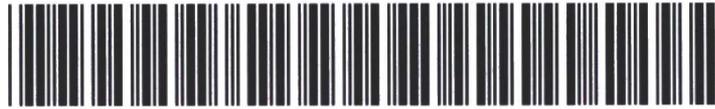




# AE Order Number Banner

## Report Description

This report shows an AE Order Number in Barcode format for purposes of scanning. The Barcode format is Code 39.



**App Number: pEEM0112355509**

**NM1 - 9**

**AGUA MOSS, LLC**

**NM1-09**

**Historical  
Documents**

OIL CONSERVATION DIVISION

2040 S. Pacheco  
Santa Fe, New Mexico 87505

January 19, 1996

Ms. Valerie Hatch  
PO Box 506  
Fruitland, New Mexico 87416

RECEIVED  
JAN 24 1996

OIL CON. DIV.  
DIST. 3

Re: **Sunco** Proposal to Treat Contaminated Soils  
San Juan County, New Mexico

Dear Mr. ~~Fourz~~

The Oil Conservation Division (OCD) has received your correspondence, dated January 16, 1996, expressing your concern(s) over the proposed modification of the Sunco Trucking Disposal Facility.

The process the OCD uses to review surface disposal applications is comprehensive and ongoing. The applicant submits the initial application, it is thoroughly reviewed, and if necessary additional information and commitments are requested to satisfy specific OCD requirements. After all the required information is evaluated an ultimate determination is made as to whether or not the facility can be operated in a manner consistent with the regulations.

In determining whether a specific facility is approvable the OCD must insure that there will be sufficient protection of ground water, surface water, public health and the environment. The OCD cannot deny an application on the basis that the use is incompatible with the surrounding land uses or local zoning requirements. The OCD has no jurisdiction or authority to enforce compliance with those regulations. Land use comes under the jurisdiction of county and local government.

The OCD does have information on the area ground water. Prior to the Sunco Disposal facility being permitted, the operator hired a consultant to investigate the geologic and hydrologic conditions specifically present at the facility site. Depth to ground water is approximately one hundred feet (100') with a regional gradient towards the northwest. Furthermore, the dissolved solids concentration of this groundwater is approximately 800 parts per million.

The OCD does have current monitoring requirements for the facility. The ponds present are monitored by a leak detection system that was installed prior to commencing facility operations. The proposed five acre landfarm will be monitored two feet (2') below the ground surface for the detection and interception of migrating contaminants prior to reaching ground water. The OCD refers to this monitoring procedure as "Treatment Zone Monitoring". Furthermore, the OCD feels this is better than monitoring the groundwater because any potential ground water contaminants will be detected long before ground water is impacted and/or contaminated. In the event contaminants are detected in the "Treatment Zone" a contingency plan will be in place that has been approved by the OCD and committed to by the operator. That contingency plan specifies what action(s) will be initiated to ensure inhibition of contaminants migrating any further.

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Ms. Hatch  
January 19, 1996  
Page 2

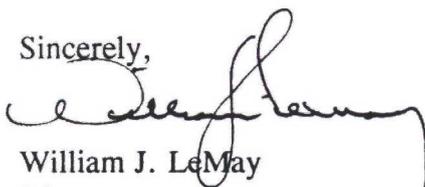
The applicant has applied for a centralized landfarm only. If the operator decides to apply for a commercial landfarm permit, the operator would be required to go through additional permitting procedures and you, as an adjacent landowner would be notified and presented the same opportunity to participate in that permitting procedure. The OCD stipulates, as a condition of centralized facility approval, that the proposed landfarm be used to remediate only soils and/or sludges generated at the facility.

The proposed landfarm is physically located within the confines of Sunco's permitted commercial facility. Closure of the centralized landfarm would be included in the overall facility closure plan and closure cost estimate. In reference to your concerns on financial assurances, a cash or surety bond is required in the amount of the closure cost estimate for the total facility. The bond will be reviewed and approved by the OCD, then held in escrow until the operator fulfills the requirements of the facility closure.

The New Mexico Oil and Gas Act (70-2-1 through 70-2-38) allows the OCD to make rules providing for fresh water protection from improper disposal of drilling or production waters. Exploration and production wastes are covered exclusively under Oil and Gas Act authorized rules and orders. Amendments to the Oil and Gas Act (Chapter 70-Pamphlet III-1989 Cumulative Supplement, NMSA 1978 annotated) passed in 1989 specifically authorized the OCD to regulate disposal of non-hazardous wastes from oil and gas exploration, production, refining, transportation and storage, and the oil field service industry. In addition, the Water Quality Act does not apply to any activity or condition subject to the authority of the Oil Conservation Commission under the Oil and Gas Act, 70-2-12 NMSA 1978, and other laws conferring power on the Oil Conservation Commission to prevent or abate water pollution.

If you have any questions on this matter, please call Chris Eustice at (505) 827-7153

Sincerely,



William J. LeMay  
Director

WJL/cee

xc: Denny Foust, OCD Aztec Office  
cc: Jennifer Salisbury, Secretary, EMNRD  
U.S. Senator Pete Domenici  
U.S. Senator Jeff Bingaman  
U.S. Congressman Bill Richardson  
State Congressman Jerry Sandel  
State Senator Raymond Kysar

7

TO: Director of the  
New Mexico Oil Conservation Division  
2040 South Pacheco  
Santa Fe, New Mexico 87505  
(505) 827-7131

RECEIVED  
JAN 30 1996  
OIL CON. DIV.  
DIST. 3

RE: (NM-01-0009)  
Sunco Trucking Company  
George Coleman, President  
Application for permit to construct and operate a Rule 711  
centralized landfarm

**LETTER OF PROTEST**  
**and COMMENTS**

COMES NOW DORIS J. HORNER (hereinafter "Protestor"), by and through her attorney Gary L. Horner, and hereby protests the Application submitted to the Director of the Oil Conservation Division from Sunco Trucking Company, George Coleman, President, for a permit to construct and operate a Rule 711 centralized landfarm to be located in Section 2, Township 29 North, Range 12 West, NMPM, San Juan County New Mexico (hereinafter "Application"). Protestor asserts that the subject Application should be denied.

Regarding said Protest, Protestor submits the following comments as directed by the Oil Conservation Division (hereinafter "OCD") pursuant to a legal advertisement appearing in the Farmington Daily Times, concerning the subject Application:

DORIS J. HORNER  
PROTEST LETTER and COMMENTS  
PROPOSED SUNCO LANDFARM

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**I. Identification of Protestor.**

Protestor owns the parcel of land directly west of the location of the proposed landfarm. Protestor's property being approximately described as the east 866 feet of Section 3, Township 29 North, Range 12 West, NMPM, San Juan County, New Mexico. Protestor's property being situated within one-half mile of the proposed location of said landfarm.

**II. The proposed location for the subject landfarm is inappropriate.**

Protestor intends, and has intended for some time, to subdivide the aforementioned property for residential purposes when market conditions allow.

In order to facilitate such future residential uses of said property, Protestor and Protestor's predecessors in interest have caused to be installed: a 500,000 gallon water tank located in the southwest quarter of Section 1, Township 29 North, Range 12 West, NMPM, San Juan County, New Mexico; as well as, a water line to be used to serve Protestor's property from said water tank.

Crouch Mesa, where both the proposed landfarm is to be located and where Protestor's property is located, is relatively flat, lying relatively equidistant between Farmington, Aztec and Bloomfield. Crouch Mesa is currently being developed for residential uses at a rapid pace.

Streets and utilities have been installed to serve hundreds of new lots, with many more acres currently being considered for residential development within

the immediate area. Homes currently exist on many of the recently developed lots.

County Road 3500, which provides access between Flora Vista and highway 64 (between Farmington and Bloomfield), passes within one-quarter mile of the proposed landfarm.

Many families will be exposed to any hazardous or noxious substances released from the proposed facility, as many existing families are currently exposed to hazardous and noxious substances emanating from this and other OCD permitted facilities in the subject area (including: Applicant's existing produced water disposal pit and injection well at the subject site; the Tierra landfarm; the Meridian landfarm; and the Meridian injection well, which recently blew up).

