

STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION DIVISION

IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
DIVISION ON ITS OWN MOTION TO AMEND
RULE 312 TO PROVIDE FOR ADMINISTRATIVE
APPROVAL OF APPLICATIONS FOR TREATING
PLANTS, TO REQUIRE A CASH OR SURETY BOND
SUFFICIENT FOR SURFACE RECLAMATION OF THE
TREATING PLANT FACILITY SITE, AND TO
ADDITIONALLY CONDITION THE BOND UPON LAND
SURFACE RECLAMATION TO OCD STANDARDS.

CASE NO. 8909
Order No. R-8284

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on June 25, 1986, at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this 25th day of August, 1986, the Division Director, having considered the record and the recommendations of the Examiner, and being fully advised in the premises,

FINDS THAT:

- (1) Due public notice having been given as required by law, the Division has jurisdiction of this cause and the subject matter thereof.
- (2) This case was called by the Oil Conservation Division on its own motion to amend Rule 312 relating to the regulation of treating plants.
- (3) The Division is authorized to regulate treating plants pursuant to the Oil and Gas Act, NMSA 70-2-1 et. seq. (1978) in order to prevent waste and to prevent the contamination of fresh water resources.
- (4) Testimony by the Division indicates that the bond required by the existing rule is no longer adequate to obligations under such bond or to reclaim the surface of abandoned treating plants and should be increased to \$25,000.
- (5) Testimony also indicated that the requirements imposed on treating plants need to be more specifically stated in the rule so that operators, bonding companies, and other interested parties have adequate notice of the potential cost of construction, operation and reclamation of the plant site.

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(5) The testimony further indicated that an administrative approval process should be adopted to simplify the treating plant permit process and that permits should be transferable only upon Division approval.

(6) The effective date of this order should be September 1, 1986.

IT IS THEREFORE ORDERED THAT:

(1) Rule 312 of the Division's Rules and Regulations is hereby amended to read as follows:

RULE 312
TREATING PLANTS

No treating plant shall operate except in conformity with the following provisions:

(a) Prior to the construction of a treating plant, application in the form of an affidavit for treating plant permit shall be filed in duplicate with the Santa Fe office of the Division and one copy to the appropriate district office. Such application shall be accompanied by:

- (1) a plat showing the location of the plant in relation to governmental surveys (section, township and range) and to highways or roads giving access to the plant site;
- (2) a description of the plant, type and process of treatment and design capacity;
- (3) a diagrammatic plan of plant layout including location of water wells, pits, dikes, dwellings, fences and cattle-guards within 1/4 mile of the site;
- (4) a description of containment dikes and pits, if any, with detailed information on construction and lining;

(Note: any pits, lined pits or below grade tanks used at the site must meet Division requirements for ground water protection);

- (5) a demonstration that any unmerchantable solids or liquids resulting from operation of the facility will be disposed of at a Division approved site;
- (6) 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 the satisfactory clean-up of site upon cessation of operation in accordance with Part (i) of this Rule.
- (7) a demonstration that the notice requirements of Paragraph (b) of this rule have been met.

(b) The applicant shall give written notice to the owners of the surface of the plant site and an area within one-half (1/2) mile. The applicant shall also give notice of his application by advertisement in a paper of general circulation published in the county in which the treating plant is to be located. Both the written notice and published notice shall state the name of the plant operator, the nature of the proposed operation, the design capacity, and that any person seeking to oppose such application must file a protest with the Division within 20 days of the date of the notice.

(c) The Director of the Division may issue a treating plant permit upon a finding that a complete and proper application has been filed and that no party has objected within 20 days following submittal of the application.

The permit shall be consistent with the application and appropriate requirements of Division rules and The Oil and Gas Act.

The Director of the Division may set any application for a treating plant permit for public hearing.

(d) Such permit shall entitle the treating plant operator to an approved Form C-104, Request for Allowable and Authorization to Transport Oil and Natural Gas, for the total amount of products secured from sediment oils and miscellaneous hydrocarbons processed by the operator. 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.

(e) No treating plant operator may accept sediment oil at or into the treating facility unless the same is accompanied by an approved Form C-117-A (Tank Cleaning, Sediment Oil Removal, Transportation of Miscellaneous Hydrocarbons and Disposal Permit).

(f) Except as provided under Rule 311(h), no treating plant operator may accept tank bottoms from pipeline stations, crude oil storage terminals or refineries, pipeline break oil or other miscellaneous hydrocarbons for processing or mixing with recovered pipeline oil unless the same is accompanied by an approved Form C-117-A.

(g) All treating plant operators shall file a monthly report which shall detail the net oil recovered and sold during the preceding month. See Rule 1118.

The operator of each lease from which sediment oil is removed for reclamation shall be promptly notified by the treating plant operator of the amount of pipeline oil recovered therefrom. In the event sediment oil from two or more separate leases is to be commingled prior to treating, the treating plant operator shall determine the amount of pipeline oil attributable to each lease by testing a representative sample of the sediment oil from said lease in accordance with the standard centrifugal test prescribed by the API Manual of Petroleum Measurement Standards, Chapter 10, Section 4. Other test procedures may be used if such procedures reliably predict the percentage of good oil to be recovered from sediment oil.

