

**AP - 026**

**GENERAL  
CORRESPONDENCE**

**2008-2010**

# New Mexico Energy, Minerals and Natural Resources Department

**Bill Richardson**  
Governor

Joanna Prukop  
Cabinet Secretary  
Reese Fullerton  
Deputy Cabinet Secretary

Mark Fesmire  
Division Director  
Oil Conservation Division



August 14, 2008

Mr. David W. Lauritzen- Attorney at Law  
Cotton Bledsoe Tighe & Dawson, PC  
500 West Illinois, Suite 300  
Midland, Texas 79701-4337

*AP 26*

Reference: Order No. R-12152-A  
Case No. 13142  
Maralo, LLC

Subject: AP-26 Remediation Work at Humble State #3 Tank Battery

Dear Mr. Laueitzen:

Pursuant to our meeting held in Santa Fe, New Mexico on August 08, 2008, Maralo, LLC will make arrangements to collect soil samples along the fresh water supply line owned and operated by the City of Jal, NM. As we discussed OCD is concerned about possible contaminants impacting the fresh water.

OCD will accept one composite sample collected from at least three places along the line where contaminants would most likely be present. The soil samples shall be analyzed for TPH 418.1 and 8015M DRO, GRO, BTEX 8021, WQCC metals and general chemistry.

Please have Maralo's consultant make arrangements with OCD so we may witness the sample event and/or split samples. Once OCD's has an opportunity to review the data and if deemed satisfactory, then OCD would like to see a final closure report for approval. To reduce paper work, Maralo may reference previously submitted documents if they are to be included in the final report. Once Maralo receives final closure from this office we will notify our bonding department for release of bonds.

If you have questions please do not hesitate to call me at 505-476-3490 or E-mail [wayne.price@state.nm.us](mailto:wayne.price@state.nm.us).

Sincerely,

A handwritten signature in black ink, appearing to read "Wayne Price".

Wayne Price-Environmental Bureau Chief

Cc: Daniel Sanchez-Enforcement and Compliance Officer  
Geoffrey Perrin-Maralo, LLC



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July 3, 2008

Mr. Daniel Sanchez  
Enforcement and Compliance Manager  
New Mexico Energy, Minerals & Natural Resources Dept.  
Oil Conservation Division  
1220 S. St. Francis Drive  
Santa Fe, New Mexico 87505

RE: Former New Mexico Operator – Maralo, LLC  
(Permit Serial Number: MM-102774)  
Release of New Mexico Oil Plugging Bond No. RLB0006245  
(formerly BO03897)

Dear Mr. Sanchez:

We are writing you with respect to a series of letters between our legal counsel and Legal Examiner, Mr. David K. Brooks along with other members of your department. The correspondence arises out of a lengthy attempt, dating back to December 2004, to release Maralo's Oil Plugging Bond No. RLB0006245 (formerly BO03897). Additionally, Maralo has a Federal Bureau of Land Management bond and a New Mexico State Land Office surface damage bond that cannot be released until the release of the Plugging Bond. The three bonds cost Maralo \$5,225 a year when it is no longer an operator of any oil and gas properties.

Our latest request to release these bonds was made to Dorothy Phillips of your office in March of this year. The request noted that Maralo does not currently operate any properties in the State of New Mexico and has not done so since September 2004. To Maralo's knowledge, all of the properties formerly operated by it are currently operated by bonded operators or have been appropriately plugged.

In response to this latest inquiry, Maralo received a letter from Mr. Brooks stating that the reason Maralo's Bond could not be released was that it had failed to complete environmental remediation in connection with the Humble State No. 3 Tank Battery Site located in Lea County. As you may recall, Maralo remediated the Humble State No. 3 Tank Battery Site pursuant to a Letter Order issued and signed by you dated March 3, 2006. The remediation itself took place from approximately April to August 2006.

Your Order set out seven (7) requirements for remediation for the Humble State No. 3 Tank Battery Site. The Order set a compliance deadline for June 15, 2006. To

effectuate the remediation, Maralo retained the services of Elke Environmental, Inc. The remediation activities were further supervised and approved by the surface property landowner, Mr. Jay Anthony.