Protestor believes that the previous construction of the subject disposal pit has already adversely affected the value of Protestor's property as potential residential property. If the subject landfarm is permitted and constructed, the residential development of Protestors property may be precluded altogether.

The proposed location for the subject facility is entirely inappropriate when considering that thousands of acres exist in San Juan County where such facilities could be located without impacting any residential developments within the foreseeable future.

**III. The proposed method of disposal of the subject substances is inappropriate.**

OCD rules and regulations clearly proscribe the disposal of produced water on the natural ground. The disposal pit at the subject facility is double lined to prevent such fluids from contaminating surrounding soils and groundwater. However, Applicant proposes here to remove the sludge from such produced water, evaporate the water and spread all of the remaining nastiest stuff right on the ground. Hazardous or noxious substances will be released into the air and blown into the lungs of surrounding residents, property owners and passers-by. Such hazardous and noxious substances will also be washed into the ground by rain to contaminate the soil and groundwater.

These substances are not innocuous. Sulfur compounds and hydrogen sulfide are commonly known contaminants of such substances. Also present will be oil and petroleum derivatives including known carcinogens such as benzene and toluene. These substances represent a very significant threat to the environment and the health of the surrounding public.

When speaking with OCD staff about the dumping of these substances on the ground, such staff insists that this will not be "dumping," but rather "remediation." When asked how such "remediation" differs from "dumping," the OCD staff offers that annually the ground under these substances will be tested for contamination. When asked what the Applicant or OCD intends to do if contamination is found in the ground under such substances, the OCD staff has no response. Nowhere has the Applicant indicated how they intend to deal with

contaminated soil. In fact, Applicant proposed in a letter to the OCD, dated March 23, 1993, that such substances be worked into the soil.

Protestor has difficulty understanding how the OCD can require that such substances be disposed of in facilities with double liners, so as not to contaminate the soil, then consider that the nastiest portions of such substances be removed from such waters and be disposed of directly on the surface of the ground.

Protestor further has difficulty understanding how the OCD can find these substances to be so hazardous that they cannot be allowed to contaminate the remote well sites where they were produced, but rather OCD requires that such substances be gathered up and allows them to be brought into town for disposal, where the health of many people is endangered.

At the very least, the OCD should require that such substances be disposed of at remote locations.

#### **IV. Problems with similar facilities in general.**

Similar facilities have created enormous problems, even after having applied for and receiving appropriate permits from the OCD. The Basin Disposal facility was located within five miles of the subject facility, near Bloomfield, New Mexico. The Basin facility was created to dispose of produced water, as is the subject facility. The Basin facility had applied for and received the required permits from the OCD for the operation of a produced water disposal facility. The

Basin facility began to emit H<sub>2</sub>S, in addition to other problems, soon after it commenced operations. Said facility soon began to inflict serious injuries on surrounding residents. Said residents sued the owners of the Basin facility and obtained a judgment worth nearly one million dollars.

The Basin Court ordered many restrictions on the operation of said facility. Protestor understands that the residents surrounding the Basin facility first had to be evacuated, then had to be relocated permanently. (Please refer to Cause No. CV-87-569-1102, before the Eleventh Judicial District Court, County of San Juan, State of New Mexico entitled *State of New Mexico; Timothy Payne, et al., Plaintiffs, v. Basin Disposal Inc., et al., Defendants*. Said case was referred to at length during the previous permit process regarding Applicant's disposal pits. Please also refer to Protestors' Closing Argument in OCD Cause No. 9955 before the OCD Hearing Examiner in the subject matter, filed on July 12, 1990.)

The Southwest Water Disposal facility was also located within San Juan County, New Mexico, and was also created to dispose of produced water. The Southwest facility became notorious for its poor operations and emissions of H<sub>2</sub>S. Protestor understands that recently the life of the subject facility was reached, the facility was closed, the owners declared bankruptcy, and the State of New Mexico had to come in and properly close the facility costing New Mexico taxpayers approximately \$480,000.

Protestor understands that dry lake beds were used in southeastern New

Mexico for the disposal of such produced water. It is not clear to Protestor whether such disposal was done pursuant to OCD permits, or whether such disposal was done without regard for such OCD permits. However, Protestor understands that enormous quantities of produced water from several states was dumped into such dry lake beds creating enormous problems. Protestor understands that the EPA had to come in and shut down such dumping. The OCD must have known of such dumping. It is unclear why the OCD allowed such dumping to occur on such a massive scale.

During the previous permit process in this matter (Cause No. 9955), problems were addressed regarding the jurisdictions of the OCD and the New Mexico Environmental Improvement Board ("EIB"). Typically, the EIB is charged with regulating air quality. The EIB has strict standards for the emission of H<sub>2</sub>S from commercial and industrial facilities within the State of New Mexico. However, somehow the EIB does not attempt to regulate oil and gas facilities. The regulation of such oil and gas facilities is for some reason left to the OCD. The OCD has expressed that it has no jurisdiction over air quality, that its jurisdiction is limited to protecting groundwater. Therefore, it appears that the subject facilities fall into a hole where no entity claims jurisdiction over the emission of hazardous or noxious substances from these or similar facilities. At least Protestor believes this to be an accurate description of the problem as of Protestor's last experience with it. If such problems have been resolved, Protestor

is unaware of such resolution.

So it can be seen that the disposal of such produced water can create enormous problems. The regulation and operation of such facilities must be carefully considered.

**V. Representations made by Applicant, Applicant's agents, and Applicant's experts cannot be relied upon.**

**A. Solids and sludges.**

Mr. Robert Frank testified at the OCD Examiner Hearing in the subject OCD Cause No 9955, on June 13, 1990, regarding the issuance of a permit for Applicant's disposal pits at the subject site. Mr. Frank testified that he was employed by the Applicant (at least in a consulting capacity) and had been primarily responsible for the design of the subject disposal pits. Mr. Frank testified at said Examiner Hearing on June 15, 1990 that sludges would not be removed from the disposal pit, rather such sludges would simply be buried on site wrapped in plastic (within the pond at the end of the life of the facility) (Hearing Examiner's Transcript, pp 152-153).

Protestor was concerned at that time that Applicant had not submitted any plan to deal with sludges accumulated at the subject facility. Mr. Frank was explaining that a plan to dispose of sludges produced at the subject facility was not necessary as a part of the permit process, because the subject facility would not be producing significant amounts of sludge.

However, in a letter to the OCD dated November 3, 1992, Ron Mahan with Sunco Trucking indicated that solids were accumulating at the subject facility at the rate of 50 - 100 cubic yards per month. It should be noted that Applicant had only begun accepting fluids for disposal at the subject site two months earlier, the first part of September 1992. Pursuant to said letter, Mr. Mahan proposed simply "to isolate these solids in a bermed area until dry and then spread them 4" - 6" deep in an isolated area of our property."

By February 16, 1993, the OCD had approved Applicant's plan for dealing with the subject sludges, with certain conditions imposed. On March 5, 1993, the OCD notified Applicant that it was violating certain permit conditions relating to the disposal of such sludges, in part because oil was being placed in such bermed areas, no netting was provided over such areas, the drying area had been expanded without authorization, and that solids, sludges and liquids (water and oil) had been placed in the bermed area. The OCD ordered that such operations cease, that all liquids be removed from such areas and that written approval be obtained from the OCD before such operations could be continued.

Applicant proposed by letter to the OCD on March 23, 1993, to construct a holding and drying trough to evaporate free liquids. The solids would then be hauled to an area within their property borders and worked into the soil. On April 12, 1993, the OCD approved Applicant's proposal with certain conditions, including the condition that OCD approval be obtained before placing any

remediated soils within the property boundaries.

In a letter from the OCD to Applicant dated March 2, 1994, the OCD stated that it had been notified that Applicant was again disposing of such solids on site without OCD approval, and again ordered Applicant to cease such on site disposal. Said letter required compliance with the permit process and led directly to the Application presently being considered here (filed on November 22, 1995).

