

OIL CONSERVATION  
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OIL CONSERVATION  
DIVISION

**CURTIS & DEAN**

ATTORNEYS AT LAW

506 WEST ARRINGTON • P. O. DRAWER 1259  
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SCOTT M. CURTIS  
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OFF: (505) 327-6031  
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May 31, 1991

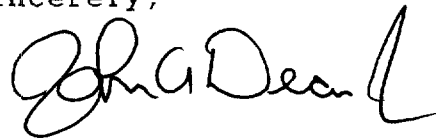
State of New Mexico  
Oil Conservation Division  
ATTN: William J. Lemay, Director  
Post Office Box 2088  
Santa Fe, New Mexico 87504

RE: Sunco Trucking Water Disposal Company Application  
Case 9955 De Novo

Dear Mr. Lemay:

Enclosed please find the original and one copy of Sunco Trucking Water Disposal Company's Pre-hearing Statement in the above referenced matter, a copy of which was faxed to you today.

Sincerely,



JOHN A. DEAN, JR.

:ljg

Enclosures

cc: Sunco Trucking Water Disposal Company (w/cy. enc.)  
Gary L. Horner, Esq. (w/cy. enc.)

*care file*

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

IN THE MATTER OF THE HEARING  
CALLED BY THE OIL CONSERVATION  
DIVISION FOR THE PURPOSE OF  
CONSIDERING:

CASE NO. 9955 De Novo

APPLICATION OF SUNCO TRUCKING WATER  
DISPOSAL COMPANY FOR A PERMIT TO CONSTRUCT  
AND OPERATE A COMMERCIAL WASTEWATER  
EVAPORATION POND, SAN JUAN COUNTY, NEW MEXICO

PRE-HEARING STATEMENT

This pre-hearing statement is submitted by Sunco Trucking Water Disposal Company as required by the Oil Conservation Division.

APPEARANCES OF PARTIES

PARTY

ATTORNEY

Sunco Trucking Water Disposal Company  
708 South Tucker Avenue  
Farmington, NM 87401  
(505)327-0416  
Attention:

John A. Dean, Jr.  
P.O. Drawer 1259  
Farmington, NM 87499  
(505) 327-6031

OTHER PARTIES

ATTORNEY

Harold and Doris Horner

Gary L Horner  
P.O. Box 2497  
Farmington, NM 87499  
(505) 326-2378

STATEMENT OF SUNCO TRUCKING WATER DISPOSAL COMPANY'S POSITION

Sunco Trucking Water Disposal Company's position in regard to the above referenced matter is that the Order of the Division, No. R-9-485, entered April 2, 1991, should be adopted by the Commission. This Order was entered after more than three days of testimony and reflects Sunco's position in this case. Sunco proposes to present its case by adoption of a large part of the record compiled in this case, beginning on June 13, 1990 at 8:15 a.m., and continuing thereafter. Sunco may also have available the witnesses as listed below, subject to its right to call

other witnesses. At the original hearing in this matter, the protestors had no witnesses testify and had only limited numbers of exhibits, which were the Judgment and other related pleadings from the Basin Disposal case and other federal and New Mexico statutes. If protestors intend to present any additional evidence by exhibit or witnesses, then applicant reserves the right to call other witnesses such as are necessary to rebut that testimony.

SUNCO TRUCKING WATER DISPOSAL COMPANY'S PROPOSED EVIDENCE,  
WITNESSES AND EXHIBITS

WITNESS	EST. TIME	EXHIBITS
Richard P. Cheney, P.E., P.L.S., Brewer & Associates P.O. Box 2079 Farmington, NM 87499	1 hour	Applicant's Exhibit 11 introduced at the Examiner Hearing held in this matter
Chuck Badsgard Sunco Trucking 708 S. Tucker Farmington, NM 87401	15 minutes	Applicant's Exhibit 10 introduced at the Examiner Hearing held in this matter
Robert C. Frank Geologist P.O. Box 308 Farmington, NM 87499	1 hour	Applicant's Exhibit 1 introduced at the Examiner Hearing held in this matter  Applicant's Exhibits 2A and 2B introduced at the Examiner Hearing held in this matter  Applicant's Exhibit 3 introduced at the Examiner Hearing held in this matter  Applicant's Exhibit 4 introduced at the Examiner Hearing held in this matter  Applicant's Exhibit 5 introduced at the Examiner Hearing held in this matter  Applicant's Exhibit 6 introduced at the Examiner Hearing held in this matter

