



# New Mexico Energy, Minerals and Natural Resources Department

**Bill Richardson**  
Governor

**Jim Noel**  
Cabinet Secretary  
**Karen W. Garcia**  
Deputy Cabinet Secretary

**Mark Fesmire**  
Division Director  
Oil Conservation Division



November 8, 2010

BTA Oil Producers, LLC  
104 S. Pecos  
Midland, TX 79701

## **DENIAL OF APPLICATION FOR PERMIT TO DRILL, DEEPEN OR PLUG BACK**

**Re: BTA Oil Producers, LLC, OGRID #260297**

- Pardue 8808 JV. P #1, API #30-015-25964, Eddy County, New Mexico

Dear Operator:

The Oil Conservation Division (OCD) **denies** your application(s) for permit(s) to drill, deepen or plug back the wells identified above because your company is out of compliance with 19.15.5.9(A) NMAC [Part 5.9(A)]. See 19.15.14.10(A) NMAC.

Your company is out of compliance with Part 5.9(A) on the following ground(s):

\_\_\_\_\_ **Financial assurances.** Your company is in violation of the financial assurance requirements for well plugging set out in 19.15.8.9 NMAC. See 19.15.5.9(A)(1) NMAC. Specifically, your company [has not posted the required blanket financial assurance] [has not posted the single-well financial assurances required for state or fee wells which have been inactive for more than two years. The wells requiring single-well financial assurances are identified in the attached sheet.]

XX **Corrective action.** Order R-13218, issued on February 5, 2010 after notice and hearing, found your company to be in violation of an order requiring corrective action. See 19.15.5.9(A)(2) NMAC.

\_\_\_\_\_ **Unpaid penalties.** Your company has not paid the penalties assessed against your company in \_\_\_\_\_, issued on \_\_\_\_\_. More than 70 days have passed since the issuance of the order assessing the penalty. See 19.15.5.9(A)(3) NMAC.



**XX Inactive wells.** According to the attached inactive well list, your company has too many wells in violation of the inactive well rule (19.15.25.8 NMAC) that are not subject to an inactive well agreed compliance order. See 19.15.5.9(A)(4) NMAC. As an operator of 91 wells, your company may have no more than 2 wells in violation of the inactive well rule. Your company has 4 wells in violation of the inactive well rule. In addition,

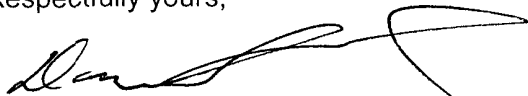
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I have enclosed an information sheet explaining the requirements of Part 5.9. You may re-submit your request after your company has returned to compliance with Part 5.9.

Respectfully yours,



Daniel Sanchez, Compliance and Enforcement Manager

Ec: Mark Fesmire, Division Director, Santa Fe  
Theresa Duran-Saenz, Legal Assistant, Santa Fe  
Larry "Buddy" Hill, District 1 Supervisor  
Randy Dade, District 2 Supervisor  
Charlie Perrin, District 3 Supervisor  
Ed Martin, District 4 Supervisor  
Donna Mull, Compliance Officer

STATE OF NEW MEXICO  
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION DIVISION

APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION, THROUGH THE ENFORCEMENT AND COMPLIANCE MANAGER, FOR A COMPLIANCE ORDER AGAINST BTA OIL PRODUCERS LLC, FINDING THE OPERATOR IN VIOLATION OF ORDER NO. R-9147-C, 19.15.26.10.B NMAC, 19.15.34 NMAC, 19.15.17 NMAC AND 19.15.29 NMAC AS TO A SALT WATER DISPOSAL FACILITY; REQUIRING OPERATOR TO SUBMIT A DELINEATION REPORT AND REMEDIATE THE FACILITY SITE; IN THE EVENT OF NON-COMPLIANCE REQUIRING THE OPERATOR TO PLUG AND ABANDON THE DISPOSAL WELL AND REMEDIATE THE ASSOCIATED FACILITY BY A DATE CERTAIN AND AUTHORIZE THE DIVISION TO TAKE THOSE ACTIONS AND FORFEIT THE APPLICABLE FINANCIAL ASSURANCE; AND HOLD OPERATOR IN VIOLATION OF 19.15.5.9 NMAC UNTIL OPERATOR COMPLETES ALL ORDERED CORRECTIVE ACTION, EDDY COUNTY, NEW MEXICO.

