

recovery of less than two barrels. This release was discovered in the morning of October 26, 2001 and repaired the same morning. Heavy local precipitation subsequently carried the released fluids into Sandoval Arroyo. The volumes estimated on the referenced C-141 reports are inconsistent with the observed amount of oil staining in the arroyo.

12. OCD Rule 13.B. requires that:

All operators, contractors, drillers, carriers, gas distributors, service companies, pipe pulling and salvaging contractors, treating plant operators or other persons shall at all times conduct their operations in or related to the drilling, equipping, operating, producing, plugging and abandonment of oil, gas, injection, disposal, and storage wells or other facilities in a manner that will prevent waste of oil and gas, the contamination of fresh waters and shall not wastefully utilize oil or gas, or allow either to leak or escape from a natural reservoir, or from wells, tanks, containers, pipe or other storage, conduit or operating equipment.

13. OCD Rule 116 provides:

A. NOTIFICATION

(1) The Division shall be notified of any unauthorized release occurring during the drilling, producing, storing, disposing, injecting, transporting, servicing or processing of crude oil, natural gases, produced water, condensate or oil field waste including Regulated NORM, or other oil field related chemicals, contaminants or mixture thereof, in the State of New Mexico in accordance with the requirements of this Rule. [1-1-50...2-1-96; A, 3-15-97]

(2) The Division shall be notified in accordance with this Rule with respect to any release from any facility of oil or other water contaminant, in such quantity as may with reasonable probability be detrimental to water or cause an exceedance of the standards in 19 NMAC 15.A.19. B(1), B(2), or B(3).

B. REPORTING REQUIREMENTS: Notification of the above releases shall be made by the person operating or controlling either the release or the location of the release in accordance with the following requirements: [5-22-73...2-1-96; A, 3-15-97]

(1) A **Major Release** shall be reported by giving **both** immediate verbal notice and timely written notice pursuant to Paragraphs C(1) and C(2) of this Rule. A Major Release is:

(b) an unauthorized release of any volume which:

(ii) will reach a water course;

(d) a release of any volume which may with reasonable probability be detrimental to water or cause an exceedance of the standards in 19 NMAC 15.A.19. B(1), B(2), or B(3).

C. CONTENTS OF NOTIFICATION

Immediate verbal notification required pursuant to Paragraph B shall be reported within twenty-four (24) hours of discovery to the Division District Office for the area within which the release takes place. In addition, **immediate verbal notification** pursuant to Subparagraph B.(1).(d). shall be reported to the Division's Environmental Bureau Chief. This notification shall provide the information required on Division Form C-141.

Timely written notification is required to be reported pursuant to Paragraph B within fifteen (15) days to the Division District Office for the area within which the release takes place by completing and filing Division Form C-141. In addition, timely written notification required pursuant to Subparagraph B.(1).(d). shall also be reported to the Division's Environmental Bureau Chief within fifteen (15) days after the release is discovered. The written notification shall verify the prior verbal notification and provide any appropriate additions or corrections to the information contained in the prior verbal notification. [5-22-73...2-1-96; A, 3-15-97]

D. **CORRECTIVE ACTION:** The responsible person must complete Division approved corrective action for releases which endanger public health or the environment. Releases will be addressed in accordance with a remediation plan submitted to and approved by the Division or with an abatement plan submitted in accordance with Rule 19 (19 NMAC 15.A.19). [3-15-97]

14. Neither the oral notice on November 14, 2001, nor the written notice (form C-141) filed on November 20, 2001 was timely with respect to the release that occurred on October 26, 2001. BC&D failed on October 27, 2001, and on each subsequent day thereafter, through and including November 13, 2001 (a total of 17 days) to give oral notice as required by Rule 116. BC&D failed on November 11, 2001, and on each day thereafter, through and including November 19, 2002 (a total of 9 days) to give written notice by filing form C-141, as required by Rule 116. BC&D failed on October 27, 2001, and on each day after, through and including November 13, 2001, (a total of 17 days) to take appropriate corrective action.

15. NMSA 1978, Section 70-2-31.A. authorizes the assessment of civil penalties up to one thousand dollars (\$1,000) per day per violation of the Oil and Gas Act or of any rule adopted pursuant to the Act.

16. BC&D violated OCD Rule 13.B [19 NMAC 15.A.13.B] by not operating in a manner to prevent the contamination of Sandoval Arroyo, a water course of New Mexico.

17. BC&D did not report the above-described release or take appropriate corrective action until same was observed by an OCD inspector, although BC&D personnel were previously aware of the release.

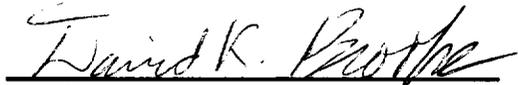
18. A civil penalty not to exceed \$44,000 should be assessed against BC&D for the above-recited violations of OCD Rules.

WHEREFORE, the Supervisor of District III of the Division hereby applies to the Director to enter an order:

A. Assessing an appropriate civil penalty against BC&D for the Rule violations herein described.

B. For such other and further relief as the Division deems just and proper under the circumstances.

RESPECTFULLY SUBMITTED,

A handwritten signature in black ink, reading "David K. Brooks", is written over a horizontal line.

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