On June 6, 2006, Bill Solomon and I representing Maralo traveled from Houston, Texas to Hobbs, New Mexico to meet with you and Larry Johnson to discuss and evaluate the status of the remediation. I am Maralo's Vice President and Chief Financial Officer and Mr. Solomon is its In-House Counsel. If you recall, at this time the remediation excavation was largely complete, but backfilling activity had not started. You reviewed Maralo's remediation efforts as well as the agreement of landowner Jay Anthony to dismiss any civil claims against Maralo, and gave permission to Maralo and Elke Environmental to begin backfilling operations. Additionally, you graciously granted Maralo an extension of the June 15, 2006 compliance deadline until August 31, 2006. You subsequently followed this up with a letter granting the extension.

Backfilling began almost immediately and remediation efforts were completed well within the extended deadline. We can also report that the remediated area has been successfully replanted with vegetation and the landowner has had no further complaints with respect to the remediation site. Maralo believes that as of August 2006, it fully complied with the requirements of your letter order dated March 3, 2006.

Consequently, it was quite a shock to Maralo to receive the recent letter from David Brooks claiming that Maralo had not completed the remediation because of an email by Wayne Price dated July 13, 2006. Prepared some five (5) weeks after you had approved backfilling, Mr. Price's email was apparently not to Maralo itself, but to Elke Environmental and to Maralo's former regulatory counsel in Santa Fe, Mr. Tom Kellahin. Mr. Price's informal email raised additional questions about the remediation and suggested additional testing. However, as we have relayed to Mr. Brooks, Maralo was not aware of the existence of Mr. Price's email until March 2008.

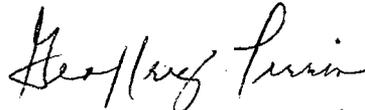
We have subsequently communicated with Elke Environmental about the contents of Mr. Price's email and have confirmed that the issues raised within it were previously addressed by Elke Environmental either directly to Mr. Price or directly to NMOCD representative Larry Johnson, who made regular physical visits to the remediation site. We also note, that as of the date of Mr. Price's email, approximately 75% of the site had already been backfilled. Maralo further addressed each of Mr. Price's concerns in correspondence to Mr. Brooks dated April 17, 2008.

In response to our efforts to resolve the confusion caused by Mr. Price's email, Mr. Brooks responded with a letter asking us to contact Mr. Price for a technical meeting to resolve the issues discussed in the letter. Given that we had fruitful dealings directly with you regarding your Order to Remediate, along with Larry Johnson, who regularly supervised the project, we are contacting you directly (with a copy of this letter to Mr. Price) in an effort to resolve this matter as amicably and as expeditiously as possible. As we have previously relayed to Mr. Brooks, the Humble State No. 3 Tank Battery Site remediation involved approximately \$6,000,000 of direct expense to Maralo, not taking

into account prior expenses and legal fees. Maralo conducted its remediation operations pursuant to the directions contained in your Letter Order in good faith and to the satisfaction of all parties involved including the landowner and the OCD representatives with whom we personally interacted. Consequently, Maralo asks that you assist us in releasing its pending bonds with the State of New Mexico.

We thank you for your attention and professional courtesies in assisting us in resolving this issue.

Yours truly,

A handwritten signature in cursive script, appearing to read "Geoffrey Perrin".

Geoffrey Perrin  
Vice President

cc: Wayne Price

# New Mexico Energy, Minerals and Natural Resources Department

**Bill Richardson**  
Governor

Joanna Prukop  
Cabinet Secretary  
Reese Fullerton  
Deputy Cabinet Secretary

**Mark Fesmire**  
Division Director  
Oil Conservation Division



May 6, 2008

Mr. David W. Lauritzen  
Cotton, Bledsoe, Tighe & Dawson  
P.O. Box 2776  
Midland, TX 79701

**Re: Maralo LLC**

Dear Mr. Lauritzen:

We are in receipt of your letter of April 17, responding to my letter of March 25.

OCD would like to schedule a technical meeting to resolve the issues discussed in those letter. Please ask you clients to contact Mr. Wayne Price, Environmental Bureau Chief, at 505-476-63490, to schedule such a meeting.

If you have questions or other concerns, please feel free to contact the undersigned.

Very truly yours,

A handwritten signature in black ink, appearing to read "D. Brooks".

