

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

**APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION, THROUGH THE ENFORCEMENT AND COMPLIANCE MANAGER, FOR A COMPLIANCE ORDER AGAINST BTA OIL PRODUCERS LLC, FINDING THE OPERATOR IN VIOLATION OF ORDER NO. R-9147-C, 19.15.26.10.B NMAC, 19.15.34 NMAC, 19.15.17 NMAC AND 19.15.29 NMAC AS TO A SALT WATER DISPOSAL FACILITY; REQUIRING OPERATOR TO SUBMIT A DELINEATION REPORT AND REMEDIATE THE FACILITY SITE; IN THE EVENT OF NON-COMPLIANCE REQUIRING THE OPERATOR TO PLUG AND ABANDON THE DISPOSAL WELL AND REMEDIATE THE ASSOCIATED FACILITY BY A DATE CERTAIN AND AUTHORIZE THE DIVISION TO TAKE THOSE ACTIONS AND FORFEIT THE APPLICABLE FINANCIAL ASSURANCE; AND HOLD OPERATOR IN VIOLATION OF 19.15.5.9 NMAC UNTIL OPERATOR COMPLETES ALL ORDERED CORRECTIVE ACTION, EDDY COUNTY, NEW MEXICO.**

**CASE NO. 14413**

**AFFIDAVIT OF NOTICE**

In accordance with Oil Conservation Division (OCD) rule 19.15.4.12.C NMAC, I hereby provide the following information on notice for Case No. 14380.

1. Case No. 14413 seeks a compliance order against BTA Oil Producers, LLC requiring the operator return a well site to compliance or plug the well and remediate the site by a date certain, and authorizing the OCD to plug the well, remediate the site and forfeit the applicable financial assurances if that deadline is not met.

2. According to OCD records, the address of record for BTA Oil Producers LLC is 104 S. Pecos, Midland, TX 79701.

3. According to the corporate inquiry screen posted on the website for the Public Regulation Commission, BTA Oil Producers LLC has the following registered agent: Alan L. Castetter, 323 W. Mermod, Carlsbad, NM 88221. A copy of the corporate inquiry screen is attached as Exhibit A.


4. BTA Oil Producers LLC posted bond 105E9046, the financial assurance for the well at issue, through Travelers Indemnity Company, 1 Tower Square, Hartford, CT 06183.

5. The Revised Notice of Hearing for the February 4, 2010 hearing setting in the above-captioned case was mailed on December 7, 2009 to BTA Oil Producers LLC, Alan L. Castetter as registered agent for BTA Oil Producers LLC and Travelers Indemnity Company at the addresses

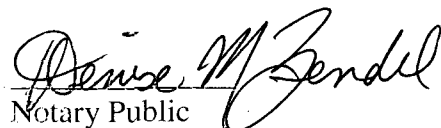
identified above, by certified mail, return receipt requested, with a copy of the application. A copy of the notice, with the attachments, is attached as Exhibit B.

6. The OCD received signed return receipt cards from BTA Oil Producers LLC, Alan L. Castetter and Travelers Indemnity Company. Copies of the cards are attached as Exhibit C.

I, Gail MacQuesten, swear that the foregoing is true and correct.

  
\_\_\_\_\_  
Gail MacQuesten  
Oil Conservation Division

Subscribed and sworn to before me this 1<sup>st</sup> day of February 2010 by Gail MacQuesten.

  
\_\_\_\_\_  
Notary Public

My commission expires:

01-09-12

New Search

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# BTA OIL PRODUCERS, LLC

*(TEXAS Corporation)*

SCC Number: **2899664**

Tax & Revenue Number:

Organization Date: **JUNE 29, 2007, in NEW MEXICO**

Organization Type: **FOREIGN LIMITED LIABILITY**

Organization Status: **EXEMPT**

Good Standing:

Purpose: **NOT REQUIRED**

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## ORGANIZATION DATES

Taxable Year End Date:

Filing Date:

Expiration Date:

## SUPPLEMENTAL POST MARK DATES

Supplemental:

Name Change:

Purpose Change:

Agent Resigned:

