

State of New Mexico
Energy, Minerals and Natural Resources Department

Michelle Lujan Grisham
Governor

Dylan M. Fuge
Deputy Secretary

Dylan Fuge, Division Director (Acting)
Oil Conservation Division



BY CERTIFIED MAIL

March 14, 2024

Murchison Oil and Gas, LLC (15363)
Greg Boans
gboans@jdmii.com

And

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NOTICE OF VIOLATION

The Director of the Oil Conservation Division (“OCD”) issues this Notice of Violation (“NOV”) pursuant to 19.15.5.10 NMAC.

(1) *Alleged Violators:* Murchison Oil and Gas, LLC (15363) (“Murchison”).

(2) *Citation, Nature, and Factual and Legal Basis for Alleged Violation(s):*

19.15.29.8 RELEASES:

C.(4) Remediation. The responsible party may commence remediation immediately.

19.15.29.12. REMEDIATION AND CLOSURE:

A. The responsible party must remediate all releases regardless of volume.

B.(1) Unless remediation is completed, and a final closure report submitted, within 90 days of discovery of the release, the responsible party must complete division-approved remediation for releases either pursuant to a remediation plan approved pursuant to 19.15.29.12 NMAC or pursuant to an abatement plan in accordance with 19.15.30 NMAC. If the director determines that the release has caused water pollution in excess of the standards and requirements of 19.15.30 NMAC, the director may notify the responsible party that an abatement plan may be required pursuant to 19.15.30 NMAC.

B.(2) Any remediation under 19.15.29 NMAC should be completed as soon as practicable. Any remediation that exceeds 90 days must follow the division-approved timeline in the remediation plan. The responsible party may request an extension of time to remediate upon a showing of good cause as determined by the division.

19.15.29.16. TRANSITIONAL PROVISIONS:

B. Responsible parties with ongoing corrective actions/remediation without approved timelines or plans as of August 14, 2018, must submit a characterization plan or corrective action/remediation plan with proposed timeframes within 90 days of August 14, 2018.

19.15.34.20 DISPOSITION OF PRODUCED WATER AND OTHER OIL FIELD WASTE:

Except as authorized by 19.15.17 NMAC, 19.15.26.8 NMAC, 19.15.30 NMAC, 19.15.34 NMAC or 19.15.36 NMAC, persons, including transporters, shall not dispose of produced water or other oil field waste:

A. on or below the surface of the ground, in a pit or in a pond, lake, depression or watercourse.

Findings:

OGDEN STATE #005H (NMLB1211627407)

1. On April 11, 2012, OCD received a Form C-141 release notification for a release that was discovered on April 9, 2012. The release reported as a volume of five (5) barrels of produced water from due to rainwater overflowing the steel drilling pits which caused the dirt dike on location to be washed out. The release was subsequently assigned incident number NMLB1211627407. Murchison is the responsible party for the release that occurred at the OGDEN STATE #005H (API# 30-015-39993).
2. On June 13, 2023, OCD staff received an email titled: *2RP- 1106, Ogden State No. 5H Release Incident ID nAB1902343484 OR*, informing OCD that a buyer of the well identified a release that was not closed. The email included an attachment that included an email sent to the OCD in 2012. The attachment included a request of “closure of the file “as is”” and a closure report. OCD staff responded to the email received on June 13, 2023, that the attachment was not sufficient to meet the closure requirements for the OGDEN STATE #005 (nMLB1211627407). OCD informed Murchison’s contractor that if the OCD has not approved a remediation proposal prior to August 14, 2018, the release will need to meet remedial requirements as currently listed in 19.15.29 NMAC. OCD staff also directed Murchison’s consultant to submit remediation proposals or closure reports no later than August 14, 2023, for the OGDEN STATE #005 (nMLB1211627407) release.
3. On July 18, 2023, OCD staff received an email titled: *Re: Murchison Ogden 5H Release* notifying the OCD of sampling on “Friday beginning at 8am. Based upon our initial sampling, we are relatively certain that none of these samples will NOT exceed Table 1 limits for remediation, therefore this may be closure sampling.”

