

NM1 - 32

ENFORCEMENT

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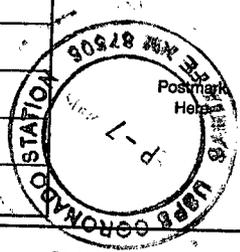
2005

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City, State, ZIP+4
HOBBS, NM 88241



NEW MEXICO ENERGY, MINERALS and NATURAL RESOURCES DEPARTMENT

BILL RICHARDSON
Governor
Joanna Prukop
Cabinet Secretary

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

NOTICE OF VIOLATION

September 6, 2005

CERTIFIED MAIL

RETURN RECEIPT NO: 7001-1940-0004-7920-7706

Ms. Kena Kay Cooper
South Monument Surface Waste Facility, L.L.C.
P.O. Box 418
Hobbs, NM 88241

RE: Violation of a Condition of Permit #NM-01-032 issued under Oil Conservation Division Rule 711 [19.15.9.711.B NMAC] issued for a commercial landfarm located in the N/2 NE/4 of Section 25, Township 36 South, Range 20 East, NMPM, Lea County, New Mexico

Dear Ms. Cooper:

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-01-032, issued to South Monument Surface Waste Facility, L.L.C. on May 26, 2000, sets forth mandatory conditions under which South Monument Surface Waste Facility, L.L.C. must operate the facility in order to retain its permit.

OCD conducted an in-house inspection of the facility records and this inspection revealed that South Monument Surface Waste Facility, L.L.C. has been delinquent in the submission of treatment zone monitoring reports. Items 1, 2, 3, and 4 under TREATMENT ZONE MONITORING in the permit describe how the sampling of the treatment zone will be conducted. Treatment zone samples are to be analyzed for total petroleum hydrocarbons (TPH) and volatile aromatic organics (BTEX) quarterly, and for major cations and anions and Water Quality Control Commission (WQCC) metals annually. Item 2 under REPORTING in the permit states that "Analytical results from the treatment zone monitoring will be submitted to the OCD Santa Fe office within thirty (30) days of receipt from the laboratory." For the period of January 1, 2003 through June 30, 2005, the OCD has received no quarterly or annual reports.

South Monument Surface Waste Facility, L.L.C.'s conduct, i.e., failure to submit quarterly and annual reports, 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 \$2,500 and a definite commitment to future corrective action are essential. This penalty is based on \$1,000 for each year, plus \$500 for the period January 1, 2005 through June 30, 2005 that South Monument Surface Waste Facility, L.L.C. was in violation of its permit conditions.

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 \$2,500 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 South Monument Surface Waste Facility, L.L.C.'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 Hobbs District
Cheryl O'Connor
NOV File
File NM-01-032