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Sunco Trucking Water Disposal Company  
NMOCD Case No. 9955 De Novo  
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Applicant's Exhibit 7 introduced  
at the Examiner Hearing held in  
this matter

Applicant's Exhibit 8 introduced  
at the Examiner Hearing held in  
this matter

Applicant's Exhibit 9 introduced  
at the Examiner Hearing held in  
this matter

Dave Boyer                      15 minutes  
Environmental Bureau Chief  
Oil Conservation Division

Oil Conservation Division's Exhibit  
2 introduced at the Examiner  
Hearing held in this matter

Oil Conservation Division's Exhibit  
3 introduced at the Examiner  
Hearing held in this matter

Oil Conservation Division's Exhibit  
4 introduced at the Examiner  
Hearing held in this matter

Roger C. Anderson        45 minutes  
Environmental Engineer  
Oil Conservation Division

William Olson  
Hydrogeologist  
Oil Conservation Division

Sunco, at the De Novo hearing,  
intends to offer the testimony  
presented by it at the Examiner  
Hearing held in this matter in  
June, 1990, a transcript of which  
is in the possession of the Oil  
Conservation Division. Sunco  
proposes to submit as evidence all  
of the testimony presented by the  
witnesses listed herein. The  
testimony of each witness will be  
substantially the same as at the  
Examiner Hearing held in this  
matter.

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Sunco Trucking Water Disposal Company  
NMOCD Case No. 9955 De Novo  
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PROCEDURAL MATTERS

- None -

PRE-HEARING CONFERENCE

At the request of the legal counsel for the Oil Conservation Division, Sunco will be available for pre-hearing conference anytime June 5, June 6 or June 7, with June 7 being the most desirable date. Sunco prefers the pre-hearing conference to be held telephonically.

Respectfully Submitted,



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JOHN A. DEAN, JR.  
Attorney for Sunco Trucking  
Water Disposal Company  
P.O. Drawer 1259  
Farmington, NM 87499  
(505) 327-6031

CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the foregoing pleading was mailed this 31<sup>st</sup> day of May, 1991, to:

Gary L. Horner  
Attorney at Law  
P.O. Box 2497  
Farmington, NM 87499

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

IN THE MATTER OF THE HEARING  
CALLED BY THE OIL CONSERVATION  
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DISPOSAL COMPANY FOR A PERMIT TO CONSTRUCT  
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EVAPORATION POND, SAN JUAN COUNTY, NEW MEXICO

PROTESTORS PRE-HEARING STATEMENT

COMES NOW Protestors, HAROLD HORNER and DORIS HORNER, in response to a request by the Oil Conservation Division (OCD) for a pre-hearing statement prior to the De Novo hearing currently scheduled before the Commission on June 12, 1991.

Protestors' position is best set forth in their closing argument submitted on July 12, 1990 with respect to the hearings on the subject matter held before the OCD hearing Michael E. Stogner on June 13, 15 and 22, 1990. Said Closing Argument is incorporated herein by reference.

Protestors understand that on June 12, 1991 the OCD will hold a hearing before the Commission with regard to the subject matter. Protestors also understand that rather than a hearing de novo on June 12, 1991, the OCD intends to use the framework of the April 2, 1991 Proposed Division Order for the basis of evaluating testimony and record in the case. If that is to be the format of the June 12, 1991 hearing, Protestors would request and expect that the entire record, exhibits, and documents administratively noticed from the June, 1990 hearing on the present matter be admitted as evidence at the June 12, 1991 hearing.