4. On August 4, 2023, OCD staff received an email titled: *[EXTERNAL] RE: Murchison Oil and Gas - Ogden 5a Release Characterization & Closure Report* notifying the OCD that a characterization and closure report will be uploaded to the portal before August 7 before the end of business. On August 8, 2023, an update was given to the OCD that a few typos and minor errors were found in the 5a report, and the submission would be on Friday.
5. On August 11, 2023, OCD staff received an email titled: *Extension Request for Ogden State 5H (nMLB1211627407) and Response to Rejected Report ID 248456 for Ogden Facility (nAB1902343484)*. The extension requested was until October 8, 2023. On August 14, 2023, the OCD approved an extension until September 13, 2023 due to the release occurring in 2012 and no remediation had been performed at the site.
6. On September 11, 2023, OCD staff received an email titled: *Murchison Oil and Gas LLC - Ogden 5a & 5H*, requesting an extension of time to submit a report for NMLB1211627407. Murchison requested a due date of October 8, 2023. On September 11, 2023, OCD approved the extension request. Murchison was notified that this would be the last extension request granted for this incident.
7. On September 22, 2023, OCD staff received an email titled: *Murchison Oil and Gas LLC - Ogden State 5a & 5H - Karst and Releases* which included four (4) attachments. The attachments included the email notified the OCD that site-specific karst data from the release footprint was going to be collected over the weekend. The email also stated “The purpose of this letter and the copy of the transmission to Ms. Trautner is to foster a discussion regarding the OCD policy/guidance that is the subject of the letter and the role of BLM. I will call Ms. Hall and Ms. Trautner on Tuesday to address any questions. No phone call was ever received by Ms. Hall from Murchison or their consultant. One of the attachments included in this email was a response to the email sent by the OCD. On August 14, 2024.
8. On October 6, 2023, a Site Characterization/Assessment and Closure report for the OGDEN STATE #005H (NMLB1211627407) and a Site Characterization/Assessment and Closure report for the OGDEN STATE 5A RELEASE (NAB1902343484) were submitted by Murchison received by the OCD. Subsequent to review, the OCD rejected the Site Characterization/Assessment and Closure reports on October 31, 2023 and October 27, 2023, respectively; for the following reasons:
 - As discussed in the Cave and Karst Resource Inventory Report the Ogden State 5H Release is located in evaporite karst terrain (Section 1.3) and specifically the report states “...warrants the BLM-CFO designation of “High Karst Occurrence Zone.” (Section 2.4)”. This site will need to be delineated and remediated to the most stringent closure criteria on Table I of 19.15.29 NMAC.
9. On November 30, 2023, a Site Characterization/Assessment and Closure report for the OGDEN STATE #005H (NMLB1211627407) and the OGDEN STATE 5A RELEASE (NAB1902343484) was received by the OCD.

- OCD has reviewed the *Site Characterization/Assessment & Closure Report* submitted under Application ID: 289889 and 289662. These reports include a variance request for 19.15.29.12.C(4)(g) NMAC.
- Pursuant to 19.15.29.14 VARIANCES:
 - A. A responsible party may file a written request for a variance from any requirement of 19.15.29 NMAC with the appropriate division district office. The variance request must include:
 - (1) a detailed statement explaining the need for a variance; and
 - (2) a detailed written demonstration that the variance will provide equal or better protection of fresh water, public health, and the environment.

After review of the variance request, OCD determined that a detailed statement explaining the need for a variance for 19.15.29.12.C(4)(g) NMAC was inadequate. The argument of saturated vs unsaturated flow does not explain the need for a variance of within an unstable area or the BLM karst designation.

In addition, the detailed written demonstration that the variance will provide equal or better protection of fresh water, public health and the environment has been deemed incomplete. The detailed written demonstration only pertains to protection of groundwater. The variance request does not demonstrate how public health, the vegetation, wildlife, and surrounding environment will be equally or better protected if the contamination is left in place.