It is clear that Mr. Frank was either trying to deceive the OCD in June 1990, when he testified that no significant amounts of sludge would be generated at the subject facility, or Mr. Frank simply had no idea what he was talking about. However, it is absolutely clear that Mr. Frank's testimony was totally unreliable.

It is also clear that the means for disposing of the subject sludges proposed by Mr. Mahan would contaminate surrounding soils and groundwater in direct contravention of the most basic of principles involved in the creation of the subject facility in the first place. The rules that provided for such facilities were created from the perspective that it was recognized that such fluids were being produced in the oil fields, that such fluids would unacceptably contaminate the soil and ground water if allowed to be disposed of on the ground, that adequate facilities needed to be created to properly dispose of such fluids, and that such facilities should be designed such that such fluids were not directly placed on the ground.

Here Applicant has created an enterprise for the creation of wealth by

providing a service that would provide a means for disposing of such fluids while protecting the public health and the environment. Applicant charges for the acceptance and disposal of such fluids, but then turns around and disposes of them with complete disregard for the protection of public health and the environment.

Unfortunately, Applicant proceeded to dispose of these substances directly on the ground with no regard for the protection of the public health or environment. Even after the OCD ordered Applicant to cease such operations, Applicant continued to dispose of such substances on the unprotected ground.

Applicant here either does not understand the basic purpose of the subject facility it operates, or intentionally disregards the purpose of safeguarding the public health and the environment in order to minimize expenses and maximize profits. Either way, Applicant cannot be relied upon to provide the subject services without strict regulation by some entity (OCD here).

### **B. Injection wells.**

Mr. Robert Frank testified at the Examiner Hearing that he was unaware of any plans to install injection wells at the subject site (Hearing Examiner's Transcript, pp 154-155). Protestor was concerned about the possibility of such injection wells at the subject site. Applicant was generally very evasive about any plans for injection wells at the subject site. However, such an injection well was

apparently being installed on the subject property by at least January 1992, within six months of the approval of the subject permit for Applicant's disposal pits.

Applicant's first disposal pit was not even completed until the late summer of 1992. In fact, when the leaks were discovered in the primary liner in Applicant's disposal pit, when said facility first started taking fluids at the end of August 1992, the fluid levels in the disposal pit were lowered by using the subject injection well. So such injection well was completed and operational before the subject disposal pit was completed and operational. It is not clear to Protestor at this time whether a permit for such injection well was ever required by, or obtained from the OCD.

What is clear is that Applicant's agent, Mr. Frank, was again attempting to deceive the OCD during the permit process and said agent and Applicant can again not be relied upon for accurate, truthful information relating to the operation of the subject facility.

### **C. Introduction of H<sub>2</sub>S into disposal pit.**

At the aforementioned OCD Examiner's Hearing, Mr. Frank initially testified that incoming loads to the subject facility would be off loaded into open tanks for settling and treatment of H<sub>2</sub>S. However, during the course of the previous permit process, Applicant became aware that dumping such H<sub>2</sub>S laden

loads into open tanks would result in the release of H<sub>2</sub>S to the atmosphere. Subsequently, Applicant proposed to treat any H<sub>2</sub>S laden loads, within the trucks as they arrive, before such loads were dumped into any type of open tank. Applicant stated that chlorine would be added to such loads to react with the H<sub>2</sub>S. Applicant further stated that such reaction would be driven to completion before such loads were removed from the trucks. Therefore, no H<sub>2</sub>S would be introduced into the disposal pit.

However, significant levels of H<sub>2</sub>S have been found in the subject disposal pit on numerous occasions, indicating that incoming loads have not been fully treated as represented by Applicant.

#### **D. Operation of the Spray systems.**

Mr. Robert Frank testified at the Examiner Hearing on June 15, 1990, that the spray system at the subject facility would be monitored at all times and at no time would the spray system be operated such that any mists would be allowed to travel outside the boundaries of the pit (Examiner's Hearing Transcript pp 145-150). However, the OCD inspector's field notes indicate that on several occasions (July 25, 1994, August 1, 1994 and November 2, 1994), he found conditions at the subject site such that sprays were landing on the exterior berms of the pond and that said inspector had to direct the facility attendant to shut down or alter the spray system to prevent such overspray. (It is not clear when these spray systems

were installed or became operational, however, such spray systems were not approved by the OCD until March 22, 1993.)

**E. Mr. Frank's operation of the Southwest Water Disposal facility.**

Mr. Frank also testified that he owned and operated or partially owned and operated similar disposal pits four miles north of Blanco, New Mexico, which were named Southwest Water Disposal (Examiner Transcript, pp 5-7). Southwest Water Disposal was notorious for its H<sub>2</sub>S emissions and generally slipshod operations. Protestor understands that Southwest Water Disposal was also subsequently closed, that the owners declared bankruptcy and walked away from the subject facility. Protestor understands that the State was required to come in and close the subject facility with the cost to New Mexico taxpayers on the order of \$480,000.

**VI. Neither the OCD nor the public should expect Applicant to comply with any permit condition imposed here by the OCD, because Applicant is currently ignoring permit conditions previously imposed by the OCD.**

Applicant currently operates evaporation pits for the disposal of produced water at the subject location. Said facility was constructed pursuant to a permit issued by the OCD pursuant to an Order of the Commission dated July 19, 1991 in cause No. 9955 (De Novo) (reference Order No. R-9485-A). Said permit imposed

certain conditions on Applicant and the subject facility. Said conditions have in many respects been ignored by Applicant and the OCD has apparently not seen fit to enforce said conditions. Particularly:

**A. Applicant continues to operate the existing disposal pits, in the presence of leaks in both the primary and secondary liners, in violation of previously imposed permit conditions.**

Section VIII, pages 7 and 8 of Exhibit A attached to said Order addresses "Spill/Leak Prevention and Reporting Procedures." Said Permit requires that the leak detection sumps be inspected daily and if any fluids are found from the pond, the Aztec District Office of the OCD must be notified within twenty-four hours, and such fluids must be immediately and continuously removed. If a leak is determined to exist in the primary liner: fluid introduction into the ponds must cease; fluids must be removed from the pond until the fluid level is below the level of the leak; and the liner must be repaired and tested before resuming the introduction of fluids to the pond.

Apparently, the subject secondary liner was never tested prior to the introduction of fluids to the subject disposal pits, as Protestor warned previously. (Even Applicant's own expert, Mr. Robert Frank, testified that the secondary liner would never be tested for leaks (Examiner's Transcript, pp 63-64).) Apparently, the primary liner was only tested by the introduction of fluids to the subject disposal pit and monitoring the leak detection sump for fluids. Protestor understands that a very significant leak in the primary liner was detected when

fluids were first introduced into the subject disposal pit. Protestor understands that the fluid level of said disposal pit was subsequently lowered and attempts were made to repair the damaged primary liner.

Subsequent to such repairs on the primary liner, fluids remain in the leak detection sump. However, fluid levels do not rise to the level of the fluid levels in the disposal pit.

After a considerable period of time, the OCD field inspector ordered that the fluids in the leak detection sump be analyzed and that the sump be drained. When attempts were made to drain the fluids from the leak detection sump, days and/or weeks of pumping were unsuccessful in completely draining such fluids from the sump. An analysis of the fluids in the sump indicated the fluids were from the pond.

The only means whereby disposal pit fluids may enter the leak detection system is by means of a leak in the primary liner. The introduction of fluids to said disposal pit has not ceased, the fluid level of the disposal pit has not been lowered below the level of the leak, the primary liner has not been repaired, and the operation of the facility goes on unimpeded with the full knowledge of the OCD, in violation of said Exhibit A, Section VIII.