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## MAILING ADDRESS

104 S. PECOS MIDLAND , TEXAS 79701

## PRINCIPAL ADDRESS

### PRINCIPAL ADDRESS (Outside New Mexico)

104 S. PECOS MIDLAND TEXAS 79701

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**Case 14413**  
**BTA Oil Producers LLC**  
**OCD Exhibit 1-A**

## **REGISTERED AGENT**

**ALAN L. CASTETTER**

323 W. MERMOD CARLSBAD NEW MEXICO 88221

**Agent Designated:**

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## **COOP LICENSE INFORMATION**

Number:

Type:

Expiration Year:

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## **ORGANIZERS**

**BEAL JR, BARRY**

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## **DIRECTORS**

Date of Election of Directors:



# New Mexico Energy, Minerals and Natural Resources Department

**Bill Richardson**  
Governor

Joanna Prukop  
Cabinet Secretary

Mark Fesmire  
Division Director  
Oil Conservation Division



December 7, 2009

**REVISED**  
**NOTICE OF HEARING**

BTA Oil Producers LLC  
104 S. Pecos  
Midland, TX 79701

Certified Mail No. 7002 0510 0003 5125 1709

Alan L. Castetter  
Registered Agent for BTA Oil Producers LLC  
323 W. Mermod  
Carlsbad, NM 88221

Certified Mail No. 7002 0510 0003 5125 1693

Travelers Indemnity Company  
1 Tower Square  
Hartford, CT 06183

Certified Mail No. 7002 0510 0003 5125 1686

**CASE 14413: APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION, THROUGH THE ENFORCEMENT AND COMPLIANCE MANAGER, FOR A COMPLIANCE ORDER AGAINST BTA OIL PRODUCERS LLC, FINDING THE OPERATOR IN VIOLATION OF ORDER NO. R-9147-C, 19.15.26.10.B NMAC, 19.15.34 NMAC, 19.15.17 NMAC AND 19.15.29 NMAC AS TO A SALT WATER DISPOSAL FACILITY; REQUIRING OPERATOR TO SUBMIT A DELINEATION REPORT AND REMEDIATE THE FACILITY SITE; IN THE EVENT OF NON-COMPLIANCE REQUIRING THE OPERATOR TO PLUG AND ABANDON THE DISPOSAL WELL AND REMEDIATE THE ASSOCIATED FACILITY BY A DATE CERTAIN AND AUTHORIZE THE DIVISION TO TAKE THOSE ACTIONS AND FORFEIT THE APPLICABLE FINANCIAL ASSURANCE; AND HOLD OPERATOR IN VIOLATION OF 19.15.5.9 NMAC UNTIL OPERATOR COMPLETES ALL ORDERED CORRECTIVE ACTION, EDDY COUNTY, NEW MEXICO.**

Ladies and Gentlemen,

You are hereby notified that the New Mexico Oil Conservation Division (OCD) has filed the above-captioned case seeking a compliance order against BTA Oil Producers LLC (BTA). A copy of the application is enclosed.

***Case 14413***  
***BTA Oil Producers LLC***  
***OCD Exhibit 1-B***



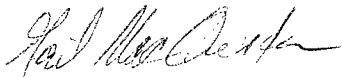
**This revised notice of hearing is being sent because the OCD examiners have changed the docketing system. Some dockets are "consent dockets" that do not have court reporters; other dockets are "regular dockets." The hearing date in the original notice has now been designated a "consent docket." This matter requires a "regular docket." Therefore, this revised notice is being sent to notify you that the matter has been re-set for February 4, 2010, a "regular docket."**

This notice is being sent to Travelers Indemnity Company because the application includes a request for an order allowing the OCD to plug and abandon the Pardue C 8808 JVP #001 well, API 30-015-26341, and related facility, and forfeit the applicable financial assurance. BTA has posted \$50,000 bond number 105E9046 to secure the plugging and abandonment of the Pardue C 8808 JVP #001 well.

A hearing on this application will take place before an OCD hearing officer on **Thursday, February 4, 2010 at 8:15 a.m.**, in Porter Hall, First Floor, 1220 South St. Francis Drive in Santa Fe, New Mexico. At that hearing you will have an opportunity to oppose the entry of the order. **If you intend to present evidence at the hearing, you should file a pre-hearing statement at least four business days in advance of the hearing and serve copies on the other parties or their attorneys, as required by 19.15.4.13.B NMAC.** A copy of that rule is enclosed. I have also enclosed a copy of 19.15.4.14 NMAC, which addresses representation at administrative hearings before the OCD.