10. On January 3, 2024, OCD staff sent Murchison a *Pre-Enforcement Notice* via electronic mail.
11. On January 30, 2024, a Site Characterization/Assessment and Closure report for the OGDEN STATE #005H (NMLB1211627407) was submitted by Murchison under application ID: 309485. The application was rejected by the OCD for the following reason: “This application has been rejected because the C-141 is incomplete. The submitted application indicates a conflict between the questions answered and the attachments that have been submitted. For example the answer “No” was selected when requesting a remediation plan approval; however, your attachments indicate that your intent is to request a remediation closure report approval. Please review the December 1, 2023 Public Notice titled “Implementation of Digital C-141 and New Incident Statuses” found on the EMNRD website. Review your C-141 submission and submit a new C-141 answering the appropriate questions for your circumstance. The contents of the attached report WAS NOT reviewed prior to the rejection. As of December 1, 2023, the OCD has implemented the digital C-141. There is a guidance document that will walk you through the steps on how to submit the following: • Initial C-141 • Site Characterization and Remediation Plan • Deferral Request • Remediation Closure Report • Reclamation Report • Revegetation Report Prior to submitting any C-141s, we advise that the guidance document be reviewed. The guidance document can be found at <https://www.emnrd.nm.gov/ocd/ocd-announcements-and-notifications/> or <https://www.emnrd.nm.gov/ocd/ocd-forms/>. If the application is not completed correctly, the application will be denied. For example, if the report you are submitting is a Site Characterization and Remediation Plan, the application will need to be completed through the remediation plan section.”

OGDEN STATE 5A RELEASE (NAB1902343484)

12. Murchison owns and operates the OGDEN STATE #005A (API# 30-015-37264) well located in Unit Letter O, Section 2, Township 25S, Range 26E in Eddy County, New Mexico.
13. On April 26, 2018, OCD staff was included in an email from the New Mexico State Land Office (SLO) titled: *Spill*. This email included a copy of an email sent to SLO from Mr. Rusty Cooper. OCD staff responded to the email requesting a scaled site map showing the area of impact, a full vertical and horizontal delineation of impact, and the method used by Murchison O&G to determine the release/releases volume was less than 5 barrels.
14. On May 10, 2018, OCD staff was included in an email titled: *Murchison - Ogden State Release (May 2017)*. This email was addressed to Murchison from their consultant. The email stated "Please find the attached delineation plan for the May 2017 release on the State lease south of Carlsbad. We are awaiting lab results and we will next provide a characterization report and corrective action plan. Please note that this email and plan are copied to NMOCD and SLO. Don't hesitate to contact me with any questions."
15. On January 15, 2019, OCD staff was included in an email titled: *Murchison - Ogden State Release (May 2017)*. This email was addressed to Murchison from their consultant. The email stated "Last month, Andrew Parker and I visited the Ogden State release site and conducted an EM survey to aid in delineation of the affected site. We placed pin flags to mark the perimeter of shallow impairment and, hopefully, the extent of excavation. Tomorrow, January 16th, I'll be excavating samples based on the previous delineation data and the EM survey, which will be submitted for laboratory confirmation. This work should take 1-2 days and will be used to complete the corrective action plan. Please note that this email and plan are copied to NMOCD and SLO. Don't hesitate to contact me with any questions."
16. On January 16, 2019, OCD staff responded to the email received on January 15, 2019 titled: *Murchison - Ogden State Release (May 2017)*. The OCD's response stated "On April 26, 2018, I requested a site map, a full vertical/horizontal delineation, and method used to determine the release/releases volume was less than 5 bbls. That information was never provided. Based on the size of the area that is void of any type of vegetation, this area had a release that was greater than 5 bbls, or a very large number of 4.9 bbl releases. Whichever is the case, OCD now requests a Form C-141 be submitted to the District 2 office not later than Friday, January 18, 2019. At this point, I believe the release volume is going to be unknown unless MOGI can provide satisfactory evidence that the volume is known."
17. On January 18, 2019, OCD staff received an email titled: *Murchison - Ogden State Release (May 2017)*, informing OCD "we are reporting the volume of the release as much less than 200 bbls. We will be using the results of the delineation program to calculate the volume of the release. Based upon site observations and initial sampling, we believe the released volume to be less than 25 bbls – but we need to evaluate the data to provide greater certainty. Please consider the form an addendum to the

Characterization Plan submitted to Murchison and copied to NMOCD and SLO on May 10, 2019. Delineation continued this week and we are awaiting lab results from this work and compiling all delineation data to date. If further delineation is required, NMOCD will be notified at least 48 hours in advance of the work. A Characterization Report/Remediation Plan will follow.” This email also included an attachment titled *Ogden State Release – Characterization Plan* dated May 10, 2018. This report included maps for the site characterization but did not include any laboratory analytical results, a scaled site map showing the sampling locations, or a remediation plan.