Further, the fact that the level of the fluids in the detection sump does not rise to the level of the fluids in the disposal pit indicates that fluids are escaping from the secondary liner. This is not surprising in that said secondary liner was

never tested for leaks. and major leaks were discovered in the primary liner when fluids were first introduced. Unfortunately, these facts indicate that leaks exist in both the primary liner and the secondary liner with the leak in the secondary liner exceeding the size of the leak in the primary liner. Therefore, fluids from the disposal pit are escaping and contaminating surrounding soils and neither the facility owner nor the OCD has made any attempts to correct the problem, regardless of any conditions to do so previously imposed on the facility owner by the OCD.

**B. Applicant has failed to remove fluids from leak detection sumps.**

Apparently, Applicant has made no attempts to notify the OCD of fluids in the leak detection sumps and, for the most part, little efforts have been made to remove said fluids from such sumps, in violation of said Exhibit A, Section VIII. A. The continuous return of fluids from such leak detection sumps back into the disposal pit, as required by the above referenced OCD permit conditions, would minimize the amount of soil and groundwater contaminated by the leaks here in the secondary liners. But, Applicant again ignores, and the OCD fails to enforce, said permit conditions.

**C. Applicant has not notified the OCD of releases of hazardous substances as required.**

When Protestor requested information about violations of the conditions of

such permit or the release of hazardous or controlled substances by the Applicant, Protestor was informed that neither the Santa Fe office nor the Aztec office of the OCD had any such information. Apparently, Applicant has not notified the OCD of such leaks or releases, or such notifications are made in such a manner that no records are kept and, therefore, the public will not be able to obtain any knowledge of such conditions.

However, field inspectors from the Aztec office of the OCD do make and retain notes of their field inspections. Protestor was able to obtain some limited information regarding violations of the subject permit conditions from said field notes. Said field notes indicate that such inspectors found evidence of H<sub>2</sub>S or odors emanating from Applicant's facility, during apparently random field visits, on April 12, 1993, June 1, 1993, June 2, 1993, November 18, 1993, April 1, 1994, July 20, 1994, July 14, 1995, and August 2, 1995. It should be noted that such field inspectors apparently travel with their own H<sub>2</sub>S meters. It appears that any information regarding H<sub>2</sub>S emissions from the subject facility was not obtained from Applicant's personnel or records, but rather was independently determined by said field inspectors.

In addition, a letter from Denny Foust, Environmental Geologist with the Aztec office of the OCD, to Applicant dated March 15, 1993 indicated he had encountered strong odors being emitted from Applicant's disposal pit on his last several visits to the facility.

Further, said field inspectors apparently took a complaint on July 2, 1993, from an area resident of odors from Applicant's facility causing problems with his wife's eyes, and trees dying near Applicant's facility.

**D. Records regarding releases of hazardous substances and the operation of the facility are not available to the public.**

It is not clear whether Applicant has been operating the subject facility in accordance with previously imposed permit conditions or whether Applicant has been performing the required testing at all, in that, records of such tests are not available to the public from the Applicant or the OCD.

The subject Exhibit A is replete with requirements for testing and the maintenance of records. Said Exhibit A requires:

- i. pH levels are to be tested daily, records made and retained, and action taken if the pH falls below 7.0 (Section XII.);
- ii. Oxygen levels in the disposal pit are to be tested twice daily, records made and retained, and action taken if dissolved residual oxygen levels fall below 0.5 ppm (Section XII.);
- iii. Dissolved sulfide concentrations are to be tested twice weekly and records made and retained (Section XII.);
- iv. Ambient H<sub>2</sub>S levels are to be tested twice daily and records made and retained including wind speed and direction, and actions taken if H<sub>2</sub>S levels exceed 0.1 ppm (Section XII.);

v. H<sub>2</sub>S levels in incoming loads are to be tested and records made and retained and actions taken if measurable H<sub>2</sub>S concentrations are found (Section IX.);

vi. Liquids and solids from operations currently exempt under RCRA Subtitle C are to be tested for appropriate hazardous constituents prior to disposal (Section IX.);

vii. Records are to be maintained for each calendar month on the source location, volume and type of waste, analysis for hazardous constituents, date of disposal, and hauling company, as well as records of H<sub>2</sub>S measurements and treatment volumes.

Said records are apparently to be retained by the operator, but not necessarily otherwise even reported to the OCD. Said records appear to not be available in any manner, short of a court action and subpoena, to any interested party or affected individual or neighbor. Therefore, it is not clear what the results were of the subject tests, whether proper records were kept, or whether the subject tests were actually ever conducted at all.

Further, since such records are unavailable to interested parties, since the OCD apparently maintains no records of violations of permit conditions, since the OCD apparently does not maintain records regarding the release of hazardous substances, and since the OCD apparently maintains no records of enforcement orders, Protestor and the public in general find themselves in the position of being

unable to determine if the operation of this or any similar facility is being conducted safely.

In deed, since it is very clear that similar facilities are in fact extremely dangerous (e.g., the Basin Disposal facility) it can only be assumed by the public that the present facility is also extremely dangerous.

**VII. The essence of OCD's regulation of the subject industry is supposed to be the protection of the public health and environment.**

The powers of the OCD are enumerated in Section 70-2-12 NMSA 1978 (1995 Repl.). Subsection 70-2-12 B. provides that

" . . . the division is authorized to make rules, regulations and orders for the purposes and with respect to the subject matter stated in this subsection:

\* \* \*

"(15) to regulate 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;"

\* \* \*

"(21) to regulate 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; and" (emphasis added)

"(22) to regulate the disposition of nondomestic wastes resulting from the oil field service industry, the transportation of crude oil or natural gas, the treatment of natural gas or the refinement of crude oil to protect public health and the environment including administering the Water Quality Act [Chapter 74, Article 6 NMSA 1978] as provided in Subsection E of Section 74-6-4 NMSA 1978" (emphasis added).

**VIII. OCD is neither regulating the subject industry nor protecting**

**the public interest, rather the OCD is facilitating the subject industry and protecting the industry from the public.**

The OCD has clearly been charged with the responsibility of protecting the public health and environment in connection with such produced water disposal facilities. However, the OCD has: failed or refused to require that such potentially dangerous facilities be located in areas away from developed or developing areas; failed or refused to enforce permit conditions (that were purportedly designed to protect the public and the environment) previously imposed upon Applicant; failed or refused to require Applicant to submit reports regarding compliance with such previously established permit conditions; failed or refused to maintain records regarding compliance with or violations of such previously imposed permit conditions; failed or refused to make records regarding the safety and operation of the subject facility available to the public; and made it practically impossible for interested parties, or the public in general, to obtain any information regarding emissions of hazardous or noxious substances from the subject facility.

It should also be noted that while the OCD has been considering the disposal of such substances on the ground at the subject facility inappropriate, the OCD has required that such substances be taken across the street and disposed of by dumping them directly on the ground at the OCD approved Tierra landfarm.

In that regard, it can hardly be said that the OCD is "regulating" the subject facility or similar facilities, or that the OCD is protecting the public health

or the environment. Rather, OCD's real mission appears to be to insure that the industry can obtain whatever facilities it deems necessary. It appears that the OCD's real mission statement with respect to the industry is "You asked for it . . . you got it!"

It appears that the OCD is neither regulating the subject industry nor protecting the public interest, rather the OCD appears to be facilitating the subject industry and protecting the industry from the public.

**IX. The OCD's refusal to consider the appropriateness of the location of the subject facilities completely undermines their reason for being.**

In view of the OCD's failure or refusal to insist or insure that such facilities are operated safely, the only means of protecting public health is to require that such facilities be located in areas away from developed or developing areas. Statements by OCD staff indicate that the OCD's position is that the OCD has no authority over the location of such facilities by virtue of the fact that no zoning laws exist with respect to the proposed facility (the unincorporated areas of San Juan County). However, such statements presume that only zoning ordinances can affect the location of such facilities, and that the OCD has no authority to insist that such facilities be located safely.

It appears that the appropriateness of the location of a proposed facility with respect to the proximity of developed or developing areas is given no

consideration whatsoever by the OCD. The OCD's failure or refusal to insure that such facilities are operated safely, coupled with the OCD's refusal to consider the appropriateness of the location of such facilities, means that the OCD is completely and totally disregarding the protection of the public health. Such positions by the OCD completely undermine their reason for being in that the only reason for regulating such facilities is for the protection of the public health and environment.