(h) Upon cessation of treating plant operations for 6 consecutive months, the operator will complete cleanup and restoration of the facility site within 6 months, unless an extension of time is granted by the Director of the Division. Such cleanup shall be in accordance with a plan acceptable to 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, back-filling and grading of pits, removal of contaminated soil, and reclamation of the general plant site area. Prior to release of the bond covering the plant, a representative of the Division will inspect the site to determine that restoration is adequate.

(i) The Director of the Division may suspend any treating plant permit when it appears that such suspension is necessary to prevent waste, to protect fresh water, or to assure compliance with Division rules or orders.

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(2) Existing permitted treating plants shall be subject to Rule 312 as amended in this order provided, however, that no such treating plant shall be required to substitute the \$25,000 bond for an existing \$10,000 bond prior to January 1, 1988.

(3) Any existing permitted treating plant not obtaining the required \$25,000 bond on or before January 1, 1988, shall be shut down until such bond is obtained and may be required to conduct cleanup and restoration of the facility site in accordance with Division Rule 312(h).

(4) New treating plant bond forms, both surety and cash, are hereby adopted as set out on Exhibits "A" and "B", respectively, attached to this order.

(5) The effective date of this order, revised Rule 312, and the new treating plant bond forms shall be September 1, 1986.

(6) Jurisdiction of this cause is retained for the entry of such further orders as the Division may deem necessary.

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

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION



R. L. STAMETS,
Director

S E A L

NEW MEXICO OIL CONSERVATION DIVISION
OF THE ENERGY & MINERALS DEPARTMENT

\$25,000.00 TREATING PLANT BOND

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 organized in the State of _____,
with its principal office in the City of _____, State of _____
_____, and authorized to do business in the State of New Mexico), as
PRINCIPAL, and _____, a corporation
organized and existing under the laws of the State of _____,
and authorized to do business in the State of New Mexico with duly appointed resident
agent licensed in the State of New Mexico to execute this bond on behalf of the
surety company, as SURETY, are held firmly bound unto the State of New Mexico, for
the use and benefit of the Oil Conservation Division of the Energy & Minerals
Department pursuant to Chapter 72, Laws of New Mexico, 1935, as amended, and to the
State of New Mexico in the sum of Twenty Five Thousand (\$25,000.00) Dollars lawful
money of the United States for the payment of which, well and truly to be made, said
PRINCIPAL and SURETY hereby bind themselves, their successors and assigns, jointly
and severally, firmly by these presents.

The conditions of this obligation are such that:

WHEREAS, The above principal has heretofore or may hereafter enter into the
process of treating and reclaiming sediment oil in Section _____, Township _____
(North) (South), Range _____ (East) (West), N.M.P.M., _____ County, New
Mexico.

NOW, THEREFORE, This \$25,000 performance bond is conditioned upon substantial
compliance with all applicable statutes of the State of New Mexico and all rules,
regulations, and orders of the Oil Conservation Division of the Energy and Minerals
Department, and upon clean-up of the plant site to standards of the Oil Conservation
Division; otherwise the principal amount of the bond to be forfeited to the State of
New Mexico.

PROVIDED, HOWEVER, That sixty (60) days after receipt by the Oil Conservation
Division of written notice of cancellation from the Surety, the obligation of the
Surety shall terminate as to activities or operations conducted by PRINCIPAL after
said sixty (60) day period but shall continue in effect, notwithstanding said notice,
as to such activities or operations conducted or commenced before the expiration of
the sixty day period.

Signed and sealed this _____ day 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 surety affix corporate
seal here.)

EXHIBIT A
CASE NO. 8909
ORDER NO. R-8284

Note: If corporate surety executes this bond by an attorney-in-fact not in New Mexico, the resident New Mexico agent shall countersign here below.)

Countersigned by:

New Mexico Resident Agent _____ Address _____

STATE OF _____)
COUNTY OF _____) ss.

On this _____ day of _____, 19____, before me personally appeared _____, to me known to be the person (persons) described in and who executed the foregoing instrument and acknowledged that he (they) executed the same as he (their) free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the day and year in this certificate first above written.

Notary Public

My Commission Expires:

ACKNOWLEDGMENT FORM FOR CORPORATION

STATE OF _____)
COUNTY OF _____) ss.

On this _____ day 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 instrument was signed and sealed on behalf of said corporation by authority of its board of directors, and acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the day and year in this certificate first above written.

Notary Public

My Commission Expires

STATE OF _____)
COUNTY OF _____) ss.

On this _____ day of _____, 19____, before me appeared _____, to me personally known, who, being by me duly sworn, did say that he is _____ of _____ and that the foregoing instrument was signed and sealed on behalf of said corporation by authority of its board of directors, and acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the day and year in this certificate first above written.