18. On January 22, 2019, OCD responded to email titled: *Murchison - Ogden State Release (May 2017)* informing Murchison that “This Initial Report C-141 will be entered as a release of an unknown volume. Please consider this entry during your investigation/site characterization, and/or remedial proposal.” OCD responded again to this email on January 31, 2019, informing Murchison that the tracking number for this release is 2RP-5195 and the submitted document would be available under this Admin Order soon.”
19. On January 23, 2019, OCD received a Form C-141 release notification for a release that was discovered on May 26, 2017. The release was an unknown volume of produced water from a 4-inch/6-inch poly pipeline junction located east of the OGDEN STATE #005A (API# 30-015-37264) well. The release was subsequently assigned incident number NAB1902343484. Murchison is the responsible party for the OGDEN STATE 5A RELEASE (fAB1902343284).
20. On March 22, 2019, OCD staff received an email titled: *NOTICE: Murchison - Ogden State Release (2RP-5195)*. This email was to notify the OCD that continued delineation of chloride at the release would be performed on March 27, 2019.
21. On April 26, 2019, OCD staff received an email titled: *RE: NOTICE: Murchison - Ogden State Release (2RP-5195)*. This email was to notify the OCD that continued delineation of chloride at the release would be performed on May 2-3, 2019.
22. On June 13, 2023, OCD staff received an email titled: *2RP- 1106, Ogden State No. 5H Release Incident ID nAB1902343484 OR*, informing OCD that a buyer of the well identified that a release was not closed. The email and included attachment referenced a release at the OGDEN STATE #005 (API# 30-015-39993) well with the assigned incident number nMLB1211627407. OCD staff directed Murchison’s consultant to submit a remediation proposal or closure report no later than August 14, 2023, for the OGDEN STATE 5A RELEASE (NAB1902343484) release.
23. On August 4, 2023, a Site Characterization/Assessment and Closure report for the OGDEN STATE 5A RELEASE (NAB1902343484) was submitted by Murchison and received by the OCD. This report contained photographs of “retention/flushing berms” on the west side of the road dated January 1, 2020, and “application of freshwater to cell containing SP-1” dated June 10, 2022. Subsequent to review, the OCD rejected the Site Characterization/Assessment and Closure report on August 8, 2023, for the following reasons:
 - All Flushing/Application of fresh water will need to be stopped immediately. The OCD has not received, nor has it approved a remediation plan for this site.

- This release occurred in an area characterized by the BLM as having a high karst potential. Per 19.15.29.12 C. (4) If a release occurs within the following areas, the responsible party must treat the release as if it occurred less than 50 feet to ground water in Table I of 19.15.29.12 NMAC (g) within an unstable area.
 - Based on the high karst potential determination, this site will need to be delineated and remediated to the most stringent closure criteria on Table I of 19.15.29 NMAC.
24. On August 18, 2023, the OCD received an email titled *Murchison Oil and Gas LLC - Ogden 5a* with an attachment that included a response to the rejection of the site characterization/assessment and closure report submitted on August 4, 2023. The attachment included the following: R.T. “Importation of fresh water to remove salt from the root zone and upper 4-feet of the vadose zone ceased in June 2022 and there will be no more importation of fresh water in the future.” The email also included notification that Murchison’s contractor was going to be on site on Wednesday, August 23 “to bore a rathole to about 105 feet. The purpose is to test our conclusion that groundwater is deeper than 100 feet at the site. We will also collect deeper samples at the suspected “origin” of the release.”
25. On September 11, 2023, the OCD received an email titled *Murchison Oil and Gas LLC – Ogden 5a & 5H* that included a request for an extension for the Ogden 5H until October 8, 2023. OCD approved the extension request on September 11, 2023.
26. On October 6, 2023, OCD staff received an email titled *Murchison Oil and Gas Incident NAB1902343484 Ogden State 5a Release* and included an attachment titled *Site Characterization/Assessment & Closure Report*.
27. On October 6, 2023, a Site Characterization/Assessment and Closure report for the OGDEN STATE 5A RELEASE (NAB1902343484) was submitted through the Permitting Portal and received by the OCD.
28. On October 25, 2023, OCD staff received an email titled: *RE: Murchison Oil and Gas Incident NAB1902343484 Ogden State 5a Release & Ogden State 5H*. This email included an attachment titled *Site Characterization/Assessment & Closure Report*. The email also stated “If you have any questions about our recent submissions for Ogden State 5a and/or Ogden State 5H, please do not hesitate to call me to discuss. I would like to be certain that you understand how unsaturated flow occurs in high karst areas and how this type of geology can minimize the threat of groundwater impairment. I am unsure if you can make a clear decision about our. . .”