If you have questions about the application, you may call me at (505) 476-3451. If you have questions about hearing procedures or scheduling, please call OCD Hearing Clerk Florene Davidson at (505) 476-3458.


Sincerely,



Gail MacQuesten  
Assistant General Counsel  
[Gail.macquesten@state.nm.us](mailto:Gail.macquesten@state.nm.us)

Encl: Application in Case No. 14413  
Rule 19.15.4.13.B NMAC  
Rule 19.15.4.14 NMAC

EC: Daniel Sanchez, Compliance and Enforcement Manager  
Glenn von Gonten, Acting Bureau Chief, Environmental Bureau  
Randy Dade, Supervisor, District 2  
Sherry Bonham, District 2  
Mike Bratcher, District 2



# New Mexico Energy, Minerals and Natural Resources Department

**Bill Richardson**  
Governor

Joanna Prukop  
Cabinet Secretary

Mark Fesmire  
Division Director  
Oil Conservation Division



November 23, 2009

## **NOTICE OF HEARING**

BTA Oil Producers LLC  
104 S. Pecos  
Midland, TX 79701

Certified Mail No. 7002 0510 0003 5125 1730

Alan L. Castetter  
Registered Agent for BTA Oil Producers LLC  
323 W. Mermod  
Carlsbad, NM 88221

Certified Mail No. 7002 0510 0003 5125 1723

Travelers Indemnity Company  
1 Tower Square  
Hartford, CT 06183

Certified Mail No. 7002 0510 0003 5125 1716

**CASE 14413: APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION, THROUGH THE ENFORCEMENT AND COMPLIANCE MANAGER, FOR A COMPLIANCE ORDER AGAINST BTA OIL PRODUCERS LLC, FINDING THE OPERATOR IN VIOLATION OF ORDER NO. R-9147-C, 19.15.26.10.B NMAC, 19.15.34 NMAC, 19.15.17 NMAC AND 19.15.29 NMAC AS TO A SALT WATER DISPOSAL FACILITY; REQUIRING OPERATOR TO SUBMIT A DELINEATION REPORT AND REMEDIATE THE FACILITY SITE; IN THE EVENT OF NON-COMPLIANCE REQUIRING THE OPERATOR TO PLUG AND ABANDON THE DISPOSAL WELL AND REMEDIATE THE ASSOCIATED FACILITY BY A DATE CERTAIN AND AUTHORIZE THE DIVISION TO TAKE THOSE ACTIONS AND FORFEIT THE APPLICABLE FINANCIAL ASSURANCE; AND HOLD OPERATOR IN VIOLATION OF 19.15.5.9 NMAC UNTIL OPERATOR COMPLETES ALL ORDERED CORRECTIVE ACTION, EDDY COUNTY, NEW MEXICO.**

Ladies and Gentlemen,

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November 23, 2009


Page 2

This notice is being sent to Travelers Indemnity Company because the application includes a request for an order allowing the OCD to plug and abandon the Pardue C 8808 JVP #001 well, API 30-015-26341, and related facility, and forfeit the applicable financial assurance. BTA has posted \$50,000 bond number 105E9046 to secure the plugging and abandonment of the Pardue C 8808 JVP #001 well.

A hearing on this application will take place before an OCD hearing officer on **Thursday, January 21, 2010 at 8:15 a.m.**, in Porter Hall, First Floor, 1220 South St. Francis Drive in Santa Fe, New Mexico. At that hearing you will have an opportunity to oppose the entry of the order. **If you intend to present evidence at the hearing, you should file a pre-hearing statement at least four business days in advance of the hearing and serve copies on the other parties or their attorneys, as required by 19.15.4.13.B NMAC.** A copy of that rule is enclosed. I have also enclosed a copy of 19.15.4.14 NMAC, which addresses representation at administrative hearings before the OCD.

If you have questions about the application, you may call me at (505) 476-3451. If you have questions about hearing procedures or scheduling, please call OCD Hearing Clerk Florene Davidson at (505) 476-3458.