David K. Brooks  
Legal Examiner  
505-476-3450  
david.brooks@state.nm.us

cc: Wayne Price - OCD Santa Fe  
Daniel Sanchez - OCD Santa Fe



COTTON  
BLEDSOE  
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*Attorneys at Law*

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April 17, 2008

Mr. David K. Brooks, Legal Examiner  
New Mexico Energy, Minerals and  
Natural Resources Department  
1220 S. St. Francis Drive  
Santa Fe, New Mexico 87505

RE: Former New Mexico Operator: Maralo, LLC  
(Permit Serial Number: MM-102774)  
Release of New Mexico Oil Plugging Bond No. RLB006245  
(formerly BO03897)

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Dear Mr. Brooks:

We are in receipt of your letter dated February 28, 2008, postmarked March 25, 2008, referencing our letter dated March 10, 2008 to Ms. Dorothy Phillips.

The email correspondence from Mr. Wayne Price attached to your letter was a surprise to both our client and this office. We were not previously aware of its existence as it was apparently directed to the contracting service company for Maralo, LLC, Elke Environmental, Inc.

During the summer of 2006, Maralo, LLC performed a remediation at the Humble State #3 Tank Battery site pursuant to a letter order issued by the OCD, dated March 3, 2006. The order was on New Mexico Energy, Minerals and Natural Resources Department letterhead and was signed by David Sanchez, Enforcement and Compliance Manager. A copy of the order is attached for your convenience. The order set out seven (7) requirements for remediation of the Humble State #3 Tank Battery site. Concurrently, Maralo, LLC was a named defendant in a lawsuit filed against Maralo and other entities by Landowner Jay Anthony. This lawsuit was filed under Cause No. CV-2004-14; *Jay Anthony, Individually and as Assignee of Clarene Bishop and Jamie Anthony v. Chevron Texaco Corporation, et al*, in the 4<sup>th</sup> Judicial District Court, State of New Mexico, County of San Miguel. Mr. Anthony is the surface owner of the property upon which the Humble State #3 Tank Battery site is located and also sought remediation.

On June 6, 2006, corporate officers for Maralo, counsel, and representatives of Elke Environmental met with the author of the OCD Order, David Sanchez, and additional OCD representative Larry Johnson in Hobbs, New Mexico to discuss and evaluate the largely complete remediation. At that meeting, Mr. Sanchez reviewed Maralo's remediation efforts to date and the agreement of Landowner Jay Anthony to dismiss his claims against Maralo, and gave permission to Maralo and Elke Environmental to begin backfilling operations at the Humble State #3 Tank Battery site. Backfilling began shortly thereafter and by July 13, 2006, the date of Mr. Price's email, approximately 75% of the site had been backfilled. Given that Maralo was unaware of Mr. Price's email and that it had already received approval of its remediation operations from Mr. Sanchez, Maralo believes that it has complied with all remediation requirements and is entitled to recoup its plugging bond.

However, in the interests of resolving the issues raised in your letter, Maralo believes that it has complied with the issues raised in Mr. Price's email.

First, Mr. Price raised concern that the Jal City water line was not to be in contact with any contaminated soils. Prior to the remediation of the Humble State #3 Tank Battery site, the City's pipeline was reconfigured to travel under a caliche road that crosses the Jay Anthony property. The site was excavated around the road such that there is a minimum of four feet of unadulterated soil and caliche surrounding the pipeline. Consequently, the water line is not in contact with any contaminated soil.

Second, the email referenced a barrier to be placed around and sealed to the casing of an "on-site water well" to prevent a preferential pathway to the groundwater. To our knowledge, there was no active water well on-site. There was an unused water well that had been previously plugged. A ten foot barrier of clean soil was placed around the plugged well casing to a depth of at least ten feet. Additionally, the water table under the remediation site is over 150 feet deep. OCD representative Larry Johnson was aware of the abandoned well during his on-site supervision and did not consider it to be a problem.

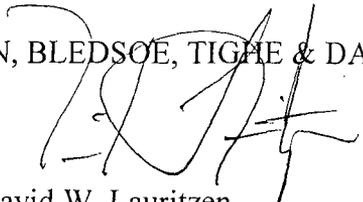
As to the final concern involving additional sites, voluminous testing by representatives of the landowner and by Elke Environmental (including additional testing previously requested by Mr. Price) revealed de minimus concentrations of hydrocarbons in the areas identified by Mr. Price. These test results were made available to the OCD as they were taken and it is our understanding that they were considered by Mr. Sanchez before he gave Maralo permission to backfill the remediation site. Further, OCD representative Larry Johnson who physically visited the site on a regular basis was aware of the testing results, and also concurred with Mr. Sanchez's decision approving the remediation efforts on June 6, 2006. To our knowledge, Mr. Price never visited the site. These test results were previously and regularly reported to the OCD.