Earlier this month, OCD approved a Rule 34 C-147 for an in-ground containment in an area mapped as high karst by BLM (2RF-199). We followed the same protocol for this Rule 34 submission as we did for the C-141 submitted for the Ogden sites. The threat to groundwater from a failure of a 500,000 bbl. Produced water storage containment is huge. We looked very closely at the data and demonstrated to OCD that engineering measures (in this case evaluation of a deep boring, an instrumented drone flight to identify potential karst features, keeping the containment distant from identified potential surface karst features, and containment design by a NM Registered PE).

There are similarities and differences between karst issues for spill site v. karst issues for storage pits/containments. Let's talk if you wish."

29. Subsequent to review, the OCD rejected the Site Characterization/Assessment and Closure report on October 27, 2023 for the following reasons:

- As discussed in the Cave and Karst Resource Inventory Report the Ogden State 5H Release is located in evaporite karst terrain (Section 1.3) and specifically the report states "...warrants the BLM-CFO designation of "High Karst Occurrence Zone." (Section 2.4)". This site will need to be delineated and remediated to the most stringent closure criteria on Table I of 19.15.29 NMAC.

30. On November 20, 2023, OCD staff received an email titled: *MOGL - Ogden State 5H & 5a Release Sites - Incident NAB1902343484*. This email requested a meeting with OCD in Artesia in order to discuss moving forward at the Ogden State 5A and Ogden 5H release sites. The OCD responded to this email on November 21, 2023, "A meeting in the Artesia office was not an option. OCD might consider a virtual meeting, but December is a difficult month to schedule. Also, OCD will not review a draft document."

31. On November 29, 2023, OCD received an email titled: *NAB1902343484 Ogden State 5a Release – Site Characterization & Closure Plan with Variance Request*. The email included an attachment titled *Site Characterization/Assessment & Closure Report*. This email stated "Attached is the 3rd version of Volume 1 Site Characterization and Closure Report for the above-referenced release. This document contains a variance request describes fundamental unsaturated zone fluid mechanics and demonstrates to our satisfaction that karst features do not exacerbate threats to groundwater quality caused by the release. Our contention is, based upon fluid mechanics and the regulatory history of Rule 29, that the standard dig-haul-dispose will result in violation of the Oil and Gas Act that mandates actions of the OCD to protect fresh water, public health, and the environment. This document assumes that OCD staff or a hearing examiner will approve the variance. We look forward to working with the SLO on the recalculation of the surface. We anticipate a virtual meeting regarding this submission would be beneficial prior to any action on the part of OCD or SLO. The purpose of this email is to alert OCD that MOGL notified the surface owner. Volume 2 of this submission is the next email." OCD staff received the second email. OCD replied on November 29, 2023, "The OCD will not review any reports submitted via email. This report and any associated supporting documentation will need to be uploaded through the OCD Permitting website."

32. On November 30, 2023, a Site Characterization/Assessment and Closure report for the OGDEN STATE 5A RELEASE (NAB1902343484) was received by the OCD.

