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

IN THE MAFTER OF THE HEARING CALLED BY THE OIL CONSERVATION DIVISION UPON ITS OWN MOTION TO PROMULGATE A NEW RULE 711 TO REGULATE COMMERCIAL SURFACE WASTE DISPOSAL FACILITIES AND TO REQUIRE A \$25,000 BOND FOR SUCH FACILITIES:

CASE NO. 9378 Order No. R-8662

### ORDER OF THE COMMISSION

### BY THE COMMISSION:

This cause came on for hearing at 9:00 a.m. on May 19, 1988, at Santa Fe, New Mexico, before the Oil Conservation Commission of New Mexico, hereinafter referred to as the "Commission."

NOW, on this 6th day of June, 1988, the Commission, a quorum being present, having considered the testimony presented and the exhibits received at said hearing, and being fully advised in the premises,

### FINDS THAT:

- (1) Due public notice having been given as required by law, the Commission has jurisdiction of this cause and the subject matter thereof.
- (2) Pursuant to the Oil and Gas Act, NMSA 70-2-12B (15), the Division is authorized to regulate the disposal of produced water or water used in connection with the drilling for oil or gas, in order to prevent the contamination of fresh water supplies.
- (3) While specific orders have been entered, no statewide rule has been promulgated for commercial surface disposal of produced water and other oil field related wastes.

- (4) The requirements imposed on commercial surface waste disposal facilities need to be specifically stated in a rule so that operators, bonding companies, and other interested parties have adequate notice of the potential cost of construction, operation and reclamation of the facility site.
- (5) A \$25,000 bond to provide for reclamation of the surface and proper closure of the facility site should be required, but (1) if a bond is in place for a contiguous treating plant, that bond should suffice for both facilities; or (2) if an adequate bond that satisfies the requirements of this rule is posted with another state or federal agency, no additional bond should be required.
- (6) An administrative approval process should be adopted to simplify the surface waste disposal permit process; permits should be transferable only upon Division Director approval; and an order of cessation of operations should be within the authority of the Director when such cessation is necessary to prevent waste, to protect fresh water, to protect public safety, or to assure compliance with Division rules or orders.
- (7) To the extent that Rule 711 conflicts with the provisions of Oil Conservation Commission Orders R-3221, as amended, or R-7940-A, such orders should be superceded.
- (8) The effective date of this order should be June 2, 1988.

#### IT IS THEREFORE ORDERED THAT:

(1) Rule 711 of the Division's Rules and Regulations is hereby promulgated to read as follows:

### RULE 711 Commercial Surface Waste Disposal Facilities

A commercial surface waste disposal facility is defined as any facility that receives compensation for collection, disposal, evaporation or storage of produced water, drilling fluids, drill cuttings, completion fluids, and/or other approved oil field related waste in surface pits, ponds, or below grade tanks. Such facility will not be allowed to operate unless it has been permitted in conformity with the following provisions:

- A. Prior to the construction, reconstruction or enlargement of a commercial surface waste disposal facility, application for a permit or a modification to an existing permit shall be filed in duplicate with the Santa Fe office of the Division and one copy to the appropriate district office. The application shall be accompanied by:
  - 1. A plat and topographic map showing the location of the facility in relation to governmental surveys (1/4 1/4 section, township, and range), highways or roads giving access to the facility site, and watercourses, water wells, and dwellings within one mile of the site;
  - 2. The names and addresses of the landowner of the disposal facility site and landowners of record within one-half mile of the site;
  - 3. A description of the facility with a diagram indicating location of fences and cattleguards, detailed engineering construction/ any installation diagrams of pits, liners, dikes, piping, sprayers, and tanks facility, prepared in accordance with Division "Guidelines for Permit Application, Design and Construction of Waste Storage/Disposal Pits;"
  - 4. A plan for disposal of approved waste solids or liquids in accordance with Division rules, regulations and guidelines;
  - 5. A contingency plan for reporting and cleanup of spills or releases;
  - 6. A routine inspection and maintenance plan to ensure permit compliance;
  - 7. A closure plan;
  - 8. Geological/hydrological evidence demonstrating that disposal of oil field wastes will not adversely impact fresh water;
  - 9. Proof that the notice requirements of this Rule have been met;

