

BW - 28

**COVID-19
PANDEMIC**

2020

From: [Griswold, Jim, EMNRD](#)
To: jbest@keyenergy.com
Cc: [Wayne Price \(wayneprice77@earthlink.net\); Chavez, Carl J, EMNRD](mailto:Wayne.Price (wayneprice77@earthlink.net): Chavez, Carl J, EMNRD)
Subject: Time extensions for brine well near Eunice
Date: Friday, April 24, 2020 9:23:15 AM
Attachments: [April 2020 BW-28 time extension response.pdf](#)

Ms. Best,

Attached you will find the OCD's response to Key's request for various extensions. Please retain the attachment for your files as no hardcopy will be sent.

Jim Griswold

Oil Conservation Division
5200 Oakland NE, Suite 100
Albuquerque, New Mexico 87113
505.660.1067
email: jim.griswold@state.nm.us

State of New Mexico
Energy, Minerals and Natural Resources Department

Michelle Lujan Grisham
Governor

Sarah Cottrell Propst
Cabinet Secretary

Todd E. Leahy, JD, PhD
Deputy Secretary

Adrienne Sandoval
Director, Oil Conservation Division



April 23, 2020

Jill Best
Key Energy Services, LLC
1301 McKinney Street, Suite 1800
Houston, Texas 77010

Transmitted via email: jbest@keyenergy.com

RE: Requests for Time Extensions of Discharge Permit Conditions Associated with UIC Class III Permit BW-28 for the State Brine Well #1 (API #30-025-33547) Located within Unit E of Section 15, Township 21 South, Range 37 East, NMPM in Lea County, New Mexico

Ms. Best,

The Oil Conservation Division (OCD or Division) has completed our review of Key Energy Services, LLC.'s (Key's) request for various time extensions associated with the discharge permit for your brine well south of Eunice, New Mexico described above. Those requests were submitted to the Division on behalf of Key via an email from Mr. Wayne Price on April 8, 2020 wherein it was stated the "emergency" extension requests were being made as the result of the decline in commodity prices rather than the situation with COVID-19. This letter will address each request.

- 1. The first request was to collect and analyze samples of injected water and produced brine on an annual rather than semi-annual basis as required under provision 2.A of the discharge permit.**

This request is denied.

The permit was recently renewed in December of 2019 reducing the frequency of testing from quarterly to semi-annually. A further reduction in frequency would leave us without information regarding the variability in the characteristics of the injectate or brine. This information is necessary in estimating the amount of salt removed which is of importance in evaluating the volume of the underground salt cavern and thus it's stability. The permit requires the fluids be analyzed for pH and density, along with the concentration of total dissolved solids, chloride and sodium. The combined cost of these analyses is less than \$100 per sample using an independent laboratory. Furthermore, density measurements are already performed by Key personnel as part of the quality control provided to your customers.

- 2. The second request is to delay the installation of a groundwater monitoring well until April 15, 2021.**

The Division grants an extension to install the well no later than October 31, 2020.

This well should have been installed no later than the end of March of this year under requirements of the permit renewal of December, 2019. Having failed to install the well within that timeframe, Key violated the terms of the permit and OCD reserves the right to pursue an enforcement action if necessary. Key has been aware of this requirement since the tentative permit renewal issued in June of 2019 to which you objected at the time. The OCD nonetheless decided to keep the requirement in your permit renewal as the primary purpose of the injection control program is the protection of underground sources of drinking water and this brine well has been in operation without regular groundwater monitoring since it was originally put into service during November of 1996.

3. **Key's third request proposes to cancel the upcoming semi-annual monitoring of subsidence at the surface as required under provision 2.B.1. of the discharge permit and to resume monitoring in October, 2020 while committing to monthly inspections for indications of subsidence with immediate notification to the OCD if anything unusual is observed.**

This request is approved with the stipulations offered by Key.

4. **The fourth request is to delay submission of the annual report for 2019 from June 1, 2020 as required under provision 2.J. of the discharge permit until September 30, 2020.**

This request is denied.

The relevant information required for the 2019 report is already available to Key and production of the report should be in progress.

