4 30-015-24742
- Red Twelve State Well No. 2 30-015-24966
- Red State Well No. 1 30-015-24855
- Red Twelve State Well No. 3 30-015-24989
- Red Twelve State Well No. 4 30-015-24991
- Diamond State Well No. 2 30-015-24760
- Red Twelve State Well No. 1 30-015-24962
- Mosley Spring 32 State Com. Well No. 2 30-015-23341

Mr. Welborn,

The New Mexico Oil Conservation Division (OCD) is in receipt of eleven documents, each titled "Remediation Workplan" (plans), which collectively constitute the proposals for remediation of contaminants that exist at the above-listed eleven well sites operated by Marks & Garner Production Limited Company (Marks & Garner) addressed by the Compliance Action filed by the OCD, OCD Case No. 14393. The plans were formulated and submitted to OCD by your agent, Ocotillo Environmental, and have been submitted pursuant to OCD **Hearing Order Number R-13197**, (with an extension granted by the OCD to April 15, 2010 for their submission).

With the exception of the plan proposal submitted for the Mosley Spring 32 State Com 1, all of the plans basically propose the following:

- Impacted material will be removed to a depth of five feet, a horizontal delineation will be performed, and a 20 mil plastic liner will be installed. The remaining contaminants will be left in place, under the liner.
- Excavated material that exhibits chloride levels over 5,000 mg/kg will be hauled to a disposal, with the remaining material blended with organic material to achieve a chloride



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concentration of less than 1000 mg/kg.

- The blended material would then be utilized as backfill in the excavated areas and for berm material at the Marks & Garner sites.

The plan submitted for the Mosley Spring 32 State Com 1 site, proposes that OCD require no remediation at that site.

The plans will be accepted by OCD, subject to certain conditions, stipulations and/or additional requirements as specified below:

The following conditions, stipulations and/or requirements are applicable to all sites and the proposed scope of work in general:

- Notify OCD 48 hours prior to commencement of remedial activities at each site.
- Notify OCD 48 hours prior to obtaining any samples where analyses of samples obtained are to be submitted to OCD.
- A form C-141 marked final report along with a closure report outlining work performed at each site is to be submitted to OCD upon satisfactory completion of this project. The closure report must clearly identify areas where liners have been installed.
- Any reference or statements made in the plans as to depth to groundwater not being relevant to remedial actions is not accepted by OCD.
- The type of "organic" material used for blending must be identified to OCD and is subject to OCD approval.
- Soil blending will be allowed only to the extent that the volume of blended material will be constructively used as excavation backfill and berm construction on the affected sites. In the event the volume of blended material exceeds practical usage for the affected sites, the excess material is to be disposed at an OCD approved disposal facility. "Practical usage" will be determined by OCD.
- Representative samples are to be obtained from blended material and a lab analyses performed to insure contents do not exceed the proposed chloride limits.
- Liners are to be installed in such a manner as to allow for adequate drainage to prevent ponding or pooling of water as a result of precipitation events (domed from the center outwards to the edges of the liner being installed).
- No portion of any liner may be closer than 4 feet to ground surface.
- All fluid leaks are to be repaired prior to commencement of remedial activities at each site.
- All out of service and/or leaking vessels, equipment, junk and flow lines are to be removed as necessary to facilitate remedial activities.

- Where OCD requires deeper excavation than what has been proposed, if Marks & Garner believes that the depth required is not practicable to achieve, Marks & Garner must submit evidence and/or documentation as to why the required excavation depth would not be practicable.
- Like approval by BLM will be required as applicable.

The following additional site-specific conditions, stipulations and/or requirements are applicable to each site as specified below:

Red Twelve Federal #1 API: 30-015-25058 OCD Reference Number 2RP-306

- Areas at the base of storage and related vessels are to be tested and delineated for BTEX, TPH and chloride. Remediation requirements for this area will depend upon results of testing and delineation.
- Area identified as BH-1 is to be excavated to a depth of 12 to 15 feet below ground surface (bgs), or to as near that depth range as is practicable.
- Area identified as BH-2 is to be excavated to a depth of 16 to 20 feet bgs, or to as near that depth range as is practicable.
- Area identified as BH-3 is to be excavated to a depth of 6 to 10 feet bgs, or to as near that depth range as is practicable.