CASE 14413  
Order No. R-13218

**STIPULATED ORDER & SETTLEMENT AGREEMENT**

The Oil Conservation Division ("OCD") and BTA Oil Producers LLC ("BTA") enter into this Stipulated Order & Settlement Agreement to resolve the civil compliance issues asserted in Case 14413. The parties mutually agree and bind themselves to the following:

1. OCD is the state agency charged with administration and enforcement of the Oil and Gas Act (hereinafter, "Act"), and the rules promulgated pursuant to that act.
2. Operator is a limited liability company that operates wells in New Mexico under OGRID 305316.
3. BTA posted \$50,000 surety bond 105E9046 through Travelers Indemnity Company to secure the plugging and abandonment of its wells. Travelers Indemnity Company was notified of the hearing before the examiner and did not enter an appearance in the case.

Case No. 14413  
Stipulated Order

1

*Case 14413  
BTA Oil Producers LLC  
OCD Exhibit 3*

4. BTA is the operator of record of the Pardue C 8808 JVP #001 well, API 30-015-26341, located in Section 11, Township 23 South, Range 28 East in Eddy County, New Mexico (the well). The well is approximately 110 feet to the west of the Pecos River. Ground water at the well site occurs at approximately 41 feet below ground level.

5. The well is permitted as a salt water injection well. See Order No. R-9147-C (1991).

6. On October 19, 2007 an OCD inspector found an unpermitted, unlined pit at the well site. An overflow line carried produced water from the tank battery at the well site to the pit.

7. In Case No. 14413 the OCD alleges that BTA's use of the pit to dispose of produced water violates the following:

- **Order No. R-9147-C**, which provides that the operator shall take all necessary steps to ensure that the injected water is not permitted to escape onto the surface, requires the operator to take such steps as may be timely and necessary to correct failures and leakage, and requires the operator to conduct operations in accordance with OCD's rules on injection, including Rule 703. Rule 703 has since been re-numbered as 19.15.26.10 NMAC.
- **19.15.26.10.B NMAC** (formerly numbered Rule 703), which provides that "the operator of an injection project shall operate and maintain at all times the injection project, including injection wells, producing wells and related surface facilities, in such a manner as will confine the injected fluids to the interval or intervals approved and prevent surface damage or pollution resulting from leaks, breaks or spills."
- **19.15.34 NMAC**, which governs the disposition of produced water and other oilfield waste. Section 11 of Part 34 provides, in relevant part, that no person shall dispose of produced water or other oil field waste "on or below the surface of the ground; in a pit; or in a pond, lake, depression or watercourse" or "in another place or in a manner that may constitute a hazard to fresh water, public health, safety or the environment." Section 12 of Part 34 provides, in relevant part, that persons disposing of produced water shall dispose of the water "in a manner that does not constitute a hazard to fresh water, public health, safety or the environment..."

- **19.15.17 NMAC**, which governs pits. "Pit" is defined in 19.15.2.7.P (3) NMAC to include natural depressions. Section 8.A of Part 17 provides that a person shall not construct or use a pit except in accordance with a division-issued permit. Section 10's siting requirements prohibit pits within 300 feet of a continuously flowing watercourse. Section 13 prohibits unlined permanent pits, and sets out closure requirements. The closure requirements provide that if a release has occurred at a pit, the operator must comply with the requirements of 19.15.29 NMAC.
- **19.15.29 NMAC**, which governs releases. Section 8 of Part 29 sets out the reporting requirements for releases, requiring the person operating or controlling either the release or the location of the release to notify the division of unauthorized release occurring during the storing, disposal, injection or transportation of produced water or oil field waste. Section 11 requires the responsible person to complete division-approved corrective action for releases that endanger public health or the environment, in accordance with a remediation plan or an abatement plan.