5. **The final request is to delay submission of a cavern characterization plan for a year until April 15, 2021 rather than June of 2020 as required under provision 5.D. of the discharge permit.**

The Division cannot agree to an extension of the characterization plan requirement until it has reviewed the 2019 annual report.

The OCD understands the difficulty and expense associated with characterizing brine caverns, but also appreciates the importance of cavern stability within an active oil production field and in proximity to a well-used roadway. The OCD has accepted of the information provided by Key as part of their annual reports dating back to 2013 which rely on indirect means of approximating cavern stability.

If you have any questions or comments in this regard, please contact Carl Chavez of my staff at (505) 660-7923 or by email at carlj.chavez@state.nm.us. Thank you.

Respectfully,



Adrienne Sandoval
Director

From: [Ames, Eric, EMNRD](#)
To: [Best, Jill](#); [Wayne Price](#)
Cc: [Chavez, Carl J, EMNRD](#); [Griswold, Jim, EMNRD](#); [Wade, Gabriel, EMNRD](#); [Ames, Eric, EMNRD](#)
Subject: RE: [EXT] Emergency Request-Eunice Brine Well BW-28
Date: Thursday, April 9, 2020 1:48:06 PM

Ms. Best –

Thanks for your email. A hard copy won't be necessary.

Regards,

eric

Eric Ames
Office of General Counsel
New Mexico Energy, Minerals and Natural Resources Department
1220 South St. Francis Drive
Santa Fe, New Mexico 87505
(505) 476-3463

From: Best, Jill <jbest@keyenergy.com>
Sent: Thursday, April 9, 2020 1:40 PM
To: Ames, Eric, EMNRD <Eric.Ames@state.nm.us>; Wayne Price <wayneprice@q.com>
Cc: Chavez, Carl J, EMNRD <CarlJ.Chavez@state.nm.us>; Griswold, Jim, EMNRD <Jim.Griswold@state.nm.us>; Wade, Gabriel, EMNRD <Gabriel.Wade@state.nm.us>
Subject: RE: [EXT] Emergency Request-Eunice Brine Well BW-28

Mr. Ames,

Please let this email serve as notification that Mr. Wayne Price of Price LLC has the authority to communicate with the New Mexico Oil Conservation Division (NMOCD) regarding the Eunice Brine Well BW-28 on behalf of Key Energy Services, LLC. A hard copy of this authorization will follow in the mail.

Regards,
Key Energy Services, LLC.

Jill Best



Jill E Best
Environmental Director
1301 McKinney Street, Suite 1800, Houston, TX 77010
O: 713-651-4442 | M: 713-440-8693

From: Ames, Eric, EMNRD <Eric.Ames@state.nm.us>
Sent: Thursday, April 9, 2020 1:40 PM
To: Wayne Price <wayneprice@q.com>; Best, Jill <jbest@keyenergy.com>

Cc: Chavez, Carl J, EMNRD <CarlJ.Chavez@state.nm.us>; Griswold, Jim, EMNRD <Jim.Griswold@state.nm.us>; Wade, Gabriel, EMNRD <Gabriel.Wade@state.nm.us>; Ames, Eric, EMNRD <Eric.Ames@state.nm.us>
Subject: FW: [EXT] Emergency Request-Eunice Brine Well BW-28

*****Caution: This email originated from outside of the organization. Do NOT click on links or attachments unless you recognize the sender and know the content is safe.*****

Mr. Price:

We received your April 8 email requesting extensions of certain conditions in Discharge Permit BW-28. As you may recall, on March 19, OCD responded to your earlier request to consider permit modifications by directing you to submit your proposal to Mr. Carl Chavez, along with written confirmation of your authority from Key Energy Services. To date, OCD has not received Key's proposal or written confirmation of authority. To consider the requested extensions, OCD will require the same written confirmation of authority.