Levers #3Y API:30-015-03787 OCD Reference Number 2RP-305

- There is a discrepancy in analytical data from samples obtained on 6/22/09 and samples obtained on 3/2/10, specifically at the 6 feet bgs interval. Please advise if any material was excavated from this sample area between the sampling dates. If material was excavated, please advise as to disposition of material excavated. Please provide this information/clarification within ten (10) calendar days of receipt of this letter.
- The proposed horizontal delineation is to include testing for hydrocarbons. Remediation requirements and the proposal to blend at this site will be dependent upon clarification of the data anomaly referenced above and the results of the delineation.

Red Twelve State #1 API:30-015-24962 OCD Reference Number 2RP-409

- Vertical and horizontal delineation of contaminants must be completed in the tank battery area. The proposal to excavate to 2 feet bgs may be approved dependent on the delineation data.
- Area identified as BH-1 is to be excavated to a depth of 36 to 40 feet bgs, or to as near that depth range as is practicable.
- Area identified as BH-3 will require further vertical delineation. Remediation requirements for area will be dependent upon results of vertical and proposed horizontal delineation.

Red Twelve State #3 API:30-015-24989 OCD Reference Number 2RP-309

- Vertical and horizontal delineation of contaminants must be completed in the tank battery area. The proposal to excavate to 2 feet bgs may be approved dependent on the delineation data.
- Area identified as BH-2 is to be excavated to a depth of 11 to 15 feet bgs, or to as near that depth range as is practicable.
- Area identified as BH-3 will require further vertical delineation. Remediation requirements for this area will be dependent upon results of the delineation.

Diamond State #2 API:30-015-24760 OCD Reference Number 2RP-408

- Area identified as BH-1 is to be excavated to a depth of 16 to 20 feet bgs, or to as near that depth range as is practicable.
- In area identified as BH-2, the horizontal delineation is to include testing for hydrocarbons up to and around the base of vessels in the vicinity of this borehole. Remediation requirements for this area will be dependent upon results of the delineation.
- The material excavated in the 0 to 1 foot interval in the area identified as BH-3 is not to be included in the blending process.
- Area identified as BH-4 is to be excavated to 11 feet bgs, or to as near that depth as is practicable. Blending of this material will not be allowed.
- Area identified as BH-5 is to be excavated to 6 to 10 feet bgs or to as near that depth range as is practicable. Blending of this material will not be allowed.
- Area identified as BH-7 is to be excavated to a depth of 6 to 10 feet bgs or to as near that depth range as is practicable.

Levers Federal #7 API: 30-015-25091 OCD Reference Number 2RP-304

- Area identified as BH-1 is to be excavated to a depth of 6 to 10 feet bgs, or to as near that depth as is practicable.
- Photos taken by OCD at initial inspection, resulting in LOV being issued, shows hydrocarbons pooled at base of what appears to be a separator. Samples are to be obtained from tank battery area and around any other vessels at this site. Areas are to be tested and delineated for hydrocarbon and chloride contamination. Remediation requirements for this area will be dependent upon results of the delineation.

Red State #1 API: 30-015-24855 OCD Reference Number 2RP-407

- Area identified as BH-1 is to be excavated to a depth of 11 to 15 feet bgs, or to as near that depth range as is practicable.

- In the area identified as BH-3, OCD will require the vertical delineation to be completed. Remediation requirements for this entire area (identified as BH-3 and BH-4) will be dependent on data obtained from the delineation. This area is situated in the pasture SW of the Red State #1 well site, and has two open-top tanks set. It is likely that these tanks will be required to be moved in order to facilitate remediation in this area. If Marks and Garner intends to keep these vessels in service, OCD would request that they be re-set on an existing well pad with a berm constructed around the perimeter of the vessels.