Sincerely,



Gail MacQuesten  
Assistant General Counsel  
[Gail.macquesten@state.nm.us](mailto:Gail.macquesten@state.nm.us)

Encl: Application in Case No. 14413  
Rule 19.15.4.13.B NMAC  
Rule 19.15.4.14 NMAC

EC: Daniel Sanchez, Compliance and Enforcement Manager  
Glenn von Gonten, Acting Bureau Chief, Environmental Bureau  
Randy Dade, Supervisor, District 2  
Sherry Bonham, District 2  
Mike Bratcher, District 2

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

APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION  
THROUGH THE ENFORCEMENT AND COMPLIANCE MANAGER, FOR A  
COMPLIANCE ORDER AGAINST BTA OIL PRODUCERS LLC, FINDING  
THE OPERATOR IN VIOLATION OF ORDER NO. R-9147-C, 19.15.26.10.B  
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ASSOCIATED FACILITY BY A DATE CERTAIN AND AUTHORIZE THE  
DIVISION TO TAKE THOSE ACTIONS AND FORFEIT THE APPLICABLE  
FINANCIAL ASSURANCE; AND HOLD OPERATOR IN VIOLATION OF  
19.15.5.9 NMAC UNTIL OPERATOR COMPLETES ALL ORDERED  
CORRECTIVE ACTION, EDDY COUNTY, NEW MEXICO.

CASE NO. 14413

APPLICATION FOR COMPLIANCE ORDER  
AGAINST BTA OIL PRODUCERS LLC

1. BTA Oil Producers LLC operates wells in New Mexico under OGRID  
305316.

2. According to information posted on the website of the New Mexico Public  
Regulation Commission, BTA Oil Producers LLC is a foreign limited liability company  
with the following registered agent: Alan L. Castetter, 323 W. Mermod, Carlsbad, New  
Mexico 88221.

3. According to the records of the Oil Conservation Division (OCD), the  
address of record for BTA Oil Producers LLC is 104 S. Pecos, Midland, Texas, 79701.

This address is consistent with the address that appears on BTA Oil Producers LLC's recent regulatory filings with the OCD, and the mailing address listed for BTA Oil Producers LLC on the website of the New Mexico Public Regulation Commission.

4. According to OCD records, BTA Oil Producers LLC posted \$50,000 blanket surety bond 105E9046 through Travelers Indemnity Company to secure the plugging and abandonment of its wells.

#### **Factual Background**

5. BTA Oil Producers, the predecessor to BTA Oil Producers LLC, drilled the Pardue C 8808 JVP #001 well, API 30-015-26341, in 1990.

6. The well is located in Section 11, Township 23 South, Range 28 East in Eddy County, New Mexico. The well is approximately 110 feet to the west of the Pecos River. The well site is located approximately 50 to 60 feet above the Pecos River. Ground water at the well site occurs at approximately 41 feet below ground level.

7. Order No. R-9147-C, issued in 1991 in Case No. 10268, permitted the well as a salt water injection well.

8. BTA Oil Producers began injection operations at the well in 1994.

9. On October 19, 2007, the OCD issued a Letter of Violation to BTA Oil Producers as a result of an inspection conducted that day. The inspector had found an unpermitted, unlined pit at the well site. Four overflow pipelines carried produced water from the tank battery to the pit. The Letter of Violation instructed BTA Oil Producers to "clean up the site and remove the overflow lines" by January 22, 2008.

10. BTA Oil Producers converted from a general partnership to a limited liability company, BTA Oil Producers LLC. The OCD approved the change of operator from BTA Oil Producers to BTA Oil Producers, LLC on June 2, 2008.

11. In the two years since the inspection and letter of violation, the OCD has worked with BTA Oil Producers and later with BTA Oil Producers LLC to require the operator to conduct a proper investigation of the site and perform appropriate corrective actions.

12. Neither BTA Oil Producers nor BTA Oil Producers LLC has submitted an acceptable plan for investigation and remediation.

13. According to the report submitted on behalf of BTA Oil Producers LLC on February 5, 2009 by R. T. Hicks Consultants, Ltd., groundwater “has likely been impacted by the facility operations at the surface.” The report indicates that the water zone beneath the site “is expressed from the hillside and ultimately leaks into the flowing Pecos River.”