Regards,

Eric Ames

Eric Ames
Office of General Counsel
New Mexico Energy, Minerals and Natural Resources Department
1220 South St. Francis Drive
Santa Fe, New Mexico 87505
(505) 476-3463

From: Wayne Price <wayneprice@q.com>
Sent: Wednesday, April 8, 2020 4:11 PM
To: Chavez, Carl J, EMNRD <CarlJ.Chavez@state.nm.us>
Cc: Wayne Price <wayneprice@q.com>; Griswold, Jim, EMNRD <Jim.Griswold@state.nm.us>; Jill Best <jbest@keyenergy.com>
Subject: [EXT] Emergency Request-Eunice Brine Well BW-28

Dear OCD,

Due to the extreme situation being experienced in the OilPatch with cap-X projects cancelled, employee and contractor layoffs, and massive shutdowns of drilling and production facilities, Loss of normal brine well revenue, Key Energy respectfully request the following timeline extensions for the following permit conditions:

2.A. SEMI-ANNUAL MONITORING REQUIREMENTS FOR CLASS III WELLS: **Collect at least one sample and show in the annual report.**

2.A.1. Installation of Monitor Well- Approximately one year from today. **April 15, 2021.**

2.B. 1. Surface Subsidence Monitoring Plan: **Cancel the next Subsidence monitor event, resume in 6 months. Key commits to making monthly observations for any indication of subsidence and will report to OCD if**

any unusual events are discovered.

2.J. ANNUAL REPORT: **Submit by September 30, 2020.**

5.D. SOLUTION CAVERN CHARACTERIZATION PLAN: Approximately one year from today. **April 15, 2021.**

Key will abide by all other permit conditions.

Due to the serve economic crisis Key has taken critical steps to attempt to weather this storm. Please note Maury Sticker-Director of Environmental Services is no longer with Key.
Ms Jill Best is now the contact person.

We respectfully request OCD grants this request.

Wayne Price-Price LLC
7 SYCAMORE LANE
GLENWOOD NM 88039
wayneprice@g.com
505-715-2809

From: [Ames, Eric, EMNRD](#)
To: [Wayne Price: jbest@keyenergy.com](#)
Cc: [Chavez, Carl J, EMNRD](#); [Griswold, Jim, EMNRD](#); [Wade, Gabriel, EMNRD](#); [Ames, Eric, EMNRD](#)
Subject: FW: [EXT] Emergency Request-Eunice Brine Well BW-28
Date: Thursday, April 9, 2020 12:39:57 PM

Mr. Price:

We received your April 8 email requesting extensions of certain conditions in Discharge Permit BW-28. As you may recall, on March 19, OCD responded to your earlier request to consider permit modifications by directing you to submit your proposal to Mr. Carl Chavez, along with written confirmation of your authority from Key Energy Services. To date, OCD has not received Key's proposal or written confirmation of authority. To consider the requested extensions, OCD will require the same written confirmation of authority.

Regards,

Eric Ames

Eric Ames
Office of General Counsel
New Mexico Energy, Minerals and Natural Resources Department
1220 South St. Francis Drive
Santa Fe, New Mexico 87505
(505) 476-3463

From: Wayne Price <wayneprice@q.com>
Sent: Wednesday, April 8, 2020 4:11 PM
To: Chavez, Carl J, EMNRD <CarlJ.Chavez@state.nm.us>
Cc: Wayne Price <wayneprice@q.com>; Griswold, Jim, EMNRD <Jim.Griswold@state.nm.us>; Jill Best <jbest@keyenergy.com>
Subject: [EXT] Emergency Request-Eunice Brine Well BW-28

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2.B. 1. Surface Subsidence Monitoring Plan: **Cancel the next Subsidence monitor event, resume in 6 months. Key commits to making monthly observations for any indication of subsidence and will report to OCD if any unusual events are discovered.**

2.J. ANNUAL REPORT: **Submit by September 30, 2020.**

5.D. SOLUTION CAVERN CHARACTERIZATION PLAN: Approximately one year from today. **April 15, 2021.**

Key will abide by all other permit conditions.

Due to the severe economic crisis Key has taken critical steps to attempt to weather this storm.

Please note Maury Sticker-Director of Environmental Services is no longer with Key.

Ms Jill Best is now the contact person.

We respectfully request OCD grants this request.

