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ENFORCEMENT

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NEW MEXICO ENERGY, MINERALS and NATURAL RESOURCES DEPARTMENT

BILL RICHARDSON
Governor
Joanna Prukop
Cabinet Secretary
August 19, 2004

Mark E. Fesmire, P.E.
Director
Oil Conservation Division

NOTICE OF VIOLATION

CERTIFIED MAIL

RETURN RECEIPT NO: 7001-1940-0004-3929-8447

Mr. Tony Schmitz
T-n-T Environmental, Inc.
HCR 74, P.O. Box 115
Lindrieth, NM 87029

RE: Violation of a Condition of Permit #NM-01-008 issued under Oil Conservation Division Rule 711 [19.15.9.711.B NMAC]
Violation of New Mexico Statute NMSA 1978, 70-2-31.B(2), False Entries

Dear Mr. Schmitz:

On August 2, 2004, New Mexico Oil Conservation Division (OCD) Deputy Inspector Denny Foust inspected the commercial oilfield waste disposal facility operated by T-n-T Environmental, Inc. (TNT) located in the SE/4 Section 7 and SW/4 Section 8 and the SW/4 SE/4 and SE/4 SW/4 Section 5 and the NE/4 NW/4 of Section 8, Township 25 North, Range 3 West, NMPM, Rio Arriba County, New Mexico.

OCD Rule 711 states, in pertinent part, "...all commercial and centralized facilities including facilities in operation on the effective date of Section 19.15.9.711 NMAC...shall be permitted by the Division". Permit # NM-01-008 issued to TNT on May 11, 2001, includes conditions under which TNT must operate the facility.

This OCD inspection of the facility and facility records revealed the following:

1. From July 20, 2004, through August 2, 2004, there was no pH testing paper or other pH testing equipment available at the facility with which to test the water in the evaporation ponds.
2. Condition number 1.b of the permit section titled H₂S PREVENTION AND CONTINGENCY PLAN states in pertinent part, "Daily tests must be conducted and records made and maintained of the pH levels in each pond, . . ." TNT did not perform the tests required under the permit, a violation of TNT's permit conditions.
3. The pH level of the water in the evaporation ponds was falsely recorded as 7.0 from July 20, 2004, through July 31, 2004, on records maintained at the facility. During Denny Foust's inspection on July 20, 2004, Mr. Foust observed that the pH levels were recorded as 7.0 through July 27, 2004, seven days in the future. This is a violation as follows: New Mexico Statute NMSA 1978, 70-2-31.B states in pertinent part, "It is unlawful . . . for any person to knowingly and willfully... do any of the following for the purpose of evading or violating the Oil and Gas Act or any rule, regulation, or order of the division issued pursuant to that act: . . . make or cause

TNT 711 FACILITY INSPECTION (PHOTOS BY OCD)



PHOTO NO. 1 DATE: 06/09/97

PHOTO NO. 2 DATE: 06/09/97



to be made any false entry in any record, account or memorandum required by the Oil and Gas Act or by any rule, regulation or order of the commission or division issued pursuant to that act. .
”

TNT's conduct warrants issuance of this "Notice of Violation" and assessment of civil penalties pursuant to Section 70-2-31(A), NMSA 1978 for violations of the OCD Rules and Permit, and the statute described above. Section 70-2-31(A) authorizes penalties of up to one thousand dollars (\$1,000) per day per violation for any knowing or willful violation of any provision of the "Oil and Gas Act" or any Rule or Order issued pursuant to the Act. In the case of a continuing violation, each day of violation constitutes a separate violation. Section 70-2-31(A).

In view of the seriousness and duration of these violations, the Environmental Bureau of the OCD believes a penalty of \$2,000 and a definite commitment to future corrective action are essential. This penalty is based on \$1,000 for each of the violations cited.

Unless the matter can be satisfactorily resolved, we will request an enforcement hearing before an OCD Hearing Examiner, where we will recommend issuance of a formal order requiring compliance with the Oil and Gas Act and OCD Rules, a civil penalty, and corrective action. Please note that because the permit condition and statute at issue were violated on multiple occasions, if this matter goes to hearing, the OCD may seek a penalty greater than the \$2,000 penalty proposed in this notice.

Please contact this office within ten (10) days to schedule an administrative conference to discuss this matter. Failure to do so may result in an additional penalty. OCD's participation in this conference, and TNT's subsequent agreement to the fines proposed will prevent OCD from pursuing this matter further. OCD legal counsel may be present for this conference and you may bring legal counsel if you desire.

If you have questions, you may contact me at 505-476-3490.

Sincerely,



Roger C. Anderson
Environmental Bureau Chief
rcanderson@state.nm.us

RCA/eem

Cc: OCD Aztec District
Gail MacQuesten
NOV File
File NM-01-008