#### **X. CONCLUSION.**

The history of these facilities, and the history of the positions taken by Applicant and Applicant's agents, clearly leads one to the conclusion that the benevolence of the owners and operators of these facilities cannot be relied upon to operate them safely.

Further, the history of the positions taken by the OCD with regard to the setting of standards for such facilities, and the lack of meaningful enforcement of imposed permit conditions clearly leads one to the conclusion that the OCD cannot be relied upon to ensure that such facilities will be operated safely.

Therefore, the only means of ensuring that the public health and the environment will be protected where these facilities are concerned is to insist that such facilities be located in remote locations, away from developed or developing areas. Unfortunately, the OCD refuses to consider requiring that such facilities be

remotely located. The only possible result is that many people will be injured by these facilities, even after obtaining permits from the OCD.

Protestor respectfully requests that the OCD consider not only the denial of the present Application, but also the complete elimination such facilities from developed or developing areas.

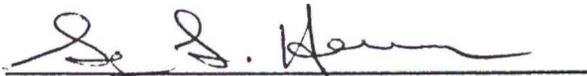
Protestor further respectfully requests that the highest levels within the OCD spend some time reconsidering the basic purposes of the OCD. Protestor would like to see the OCD come to the realization that it has been facilitating the industry rather than regulating it. Protestor would like to see the OCD come to the realization that it must actually regulate the industry, to protect public health and the environment as charged by the New Mexico legislature.

WHEREFORE, Protestor respectfully:

1. States that the proposed landfarm would pose intolerable and totally unacceptable harm with respect to the value of Protestor's property, the environment, the health, safety and welfare of existing and future residents of such area and would unreasonably restrict Protestor's own use and enjoyment of her property;
2. Requests that the subject Application be denied as proposed;
3. Requests that the subject Application be denied as such Application may possibly be amended with respect to the proposed location.

4. Requests that Applicant be required to remove the existing facilities at the subject location.

Respectfully submitted by:



GARY D. HORNER  
P.O. Box 2497  
Farmington, New Mexico 87499  
(505) 326-2378

January 30, 1996  
Date

xc: Doris J. Horner

1. Type: Modification
2. Operator: Sunco Trucking Company  
 Address: 708 South Tucker Farmington NM 87401  
 Contact Person: Chuck Badsgard Phone: 505-327-0416
3. Location: \_\_\_\_\_ /4 \_\_\_\_\_ /4 Section 2 Township 29N Range R12W  
 Submit large scale topographic map showing exact location.
4. Attach the name, telephone number and address of the landowner of the facility site.
5. Attach the description of the facility with a diagram indicating location of fences, pits, dikes and tanks on the facility
6. Attach a description of all materials stored or used at the facility.
7. Attach a description of present sources of effluent and waste solids. Average quality and daily volume of waste water must be included.
8. Attach a description of current liquid and solid waste collection/treatment/disposal procedures.
9. Attach a description of proposed modifications to existing collection/treatment/disposal systems.
10. Attach a routine inspection and maintenance plan to ensure permit compliance.
11. Attach a contingency plan for reporting and clean-up of spills or releases.
12. Attach geological/hydrological information for the facility. Depth to and quality of ground water must be included.
13. Attach a facility closure plan, and other information as is necessary to demonstrate compliance with any other OGI rules, regulations and/or orders.

14. CERTIFICATION

I hereby certify that the information submitted with this application is true and correct to the best of my knowledge and belief.

NAME: Chuck Badsgard Title: Vice-President  
 Signature: *Chuck Badsgard* Date: May 13, 1996

**RECEIVED**  
 MAY 15 1996  
 OIL CON. DIV.  
 5

DISCHARGE PLAN APPLICATION FOR  
SERVICE COMPANIES, GAS PLANTS, REFINERIES,  
COMPRESSOR, AND CRUDE OIL PUMP STATIONS.

APPLICANT: SUNCO TRUCKING COMPANY  
708 SOUTH TUCKER AVE.  
FARMINGTON NM 87401

SUBMITTED BY: CREATIVE FUTURE TECHNOLOGIES  
P.O. BOX 364  
FARMINGTON NM 87499-0364

CONTACTS: CHUCK BADSGARD 505-327-0416  
JERRY CATES 505-632-0662

MAY 13, 1996

1. **Type:** Modification to discharge plan
2. **Operator:** Sunco Trucking Company  
708 South Tucker Ave.  
Farmington NM 87401  
**Contact:** Chuck Badsgard  
505-327-0416
3. **Location:** Section 2 Township 29N Range R12W  
(See Attached Topographic Map)
4. **Land Owner:** Coleman Oil & Gas  
708 South Tucker  
Farmington NM 87401
5. **Description:** See Attached Drawing
6. **Stored Materials:** Potassium Permanganate in 110 LB metal sealed cans of dry product and Sodium Hypochloride 550 LB plastic drums of solution. The products are stored in metal building with portable skid and sealed door.
7. **Effluent and Waste Solids:** The daily water volume averages about 2000-2800 BPD consisting of produced water from natural gas and oil wells. The average quality is saltwater of about 13,000 TDS.
8. **Collection/Treatment/Disposal Procedures:** The water is recieved at the facility by truck and unloaded into oil tank seperator. The water is channeled through an oil production seperator and a series of solids collection tanks removing all oil and as much solids as possible. It also goes through a lined and netted skimmer pond before being temporarily stored in a large lined evaporation pond. In the pond it is treated to maintain a safe H<sub>2</sub>S level and control odors. It is then transfered to the injection pump station where it is filtered and injected into the Point Lookout formation. The disposal rate and volumes are monitered and recorded.
9. **Modifications:** The purpose of this application is to reclassify the existing well from a "Class II" to a "Class I" disposal allowing the acceptance of sources of Oil & Gas produced wastes still to be "non-hazardous" RCRA exempt.
10. **Inspection and Compliance:** The facility is to be walked at least twice a day with hand held H<sub>2</sub>S air monitor and a water sample to be taken once a day. The information is logged in a book kept in the office at the facility. The current training and updated compliance procedures will be handled by the sight disposal manager monitering operations and procedures.

11. **Contingency Plan:** In the unlikely event of an accidental spill or discharge the OCD office shall first be notified and then one of the following procedures; If liquid waste there is a standby 40 BBL trailer mounted vacuum system with hoses for the collection of liquids. If there is a dyke breakage a standby backhoe is available to repair it.

If it is a solid waste there is a standby bobcat to pick it up with.

12. **Geological/Hydrological Information:** See attached.

13. **Closure Plan:** Upon the closure of the facility the OCD shall be notified and a reclamation process will be employed to return any soil to its natural condition and no other wastes shall be accepted.

14. **Certification**

I hereby certify that the information submitted with this application is true and correct to the best of my knowledge and belief.

**Name:** Chuck Badsgard **Title:** Vice-President

**Signature:** *Chuck Badsgard* **Date:** 5/13/96



**CFT**

**CREATIVE FUTURE TECHNOLOGIES**

INDUSTRIAL PRODUCT SALES AND MARKETING

Main Office #505-632-0662

P.O. BOX 364 FARMINGTON, NM 87499 PHONE: (505) 327- 4919

*Needs specific  
Diagram of landfarm  
showing boundaries  
and control of access  
outside beams*

**OIL CONSERVATION DIVISION  
STATE OF NEW MEXICO  
2040 S. PACHECO  
SANTA FE NEW MEXICO 87505**

**DISPOSAL MODIFICATION  
LAND FARM ADDITION FOR  
SUNCO TRUCKING**

**FARMINGTON NM 87401  
SECTION 2, T29N, R12W**

**RECEIVED**  
NOV 22 1995

**OIL CON. DIV.  
DIST. 3**



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I. TYPE

Centralized modification of existing water disposal facility to handle solids produced by current operation and not to be for commercial applications.

