



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



CERTIFIED MAIL—RETURN RECEIPT REQUESTED
7007 2680 0001 6451 1097

September 9, 2008

BTA Oil Producers
104 S Pecos
Midland, TX 79701

RE: Pardue 8808 SWD Facility 30 015 26341
Eddy County, New Mexico N-11-23S-28E
2RP-155

Operator:

The Oil Conservation Division (OCD) is in receipt of BTA Oil Producers' (BTA) site remediation work plan (plan) dated August 14, 2008. OCD has completed the review of BTA's proposed plan.

Site assessment and soil analytical data forms the basis of any required remediation. OCD may accept an assessment of risk that demonstrates the **remaining** contaminants will not pose a threat to the present or foreseeable beneficial use of fresh waters and/or the environment. To approve an assessment of risk, OCD requires confirmation analyses that completely define the lateral and vertical extent of contamination. Based on the soil analytical reports submitted to OCD, BTA has not demonstrated criteria required for a risk based closure. The plan as presented is denied.

The OCD may impose conditions or requirements that it determines are necessary and proper for the protection of fresh water, public health, safety or the environment. The following actions shall be required:

- All soils within and/or associated with the entire discharge/release area are to be excavated to a minimum of eight feet below ground surface.
- Excavated soils are to be hauled and disposed at an OCD approved disposal facility.
- Upon completion of excavation and **prior** to any capping and/or backfilling activities, confirmation soil samples are to be submitted to OCD for approval.
- Commencement of remediation operations/excavation shall be **on or before September 22, 2008**. Notify the OCD **24 hours** prior to commencement of operations.
- Notify the OCD **48 hours prior** to obtaining samples where analyses of samples are to be submitted to the OCD.



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- Remediation requirements and methods may be subject to change as conditions warrant.
- In the event ground water is encountered at any time during the remediation phase, all work is to cease and OCD is to be notified immediately.
- Within 60 days, **on or before November 10, 2008**, all remediation activities are to be finalized *including* the submittal of a remediation closure report summarizing all actions taken *and* the submittal of the Final Report C-141.

If this matter is not satisfactorily resolved by the dates set out above, further enforcement will occur. Such enforcement may include this office applying to the Division for an order summoning you to a hearing before a Division Examiner. Such a hearing may result in imposition of civil penalties against BTA for each violation of OCD Rules, in accordance with NMSA 1978, Section 70-2-31(A).

Please be advised that NMOCD acceptance and/or approval of documents and/or reports does not relieve the operator of liability should their operations have failed to adequately investigate and remediate contamination that pose a threat to ground water, surface water, human health or the environment. In addition, NMOCD acceptance and/or approval of documents and/or reports do not relieve the operator of responsibility for compliance with any other federal, state, local laws and/or regulations.

Please contact me at sherry.bonham@state.nm.us or 575.748.1283 if you have any questions regarding this correspondence or the requirements.

Respectfully,



Sherry Bonham
NMOCD District II