

NM1 - _____26_____

**Agreed
Compliance
Order
201821**

May 1, 2024

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

IN RE TORO OPERATING COMPANY, INC.

**ACO 201821
OCD Case No. 23658**

AGREED COMPLIANCE ORDER

Pursuant to the New Mexico Oil and Gas Act ("Act"), NMSA 1978, Section 70-2-1, *et seq.*, and 19.15.5.10(C) NMAC, the Director of the Oil Conservation Division ("OCD") and Toro Operating Company, Inc., (OGRID #Unassigned) ("Toro") enter into this Agreed Compliance Order ("Order") to resolve violations occurring at the Jenex Treating Plant, Permit NM1-26, Surface Waste Management Facility.

1. OCD is charged with the administration and enforcement of the Act and implementing rules and has jurisdiction to regulate wells and facilities operated by Toro within the State of New Mexico.

2. On June 2, 2023, OCD issued a Notice of Surface Waste Management Facility Closure Initiated By Division and of Forfeiture of Financial Assurance ("Notice") to multiple potentially responsible parties identified in connection to the Jenex Treating Plant, Permit NM1-26, Surface Waste Management Facility ("SWMF"). The Notice alleged, in part, that operators of the SWMF violated permit and rule requirements related to the operation and required closure of the SWMF and that the operators had abandoned the SWMF.

3. Toro requested an informal resolution process.

4. Prior to receipt of the Notice, Toro had not utilized the facility as a SWMF consistent with the terms of Permit NM1-26 and 19.15.36 NMAC. Permit NM1-26 is deemed expired and no longer in effect.

5. Toro has not submitted a closure plan for the SWMF. As part of the informal resolution process, Toro requested terms which allow for the possibility of returning the Jenex Treating Plant to active use as a SWMF.

6. To resolve the violations without the cost and expense of a hearing on the legal and factual issues raised by OCD's Notice, the parties stipulate and agree that:

- a. Due to extended periods of non-use as a SWMF, the Jenex Treating Plant Permit NM1-26 is no longer in effect to permit continued use of the site. Closure requirements and procedures as set forth in NM1-26 remain in effect until such time as Toro secures a new permit or the Jenex Treating Plant is completely closed.

- b. In executing this Order and in furtherance of the informal resolution process, Toro acknowledges the obligation to operate in compliance with Oil Conservation Commission rules and permit conditions.
 - i. Toro agrees to pay stipulated daily civil penalties set forth in OCD's *Civil Penalty Calculation Method, Version 2021-02* for subsequent violations of the Oil Conservation Commission rules, any violations of 19.15.36 NMAC or conditions applicable to the Jenex Treating Plant under any SWMF permit, any violations as to remediation requirements under 19.15.29 NMAC, or violations of the terms of this Order for a period of one (1) year from the effective date of this Order.
 - ii. OCD shall notify Toro of any alleged violation of the Oil Conservation Commission rules or permit conditions within 1 year of any alleged violation. Toro may respond to any alleged violations. In the event of disagreement, counsel for EMNRD to OCD and Toro shall confer and, to the extent possible, make a joint recommendation to the Director. The Director's decision shall be final. EMNRD counsel to OCD shall notify Toro of the final decision and the grounds for the decision.
- c. Within 15 days of the effective date of this Order, Toro shall identify in writing the specific business entity that will operate and/or remain responsible for the Jenex Treating Plant, the remaining applicable terms of Permit NM1-26, and any potentially applicable future permits. The entity must be registered and in good standing with the New Mexico Secretary of State and appropriately authorized to conduct business in the state of New Mexico. Operator must register the entity with OCD, obtain an OGRID, and provide updated contact information through OCD Permitting within 30 days of the effective date of this Order.
- d. Toro shall take immediate steps to remove all contaminated soils that have not been successfully remediated during prior SWMF operation to a division approved SWMF. Removal of any contaminated soil must be complete within 30 days of the effective date of this Order.
- e. Within 90 days of the effective date of this Order, Toro shall submit to the OCD an application for a new SWMF Permit. Such application and potential permit shall conform to current standards and requirements as set forth in 19.15.36 NMAC, including but not limited to application fees, siting requirements, depth to groundwater. OCD shall review and process the permit application as a new application pursuant to 19.5.36 NMAC.
- f. If OCD determines that the permit application must be rejected, Toro shall submit a closure plan for the Jenex Treating Plant within 30 days of notice of

the rejection. The closure plan shall meet the requirements of Permit NM1-26 and 19.15.36 NMAC.

- g. If Toro does not submit an acceptable closure plan pursuant to the terms of this Order or fails to close the site according to the terms of a closure plan approved by OCD, OCD may immediately take action to close the Jenex Treating Plant. In the event that OCD takes action to close the Jenex Treating Plant, OCD may immediately seek forfeiture of applicable financial assurance. Toro shall remain responsible for all closure costs in excess of the amount of any forfeited financial assurance.
- h. Toro shall take all necessary actions to maintain appropriate personnel and resources qualified to advise Toro regarding regulatory compliance specific to New Mexico, 19.15.29 NMAC, and 19.15.36 NMAC for the effective term of this Order.
- i. OCD Case Number 23658 shall be vacated by stipulated motion of the parties.

7. Toro shall submit any notice or document required by this Order through the OCD Permitting system. Any other communication related to this Order shall be submitted by electronic mail to LeighP.Barr@emnrd.nm.gov.

8. If Toro fails to pay any stipulated penalty or portion thereof no later than thirty (30) days after service of OCD's written demand, or in the case of a dispute within thirty (30) days after Toro's receipt of the Director's decision, Toro shall pay interest on the civil or stipulated penalty or unpaid portion thereof until paid in full at the interest rate of 8.75 percent.

9. Toro admits OCD's jurisdiction to execute this Order, consents to the relief specified herein, and waives the right of review by the Oil Conservation Commission or other judicial relief.

10. The persons executing this Order represent that they have the requisite authority to bind their respective parties and such representation shall be legally sufficient evidence of their actual or apparent authority.

11. This Order becomes effective on the date of final execution by the OCD Director and terminates two (2) years therefrom.

12. Notwithstanding the foregoing provisions, OCD reserves the right to pursue enforcement against Toro for any alleged violation not related to this Order and the underlying violations.

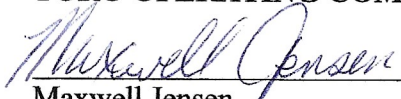
OIL CONSERVATION DIVISION



Dylan Fuge
Director (Acting)

Date: 5/1/24

TORO OPERATING COMPANY, INC.



Maxwell Jensen
Managing Member

Date: 4/17/2024

AGREED COMPLIANCE ORDER 201816

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1000 Rio Brazos Rd., Aztec, NM 87410
Phone:(505) 334-6178 Fax:(505) 334-6170
District IV
1220 S. St Francis Dr., Santa Fe, NM 87505
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State of New Mexico
Energy, Minerals and Natural Resources
Oil Conservation Division
1220 S. St Francis Dr.
Santa Fe, NM 87505

CONDITIONS

Action 340155

CONDITIONS

Operator: JENEX OPERATING CO 1433 17th St Denver, CO BAD ADDR	OGRID:
	37008
	Action Number:
	340155
Action Type:	
[C-137] Non-Fee SWMF Submittal (SWMF NON-FEE SUBMITTAL)	

CONDITIONS

Created By	Condition	Condition Date
bjones	None	5/2/2024