II. APPLICANT

Sunco Trucking  
708 S. Tucker  
Farmington NM 87401  
Contact; Chuck Badsgard  
Phone; 505-327-0416 *AC*

III. LOCATION

Section 2, Township 29N, Range 12W

IV. EXPANSION OF CURRENT FACILITY

Yes

V. LANDOWNERS OF RECORD ONE MILE FROM FACILITY BORDER

Attached

VI. FACILITY DESCRIPTION *33*

The current design will be a five (5) acre area to be adjacent to water disposal well within the fenced in disposal boundaries.  
(See Attached Facility Layout)

VII. ENGINEERING PLANS

The cells will be unlined constructed of native soils (see attached soil samples). The cells shall be contained by a 24x24 inch soil berm and made as level as possible.

The soil to be placed in the cell is from solids accumulation in settling tanks and pond bottoms during the natural disposal process. The solids will be consistent with current water received and (TPH) will not be necessary unless high levels of metals or BTEX are suspected. The solids will be spread on labeled cells with location and date information and in six (6) inch lifts not allowing any apparent surface water or fluid. An absorbent shall be added if necessary to provide proper aeration of product and enhance natural bio-remediation. The cells shall be disced on a routine schedule approximately every six weeks.

The remediated cells after OCD inspection or approval of removal will be recycled as mixture soil or used as deemed fit by current OCD regulations.

## VIII. CONTINGENCY PLAN

In the unlikely event of rainfall sufficient enough to breach the cells boundaries vacuum trucks are already present to contain any extra runoff. All accidental spills or uncontrolled discharges shall be reported as to the extent, time, and place of the incident.

## IX. ROUTINE INSPECTION AND MAINTENANCE PLAN

Cells can be inspected on a daily basis in accordance with days the facility is open. Other times cells shall be confined within a locked gate. Random soil samples shall be taken to monitor any movement of surface solids and bore holes filled with native soils.

## X. CLOSURE PLAN

Upon completion of land farm operations the cells shall be returned to natural grade and seeded with native grasses. After closure is complete no other solids shall be farmed.

## XI. GEOLOGICAL/HYDROLOGY

The hydrology was provided with the water disposal well application and should be on file at the NMOCD office.

## XII. RULE 711

The bond is secured by bank letter of credit and can be updated if necessary.

## XIII. H2S CONTINGENCY PLAN

Should H2S become present at cell facility then treatment of appropriate oxidizer such as potassium permanganate shall be applied to maintain safe and acceptable levels.

## XIV. OCD RULES AND REGULATIONS

Sunco Trucking shall comply with current rules and regulations as regulated by NMOCD.

XV. CERTIFICATION

I hereby certify that the information submitted with this application is true and correct to best of my knowledge.

Name: George E. Coleman

Title: President

Signature: George E. Coleman

Date: 11/16/95

# ATTACHMENTS

## LIST OF NOTIFICATIONS

Charles Foutz  
1550 N. Stapley #35  
Mesa, Arizona 85203

Fay Greer  
2816 Kentucky N.E.  
Albuquerque, New Mexico 87110

Valerie Hatch & Meridee Wynn  
P.O. Box 1506  
Fruitland, New Mexico 87416

Dewey Foutz  
P.O. Box 690  
Farmington, New Mexico 87499-0690

Harold W. Horner  
24423 S. Foxglenn Drive  
Sun Lakes, Arizona 85248-7708

Eugene Watson  
3107 Palomas Circle  
Farmington, New Mexico 87401

Edward E. Condit  
8609 La Sala Grande NE  
Albuquerque, New Mexico 87107

Raymond R. Condit  
#8 CR 5821 NBU 3002 #6  
Farmington, New Mexico 87401

Pauline Sommerfeldt  
P.O. Box 12039 Station F  
Albuquerque, New Mexico 87195

Tierra Environmental  
P.O. Drawer 15250  
Farmington, New Mexico 87401

Environmental Protection Co.  
P.O. Box 1977  
Farmington, N. M. 87499-1977

Morningstar Corporation  
P.O. Box 9  
Farmington, New Mexico 87499

Judith W. Stanley  
P.O. Box 602  
Flora Vista, New Mexico 87415

David W. George  
P.O. Box 1782  
Farmington, New Mexico 87499

Aurthur H. Bichan  
6750 Colby Lane  
Bloomfield Hills, MI 48301

Glenn E. Vaura  
P.O. Box 1  
Farmington, New Mexico 87499

Sierra Oilfield Services  
P.O. Box 6074  
Farmington, New Mexico 87499

Helen D. Foutz  
1550 N. Staple Dr. #35  
Mesa, Arizona 85203

Jack M. Mackey  
#51 CR 4012  
Ignacio, Colorado 81137

John S. Scott  
5301 Marcy Place  
Farmington, New Mexico 87401

Joe Jacquez  
P.O. Box 526  
Aztec, New Mexico 87410

Paul McQueary  
2609 East 20th  
Farmington, New Mexico 87401

J.B. Cambell & Russell H. Baker  
609 South Carlton  
Farmington, New Mexico 87401

Gorden N. Crane  
C/O Ronald Hastings  
1010 Sycamore  
Farmington, New Mexico 87401