- OCD has reviewed the Site Characterization/Assessment & Closure Report submitted under Application ID: 289889 and PO Number: 0735G-231130-C-1410 and Application ID: 289662 and PO Number: 1LSNW-231130-C-1410. These reports include a variance request for 19.15.29.12.C(4)(g) NMAC.
- Pursuant to 19.15.29.14 VARIANCES:

A. A responsible party may file a written request for a variance from any requirement of 19.15.29 NMAC with the appropriate division district office. The variance request must include:

- (1) a detailed statement explaining the need for a variance; and
- (2) a detailed written demonstration that the variance will provide equal or better protection of fresh water, public health, and the environment.

After review of the variance request, OCD determined that a detailed statement explaining the need for a variance for 19.15.29.12.C(4)(g) NMAC was inadequate. The argument of saturated vs unsaturated flow does not explain the need for a variance of within an unstable area or the BLM karst designation.

In addition, the detailed written demonstration that the variance will provide equal or better protection of fresh water, public health and the environment has been deemed incomplete. The detailed written demonstration only pertains to protection of groundwater. The variance request does not demonstrate how public health, the vegetation, wildlife, and surrounding environment will be equally or better protected if the contamination is left in place.

33. On January 3, 2024, OCD staff sent Murchison a *Pre-Enforcement Notice* via electronic mail.
34. On January 29, 2024, OCD staff received an email titled: *Murchison Oil and Gas LLD OGDEN STATE #005H (NMLB1211627407) - should read OGDEN STATE 5a RELEASE (NAB1902343484)*. The email included an attachment titled *Site Characterization/Assessment & Closure Report*. The email stated “On behalf of Murchison Oil and Gas LLC, R.T. Hicks Consultants submits the attached REVISED Volume 1 Ogden State 5a Site Characterization and Closure Report. Please read the cover letter where we explain that approval of the REVISED Variance Request by OCD obviates the need for a Remediation Plan. MOGL will upload this document and Volume 2 (original July 2023 Laboratory Reports) to the OCD Portal today. Please expect transmission of the REVISED Site Characterization and Closure Report for Ogden State 5H in the next email. This report is copied to the landowner for their review (SLO). Reclamation Plans for both sites will follow shortly.”
35. On January 30, 2024, a Site Characterization/Assessment and Closure report for the OGDEN STATE #005H (NMLB1211627407) under application ID: 309330. The application was rejected for the following reason: “This application has been rejected because the C-141 is incomplete. The submitted application indicates a conflict between the questions answered and the attachments that have been submitted. For example, the answer “No” was selected when requesting a remediation plan approval; however, your attachments indicate that your intent is to request a remediation closure report approval. Please review the December 1, 2023, Public Notice titled “Implementation of Digital C-141 and New Incident Statuses” found on the EMNRD website. Review your C-141 submission and submit a new C-141 answering the appropriate questions for your circumstance.”
36. On January 30, 2024, a follow-up email was sent to Murchison from the OCD titled *Rejection of Application ID 309330 (PO Number: A4C0A-240130-C-1410)*. The email

stated: “I have received notification that a submission for nAB1902343484 has been rejected. The contents of the attached report WAS NOT reviewed prior to the rejection. As of December 1, 2023, the OCD has implemented the digital C-141. There is a guidance document that will walk you through the steps on how to submit the following:

- Initial C-141
- Site Characterization and Remediation Plan
- Deferral Request
- Remediation Closure Report
- Reclamation Report
- Revegetation Report

Prior to submitting any C-141s, we advise that the guidance document be reviewed. The guidance document can be found at <https://www.emnrd.nm.gov/ocd/ocd-announcements-and-notifications/> or <https://www.emnrd.nm.gov/ocd/ocd-forms/>. If the application is not completed correctly, the application will be denied. For example, if the report you are submitting is a Site Characterization and Remediation Plan, the application will need to be completed through the remediation plan section.”