14. On October 22, 2009 the OCD issued a Notice of Violation to BTA Oil Producers LLC notifying the operator of violations at the facility, and putting the operator on notice that if the parties could not resolve the issues administratively, the OCD would file an application for hearing.

15. The parties met on November 5, 2009 but were not able to resolve the issues.

#### **Applicable Orders, Statutes and Rules**

16. **Order No. R-9147-C** provides that the operator shall take all necessary steps to ensure that the injected water is not permitted to escape onto the surface, requires

the operator to take such steps as may be timely and necessary to correct failures and leakage, and requires the operator to conduct operations in accordance with OCD's rules on injection, including Rule 703. Rule 703 has since been re-numbered as 19.15.26.10 NMAC.

17. **19.15.26.10.B NMAC (formerly numbered Rule 703)** provides "the operator of an injection project shall operate and maintain at all times the injection project, including injection wells, producing wells and related surface facilities, in such a manner as will confine the injected fluids to the interval or intervals approved and prevent surface damage or pollution resulting from leaks, breaks or spills."

18. **19.15.34 NMAC** governs the disposition of produced water and other oilfield waste. Part 34.11 provides, in relevant part, that no person shall dispose of produced water or other oil field waste "on or below the surface of the ground; in a pit; or in a pond, lake, depression or watercourse" or "in another place or in a manner that may constitute a hazard to fresh water, public health, safety or the environment." Part 34.12 provides, in relevant part, that persons disposing of produced water shall dispose of the water "in a manner that does not constitute a hazard to fresh water, public health, safety or the environment..."

19. **19.15.17 NMAC** governs pits. "Pit" is defined in 19.15.2.7.P(3) NMAC to include natural depressions. Part 17.8A provides that a person shall not construct or use a pit except in accordance with a division-issued permit. The siting requirements specified in Part 17.10 prohibit pits within 300 feet of a continuously flowing watercourse. Part 17.13 prohibits unlined permanent pits, and sets out closure

requirements. The closure requirements provide that if a release has occurred at a pit, the operator must comply with the requirements of 19.15.29 NMAC.

20. **19.15.29 NMAC** governs releases. Part 29.8 sets out the reporting requirements for releases, requiring the person operating or controlling either the release or the location of the release to notify the division of unauthorized release occurring during the storing, disposal, injection or transportation of produced water or oil field waste. Part 29.11 requires the responsible person to complete division-approved corrective action for releases that endanger public health or the environment, in accordance with a remediation plan or an abatement plan.

21. **NMSA 1978, Section 70-2-14(B)** provides, in relevant part,

“If any of the requirements of the Oil and Gas Act [70-2-1 NMSA 1978] or the rules promulgated pursuant to that act have not been complied with, the oil conservation division, after notice and hearing, may order any well plugged and abandoned by the operator or surety or both in accordance with division rules.”

19.15.8.13 NMAC sets out the process for obtaining a plugging order, and forfeiting financial assurances.

22. **NMSA 1978, Section 70-2-12(B)** provides that “apart from any authority, express or implied, elsewhere given to or existing in the oil conservation division by virtue of the Oil and Gas Act or the statutes of this state,” the OCD “is authorized to make...orders for the purposes and with respect to” the subjects identified in that subsection, including:

- “the disposition of water produced or used in connection with the drilling for or producing of oil or gas or both and to direct surface or subsurface disposal of the water...in a manner that will afford reasonable protection against contamination of fresh water supplies designated by the state engineer” (NMSA 1978, Section 70-2-12(B)(15); and

- “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” (NMSA 1978, Section 70-2-12(B)(21)).

### **Requested Relief**

23. The OCD files this application seeking an order that will result in remediation of the facility site, in order to protect public health and the environment, including the vadose zone, ground water and the Pecos River.

24. The first step is to require BTA Oil Producers LLC to submit, by a date certain, a report acceptable to the OCD’s Environmental Bureau delineating contamination of the vadose zone and ground water. The OCD’s Environmental Bureau will use the data from the report to determine the appropriate corrective action, to include removal of chloride-contaminated soil and bedrock and remediation of ground water.

25. The second step will be to require BTA Oil Producers LLC to complete the required corrective action by a date certain.