Dan Eric Dombrowski  
#18 CR 2395  
Aztec, New Mexico 87510

Denis L. Brady  
Box 6498  
Farmington, New Mexico 87499

Edna Cambell  
C/O Mary Allison  
RT 2 Box 618  
Laveen, Arizona 85339

Cristina Brouse  
P. O. Box 104  
Flora Vista, New Mexico 87415-0104

James V. Chiaramonte  
403 RD 5569  
Farmington NM. 87401

Nancy C. Bingham  
#22 CR 5190  
Bloomfield, New Mexico 87413

Lloyd Lujan  
P.O. Box 1094  
Farmington, New Mexico 87499

John Paul Boyden  
#8 RD 3146  
Aztec, New Mexico 87410

Eric Peters  
421 N. 4th Street  
Bloomfield, New Mexico 87413

Ray Guy  
P.O. Box 3442  
Farmington, New Mexico 87499

James D. Krass Sr.  
#22 RD 3143  
Farmington, New Mexico 87401

Jerry C. Walker  
P.O. Box 1810  
Aztec, New Mexico 87410

Kelly J. Grabb  
P.O. Box 518  
Flora Vista, New Mexico 87415

Felecia Head  
1824 S. Butler  
Farmington, New Mexico 87401

Ronald Hastings  
1010 Sycamore  
Farmington, New Mexico 87401

Mary J. Miller  
P.O. Box 605  
Chama, New Mexico 87520

Steve Van Houten  
119 RD 3141  
Aztec, New Mexico 87410

Jose M. Grijalva  
P.O. Box 482  
Aztec, New Mexico 87410

Tobin A. Savage  
P.O. Box 880  
Holbrook, Arizona 86025

Raymond W. Stone  
P.O. Box 2183  
Bloomfield, New Mexico 87413

Shawn A. Rants  
P.O. Box 2183  
Bloomfield, New Mexico 87413

Frank A. Waterhouse  
1600 Laguna Ave  
Farmington, New Mexico 87401

Carolina Madrid  
P.O. Box 373  
Flora Vista, NM 87415-0373

Stuart Trapp  
#42 RD 3142  
Aztec, New Mexico 87410

Angela P. Atencio  
800 Tamarack  
Farmington, New Mexico 87401

Victorian Whitaker  
45 RD 3141  
Aztec, New Mexico 87410

Richard Francisco  
P.O. Box 1322  
Farmington, New Mexico 87499

Micheal Booth  
2100 W. Main St.  
Farmington, New Mexico 87401

Leanora D. Johnson  
3401 Edgecliff  
Farmington, New Mexico 87402

Charles Crowley  
#99 CR 3141  
Aztec, New Mexico 87410

Delores Foster  
P.O. Box 3252  
Farmington, New Mexico 87499

Tony L. Snow  
5530 Beach Street  
Farmington, New Mexico 87402

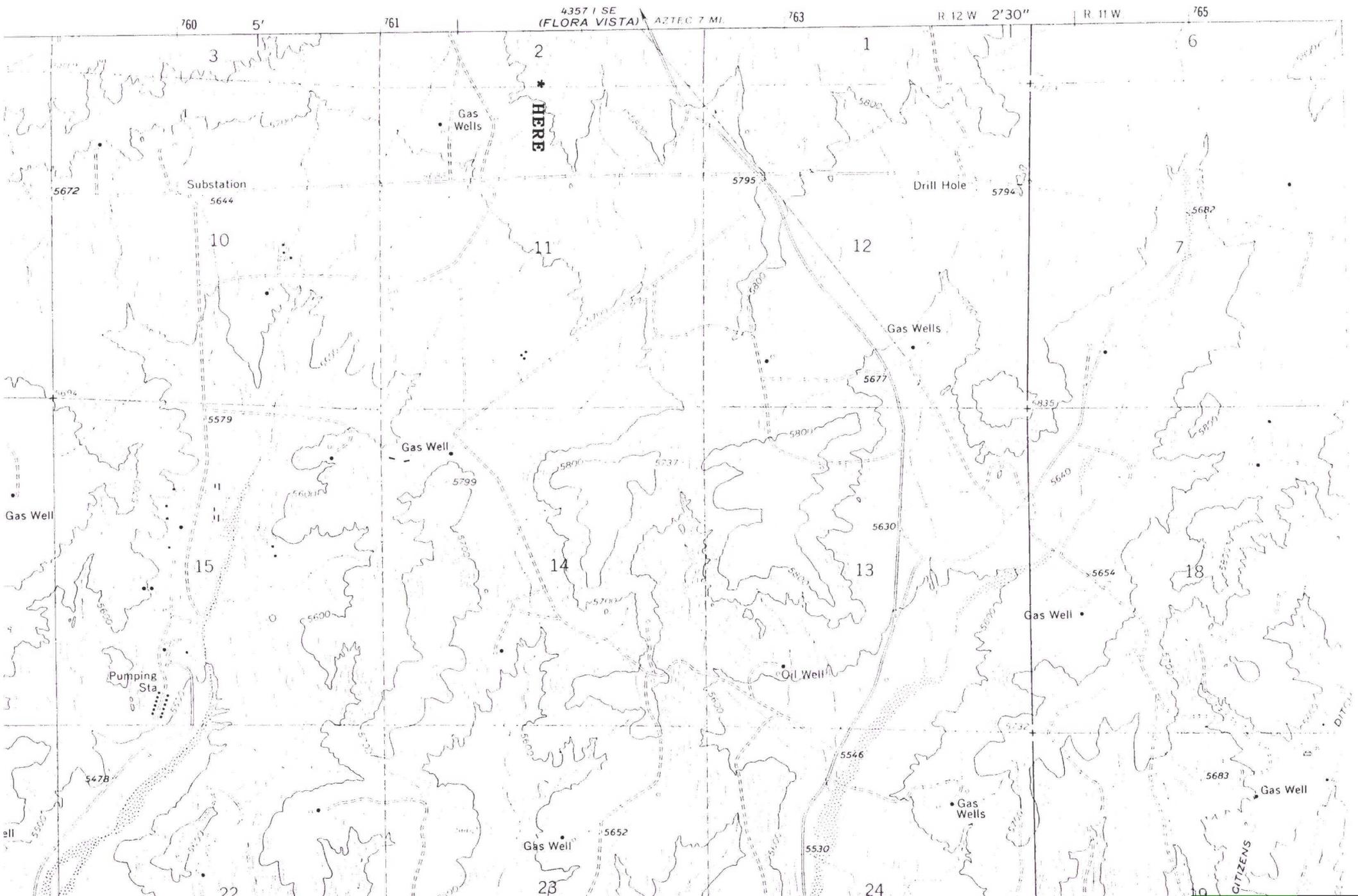
Carroll Brown Jr.  
P.O. Box 1581  
Aztec, New Mexico 87410-4581

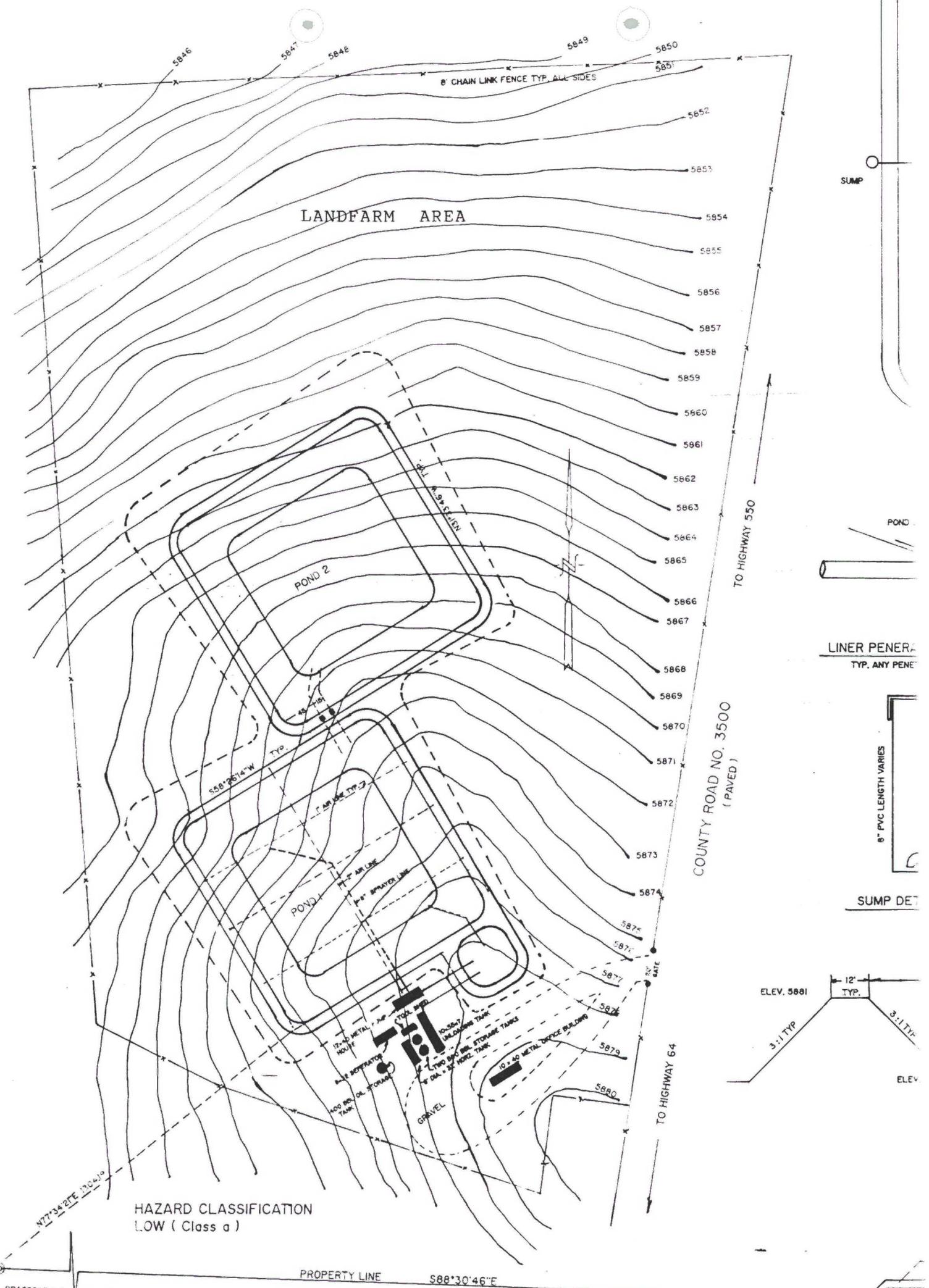
Tresa Ransom  
P.O. Box 629  
Farmington, New Mexico 87499

Paul Quintanna  
P.O. Box 413  
Flora Vista, New Mexico 87415

Billy R. Justice  
P.O. Box 1233  
Aztec, New Mexico 87410

Barbara Atencio  
720 Tamarack  
Farmington, New Mexico 87401





LANDFARM AREA

8" CHAIN LINK FENCE TYP. ALL SIDES

POND 2

POND 1

12" x 40" METAL HOUFF

100 GAL. OIL STORAGE TANK

100 GAL. UNLUBRICATED TANK

100 GAL. OIL STORAGE TANK

10" x 40" METAL STORAGE BUILDING

GRAVEL

HAZARD CLASSIFICATION  
LOW (Class a)

PROPERTY LINE S88°30'46"E

TO HIGHWAY 550

COUNTY ROAD NO. 3500  
(PAVED)

TO HIGHWAY 64

SUMP

POND

LINER PENETRATION  
TYP. ANY PENETRATION

8" PVC LENGTH VARIES

SUMP DETAIL

ELEV. 5881

12" TYP.

