

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

**APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION,
THROUGH THE ENVIRONMENTAL BUREAU CHIEF, FOR AN ORDER
DETERMINING THE REONSIBLE PARTY OR PARTIES AND ORDERING
THE RESPONSIBLE PARTY OR PARTIES TO COMPLETE AND PERFORM
AN ABATEMENT PLAN PURSUANT TO OCD RULE 19; LEA COUNTY, NEW
MEXICO**

CASE NO. 13061 (Re-opened)

APPLICATION TO RE-OPEN AND FOR COMPLIANCE ORDER

1. In January of 1999, OCD began an investigation of salt contamination of soils from a produced-water-line leak within the South Langlie Jal Unit, located in Sections 7, 8, 17 & 18, Township 25 South, Range 37 East, Lea County, New Mexico. The surface owner, Mr. Clay Osborn, reported that the drinking water well at his residence was contaminated with salts. Additional soil and ground water contamination investigations were conducted through March 20, 2000. Investigations have shown that ground water in the Osborn private drinking water well and monitor wells on the South Langlie Jal Unit is contaminated with chlorides and total dissolved solids in excess of New Mexico Water Quality Control Commission standards. Investigations have also shown that there are tank batteries with associated produced water and petroleum spills, an unlined flare pit and produced water line leaks located hydrologically upgradient from some of these wells.

2. Bristol Resources Corporation (Bristol) was the operator of the South Langlie Jal Unit when the investigations commenced in 1999. Pursuant to OCD Rule

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19.C, on August 2, 2000, the OCD required that Bristol submit an "Abatement Plan" for the South Langlie Jal Unit to investigate and abate ground water pollution.

3. On September 15, 2000, Chaparral Oil, LLC and CEI Bristol Acquisition, LP (Chaparral) purchased Bristol's assets at a bankruptcy auction and assumed operation of the South Langlie Jal Unit. On October 31, 2000, the OCD notified Chaparral that, as the current operator, Chaparral was required to submit an "Abatement Plan" for the South Langlie Jal Unit to investigate and abate ground water pollution.

4. On March 12, 2001, the OCD issued a Notice of Violation to Chaparral for the failure to submit an Abatement Plan as required. On March 23, 2001, Chaparral submitted a Stage 1 Abatement Plan Proposal for the investigation of the extent of contamination on the South Langlie Jal Unit. Public notice of the proposal was issued in the fall of 2001. On February 22, 2002, the OCD issued Chaparral a Notice of Violation for failure to submit information to correct deficiencies in the Stage 1 Abatement Plan Proposal. Chaparral subsequently amended the proposal several times.

5. On April 25, 2002, the OCD administratively approved the Stage 1 Abatement Plan Proposal. At Chaparral's request, in order to negotiate access to conduct the required investigations, OCD issued an extension of the deadline for submission of a Stage 1 Investigation Report from July 31, 2002 to October 31, 2002.

6. On November 7, 2002, Chaparral notified the OCD that the South Langlie Jal Unit had been sold to Ricky Smith Oil & Gas Corporation. On January 13, 2003, OCD issued a Notice of Violation pursuant to Rule 19.C(2) to both Chaparral and Smith & Marrs, Inc. ("Smith & Marrs"), an affiliate of Ricky Smith Oil & Gas Corporation, who is operating the South Langlie Jal Unit, for failure to conduct the actions required by

Rule 19, and required that they submit a Stage 1 Investigation Report by February 17, 2003.

7. Following the January 13, 2003 notice described above, neither Chaparral nor Smith & Marris submitted a Stage 1 Investigation Report as directed.

8. On March 20, 2003, OCD filed the original application in this case seeking a compliance order to require either Chaparral or Smith & Marris to complete the ordered Stage I investigation, and file the required Stage 1 Investigation Report.

9. The application of OCD came on for hearing before a division hearing examiner on July 15, 2003. At that time the parties, through their attorneys, negotiated a settlement of the issues raised by OCD's original application.

10. The parties executed a written Settlement Agreement which was signed by on behalf of OCD by the Energy, Minerals and Natural Resources Department, as the last party to sign, on November 17, 2003. A copy of the signed Settlement Agreement is attached to this application as Exhibit A.

11. Pursuant to the Settlement Agreement, this case was dismissed on December 16, 2003 by Order No. R-12067.

12. In the Settlement Agreement, Smith & Marris specifically agreed to:
fully perform the approved Stage 1 Abatement Plan . . . and to file the Stage 1 Investigative Report not later than ninety (90) days after the execution of this Agreement by the last party to execute same."

13. The Settlement Agreement further provides that "OCD reserves the right to seek civil penalties against Smith & Marris for any breach of this Agreement."

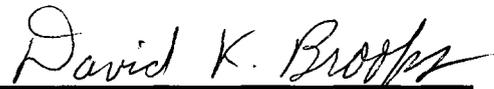
14. Smith & Marris has not performed the Stage 1 Abatement Plan, nor did it file the Stage 1 Investigative Report on or before February 15, 2004 (ninety days after

final execution of the Settlement Agreement), or thereafter, but has wholly failed and refused, and continues to fail and refuse, to perform the obligations it undertook in the Settlement Agreement.

WHEREFORE, the Chief of the Environmental Bureau of the Division hereby applies to the Director to enter an order:

- A. Ordering Smith & Marris to submit a Stage 1 Investigation Report for approval by the Division by a date fixed in said order.
- C. Imposing civil penalties against Smith & Marris for failure to comply with Rule 19.C(2) and with the terms of the Settlement Agreement, not to exceed \$1,000 per day from February 15, 2004 to the date of such order.
- D. For such other and further relief as the Division deems just and proper under the circumstances.

RESPECTFULLY SUBMITTED,



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Conservation Division

CASE No. 13061 (Re-Opened): Application of the New Mexico Oil conservation Division, through the Environmental Bureau Chief, for an Order Determining the Responsible Party or Parties and Ordering the Responsible Party or Parties to Complete and Perform an Abatement Plan Pursuant to OCD Rule 19; Lea County, New Mexico. The Applicant seeks an order directing Smith & Marrs, Inc. to comply with a Stage 1 Abatement Plan and a prior Settlement Agreement with respect to subsurface water pollution existing at the South Langlie Jal Unit, in Sections 7, 8, 17 and 18, Township 25 South, Range 37 Ease, and ordering the responsible parties to submit a Stage 1 Investigation Report to the Division for approval.

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