Wayne Price-Price LLC
7 SYCAMORE LANE
GLENWOOD NM 88039
wayneprice@q.com
505-715-2809

From: [Wayne Price](#)
To: [Chavez, Carl J. EMNRD](#)
Cc: [Wayne Price](#); [Griswold, Jim, EMNRD](#); [Jill Best](#)
Subject: [EXT] Emergency Request-Eunice Brine Well BW-28
Date: Wednesday, April 8, 2020 4:10:57 PM

Dear OCD,

Due to the extreme situation being experienced in the OilPatch with cap-X projects cancelled, employee and contractor layoffs, and massive shutdowns of drilling and production facilities, Loss of normal brine well revenue, Key Energy respectfully request the following timeline extensions for the following permit conditions:

2.A. SEMI-ANNUAL MONITORING REQUIREMENTS FOR CLASS III WELLS: Collect at least one sample and show in the annual report.

2.A.1. Installation of Monitor Well- Approximately one year from today. **April 15, 2021.**

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Key will abide by all other permit conditions.

Due to the serve economic crisis Key has taken critical steps to attempt to weather this storm. Please note Maury Sticker-Director of Environmental Services is no longer with Key. Ms Jill Best is now the contact person.

We respectfully request OCD grants this request.

Wayne Price-Price LLC
7 SYCAMORE LANE
GLENWOOD NM 88039
wayneprice@q.com
505-715-2809

From: [Chavez, Carl J, EMNRD](#)
To: [Brancard, Bill, EMNRD](#)
Subject: EPA COVID-19 Update
Date: Friday, April 10, 2020 3:58:00 PM
Attachments: [interim_guidance_on_site_field_work_decisions_due_to_impacts_of_covid.pdf](#)

FYI:

EPA Takes Action to Guide Health and Safety Decisions at Cleanup Sites During the COVID-19 Pandemic

04/10/2020

<https://www.epa.gov/newsreleases/epa-takes-action-guide-health-and-safety-decisions-cleanup-sites-during-covid-19>

Thank you.

Mr. Carl J. Chavez, CHMM (#13099)
New Mexico Oil Conservation Division (Albuquerque Office)
Energy Minerals and Natural Resources Department
5200 Oakland Avenue, NE
Albuquerque, New Mexico 87113
Ph. (505) 660-7923
E-mail: CarlJ.Chavez@state.nm.us

“Why not prevent pollution, minimize waste to reduce operating costs, reuse or recycle, and move forward with the rest of the Nation?” (To see how, go to: <http://www.emnrd.state.nm.us/OCD> and see “Publications”)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

April 10, 2020

MEMORANDUM

SUBJECT: Interim Guidance on Site Field Work Decisions Due to Impacts of COVID-19¹

FROM: Peter C. Wright
Assistant Administrator,
Office of Land and Emergency Management

Susan Parker Bodine
Assistant Administrator,
Office of Enforcement and Compliance Assurance

TO: EPA Regional Administrators, Regions I-X

As all of us at the EPA and in other Federal Agencies, State and Local Governments, Tribes, Regulated Entities, Non-governmental Organizations, and Communities continue to adjust to the evolving COVID-19 situation, we at EPA are first and foremost mindful of the health, welfare, and safety of the public, as well as our employees and cleanup partners, as we all continue our work to protect human health and the environment.

Response field activities are underway at sites across the country under a range of EPA authorities including, but not limited to, the Superfund program, RCRA corrective action, TSCA PCB cleanup provisions, the Oil Pollution Act, and the Underground Storage Tank (UST) program. EPA also conducts emergency responses to releases or substantial threats of releases into the environment of chemicals, oil, and other hazardous materials/substances, as well as pollutants or contaminants that may present an imminent and substantial danger to the public health or welfare. The following interim guidance is being issued for response actions related to cleanup and emergency response sites where EPA is the lead agency or has direct oversight of or responsibility for the work being performed. EPA will, as appropriate, update this guidance as the current situation evolves. The response action work at this broad range of sites may be conducted by EPA, states, tribes, other agencies of the Federal Government, and by other parties, including potentially responsible parties (PRPs). In addition, Regions are encouraged to share this guidance with the states and employ these considerations to provide assistance to authorized states as they encounter similar issues for state-lead RCRA cleanups.