In conclusion, this operation involved approximate \$6,000,000 of expense by Maralo, LLC. Maralo conducted its remediation operations pursuant to the official OCD orders it had received in good faith and to the satisfaction of both the landowner and OCD representatives David Sanchez and Larry Johnson. We are perplexed at the appearance of Mr. Price's email dated over a month after backfilling operations began, but believe that Maralo has fully complied with all official OCD requirements.

Maralo thus asks again that its bonds be released. Thank you for your attention and professional courtesies in this matter.

Very truly yours,

COTTON, BLEDSOE, TIGHE & DAWSON, P.C.



David W. Lauritzen

DWL/pm  
Enclosure



# NEW MEXICO ENERGY, MINERALS and NATURAL RESOURCES DEPARTMENT

**BILL RICHARDSON**

Governor

**Joanna Prukop**

Cabinet Secretary

**Mark E. Fesmire, P.E.**

Director

**Oil Conservation Division**

March 03, 2006

**CERTIFIED MAIL**

Return Receipt Requested: 7001 1940 0004 7923 4801

Maralo, LLC

Mr. David W. Lauritzen

C/o Cotton, Bledsoe, Tighe & Dawson

P.O. Box 2776

Midland, Texas 79701

Re: OCD Case 131142 Order R-12152-A

Humble State #3 Tank Battery Site

Jal, New Mexico

Dear Ladies and Gentlemen:

On December 09, 2004 the New Mexico Oil Conservation Commission issued an order requiring Maralo LLC. to perform approved delineation and remediation at the Humble State #3 Tank Battery Site. As of this date Maralo LLC has failed to perform the requirements of Order R-12152-A.

**Therefore, OCD hereby orders Maralo LLC to perform the following actions:**

1. Excavate all on-site contaminated soils that exceed the standards shown in item 2., down to a maximum depth of 10 feet below existing ground surface. All contaminated soils shall be disposed of off-site at an approved OCD facility.
2. Soils containing the following Levels of contaminants are contaminated soils: benzene that exceeds 0.2 mg/kg as determined by EPA SW-846 Method 8021B; total BTEX that exceeds 50 mg/kg as determined by EPA SW-846 Method 8021B; TPH that exceeds 500 mg/kg. (GRO/DRO) combined fraction, as determined by EPA SW-846 Method 8015M; total extractable petroleum hydrocarbon fractions that exceed 5000 mg/kg as determined by EPA 418.1 Method; and chlorides that exceed 250 mg/kg as determined by EPA Method 300.1.

3. Final confirmation samples shall be collected and analyzed for the constituents shown in item 2. Each excavated area shall have at a minimum 5 bottom hole samples taken and each side wall shall have at least one 4 point composite sample collected. In addition all obvious "hot spots" shall be sampled.
4. All excavated areas shall be backfilled and compacted with similar native clean soils only after OCD approval.
5. Re-vegetation by establishment of a vegetative cover over at least 70% of the site, consisting of at least two native plant species and not including noxious weeds, and maintenance of that cover through two successive growing seasons. Deviations for re-vegetation may be allowed if Maralo receives written landowner acceptance.
6. Maralo LLC shall notify the OCD Santa Fe office, OCD District office and the landowner at least 72 hours in advance of all scheduled activities so that the OCD has the opportunity to witness the events and/or split samples during OCD's normal business hours.
7. Maralo LLC shall submit a final report for OCD approval by June 15, 2006. The report shall contain the following information:
  - a. A scaled plot plan of the clean-up area showing pertinent features, location and dimensions of all excavated areas and final sample points.
  - b. Dated photos of the project, before, and during excavation, at sample points and after final closure.
  - c. Records of all waste manifest.
  - d. Daily log of major activities.
  - e. All Laboratory analytical results cross referenced to sample points.

