

NM1 - 30

ENFORCEMENT

DATE:

2005



NEW MEXICO ENERGY, MINERALS and NATURAL RESOURCES DEPARTMENT

BILL RICHARDSON

Governor

Joanna Prukop

Cabinet Secretary

Mark E. Fesmire, P.E.

Director

Oil Conservation Division

November 28, 2005

Mr. Jim Wilson
Artesia Aeration, LLC
P.O. Box 248
Artesia, New Mexico 88210

Re: Agreed Order Directing Compliance and Assessing Civil Penalty
Violation of Condition for Permit NM-01-030

Dear Mr. Wilson:

On October 19, 2005, the Oil Conservation Division (hereinafter, "OCD") received Artesia Aeration's \$1,500.00 check for assessed penalties, but has never received an executed Agreed Order Directing Compliance and Assessing Civil Penalty (hereinafter, "ACO"). It is my understanding that you do not believe you ever received the ACO. Therefore, I'm enclosing two originals. Please review. You will note that under the section titled "Order and Civil Penalty," paragraph 2 shows that the penalty has already been paid.

If the ACO meets with your approval, please execute both originals and return to me at the below listed address. For the OCD to close the file on this issue, it is mandatory it receive an executed ACO. Once I receive the ACO back from Artesia Aeration, Mark Fesmire, Director, will also sign it; I'll then return one fully executed original for your records. If you have any questions, please do not hesitate to contact me at 476-3480.

Very truly yours,

Cheryl O'Connor

pc: ✓ Ed Martin, OCD
Daniel Sanchez, Compliance Manager

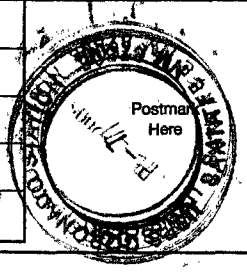
Encl.: Two original ACOs

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

7001 1940 0004 7920 7713

OFFICIAL USE

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$



NM-1-30 ED

Sent To Jim Wilson
Street, Apt. No.,
or PO Box No. P.O. Box 248
City, State, ZIP+4 ARTESIA, NM 88210



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Director

Oil Conservation Division

NOTICE OF VIOLATION

September 6, 2005

CERTIFIED MAIL

RETURN RECEIPT NO: 7001-1940-0004-7920-7713

Mr. Jim Wilson
Artesia Aeration, L.L.C.
P.O. Box 248
Artesia, NM 88210

RE: Violation of a Condition of Permit #NM-01-030 issued under Oil Conservation Division Rule 711 [19.15.9.711.B NMAC] issued for a commercial landfarm located in the N/2 of Section 7, Township 17 South, Range 32 East, NMPM, Lea County, New Mexico

Dear Mr. Wilson:

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-01-030, issued to Artesia Aeration, L.L.C. on November 29, 1999, sets forth mandatory conditions under which Artesia Aeration, 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 Artesia Aeration, 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 1 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 March 31, 2004, and the period of October 1, 2004 through March 31, 2005, the OCD has received no quarterly or annual reports.

Artesia Aeration, L.L.C. 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 \$1,500 and a definite commitment to future corrective action are essential. This penalty is based on \$1,000 for calendar year 2003, plus \$500 for the period October 1, 2004 through March 31, 2005 that Artesia Aeration, 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 \$1,500 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 Artesia Aeration, 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-01-030