Protestors have certain problems with the Proposed Division Order of April 2, 1991. The following is a partial list of Protestors' concerns with said Proposed Order:

1. The subject Permit should be denied
2. Finding #5 indicates that Applicant intends to "dispose of produced salt water and drilling fluids which have been tested and treated for hydrogen sulfide." Said finding minimizes the hazardous nature of the produced waters to be disposed of by Applicant by characterizing such water as "salt water." Further said finding minimizes the hazardous nature of such produced water at the subject facility by seemingly indicating that all water received at the facility will have been tested and treated for hydrogen sulfide before being accepted at the subject facility. In fact, testimony at the June 1990 hearings clearly indicated that no limitations were intended to be put on the produced waters received at the subject facility and that all testing and treating would occur at the subject facility as part

of the operation of the facility.

3. Finding #7 indicates that "Protester... did not present any direct evidence to support their position that the facility could not be permitted without... presenting a danger to human health and the environment." In fact, Protestors presented ample findings from the Basin Case where a similar facility within five miles of the subject facility had caused injuries so severe to surrounding residents that a judgment of nearly \$1,000,000 was entered against the operators of the Basin facility.

4. Finding #28 indicates "Protestor did not offer into evidence any of the relevant facts of that [Basin] case to support its argument. In fact, Protestor offered into evidence at the June 1990 hearing the 34 page "Court's Amended Findings of Fact" from the Basin Case which were filed therein on June 6, 1989. Such document was administratively noticed during the June 1990 hearings herein and marked as Petitioner's Exhibit #1.

5. The Order proposed by the Division would permit the subject facility before essential engineering drawings are received, reviewed and approved by OCD, even though considerable testimony at the June hearings indicated that the Applicant's plans were woefully inadequate with regard to the control of hydrogen sulfide emissions.

6. The OCD continues to refuse to hold Applicant responsible for Complying with hazardous emission standards promulgated by the New Mexico Environmental Improvement Board.

7. The subject proposed order seems to have no interest in insuring that Applicant will have an adequate closure, contingency or solid waste disposal plans.

8. The general tenor of the subject order, coupled with the results of previous negotiations between the OCD and the Applicant, indicate that those conditions and restrictions placed on Applicant will likely not be aggressively enforced.

9. In sum, it appears that the subject proposed order is designed to insure that the subject facility will be allowed to operate regardless of its adverse effects on human health and the environment.

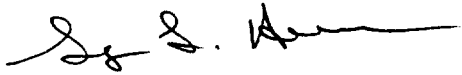
Protestors propose to call the following witnesses at the June 12, 1991 hearing:

1. OCD staff member - Roger Anderson, we believe; and
2. Possibly someone from the EID.

Protestors believe that they will not need to introduce any exhibits into evidence any additional exhibits, unless there exists a discrepancy between what exhibits Protestors and OCD believe has already been admitted or administratively noticed.

Counsel for Protestors will be available for a pre-hearing conference on June 6 or 7, 1991. It appears that all parties will be available on June 7, 1991. Protestors have no objection to such conference being conducted by telephone.

Respectfully Submitted,

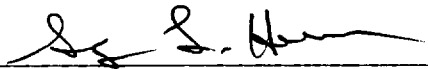


Gary L. Horner, Esquire  
Attorney for Protestors, HAROLD HORNER and DORIS HORNER  
Post Office Box 2497  
Farmington, New Mexico 87499  
(505) 326-2378

CERTIFICATE OF MAILING

I hereby certify that a true copy of the foregoing  
"PROTESTORS" PRE-HEARING STATEMENT was mailed by first class  
postage, or delivered to, the following individuals this 3<sup>rd</sup>  
day of June, 1991:

JOHN A. DEAN JR., Esquire  
Attorney for Applicant  
Post Office Drawer 1259  
Farmington, New Mexico 87499



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Gary L. Horner, Esquire  
Attorney for Protestors