Conclusions:

OGDEN STATE #005H (NMLB1211627407)

1. Murchison has failed to immediately start remediation in violation of 19.15.29.8 C(4).
2. Murchison has not remediated the release in violation of 19.15.29.12 A.
3. Murchison has failed to file remediation plans within 90 days of discovering the release in violation of 19.15.29.12 B.(1).
4. Murchison has failed to complete the remediation under a division-approved remediation plan and a division-approved timeline in violation of 19.15.29.12 B(2).
5. Murchison has failed to submit characterization plans or corrective action/remediation plans with proposed timeframes within 90 days of August 14, 2018, in violation of 19.15.29.16 B.

OGDEN STATE 5A RELEASE (NAB1902343484)

6. Murchison has failed to immediately start remediation in violation of 19.15.29.8 C(4).
7. Murchison has not remediated the release in violation of 19.15.29.12 A.
8. Murchison has failed to file a remediation plan within 90 days of discovering the release in violation of 19.15.29.12 B.(1).
9. Murchison has failed to complete the remediation under a division-approved remediation plan and a division-approved timeline in violation of 19.15.29.12 B(2).
10. Murchison has failed to submit characterization plans or corrective action/remediation plans with proposed timeframes within 90 days of August 14, 2018, in violation of 19.15.29.16 B.
11. Murchison has built containment/treatment cells and applied freshwater to dispose of produced water on or below the surface of the ground in a way that may constitute a hazard to the environment in violation of 19.15.34.20 A.

(3) *Compliance:* No later than five (5) business days after issuance of this NOV, Operator shall:

- File a complete and accurate Site Characterization and Remediation Plan pursuant to 19.15.29.11 NMAC; and
- Ninety (90) days after the OCD reviews and potentially approves the Site

Characterization and Remediation Plan:

- Complete remediation of the release and submit a complete and accurate Remediation Closure Report and
- Complete reclamation of the release and submit a complete and accurate Reclamation Report.

(4) *Sanction(s)*: OCD may impose one or more of the following sanctions:

- civil penalty
- modification, suspension, cancellation, or termination of a permit or authorization
- shutting in a well or wells
- plugging and abandonment of a well
- remediation and restoration of a well location and associated facilities, including the removal of surface and subsurface equipment and other materials
- remediation and restoration of a location affected by a spill or release
- forfeiture of financial assurance
- any other remedy authorized by law

For the alleged violations described above and consistent with applicable law, OCD proposes the following sanctions (one or more of which may ultimately be selected):

- Civil Penalty:

OCD proposes a cumulative total of \$2,007,900.00 for 5 separate violations related to the Ogden State #5H (nMLB1211627407) and the 7 separate violations related to the Ogden State 5A (nAB1902343484) detailed in the civil penalty calculations, attached and incorporated as Exhibit A. The civil penalties were calculated as of January 31, 2023. OCD may recalculate the civil penalties for ongoing violations occurring on or after the date of issuance of this NOV and will take into consideration Operator's good faith effort to comply with the applicable requirements.


The civil penalty calculations are attached. OCD may recalculate the civil penalties for ongoing violations occurring on or after the date of issuance of this NOV and will take into consideration Operator's good faith effort to comply with the applicable requirements.

(5) *Informal Review and Resolution*: A process is available for the informal review and resolution of the alleged violations in the NOV. To initiate the informal review process, contact the OCD employee identified at the end of this letter. If OCD and the alleged violator agree to resolve the alleged violations in the NOV, the agreement will be incorporated into a stipulated final order signed by both parties and stating that the alleged violator admits OCD's jurisdiction to file the NOV, consents to the specified relief, including the civil penalty, if any, and waives the right of review by the Oil Conservation Commission.

(6) *Hearing*: If this Notice of Violation is not resolved within thirty (30) days of receipt of service, OCD will hold a hearing on May 2, 2024. Please see 19.15.5.10 NMAC for more information regarding the hearing. However, please note that the hearing does not prohibit OCD from negotiating with the alleged violator at any time to settle the NOV.

For more information regarding this NOV, contact Jesse Tremaine, Assistant General Counsel, (505) 231-9312 or Chris Moander, Assistant General Counsel, (505) 476-3441 or Chris.Moander@emnrd.nm.gov.

Regards,



Dylan M. Fuge
Director (Acting)

3/14/24
Date

cc: EMNRD-OGC