26. To ensure that the operator submits an acceptable report and completes the required corrective action, the OCD is also asking for the following sanctions to be included in the order.

27. The order should set an ultimate deadline: if the operator fails to meet the deadline set in the order for submitting an acceptable report or fails to complete the corrective action by the deadline, then the operator should be ordered to plug and abandon the disposal well and remediate the facility location by a date certain. And the OCD should be authorized to plug the well, remediate the site, and forfeit the applicable financial assurance if the operator fails to comply. This type of order is authorized by

NMSA 1978, Section 70-2-14(B). Such an order will allow the OCD to complete the corrective action if BTA Oil Producers LLC fails to do it, and forfeit the financial assurance to help pay for the corrective actions.

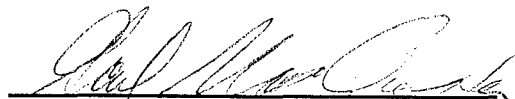
28. To create an additional incentive for BTA Oil Producers LLC to complete the actions required by the order in a timely fashion, the OCD asks that the order find the operator in violation of 19.15.5.9 NMAC (or issue an order equivalent to such a finding) until the operator demonstrates that it has completed the corrective action required by the order (or demonstrates that it has reimbursed the OCD if the operator fails to take the required corrective action and the OCD has to plug the well and remediate the facility site). The effect of an order finding the operator in violation of 19.15.5.9 NMAC, or an order giving the equivalent relief, would be that the OCD would be able to deny the operator's applications for permits to drill, applications for allowable and authorization to transport, applications for injection permits, and applications for operator changes that would transfer well operations to the operator. In other words, BTA Oil Producers LLC would not be able to "grow" its business until it addressed the contamination issues at the site.

WHEREFORE, the Enforcement and Compliance Manager of the Division hereby applies to the Director to enter an order:

- A. Determining that BTA Oil Producers LLC is in violation of: Order No. R-9147-C; 19.15.26.10.B NMAC; 19.15.34 NMAC; 19.15.17 NMAC; and 19.15.29 NMAC;

- B. Requiring BTA Oil Producers LLC to submit a report acceptable to the environmental bureau of the OCD by a date certain delineating the contamination of the vadose zone and the ground water at the site;
- C. Requiring BTA Oil Producers LLC to complete remediation of the site by a date certain according to a corrective action plan approved by the OCD's Environmental Bureau;
- D. If BTA Oil Producers LLC fails to meet the deadlines set in the order for submitting a delineation report or completing the remediation, ordering BTA Oil Producers LLC to plug and abandon the disposal well and remediate the site by a date certain, pursuant to NMSA 1978, Section 70-2-14(B), and authorizing the OCD to plug the well, remediate the site and forfeit the applicable financial assurance if BTA Oil Producers LLC fails to meet that deadline;
- E. Holding BTA Oil Producers LLC in violation of 19.15.5.9 NMAC, or issuing an equivalent order, until the operator either completes all corrective actions required by the order or reimburses the OCD for its costs in excess of the forfeited financial assurance to complete the corrective actions required by the order; and
- F. For such other and further relief as the Director deems just and proper under the circumstances.

RESPECTFULLY SUBMITTED,  
this 20<sup>th</sup> day of November 2009 by

  
Gail MacQuesten

Assistant General Counsel  
Energy, Minerals and Natural  
Resources Department of the State of  
New Mexico  
1220 S. St. Francis Drive  
Santa Fe, NM 87505  
(505) 476-3451

Attorney for the New Mexico Oil  
Conservation Division

Case No. \_\_\_\_\_. Application of the New Mexico Oil Conservation Division for a Compliance Order against BTA Oil Producers LLC. The application affects the salt water disposal facility associated with the Pardue C 8808 JVP #001, 30-015-26341, located in Unit "A," Section 11, Township 23 South, Range 28 East in Eddy County, New Mexico. The facility is located less than five miles northeast of Loving, New Mexico on the Pecos River. The Applicant seeks an order finding the operator in violation of Order No. R-9147-C, 19.15.26.10.B NMAC, 19.15.34 NMAC, 19.15.17 NMAC and 19.15.29 NMAC; requiring the operator to submit a delineation report and complete remediation by dates certain; if operator fails to meet those deadlines ordering the operator to plug and abandon the well and remediate the site by a date certain and authorizing the Division to plug the well, remediate the site and forfeit the applicable financial assurance if the operator fails to meet that deadline; and holding the operator in violation of 19.15.5.9 NMAC or issue an equivalent order, to be kept in place until the operator completes the required corrective action or reimburses the Division for its costs in excess of the forfeited financial assurance to complete the required corrective action.