8. The OCD seeks an order requiring BTA to delineate contamination at the site, and remediate the contamination. The OCD requests that the order provide that the OCD may plug the well, remediate the site and forfeit the applicable financial assurance if BTA fails to complete the required corrective action, and requests that BTA be subject to 19.15.5.9 NMAC until it takes the required corrective action. The OCD cites the following authority for such an order:

- **19.15.29.11 NMAC**, which requires the responsible person to complete division-approved corrective action for releases that endanger public health or the environment, in accordance with a remediation plan or an abatement plan.
- **NMSA 1978, Section 70-2-14(B)**, which states if any of the requirements of the Act or the rules promulgated pursuant to the Act have not been complied with, the OCD, after notice and hearing, may order any well plugged and abandoned by the operator or surety or both in accordance with OCD rules and regulations, and forfeit the applicable financial assurance.
- **NMSA 1978, Section 70-2-12(B)**, which provides that "apart from any authority, express or implied, elsewhere given to or existing in the oil conservation division by virtue of the Oil and Gas Act or the statutes of this state," the OCD "is authorized to make...orders for the purposes and with respect to" the subjects identified in that subsection, including:

"the disposition of water produced or used in connection with the drilling for or producing of oil or gas or both and to direct surface or subsurface disposal of the water...in a manner that will afford reasonable protection against contamination of fresh water supplies

designated by the state engineer" (NMSA 1978, Section 70-2-12(B)(15); and

"the disposition of nondomestic wastes resulting from the exploration, development, production or storage of crude oil or natural gas to protect public health and the environment" (NMSA 1978, Section 70-2-12(B)(21).

9. BTA agrees that the pit at the well is in violation of Order No. R-9147-C (1991), 19.115.26.10.B NMAC, 19.15.34 NMAC, 19.15.17 NMAC, and 19.15.29 NMAC.

10. BTA has plugged the wellbore of the well, and removed the tank battery.

11. BTA and the OCD agree that BTA will submit a remediation plan to investigate vadose zone and ground water contamination at the site of the pit and tank battery at the Pardue 8808 JV-P #001, and will remediate the contamination in accordance with an OCD-approved plan. To begin the process, BTA agrees to the following:

a. By February 25, 2010, BTA shall submit to the OCD's Environmental Bureau a plan to delineate the horizontal and vertical extent of the contamination at the site of the pit and tank battery, and characterize the impact of the produced water releases to the vadose zone, shallow perched aquifer, and the deeper regional aquifer. The OCD encourages BTA to work with the Environmental Bureau in drafting the plan. The plan shall include the following:

- BTA must propose an appropriate number of soil borings and monitor wells that will enable it to completely delineate the impact of the produced water releases to the vadose zone and to ground water.
- The vadose zone investigation must be comprehensive enough that BTA can use the data when removing the chloride-contaminated soil to approximately 20 feet below grade.
- BTA must collect and analyze soil and/or bedrock samples for benzene and total BTEX using 8021 B or 8260 B, TPH using EPA method 418.1, the GRO and DRO combined fractions using 8015 M and chlorides using method 300.1.
- If the GRO soil fraction exceeds 80 mg/kg, then BTA must also analyze for VOCs using method 8260.
- If the DRO soil fraction exceeds 200 mg/kg, then BTA must also analyze for SVOCs using method 8270.

- BTA's ground water investigation must establish background ground water concentrations for chlorides and must delineate the produced water contamination in both the perched aquifer and the deeper regional aquifer.
- BTA must install a sufficient number of monitor wells screened across the shallow perched aquifer with no more than 15 feet of screen (five feet above the water level with 10 feet below) to delineate the ground water contamination.
- BTA must also propose a location for a monitor well to determine whether the deeper regional aquifer has been contaminated.
- BTA must properly develop all monitor wells before sampling the ground water. Purged ground water must be properly collected and BTA must document how it intends to dispose of the purged water.
- BTA must collect and analyze ground water samples for benzene and total BTEX using 8021 B or 8260 B, the GRO and DRO combined fractions using 8015 M, and chlorides using method 300.1.

b. This case shall be continued until the March 4, 2010 docket. At that time the issue to be determined will be the adequacy of the delineation plan, and the next step to be taken in the delineation and remediation process. If the parties are able to enter into an amendment to this stipulated order specifying the next step(s), they may request that the case be continued until a future docket.

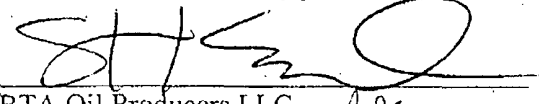
c. If BTA fails to meet any of the deadlines set in this order, or by any amendment to this order, the OCD may move for an order authorizing it to remediate the site and forfeit the applicable financial assurance.

d. BTA shall be in violation of 19.15.5.9 NMAC until it has submitted an acceptable delineation plan, received OCD approval of a remediation plan, completed soil remediation and begun remediation of water contamination. If the OCD remediates the site, BTA shall be in violation of 19.15.5.9 NMAC until it demonstrates that it has reimbursed the OCD for its expenses in excess of any amount recovered from the applicable financial assurance.

e. Either BTA or the OCD may move to re-open Case 14413 to request amendments to this order.