In respect of the challenges posed by the COVID-19 situation, EPA continues to make decisions about continuing on-site activities on a case-by-case basis consistent with the following priorities:

¹ This memorandum supplements the "Office of Land and Emergency Management Considerations and Posture for COVID-19 Pandemic" document dated March 19, 2020 (*see* Attachment) and provides additional criteria to be considered for Emergency Response, Superfund Removal/Remedial/Federal Facilities, RCRA Corrective Action, and leaking underground storage tank (LUST) cleanups when determining whether site field work should continue or be suspended.

- Protecting the health and safety of the public, as well as maintaining the health and safety of EPA staff and cleanup partners, is the Agency's highest priority. Integral to the protection of health and safety is the adherence to any federal, state, tribal, or local health declarations and restrictions, to the extent possible.
- Maintaining EPA's ability to prevent and respond to environmental emergencies, or in any situation necessary to protect public health and welfare and the environment, is also a critical priority for the Agency.

Decisions to be made on continuing, reducing, or pausing field work are to be made on a case-by-case basis and in consultation with other EPA offices, as appropriate. This same approach will apply to decisions based on requests from outside parties (e.g., states, tribes, local governments, other federal agencies, potentially responsible parties, property owners, etc.) for extensions or delays in performance.

General Guidance for Response Field Work Decisions

The Regions should evaluate, and periodically re-evaluate, the status of ongoing response work at sites and the possible impact of COVID-19 on sites, surrounding communities, EPA personnel, and response/cleanup partners. Especially in areas where federal, state, tribal, or local health declarations are in effect due to COVID-19, Regions should consider whether to continue site operations or secure a site until the public health threat associated with the declaration is resolved. While on-site response actions may start or continue where there are no federal, state, tribal or local health declarations that prohibit or discourage such activities, in making decisions whether to start or continue work, other factors must also be weighed in making this decision including but not limited to the safety and availability of work crews, EPA, state or tribal staff; the critical nature of the work; logistical challenges (e.g., transportation, lodging, availability of meals, etc.); and other factors particular to a site. Where a region decides to start or continue work, it must review and modify, as appropriate, a response action's health and safety plan (HASP) to ensure that it accounts for CDC's (and/or other's) COVID-19 guidelines, including any potential virus transmission into or across areas. If a decision is made to temporarily pause work, Regions should continue to monitor site conditions and plan the logistics for safely resuming field work as soon as appropriate.

Regions should consider pre-construction, construction, and post-construction activities. Regional representatives' travel to a response action site should consider any federal, state, tribal, or local health department restrictions or advisories, the logistics associated with the necessary travel, the timing of the travel (i.e., whether it could be delayed or postponed), and other factors that address federal travel.² EPA Regional response personnel, in consultation with their leadership (e.g., Removal Managers, Remedial Branch Chiefs, and Division Directors) and Safety, Health, and Environmental Management organizations, should ensure that the health and safety of response personnel are protected, with respect to COVID-19, as they plan for and/or respond to releases or substantial threats of releases into the environment of chemical, oil, or other hazardous materials/substances, as well as pollutants or contaminants that may present an imminent and substantial danger to the public health or welfare. EPA should consider the personal safety of responding party personnel as well, including compliance with travel

² <https://www.whitehouse.gov/wp-content/uploads/2020/03/M-20-14-travel-guidance-OMB-1.pdf>

restrictions, health and safety regulations, and access to personal protective equipment and lodging.

Parties who believe that COVID-19 restrictions may delay their performance of obligations should consult the applicable enforcement instrument, including provisions allowing for adjustments to schedules to be made at the discretion of EPA's project manager and/or force majeure provisions,³ for directions on providing the requisite notice and other information described in the provisions. Modifications to a party's performance obligations will be made on a case-by-case basis in accordance with the terms of the applicable enforcement instrument. The formal determination as to whether a particular situation constitutes force majeure or requires additional response depends on the site-specific circumstances, particularly the type of work that is affected by COVID-19. EPA expects to be able to make these determinations promptly. EPA encourages parties (and the lead agency for Federal Facility Superfund sites) to regularly communicate with EPA project managers about the status of their sites and associated field work and any anticipated challenges and mitigation measures.

