

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

PRE-HEARING STATEMENT OF THE OIL CONSERVATION DIVISION

The Oil Conservation Division (OCD) submits this pre-hearing statement pursuant to 19.15.4.13(B) NMAC.

APPEARANCES

APPLICANT

Oil Conservation Division

APPLICANT'S ATTORNEY

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RESPONDENT

BTA Oil Producers LLC

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No entry of appearance has been filed.

### STATEMENT OF CASE

BTA Oil Producers LLC (BTA) is the operator of record for the Pardue C 8808 JVP #001, a salt water injection well located approximately 110 feet to the west of the Pecos River. Overflow pipelines carry produced water from the produced water tank battery at the well site to an unpermitted, unlined pit. For over two years the Oil Conservation Division (OCD) has worked with BTA and its predecessor to require the operator to conduct a proper investigation of the site and perform appropriate corrective action. According to a report submitted on behalf of BTA by its consultant, groundwater “has likely been impacted by the facility operations at the surface.” The report indicates that the water zone beneath the site “is expressed from the hillside and ultimately leaks into the flowing Pecos River.”

The parties have not been able to agree to an appropriate delineation and abatement/remediation plan.

The OCD alleges that BTA’s use of this unpermitted pit to dispose of produced water is in violation of the terms of its injection permit (Order No. R-9147-C); the rules on injection projects (19.15.26.10.B NMAC); the rules governing the disposition of produced water (19.15.34 NMAC); the pit rule (19.15.17 NMAC); and the rule governing releases (19.15.29 NMAC). The OCD seeks an order requiring BTA to remove the pit and return the site to its original condition.

The first step is to require BTA to submit, by a date certain, a report acceptable to the OCD’s Environmental Bureau delineating contamination of the vadose zone and ground water. The OCD’s Environmental Bureau will use the data from the report to determine the appropriate

corrective action, to include removal of chloride-contaminated soil and bedrock and remediation of ground water.

The second step will be to require BTA Oil Producers LLC to complete the required corrective action by a date certain.

To ensure that the operator submits an acceptable report and completes the required corrective action, the OCD is also asking for the following provisions to be included in the order.

- The order should set an ultimate deadline: if the operator fails to meet the deadline set in the order for submitting an acceptable report or fails to complete the corrective action by the deadline, the operator should be ordered to plug and abandon the disposal well and remediate the facility location by a date certain. And the OCD should be authorized to plug the well, remediate the site, and forfeit the applicable financial assurance if the operator fails to comply. This type of order is authorized by NMSA 1978, Section 70-2-14(B). Such an order will allow the OCD to complete the corrective action if BTA Oil Producers LLC fails to do it, and forfeit the financial assurance to help pay for the corrective actions.
- To create an additional incentive for BTA Oil Producers LLC to complete the actions required by the order in a timely fashion, the OCD asks that the order find the operator in violation of 19.15.5.9 NMAC (or issue an order equivalent to such a finding) until the operator demonstrates that it has completed the corrective action required by the order (or demonstrates that it has reimbursed the OCD if the operator fails to take the required corrective action and the OCD has to plug the well and remediate the facility site). The effect of an order finding the operator in violation of 19.15.5.9 NMAC, or an order giving the equivalent relief, would be that the OCD would be able to deny the operator's applications for permits to drill, applications for allowable and authorization to transport, applications for injection permits, and applications for operator changes that would transfer well operations to the operator. In other words, BTA Oil Producers LLC would not be able to "grow" its business until it addresses the contamination issues at the site.

#### OCD'S PROPOSED EVIDENCE

WITNESS: Glenn von Gonten, OCD, Acting Bureau Chief for the Environmental Bureau  
ESTIMATED TIME: 1 hour.

The OCD intends to offer Mr. VonGonten as an expert witness to testify on the subjects of delineation and remediation/abatement, hydrology and geology.

WITNESS: Dorothy Phillips, Financial Assurance Administrator  
ESTIMATED TIME: by affidavit

Witness: Daniel Sanchez, OCD Compliance and Enforcement Manager  
ESTIMATED TIME: 10 minutes

## PROCEDURAL MATTERS

At the close of the hearing, the OCD will request that the examiner continue the case until a hearing date one month in the future, and require the parties to appear at that hearing to report on their progress. The OCD may request an additional order and additional update hearings to move the process forward.

Respectfully submitted  
this 27<sup>th</sup> day of January 2010 by



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Attorney for the Oil Conservation Division

### Certificate of Service

I certify that I mailed and faxed a copy of this pleading to Mr. William Carr and mailed a copy of this pleading to Travelers Indemnity Company at the addresses shown above this 27<sup>th</sup> day of January 2010.



Gail MacQuesten