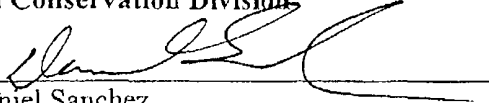
12. Nothing in this Order relieves BTA of its liability should it fail to investigate and remediate contamination that poses a threat to ground water, surface water, human health or the environment. In addition, nothing in this Order relieves BTA of its responsibility for compliance with any other federal, state or local laws and/or regulations.

BTA Oil Producers LLC

  
BTA Oil Producers LLC *BEZ*

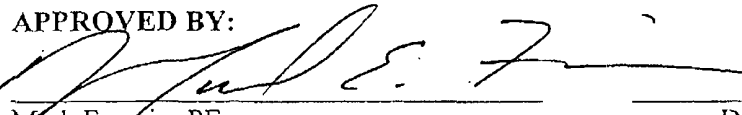
2/2/10  
Date

Oil Conservation Division

  
Daniel Sanchez,  
Compliance and Enforcement Manager  
Oil Conservation Division

2-2-10  
Date

APPROVED BY:

  
Mark Feshire PE  
Director  
Oil Conservation Division

2/5/10  
Date

## Inactive Well List

Total Well Count: 91 Inactive Well Count: 4 Since: 8/15/2009

Printed On: Monday, November 08 2010

District	API	Well	ULSTR	OCD Unit	OGRID	Operator	Lease Type	Well Type	Last Production	Formation/Notes	Status	TA Exp Date
1	30-025-30884	GRAMA RIDGE FEDERAL 8817 JV P #002	D-9 -22S-34E	D	260297	BTA OIL PRODUCERS, LLC	F	G	06/2003	MORROW	T	3/9/2010
1	30-025-35007	GRAMA RIDGE FEDERAL 8817 JV P #003	M-9 -22S-34E	M	260297	BTA OIL PRODUCERS, LLC	F	G	01/2008	MORROW		
2	30-015-30163	OGDEN #003	J-29-23S-28E	J	260297	BTA OIL PRODUCERS, LLC	S	O	04/2009	DELAWARE		
2	30-015-32748	PARDUE C 8808 JVP #004	M-11-23S-28E	M	260297	BTA OIL PRODUCERS, LLC	P	O	07/2009	Brushy Canyon		

WHERE Ogrid:260297, County:All, District:All, Township:All, Range:All, Section:All, Production(months):15, Excludes Wells Under ACOI, Excludes Wells in Approved TA Period

## **INFORMATION SHEET FOR PART 5.9**

Oil Conservation Division (OCD) Rule 19.15.5.9 NMAC, commonly known as “Part 5.9,” requires operators to meet certain minimum compliance standards for the wells they already operate before they can drill, acquire, produce or inject into additional wells. If an operator is out of compliance as defined by Part 5.9, the OCD:

- May deny registration by the operator or certain related entities. See 19.15.9.8(B) NMAC.
- May deny applications for change of operator that would transfer wells to the operator. See 19.15.9.9(C) NMAC.
- Must deny injection permits. See 19.15.26.8(A) NMAC.
- May deny APDs. See 19.15.14.10(A) NMAC.
- Must deny allowable and authorizations to transport. See 19.15.16.19(A) NMAC.

In addition, the OCD may, after notice and hearing, revoke previously issued injection permits if the operator is out of compliance with Part 5.9. See 19.15.26.8(A) NMAC.

To stay in compliance with Part 5.9, an operator must:

- Keep current with the financial assurance requirements for well plugging. See 19.15.5.9(A)(1) NMAC.
- Comply with orders requiring corrective action. See 19.15.5.9(A)(2) NMAC.
- Pay properly assessed penalties. See 19.15.5.9(A)(3) NMAC.
- Have no more than a certain number of wells out of compliance with the inactive well rule. See 19.15.5.9(A)(4) NMAC.