Regions are expected to work to provide notification to, coordinate with, and collaborate with States, Tribes, and other Federal agencies to optimize communication and share information about the status of particular response work.

Factors to Consider for Site Field Work Decisions

Below are some site-specific factors that should be part of a Region's decision regarding whether response actions will continue, be reduced, or be paused. Consideration of these factors should help with making nationally consistent decisions when addressing similar factual situations. However, these factors should not be considered in a manner that would override protection against unnecessary potential exposure to COVID-19. Decisions to extend obligations or pause work obligations do not operate to supersede or amend enforcement instruments. Instead, and as set forth above, the applicable enforcement instruments contain provisions allowing for adjustments to schedules to be made at the discretion of EPA's project manager, and/or force majeure provisions, including directions to responsible parties on providing the requisite notice and other information described in the provisions.

Regions have decided and may continue to decide to reduce or suspend response actions at particular sites for the following or similar situations:

- State, tribal, or local health officials have requested particular site operations or types of operations that would pertain to particular sites be suspended.
- Any site workers have tested positive for or exhibited symptoms of COVID-19.
- Any sites where there may be close interaction with high risk groups or those under quarantine, such as work inside homes.
- Sites where contractor field personnel are not able to work due to state, tribal, or local travel restrictions or medical quarantine.
- Other sites where social distancing is not possible.

³ To the extent available under the instrument, EPA intends to be flexible regarding the timing of the notices.

Regarding site-specific work decisions, Regional management should consider the following factors:

- Whether failure to continue response actions would likely pose an imminent and substantial endangerment to human health or the environment, and whether it is practical to continue such actions.
 - This may include sites or activities such as:
 - Emergency Responses (including Superfund and Oil Spill Responses)
 - Emergency Response Preparedness necessary to remain ready to respond immediately
 - Time Critical Removal Actions that address imminent threat to public health and welfare and the environment
 - It may include sites with ongoing or a threat of imminent acute or direct human exposures that would compromise public health:
 - EPA or responsible parties (including Federal facilities) providing alternative water supplies (e.g., bottled water, Point of Entry Systems (POET Systems), replacement filters, etc.) to individuals who otherwise would be exposed to or consume contaminated drinking water
 - Individuals with ongoing on-site exposures, such as lead, arsenic, other heavy metals, PCBs, asbestos, vapor intrusion, etc.
 - It may also include sites with prevention of exposures that pose an imminent threat to public health and welfare and the environment:
 - Response actions to prevent a catastrophic event (e.g., mine blow outs, breach of gyp stacks, sites with high probability of fire or explosion, etc.)
 - Prevent contaminated groundwater plume expansion that is reasonably likely to adversely affect drinking water sources (private or public), including continued operation of groundwater pump and treat systems
 - Prevent releases to waterbodies that are reasonably likely to adversely affect drinking water intakes or communities downstream, including treatment of acid mine drainage
 - On-site security or activities necessary to prevent unauthorized access to sites for the safety of life and/or the protection of government property
 - Disposal of materials off-site (e.g., mine waste, chat, unsafe cylinders) that create an imminent safety issue if not promptly removed
 - Assess potential or actual vapor intrusion, especially into structures with sensitive populations (consideration should be given to the relative risks and be coordinated with residents as appropriate)
 - Complete, continue, or take measures to stabilize in-process response actions to ensure unacceptable releases to the environment do not occur (e.g., deactivation and decommissioning of a former nuclear facility, soil excavation, partial closure of a landfill disposal cell)
- Whether maintaining any response actions would lead to a reduction in human health risk/exposure within the ensuing six months. This may include, but are not limited to:
 - Vapor intrusion investigations

