

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

**APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION,
THROUGH THE SUPERVISOR OF DISTRICT III, FOR AN ORDER
ASSESSING CIVIL PENALTIES AGAINST BC&D OPERATING
INCORPORATED FOR FAILURE TO GIVE TIMELY NOTICE OF A RELEASE
AND FAILURE TO TAKE CORRECTIVE ACTION AS REQUIRED BY OCD
RULE 116; MCKINLEY COUNTY, NEW MEXICO**

CASE NO. 12966

APPLICATION FOR ASSESSMENT OF CIVIL PENALTIES

1. BC&D OPERATING INCORPORATED ("BC&D") is the operator of the Hospah Sand Unit in McKinley County, New Mexico.
2. On November 13, 2001, at approximately 10:00A.M., Deputy Oil and Gas Inspector Bruce Martin was in the Hospah Field in McKinley County when he observed evidence of a ~~previous~~ hydrocarbon release in the bottom of Sandoval Arroyo in Section 1, Township 17 North, Range 9 West, McKinley County, New Mexico.
3. OCD investigation determined that this previous release originated from a flow line leak that had occurred on October 26, 2001 inside the Hospah Sand Unit Tank Battery and had been repaired. Subsequent rains washed oil into Sandoval Arroyo.
4. The plume from the release flowed approximately 1500 feet in Sandoval Arroyo to a retention dike. The plume averaged approximately one foot in width with hydrocarbons staining the vegetation for approximately 1500 feet until it entered the retention dike impoundment, spreading across the surface of the impounded water and adhering to the sides of the dike.

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5. Sandoval Arroyo is a watercourse as defined by OCD Rule 7.W [19 NMAC 15.1.7.W]. Accordingly the release constituted a "major release," as defined by OCD Rule 116 [19 NMAC 15.3.116.B(1)(d)]

6. The release had not been reported to the OCD, in violation of Rule 116.A [19 NMAC 15.3.116.A], requiring immediate verbal notification of any release affecting a watercourse.

7. The release had not been cleaned up or remediated in violation of OCD Rule 116.D [19 NMAC 15.3.116.D].

8. The released fluids were allowed to flow down the arroyo into a pond located approximately in the middle of Section 1, Township 17 North, Range 9 West, McKinley County, New Mexico, in violation of OCD Rule 13.B [19 NMAC 15.1.13.B], requiring all operations to be conducted so as to prevent contamination of fresh water.

9. At approximately 11:00A.M. on November 13, 2001, Deputy Inspector Martin advised Donnie Hill Jr., an employee of BC&D, to report the release immediately to Denny Foust, Environmental Engineer for OCD District III, as required by rule, and to propose a clean up and remediation plan.

10. Donnie Hill Sr., a vice president of BC&D, reported the release to Denny Foust at approximately 10:00A.M. on November 14, 2001, by telephone. Mr. Hill proposed a program for clean up and remediation which Mr. Foust verbally approved. Hill then and there outlined his understanding of the release event that was subsequently reported on form C-141, Initial Release Notification Report.

11. On form C-141 filed on November 20, 2001, Mr. Hill reported a release of less than five barrels of water and oil from the Hospah Sand Unit Tank Battery with a