- 10. Certification by an authorized representative of the applicant that information submitted in the application is true, accurate, and complete to the best of the applicant's knowledge; and
- 11. Such other information as is necessary to demonstrate compliance with OCD rules and/or orders.
- applicant shall give written notice В. The of application to the owners of surface lands and occupants thereof within one-half (1/2) mile and a copy and proof of such notice will be furnished to the The Division will issue public notice by Division. advertisement in a paper of general circulation published in the county in which the disposal facility is to be located. For permit modifications, the Division may issue public notice and may require the applicant to give written notice as above. person seeking to comment on such application must file comments with the Division within 30 days of the date of public notice. If there is objection by owners or occupants of adjacent lands, the Director of the Division may set any application for a surface waste disposal permit for public hearing.
- All commercial surface waste disposal facilities C. shall have a surety or cash bond in the amount of \$25,000, in a form approved by the Division, conditioned upon compliance with statutes of the State of New Mexico and rules of the Division, and satisfactory cleanup of the site upon cessation of operation, in accordance with Part J of this Rule. If a bond has been secured for a treating plant permit at the location, that bond shall be sufficient for the surface waste disposal portion of the facility, providing they are contiguous. If adequate bond is posted by the applicant with a federal or state agency and the bond otherwise fulfills the requirements of this rule, the Division may consider the bond as satisfying the requirement of this rule. The applicant must notify the Division of any material change affecting the bond filed for the site and must, in any case, report the status of their bond annually to the Division;

- D. The Director of the Division may administratively issue a permit upon a finding that a complete and proper application has been filed and that no significant objections have been filed within 30 days following public notice. All permits shall be revocable, after notice and hearing, upon showing of good cause and are transferable only upon written approval of the Division Director. The permit shall be consistent with the application and appropriate requirements of Division rules and The Oil and Gas Act.
- E. All surface waste disposal facility operators shall file forms C-117-A, C-118, and C-120-A as required by OCD rules.
- F. Each operator of a commercial surface disposal facility shall keep and make available for inspection records for each calendar month on the source, location, volume and type of waste (produced water, acids, completion fluids, drilling mud, etc.), date of disposal, and hauling company that disposes of fluids or material in their facility. Such records shall be maintained for a period of two (2) years from the date of disposal.
- G. Disposal at a surface facility shall occur only when an attendant is on duty. The facility shall be secured when no attendant is present. When loads can be monitored or otherwise isolated for inspection before disposal, no attendant is required.
- H. No produced water shall be received at the facility from motor vehicles unless the transporter has a valid Form C-133, Authorization to Move Produced Water, on file with the Division.
- I. Additional requirements or restrictions may be imposed by a written finding by the Division, including but not limited to the following:
  - 1. An operator with a history of failure to comply with Division rules, regulations, and orders, or
  - 2. Site suitability limitations.

- The operator shall notify the Division of cessation J. of operations. Upon cessation of disposal operations for six (6) consecutive months, the operator will complete cleanup of constructed facilities restoration of the facility site within the following (6) months, unless an extension of time is granted by the Director of the Division. closure shall be in accordance with the closure plan and any modifications approved by the Division Director and may include removal or demolition of buildings, removal of all tanks, vessels, equipment or hardware, containment and removal of fluids and chemicals, backfilling and grading of pits, removal contaminated soil, aquifer restoration necessary) and reclamation of the general facility Prior to release of the bond covering the facility, a representative of the Division will inspect the site to determine that restoration is adequate.
- K. Upon showing of proper cause, the Director of the Division may order immediate cessation of any surface waste disposal operation. The cessation will remain in effect until withdrawn, or until an order is issued after notice and hearing, when it appears that such cessation is necessary to prevent waste, to protect fresh water, to protect public safety, or to assure compliance with Division rules or orders.
- disposal facilities shall be subject to Rule 711, however no new permit application will be required. After review of existing orders, requests of the facility operator will be made by the Division for additional information that fulfills the requirements of Rule 711. Such facility shall have 120-days from the date of receipt of the request to comply with these requirements. No existing facility shall be required to fulfill the bond requirement or to initiate the annual bond status report until December 30, 1988.
- (3) Any existing permitted surface disposal facility not fulfilling the bond requirement by December 30, 1988 or not reporting the status of their bond annually to the Division, shall be closed until such bond is obtained or annual report made and may be required to conduct cleanup and restoration of the facility site in accordance with Division Rule 711 (J).

- (4) Commercial surface waste disposal facility bond forms, both surety and cash, are hereby adopted as set out on Exhibits "A" and "B", respectively, attached to this order.
- (5) The procedures for obtaining a commercial surface waste disposal permit contained in Rule 711 are the exclusive procedures for obtaining such permits. To the extent these procedures conflict with the provisions of Oil Conservation Commission Orders R-3221, as amended, or R-7940-A, such orders are superceded.
- (6) The effective date of this order, Rule 711, and the new commercial surface waste disposal facility bond forms shall be June 6th , 1988.
- (7) Jurisdiction of this cause is retained for the entry of such further orders as the Commission may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION

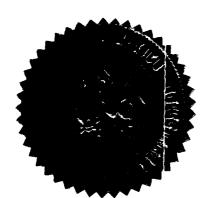
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WILLIAM R. HUMPHRIES, Member