Please note the OCD requirements stated above do not relieve Maralo LLC of responsibility for compliance with any other federal, state, or local laws and/or regulations.

If Maralo LLC wishes a technical meeting or guidance concerning the remediation requirement please contact Wayne Price Environmental Bureau Chief at 505-476-3487 or E-mail wayne.price.state.nm.us. If OCD does not hear from Maralo LLC within 15 days of receipt of this letter then OCD will assume Maralo LLC understands the requirements and shall commence work.

*Failure to perform the required actions by June 16, 2006 may result in civil penalties of \$1000 dollars per day for each day that Maralo LLC has been deficient in the clean-up operation.. If Maralo wants a hearing concerning the specific requirements of this directive it may file an application for a hearing with the Division clerk within 15 days of receipt of this letter.*

Sincerely,



Daniel Sanchez  
Enforcement & Compliance Manager

cc: Jay Anthony-Landowner  
Tom Kellahin-attorney for Maralo LLC.  
David Brooks, OCD legal

# New Mexico Energy, Minerals and Natural Resources Department

**Bill Richardson**  
Governor

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Deputy Cabinet Secretary

Mark Fesmire  
Division Director  
Oil Conservation Division



February 28, 2008

Mr. David W. Lauritzen  
Cotton, Bledsoe, Tighe & Dawson, PC  
Attorneys at Law

**Re: Former New Mexico Operator: Maralo, LLC (Permit Serial Number: MM-102774)  
Release of New Mexico Oil Plugging Bond No. RLB0006245 (formerly BO03897)**

Dear Mr. Lauritzen:

Reference is made to your letter dated March 10 to Ms. Dorothy Phillips of this office.

Pursuant to Oil Conservation Commission Order R-12152-A, issued in Case 13142 on December 9, 2004, Maralo, LLC was ordered to perform remediation work at the Humble State #3 Tank Battery site, located on the Anthony Ranch near Jal, New Mexico, and provide the proper closure documents.

On July 13, 2006 OCD sent an E-mail (copy attached) approving backfilling of certain areas of the site. In addition, however, OCD noted areas that required additional work in order to protect fresh water, public health and the environment. As of this date, Maralo, LLC has not responded to OCD's final requirements.

OCD's Environmental Bureau is requesting to have a technical meeting to resolve these issues. OCD will not release the bonds until these issues are resolved.

Yours Very Truly,

David K. Brooks  
Legal Examiner  
505-476-3450  
david.brooks@state.nm.us

Oil Conservation Division \* 1220 South St. Francis Drive  
\* Santa Fe, New Mexico 87505

\* Phone: (505) 476-3440 \* Fax (505) 476-3462 \* <http://www.emnrd.state.nm.us>



March 14, 2008  
Page 2

cc: Wayne Price  
Dorothy Phillips

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*Attorneys at Law*

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March 10, 2008

Ms. Dorothy Phillips  
New Mexico Oil Conservation Division  
1220 South St. Francis Street  
Santa Fe, New Mexico 87505

RE: Former New Mexico Operator: Maralo, LLC (Permit Serial Number: MM-102774)  
Release of New Mexico Oil Plugging Bond No. RLB0006245 (formerly BO03897)

Dear Mr. Phillips:

Pursuant to our earlier telephone conversation, this firm represents Maralo, LLC ("Maralo"). On behalf of Maralo, we are writing to request that the State of New Mexico release Maralo's Oil Plugging Bond No. RLB0006245 (formerly BO03897).

Maralo does not currently operate any properties in the State of New Mexico and has not done so since September 2004. To its knowledge, all of the properties formerly operated by Maralo are currently operated by bonded operators.

In the event that there is an impediment to the release of the above-referenced Plugging Bond, I would appreciate it if you would contact my office at your earliest convenience so that we may work with the State to resolve any outstanding issues. To the extent that such work is necessary, we look forward to fully cooperating with the Division.

Thank you for your professional courtesies in this matter. I look forward to hearing from you in the near future. As discussed above, if you have any additional questions or comments, please do not hesitate to contact me.

Very truly yours,

COTTON, BLEDSOE, TIGHE & DAWSON, P.C.

David W. Lauritzen

DWL/pm

cc: Matt McGowen [Firm]

Geoffrey Perrin  
[GeoffreyPerrin@maralo.com](mailto:GeoffreyPerrin@maralo.com)