**19.15.4.13 PLEADINGS, COPIES, PRE-HEARING STATEMENTS, EXHIBITS AND MOTIONS FOR CONTINUANCE:**

**A.** Pleadings. Applicants shall file two sets of pleadings and correspondence in cases pending before a division examiner with the division clerk and six sets of pleadings and correspondence in cases pending before the commission with the commission clerk. For cases pending before the commission, the commission clerk shall disseminate copies of pleadings and correspondence to the commission members. The party filing the pleading or correspondence shall at the same time serve a copy of the pleading or correspondence upon each party who has entered an appearance in the case on or prior to the business day immediately preceding the date when the party files the pleading or correspondence with the division or the commission clerk, as applicable. Parties shall accomplish service by hand delivery or transmission by facsimile or electronic mail to a party who has entered an appearance or, if the party is represented, the party's attorney of record. Service upon a party who has not filed a pleading containing a facsimile number or e-mail address may be made by ordinary first class mail. Parties shall be deemed to have made an appearance when they have either sent a letter regarding the case to the division or commission clerk or made an in person appearance at a hearing before the commission or before a division examiner. A written appearance, however, shall not be complete until the appearing party has provided notice to other parties of record. An initial pleading or written entry of appearance a party other than the applicant files shall include the party's address or the address of the party's attorney and an e-mail and facsimile number if available.

**B.** Pre-hearing statements.

(1) A party to an adjudicatory proceeding who intends to present evidence at the hearing shall file a pre-hearing statement, and serve copies on other parties or, for parties that are represented, their attorneys in the manner Subsection A of 19.15.4.13 NMAC provides, at least four business days in advance of a scheduled hearing before the division or the commission, but in no event later than 5:00 p.m. mountain time, on the Thursday preceding the scheduled hearing date. The statement shall include:

- (a) the names of the party and the party's attorney;
- (b) a concise statement of the case;
- (c) the names of witnesses the party will call to testify at the hearing, and in the case of expert witnesses, their fields of expertise;
- (d) the approximate time the party will need to present its case; and
- (e) identification of any procedural matters that are to be resolved prior to the hearing.

(2) A party other than the applicant shall include in its pre-hearing statement a statement of the extent to which the party supports or opposes the issuance of the order the applicant seeks and the reasons for such support or opposition. In cases to be heard by the commission, each party shall include copies of exhibits that it proposes to offer in evidence at the hearing with the pre-hearing statement. The commission may exclude witnesses the party did not identify in the pre-hearing statement, or exhibits the party did not file and serve with the pre-hearing statement, unless the party offers such evidence solely for rebuttal or makes a satisfactory showing of good cause for failure to disclose the witness or exhibit.

(3) A pre-hearing statement filed by a corporation or other entity not represented by an attorney shall identify the person who will conduct the party's presentation at the hearing and include a sworn and notarized statement attesting that the corporation's or entity's governing body or chief executive officer authorizes the person to present the corporation or entity in the matter.

(4) For cases pending before the commission, the commission clerk shall disseminate copies of pre-hearing statements and exhibits to the commission members.

**C.** Motions for continuance. Parties shall file and serve motions for continuance no later than 48 hours prior to time the hearing is set to begin, unless the reasons for requesting a continuance arise after the deadline, in which case the party shall file the motion as expeditiously as possible after becoming aware of the need for a continuance.

[19.15.4.13 NMAC - Rp, 19.15.14.1211 NMAC, 12/1/08]

**19.15.4.14 CONDUCT OF ADJUDICATORY HEARINGS:**

**A.** Testimony. Hearings before the commission or a division examiner shall be conducted without rigid formality. The division or commission shall take or have someone take a transcript of testimony and preserve the transcript as a part of the division's permanent records. A person testifying shall do so under oath. The division examiner or commission shall designate whether or not an interested party's un-sworn comments and observations are relevant and, if relevant, include the comments and

observations in the record.