**FINANCIAL ASSURANCE REQUIREMENTS:** The OCD’s financial assurance requirements for well plugging are set out in 19.15.8.9 NMAC. The OCD requires all state or fee wells to be covered by a financial assurance. The OCD does not require financial assurances for Federal or Indian wells.

The operator must either post a blanket financial assurance in the amount of \$50,000 to cover its state or fee wells, or post single-well financial assurances for each state or fee well in the amount set by the rule.

If the operator chooses to post a blanket financial assurance, it must also post single-well financial assurances for each state or fee well that has been inactive for more than two years that has not been plugged and released. Note that a single-well financial assurance is required even if the well is on approved temporary abandonment status, and even if the wellbore of the well has been plugged. To check compliance with this requirement, go to [www.emnrd.state.nm.us/OCD](http://www.emnrd.state.nm.us/OCD), OCD Online, E-Permitting, Financial Assurance. Insert the operator name or OGRID, and hit “Get Report.” The report will list all the wells for that operator that have not been plugged and released. Wells currently in violation of the single-well financial assurance requirement will have a “Y” in the far right column, titled “In Violation.”

For information on how to post financial assurances, please contact OCD Financial Assurance Administrator Dorothy Phillips, (505) 476-3461, [Dorothy.phillips@state.nm.us](mailto:Dorothy.phillips@state.nm.us).

**CORRECTIVE ACTION REQUIREMENTS:** If an operator fails to take an action required by a hearing order or an agreed compliance order, the OCD may go to hearing to obtain a formal order finding the operator “in violation of an order requiring corrective action.” Once such an order is issued and becomes final, the operator will be out of compliance with Part 5.9 until that order is lifted. To lift the order, the operator must

complete the corrective action required, and file a motion to declare the order satisfied. The Oil Conservation Division or the Oil Conservation Commission, as appropriate, may grant the motion without hearing or may set the matter for hearing.

**UNPAID PENALTIES:** An operator with a penalty assessment unpaid more than 70 days after issuance of the order assessing the penalty will be in violation of Part 5.9 until that penalty is paid. Penalties may be assessed by the district court, or may be agreed to by the operator under an agreed compliance order entered into to resolve a compliance action.

**INACTIVE WELLS:** The inactive well rule, 19.15.25.8 NMAC, requires any well that has been inactive for a period of more than 15 months to be plugged and abandoned, placed on approved temporary abandonment status, or returned to production or other beneficial use. An operator will be out of compliance with Part 5.9 if it has too many wells in violation of the inactive well rule; the number of non-compliant wells allowed depends on the size of the operator. Under Part 5.9, if an operator operates:

- 1 well, it may have no wells out of compliance;
- 2 or 3 wells, it may have no more than 1 well out of compliance;
- 4 to 100 wells, it may have no more than 2 wells out of compliance;
- 101 to 500 wells, it may have no more than 5 wells out of compliance;
- 501 to 1000 wells, it may have no more than 7 wells out of compliance; and
- 1000 or more wells, it may have no more than 10 wells out of compliance.

To check compliance with 5.9 as to inactive wells, go to [www.emnrd.state.nm.us/OCD](http://www.emnrd.state.nm.us/OCD), OCD Online, E-Permitting, Inactive Well List. Do not change the default search terms. Insert the operator name or OGRID, and hit "Get Report." The report will identify the wells that -- according to OCD records -- have been inactive for 15 months, are not on approved temporary abandonment status, do not have a plugged wellbore, and are not subject to an inactive well agreed compliance order. For purposes of Part 5.9, if a well appears on this list, there is a rebuttable presumption that the well is in violation of the inactive well rule. The heading of the list will also identify the total well count for the operator, and the total number of non-compliant inactive wells, so you can determine if the operator is in compliance with Part 5.9.

If your company has more non-compliant wells than allowed under Part 5.9, you will need to return wells to compliance by returning them to production or other beneficial use, placing them on approved temporary abandonment status, or plugging the wellbore. In some limited circumstances, the OCD may be willing to enter into an inactive well agreed compliance order setting a schedule for returning the wells to compliance and imposing sanctions if that schedule is not met. Wells covered by an inactive well agreed compliance order are not included when calculating Part 5.9 compliance. For information on inactive well agreed compliance orders, contact OCD Attorney Sonny Swazo at (505) 476-3463, [Sonny.swazo@state.nm.us](mailto:Sonny.swazo@state.nm.us).