Notary Public

My Commission Expires:
(Note: Corporate surety attach power of attorney)

APPROVED BY:
OIL CONSERVATION DIVISION

By _____

NEW MEXICO OIL CONSERVATION DIVISION
OF THE ENERGY & MINERALS DEPARTMENT

\$25,000.00 CASH TREATING PLANT BOND

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 organized in the State of _____,
with its principal office in the City of _____, State of _____
_____, and authorized to do business in the State of New Mexico), is
held firmly bound unto the State of New Mexico, for the use and benefit of the Oil
Conservation Division of the Energy & Minerals Department in the sum of Twenty Five
Thousand (\$25,000.00) Dollars lawful money of the United States.

The conditions of this obligation are such that:

The above principal has heretofore or may hereafter enter into the process of
treating and reclaiming sediment oil in Section _____, Township _____ (North)
(South), Range _____ (East) (West), N.M.P.M., _____ County, New Mexico.

NOW, THEREFORE, This \$25,000 performance bond is conditioned upon substantial
compliance with all applicable statutes of the State of New Mexico and all rules,
regulations, and orders of the Oil Conservation Division of the Energy and Minerals
Department, and upon clean-up of the plant site to standards of the Oil Conservation
Division; otherwise the principal amount of the bond to be forfeited to the State of
New Mexico.

The applicant has deposited on behalf of the Division \$25,000 (Twenty-five
thousand dollars) in the manner indicated on the attachment to this bond, being the
principal sum intended to be secured. Applicant pledges the sum as a guarantee that
if its executors, assigns, heirs and administrators will abide by the Laws of the
State of New Mexico and the Rules and Regulations of the Oil Conservation Division in
operating the treating plant described herein, and that it will properly reclaim the
plant site upon cessation of operations. If the applicant does not properly reclaim
and restore the plant site, and otherwise abide by the Rules and Orders of the Oil
Conservation Division, this bond shall be forfeited in full and such funds as
necessary applied to the cost of reclaiming the plant site. If the principal sum of
the bond is less than the actual cost incurred by the Division in reclaiming the
plant site, the Division may institute legal action to recover any amounts expended
over and above the principal sum of the bond.

NOW THEREFORE, if the above applicant or its successors, assigns, heirs, or
administrators or any of them shall properly reclaim and restore the above-described
treating plant site upon cessation of operations, and otherwise abide by the Rules
and Orders of the Oil Conservation Division, then therefore, this obligation shall be
null and void and the principal sum hereof shall be paid to the applicant, or its
successors, heirs, or administrator, otherwise it shall remain in full force and
effect.

Signed and sealed this _____ day 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 surety affix corporate seal here.)

EXHIBIT B
CASE NO. 8909
ORDER NO. R-8284

Adopted 9-1-86

ASSIGNMENT OF CASH COLLATERAL DEPOSIT
for TREATING PLANT BOND

(Must be a federally-insured bank or savings institution
authorized to do business in New Mexico)

Date _____

Pursuant to Rule 312 of the Rules of the Oil Conservation Division, or successor provisions, _____ (hereinafter referred to as "owner") of _____ (address) has deposited with the _____ (name of state or national bank or savings association) of _____ (address) (herein termed financial institution), the sum of _____ dollars in Certificate of Deposit or savings account No. _____. Owner hereby assigns and conveys all right, title and interest in the deposited sum to the financial institution in trust for the Oil Conservation Division of the Energy and Minerals Department or successor agency of the State of New Mexico. Owner and the financial institution agree that as to the deposited sum or fund:

- a. The funds deposited pursuant to the terms of this Agreement are to serve as a cash bond covering a treating plant operated by owner.
- b. The Oil Conservation Division acquires by this assignment the entire beneficial interest in the fund, with the right to order the trustee in writing to distribute the fund to persons determined by the division to be entitled thereto, including the Division itself, in amounts determined by the Division, or to the operator upon sale of the treating plant covered by this agreement.
- c. Owner retains no legal or beneficial interest in the fund and has only the right to interest, if any, thereon, and to return of the fund upon written order of the Division.
- d. The financial institution agrees that the fund may not be assigned, transferred, pledged or distributed except upon written order of the Division or a court of competent jurisdiction made in a proceeding in which the Division is a party. The financial institution waives all statutory or common law liens or rights of set-off against the fund.

Owner agrees that the financial institution may deduct from interest due owner any attorney fees incurred by the financial institution if claim or demand via writ, summons or other process arising from operator's business is made upon the financial institution.

Signature of Owner,
Personally or by Authorized Officer

Signature of Authorized Officer of
Financial Institution

Title

Title

STATE OF NEW MEXICO) ss.
COUNTY OF _____

On this _____ day of _____, 19_____, before me personally appeared _____ and _____, to me known to be the person (persons) described in and who executed the foregoing instrument and acknowledged that they executed the same as their free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the day and year in this certificate first above written.

My Commission expires: _____

NOTARY PUBLIC