- Residential site work with current exposures to residents
- Drinking water work
- Whether work that would not provide near-term reduction in human health risk could be more strongly considered for delay, suspension, or rescheduling of site work, in coordination with state, tribal, and local officials and with updated HASPs as appropriate. This may include:
 - Periodic monitoring
 - Routine sampling activities that typically are considered for five-year reviews or compliance with existing agreements
 - Field sampling for remedial investigation/feasibility study (RI/FS) or RCRA facility investigation (RFI) work
 - Active remediation of otherwise stable conditions (e.g. active remediation of stable groundwater plumes)

Effects on Non-Field Site Work

Note that much of the work to advance cleanup of sites is performed away from sites. To the extent remote workstations permit project teams to work during this time, this work should continue. Important work can be conducted virtually and represent opportunities to make progress on primary activities like investigation reports (including pre-NPL work), modeling, negotiations between the parties, decision documents, cleanup documentation, workplans, progress reports, and maintaining compliance with obligations such as financial assurance. It is also recognized that because of the national scope of COVID-19, some work that normally takes place away from a site may be impacted because supporting operations (e.g. laboratories, equipment) and materials are unavailable or have been diverted to other uses in consideration of the national interests. Parties who believe that COVID-19 restrictions may delay their performance of non-field related work should consult the procedures set forth in the applicable enforcement instrument.

Next Steps When Pausing Site Work

Continued vigilance and communication are vital. If a decision is made to temporarily reduce or suspend response action work, Regions should continue to monitor site conditions and plan the logistics for resuming field work when appropriate. Throughout this process, Regions should utilize the internal EPA document, CERCLA Interim Guidance on Public Engagement During COVID-19, to continue conducting Superfund community involvement work at all sites, regardless of whether work has been paused or continues.

CC: Office of General Counsel
 OLEM Program Office Directors
 OECA Program Office Directors
 SEMD Directors, Regions I-X
 LCARD Directors, Regions I-X

From: [Garvey, Megan](#)
To: [Garvey, Megan](#)
Cc: [Bowles, Jack](#)
Subject: [EXT] FW: EPA Announces Enforcement Discretion Policy for COVID-19 Pandemic
Date: Thursday, March 26, 2020 4:23:11 PM

Greetings, EPA Oil and Natural Gas Co-Regulators:

Below, please see today's announcement and link to EPA's temporary policy regarding Agency enforcement of environmental legal obligations during the COVID-19 pandemic.

You are receiving this email because you are on the distribution list for EPA's Oil and National Gas Co-Regulator Conference Calls. Apologies if this communication is duplicative of others.

I hope you are well.

Thank you, Megan

Megan E. Garvey
Senior Counselor
Office of the Administrator
U.S. Environmental Protection Agency
Work: 303.312.6192 | Cell: 720.376.9870

From: Bowles, Jack <Bowles.Jack@epa.gov>
Sent: Thursday, March 26, 2020 3:54 PM
Subject: EPA Announces Enforcement Discretion Policy for COVID-19 Pandemic

Dear State and Local Colleagues:

Today, EPA is announcing a temporary policy regarding EPA enforcement of environmental legal obligations during the COVID-19 pandemic.

EPA's temporary enforcement discretion policy applies to civil violations during the COVID-19 outbreak. The policy addresses different categories of noncompliance differently. For example, under the policy EPA does not expect to seek penalties for noncompliance with routine monitoring and reporting obligations that are the result of the COVID-19 pandemic but does expect operators of public water systems to continue to ensure the safety of our drinking water supplies. The policy also describes the steps that regulated facilities should take to qualify for enforcement discretion.

"EPA is committed to protecting human health and the environment, but recognizes challenges resulting from efforts to protect workers and the public from COVID-19 may directly impact the ability of regulated facilities to meet all federal regulatory requirements," **said EPA Administrator Andrew Wheeler.** "This temporary policy is designed to provide enforcement discretion under the current, extraordinary conditions, while ensuring facility

operations continue to protect human health and the environment.”

The temporary policy makes it clear that EPA expects regulated facilities to comply with regulatory requirements, where reasonably practicable, and to return to compliance as quickly as possible. To be eligible for enforcement discretion, the policy also requires facilities to document decisions made to prevent or mitigate noncompliance and demonstrate how the noncompliance was caused by the COVID-19 pandemic.