**B.** Pre-filed testimony. The director may order the parties to file prepared written testimony in advance of the hearing for cases pending before the commission. The witness shall be present at the hearing and shall adopt, under oath, the prepared written testimony, subject to cross-examination and motions to strike unless the witness' presence at hearing is waived upon notice to other parties and without their objection. The parties shall number pages of the prepared written testimony, which shall contain line numbers on the left-hand side.

**C.** Appearances pro se or through an attorney. Parties may appear and participate in hearings either pro se (on their own behalf) or through an attorney. Corporations, partnerships, governmental entities, political subdivisions, unincorporated associations and other collective entities may appear only through an attorney or through a duly authorized officer or member. Participation in adjudicatory hearings shall be limited to parties, as defined in 19.15.4.10 NMAC, except that a representative of a federal, state or tribal governmental agency or political subdivision may make a statement on the agency's or political subdivision's behalf. The commission or division examiner shall have the discretion to allow other persons present at the hearing to make a relevant statement, but not to present evidence or cross-examine witnesses. A person making a statement at an adjudicatory hearing shall be subject to cross-examination by the parties or their attorneys.

[19.15.4.14 NMAC - Rp, 19.15.14.1212 NMAC, 12/1/08]

**Duran-Saenz, Theresa, EMNRD**

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**From:** Duran-Saenz, Theresa, EMNRD  
**Sent:** Monday, December 07, 2009 11:59 AM  
**To:** Sanchez, Daniel J., EMNRD; VonGonten, Glenn, EMNRD; Dade, Randy, EMNRD (Randy.Dade@state.nm.us); 'Bonham, Sherry, EMNRD (Sherry.Bonham@state.nm.us) (Sherry.Bonham)'; 'Bratcher, Mike, EMNRD (mike.bratcher@state.nm.us)'  
**Cc:** Macquesten, Gail, EMNRD (gail.macquesten@state.nm.us)  
**Subject:** BTA Oil Producers LLC "REVISED" Notice of Hearing  
**Attachments:** 2009 11-23 notice of hearing BTA.doc; 2009 11-17 application BTA final.docx; 2009 12-7 revised notice of hearing BTA.doc

The message is ready to be sent with the following file or link attachments:

2009 12-7 revised notice of hearing BTA

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

BTA Oil Producers LLC  
104 S. Pecos  
Midland, TX 79701

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X *[Signature]*

☐ Agent☐ Addressee

B. Received by (Printed Name)

*MISS SOST*

C. Date of Delivery

*12-9-97*

D. Is delivery address different from item 1? ☐ YesIf YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail☐ Express Mail☐ Registered☒ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

2. Article Number

(Transfer from service label) 7002 0510 0003 5125 1709

PS Form 3811, August 2001

Domestic Return Receipt

102595-01-M-2509

**SENDER: COMPLETE THIS SECTION**

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- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Alan L. Castetter  
Registered Agent for  
BTA Oil Producers LLC  
323 W. Mermod  
Carlsbad, NM 88221

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X *[Signature]*

☒ Agent☐ Addressee

B. Received by (Printed Name)

*B. L. ST. J. 50.11.11*

C. Date of Delivery

D. Is delivery address different from item 1? ☐ YesIf YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail☐ Express Mail☐ Registered☒ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

2. Article Number

(Transfer from service label) 7002 0510 0003 5125 1693

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Domestic Return Receipt

102595-01-M-2509

**SENDER: COMPLETE THIS SECTION**

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- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Travelers Indemnity Company  
1 Tower Square  
Hartford, CT 06183

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X *[Signature]*

☐ Agent☐ Addressee

B. Received by (Printed Name)

*MISS BURNELL*

C. Date of Delivery

*7/10/99*

D. Is delivery address different from item 1? ☐ YesIf YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail☐ Express Mail☐ Registered☒ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

2. Article Number

(Transfer from service label) 7002 0510 0003 5125 1686

PS Form 3811, August 2001

Domestic Return Receipt

102595-01-M-2509

Case 14413  
BTA Oil Producers LLC  
OCD Exhibit 1-C