ERLING A. BROSTUEN Member

WILLIAM J. LEMAY) Chairman and

Secretary



### EXHIBIT "A"

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

### \$25,000.00 BOND FOR COMMERCIAL SURFACE WASTE DISPOSAL FACILITY

BOND NO. (For Use of Surety Company)

File with Oil Conservation Division, P. O. Box 2088, Santa Fe, New Mexico 87504 KNOW ALL MEN BY THESE PRESENTS:

That	,	(an individual)
(partnership) (a corporation organize	d in the State of	
with its principal office in the City	7 of	, State of
, and authorized to	do business in the Sta	te of New Mexico), as
PRINCIPAL, and		, a corporation
organized and existing under the laws		
and authorized to do business in the sagent licensed in the State of New M surety company, as SURETY, are held for the use and benefit of the Oil Conse Natural Resources Department pursuant amended, and to the State of New Me (\$25,000.00) Dollars lawful money of and truly to be made, said PRINCIPAL successors and assigns, jointly and second truly and assigns, jointly and second truly and truly and second truly and second truly and truly	lexico to execute this irmly bound unto the S rvation Division of the to Chapter 72. Laws o exico in the sum of Tv the United States for the and SURETY hereby bi	bond on behalf of the tate of New Mexico, for e Energy, Minerals and f New Mexico, 1935, as tenty Five Thousand ne payment of which, well nd themselves, their
The conditions of this obligation	n are such that:	
WHEREAS, The above principal has	s heretofore or may her	eafter enter into the
collection, disposal or storage of p	roduced water and/or of	her oil field related
waste in Section, Township	(North) (South),	Range (East)
(West), N.M.P.M., Co	ounty, New Mexico.	
NOW, THEREFORE, This \$25,000 per compliance with all applicable statut regulations, and orders of the Oil Co Department, and upon clean-up of the Conservation Division; otherwise the partner of New Mexico.  PROVIDED, HAWEVER, That sixty (6) Division of written notice of cancell Surety shall terminate as to activitie as to such activities or operations of the sixty day period.	es of the State of New nservation Division of e facility site to st. principal amount of the (1) days after receipt I ation from the Surety. es or operations conductiontinue in effect, not	Mexico and all rules, the Energy and Minerals undards of the Oil bond to be forfeited to by the Oil Conservation the obligation of the cited by PRINCIPAL after withstanding said notice,
Signed and sealed this	lay of	, 19
PRINCIPAL	SURETY	
Mailing Address	Mailing Address	
By Signature Title	By - Attorney-In-Fact	
(Note: Principal, if corporation Affix corporate seal here.)	(Note: Corporate sur seal here.)	ety affix corporate
Note: If corporate surety executes the Mexico, the resident New Mexico		
Countersigned by		

New Mexico Resident	Agent Addr	ess				
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COUNTY OF	)ss. )					
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		Notary Public				
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and that the foregoin	ng instrument was signed board of directors, and	and sealed on behalf of acknowledged said instr	said corporation			
IN WITNESS WHERI this certificate firs	at above written.	my hand and seal on the				
	Notary Public					
My Commission Expires						
STATE OF						
COUNTY OF						
On this	day of	, 19 , be	fore me appeared			
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and t	hat the foregoing instr	ument was signed and sea	led on behalf of			
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	APPROVED BY: OIL CONSERVATION	ON DIVISION				
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# NEW MEXICO OIL CONSERVATION DIVISION OF THE ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

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(Note: Principal, if corporation Affix corporate seal here.)

### ACKNOWLEDGMENT FORM FOR CORPORATION

STATE OF	)	
COUNTY OF	)ss. )	
On this	dny of	, 19 , before me personally
appeared	, to me	personally known who, being by me duly sworn,
did say that he is		of
and that the foregoing	ing instrument was s board of directors.	igned and sealed on behalf of said corporation, and acknowledged said instrument to be the
IN WITNESS WHEE this certificate 'in		o set my hand and seal on the day and year in
	Nöta	ry Public
My Commission Exp re	? S	
STATE OF	)	
COUNTY OF	·)	
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My Commission Expire (Note: Corporate su	irety attach power o	f attorney)
	APPROVED I	
	By	

## ASSIGNMENT OF CASH COLLATERAL DEPOSIT FOR BONE FOR COMMERCIAL SURFACE WASTE DISPOSAL FACILITY

(Must be a federally-insured bank or savings institution within the State of New Mexico)

	D	ate				
Pursuant provision to as "ow with the savings a	to Rule 711 of is, vner") of ussociation) of	the Rules of	the Oil Co	nservati	on Divi	sion, or successor (hereinafter referred (address) has deposited or national bank or  iddress) (herein termed assigns and conveys all natitution in trust for
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