This policy does not provide leniency for intentional criminal violations of law.

The policy does not apply to activities that are carried out under Superfund and RCRA Corrective Action enforcement instruments. EPA will address these matters in separate communications.

EPA’s policy will apply retroactively beginning on March 13, 2020. EPA will assess the continued need for and scope of this temporary policy on a regular basis and will update it if EPA determines modifications are necessary. In order to provide fair and sufficient notice to the public, EPA will post a notification at the website below at least 7 days prior to terminating this temporary policy.

To read the EPA Policy on Enforcement during the COVID-19 outbreak:

<https://www.epa.gov/enforcement/enforcement-policy-guidance-publications>

Please feel free to forward this email to interested state and local officials and do not hesitate to contact us with any questions.

Take Care,

Jack Bowles

Director of State & Local Relations

U.S. Environmental Protection Agency

202-564-3657 (office) | 202-306-5196 (mobile)

State of New Mexico
Energy, Minerals and Natural Resources Department

Michelle Lujan Grisham
Governor

Sarah Cottrell Propst
Cabinet Secretary

Todd E. Leahy, JD, PhD
Deputy Secretary

Adrienne Sandoval, Division Director
Oil Conservation Division



NOTICE

Oil Conservation Division Procedures During Declared Public Health Emergency

EFFECTIVE MARCH 13, 2020

On March 11, 2020, Governor Michelle Lujan Grisham declared a Public Health Emergency (Executive Order 2020-004) to prevent the spread of the novel coronavirus (COVID-19). In response to the declaration, Secretary Cottrell Propst directed the Oil Conservation Division (OCD) to take prudent precautionary steps to encourage the public and OCD staff to maintain social distance, a factor in preventing the spread of COVID-19, by cancelling, postponing, or taking other actions for public meetings and hearings.

OCD OFFICE AND APPLICATION SUBMITTAL PROCEDURES

The OCD remains open for business. However, OCD will be implementing a staff teleworking policy until further notice and will provide alternative systems of communication and document filing to encourage OCD staff and operators, their representatives, and other persons with business with the OCD to maintain social distance.

Meetings and Personal Contacts

Operators, their representatives, and other persons with business with the OCD should not physically visit or deliver documents to OCD offices. Instead, OCD encourages such persons to call or email OCD staff. The current [OCD phone list](#) is attached for your convenience. In addition, OCD will cancel, postpone, or conduct non-essential meetings by telephone or video conference.

Documents

To submit the following documents to OCD, scan and upload to the OCD E-Docs system:

- State Forms and Sundries

- Federal Sundries
- Federal Completion Reports
- Correspondence relating to drilling, completion, production and engineering
- For Federal APDs, provide only:
 - the Federal 3160-3 form
 - the OCD C-102 (Plat)
 - the Gas Capture Plan
 - the Drilling and Casing Plan
 - the Directional Plan
 - Federal Conditions of Approval
 - Hydrogen Sulfide Plan
 - Closed Loop or Pit Plan

Electronic Filing

Electronic files can be uploaded [here](#) using your OCD Online credentials (login and password). Submit pdf files only. Submittal by contractors will not be accepted. Provide complete and correct information; OCD will reject noncompliant submittals. OCD will notify you if your submittal is rejected, and you will have to resubmit.

Contact the local district office for assistance.

For Federal APDs: Select the file type as “UNKNOWN” and enter well name and number as the reference ID.

For Sundries: Select the file type as “Well File” and enter the API number as the reference ID.

SPECIAL PROCEDURES FOR OCC AND OCD HEARINGS

Effectively immediately, OCD will postpone the Division hearing set for March 19, 2020.

OCD will be evaluating alternative options for conducting future hearings and will continue to post regular updates regarding any changes.

OCD will consider holding hearings for emergency issues. If you have an emergency please contact Gabriel Wade at gabriel.wade@state.nm.us

For further information regarding COVID-19, please visit <http://cv.nmhealth.org/faq/>.