3:1 TYP.

ELEV.



**Key Energy Services, Inc.**

Four Corners Division  
P.O. Box 900  
5651 US Highway 64  
Farmington, NM 87499

Phone: 505-327-4935  
Fax: 505-327-4962

June 15, 2001

Martyne Kieling  
Environmental Geologist  
New Mexico OCD  
1220 S. Saint Francis Dr.  
Santa Fe, New Mexico 87504



**RE: Surety Bond for Waste Management Facility**

Dear Martyne,

Please find enclosed Surety Bond and Power of Attorney for Key Energy Disposal. The Bond was increased from \$44,050.00 to \$88,100.00.

If additional information is required please contact me at (505) 334-6416

Sincerely,

Mike Talovich  
Facility Manager  
Key Energy Services

cc. NMOCD Aztec  
H. Stone Key Energy  
File

4

Energy, Minerals and Natural Resources Department  
Oil Conservation Division  
Surety Bond For Waste Management Facilities  
(File with Oil Conservation Division, 2040 South Pacheco Street, Santa Fe, New Mexico 87505)

BOND NO. RLB0003354  
(For Surety Company Use)

KNOW ALL MEN BY THESE PRESENTS:

That Key Four Corners, Inc., (an individual, partnership, or a corporation organized in the State of New Mexico, with its principal office in the City of Farmington, State of New Mexico, and authorized to do business in the State of New Mexico), as PRINCIPAL, and RLI Insurance Company, a corporation organized and existing under the laws of the State of Illinois, and authorized to do business in the State of New Mexico with duly appointed resident agent in the State of New Mexico to execute this bond on behalf of the surety company, as SURETY, are held firmly bound unto the State of New Mexico, for the use and benefit of the Oil Conservation Division of the Energy, Minerals and Natural Resources Department (the "Division") pursuant to Section 70-2-12 NMSA, 1978, (1995 Relp.) as amended in the sum of Eighty-Eight Thousand One Hundred--- (\$ 88,100.00 ) Dollars for the payment of which PRINCIPAL and SURETY hereby bind themselves, their successors and assigns, jointly and severally.

The conditions of this obligation are such that:

WHEREAS, the above principal has heretofore or may hereafter enter into the collection, disposal, evaporation, remediation, reclamation, treatment or storage of produced water, drilling fluids, drill cuttings, completion fluids, contaminated soils, BS&W, tank bottoms, waste oil and/or other oil field related waste in Section 2, Township 29 N, Range 12 W, NMPM, San Juan County, New Mexico.

NOW, THEREFORE, this \$88,100.00 performance bond is conditioned upon substantial compliance with all applicable statutes of the State of New Mexico and all rules and orders of the Oil Conservation Commission, the Division, and upon clean-up of the facility site to standards of the Division; otherwise the principal amount of the bond to be forfeited to the State of New Mexico.

Signed and sealed this 23 day of May, XX 2001.

Key Four Corners, Inc.

Principal

P.O. Box 900, Farmington, NM 87499

Mailing Address

By Ron Fellabaum Division Mgr.  
Signature Title

RLI Insurance Company

Surety

8 Greenway Plaza, #400, Houston, TX 77046

Mailing Address

By Greg E. Chilson  
Attorney-in-Fact Greg E. Chilson

Note: If Principal is a corporation, affix corporate seal here.

Note: If corporate surety, affix corporate seal here.

Note: If corporate surety executes this bond by an attorney-in-fact not in New Mexico, the resident New Mexico agent shall countersign here below.

Countersigned by: \_\_\_\_\_  
New Mexico Resident Agent

\_\_\_\_\_  
Address

1. (For a natural person acting in his own right:)

STATE OF \_\_\_\_\_ )  
 )SS.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_,  
by \_\_\_\_\_.

My commission expires:

\_\_\_\_\_  
Date Notary Public

2. (For a partnership acting by one or more partners)

STATE OF \_\_\_\_\_ )  
 )SS.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_,  
by \_\_\_\_\_,  
\_\_\_\_\_, partner(s) on behalf of  
\_\_\_\_\_, a partnership.

My commission expires:

\_\_\_\_\_  
Date Notary Public

3. (For a corporation or incorporated association)

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_,  
by \_\_\_\_\_,  
a corporation, on behalf of said corporation.

My commission expires:

\_\_\_\_\_  
Date Notary Public

NOTE: When Lessor is a partnership, corporation or association, list all partners, officers and directors as may be applicable. This information may be provided below.

APPROVED BY:  
OIL CONSERVATION DIVISION

By: \_\_\_\_\_



9025 North Lindbergh Dr. • Peoria, IL 61615  
(309) 692-1000 or (800) 645-2402

RLB0003354  
**POWER OF ATTORNEY**  
RLI Insurance Company

**Know All Men by These Presents:**

That the RLI INSURANCE COMPANY, a corporation organized and existing under the laws of the State of Illinois, and authorized and licensed to do business in all states and the District of Columbia does hereby make, constitute and appoint: GREG E. CHILSON

in the City of HOUSTON, State of TEXAS, as Attorney-in-Fact, with full power and authority hereby conferred upon him to sign, execute, acknowledge and deliver for and on its behalf as Surety and as its act and deed, all of the following classes of documents to-wit:

**\$88,100.00**

Indemnity, Surety and Undertakings that may be desired by contract, or may be given in any action or proceeding in any court of law or equity; policies indemnifying employers against loss or damage caused by the misconduct of their employees; official, bail and surety and fidelity bonds. Indemnity in all cases where indemnity may be lawfully given; and with full power and authority to execute consents and waivers to modify or change or extend any bond or document executed for this Company, and to compromise and settle any and all claims or demands made or existing against said Company.

The RLI INSURANCE COMPANY further certifies that the following is a true and exact copy of a Resolution adopted by the Board of Directors of RLI Insurance Company, and now in force to-wit:

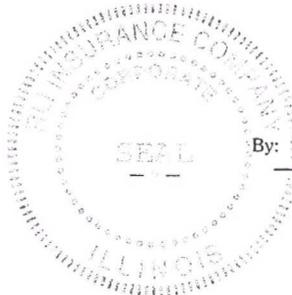
"All bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, any Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys-in-Fact or Agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile."

(Blue shaded areas above indicate authenticity)

IN WITNESS WHEREOF, the RLI Insurance Company has caused these presents to be executed by its CHAIRMAN, CEO with its corporate seal affixed this

ATTEST:

Camille J. Hensey  
Corporate Secretary



RLI INSURANCE COMPANY

By: Gerald D. Stephens  
Chairman, CEO

State of Illinois )  
                          ) SS  
County of Peoria )

On this 23 day of May 2001 before me, a Notary Public, personally appeared Gerald D. Stephens and Camille J. Hensey, who being by me duly sworn, acknowledged that they signed the above Power of Attorney as Chairman, CEO and Corporate Secretary, respectively, of the said RLI INSURANCE COMPANY, and acknowledged said instrument to be the voluntary act and deed of said corporation.

Cynthia S. Dohm  
Notary Public

**"OFFICIAL SEAL"**  
**CYNTHIA S. DOHM**  
NOTARY PUBLIC, STATE OF ILLINOIS  
MY COMMISSION EXPIRES 02/24/02