Red Twelve State #2 API: 30-015-24966 OCD Reference Number 2RP-308

- Area identified as BH-1 is to be excavated to a depth of 11 to 15 feet bgs, or to as near that depth range as is practicable. Photos taken on 4/9/09 show soils at the base of one of the vessels in this area to be hydrocarbon saturated. Samples taken on 6/23/09 show TPH levels to be over 20,000 mg/kg. Samples are to be obtained and area delineated for hydrocarbon presence, as well as the proposed horizontal delineation for chloride impact. Remediation requirements for this area will be dependent upon results of the delineation.

Cave State #4 API: 30-015-24742 OCD Reference Number 2RP-307

- Area identified as BH-1 is to be excavated to a depth of 6 to 8 feet bgs, or to as near that depth range as is practicable. The horizontal delineation towards the well head is to include testing for hydrocarbons. Remediation and excavation of this area will be dependent upon results of the delineation.
- Photos taken of the site on 2/26/10 show a stockpile of what appears to be hydrocarbon impacted soils. Samples taken on 6/22/09 of what is believed to be this stockpile, show TPH levels to be 43,270 mg/kg. This soil stockpile is to be disposed of at an OCD approved disposal facility. Samples are to be obtained from underneath the stockpile area and tested for contaminants. Remedial actions may be required dependent upon the testing results.

Red Twelve State #4 API: 30-015-24991 OCD Reference Number 2RP-310

- Area identified as BH-1 is to be excavated to a depth of 21 to 25 feet bgs, or to as near that depth range as is practicable. The borehole (vertical) delineation at this site shows an increase in chloride levels on the deepest sample. Additional vertical delineation in this area will be required. Additional remediation may be required depending upon results of updated vertical delineation.
- In the area identified as BH-2, the vertical delineation is to include testing for hydrocarbons. Use of this material for blending may be limited or not permitted depending upon results of the delineation.
- Area identified as BH-3 is to be excavated to a depth of 16 to 20 feet bgs, or to as near that depth range as is practicable. Horizontal delineation in this area is to include testing for hydrocarbons. Additional remediation requirements for this area may be imposed and will be dependent upon results of the horizontal delineation. Use of material in this area for blending may be limited or not permitted depending upon the results of the delineation and testing.

Mosley Spring 32 State #2 API: 30-015-23341 OCD Reference Number 2RP-410

- In the area identified as BH-1, there was a substantial increase in chloride content in the deepest sample obtained (15 to 16 feet interval). Additional vertical delineation will be required and additional remediation may be required depending upon results of the updated delineation.
- Photos taken on 4/22/09 show an area adjacent to the well head that exhibits staining indicative of hydrocarbon staining. This area is to be tested for presence of hydrocarbons. Remediation requirements of this area will be dependent upon results of hydrocarbon testing.

As stated in **Hearing Order No. R-13197, Case No. 1493**, in relevant part:

If any work plan submitted pursuant to Ordering Paragraph (1) or (2) of this order is approved [or] ...the Division notifies Marks & Garner in writing that it will require any changes in, or additions to, any work plan submitted pursuant to Ordering Paragraph (1) or (2) of this order, Marks & Garner shall perform the work plan, including such changes or additions, within 60 days after receipt of such written notification.

(Emphasis Added). OCD Order R-13197, p.5, Ordering ¶4.

Pursuant to Order No. R-13197, then, the work as outlined in the plans submitted by Ocotillo Environmental for the subject wells, along with the additional changes, additions and conditions outlined herein, is to be completed within sixty (60) days of your receipt of this notice.

It is my understanding that the Order also provided that Marks & Garner appear before the examiners at a follow-up hearing to provide evidence of compliance with the Order (p.5, Ordering ¶7), with the hearing originally being scheduled for March 4, 2010. Given the extensions agreed to by the Division for the completion of the remediation at the subject locations, I understand that this hearing is now scheduled to occur on **July 22, 2010.**

Please be advised that OCD approval of any remediation proposal does not relieve the operator of liability should their operations have failed to adequately investigate and remediate contamination that may pose a threat to ground water, surface water, human health or the environment. In addition, OCD approval does not relieve the operator of responsibility for compliance with any other federal, state local laws and/or regulations.

If you have any questions or concerns, and for notification purposes, please contact me as listed below.

Sincerely,

Mike Bratcher
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