

**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
Order No. R-13218**

STIPULATED ORDER & SETTLEMENT AGREEMENT

The Oil Conservation Division ("OCD") and BTA Oil Producers LLC ("BTA") enter into this Stipulated Order & Settlement Agreement to resolve the civil compliance issues asserted in Case 14413. The parties mutually agree and bind themselves to the following:

1. OCD is the state agency charged with administration and enforcement of the Oil and Gas Act (hereinafter, "Act"), and the rules promulgated pursuant to that act.
2. Operator is a limited liability company that operates wells in New Mexico under OGRID 305316.
3. BTA posted \$50,000 surety bond 105E9046 through Travelers Indemnity Company to secure the plugging and abandonment of its wells. Travelers Indemnity Company was notified of the hearing before the examiner and did not enter an appearance in the case.

4. BTA is the operator of record of the Pardue C 8808 JVP #001 well, API 30-015-26341, located in Section 11, Township 23 South, Range 28 East in Eddy County, New Mexico (the well). The well is approximately 110 feet to the west of the Pecos River. Ground water at the well site occurs at approximately 41 feet below ground level.

5. The well is permitted as a salt water injection well. See Order No. R-9147-C (1991).

6. On October 19, 2007 an OCD inspector found an unpermitted, unlined pit at the well site. An overflow line carried produced water from the tank battery at the well site to the pit.

7. In Case No. 14413 the OCD alleges that BTA's use of the pit to dispose of produced water violates the following:

- **Order No. R-9147-C**, which provides that the operator shall take all necessary steps to ensure that the injected water is not permitted to escape onto the surface, requires the operator to take such steps as may be timely and necessary to correct failures and leakage, and requires the operator to conduct operations in accordance with OCD's rules on injection, including Rule 703. Rule 703 has since been re-numbered as 19.15.26.10 NMAC.
- **19.15.26.10.B NMAC** (formerly numbered Rule 703), which provides that "the operator of an injection project shall operate and maintain at all times the injection project, including injection wells, producing wells and related surface facilities, in such a manner as will confine the injected fluids to the interval or intervals approved and prevent surface damage or pollution resulting from leaks, breaks or spills."
- **19.15.34 NMAC**, which governs the disposition of produced water and other oilfield waste. Section 11 of Part 34 provides, in relevant part, that no person shall dispose of produced water or other oil field waste "on or below the surface of the ground; in a pit; or in a pond, lake, depression or watercourse" or "in another place or in a manner that may constitute a hazard to fresh water, public health, safety or the environment." Section 12 of Part 34 provides, in relevant part, that persons disposing of produced water shall dispose of the water "in a manner that does not constitute a hazard to fresh water, public health, safety or the environment..."

- **19.15.17 NMAC**, which governs pits. “Pit” is defined in 19.15.2.7.P (3) NMAC to include natural depressions. Section 8.A of Part 17 provides that a person shall not construct or use a pit except in accordance with a division-issued permit. Section 10’s siting requirements prohibit pits within 300 feet of a continuously flowing watercourse. Section 13 prohibits unlined permanent pits, and sets out closure requirements. The closure requirements provide that if a release has occurred at a pit, the operator must comply with the requirements of 19.15.29 NMAC.
- **19.15.29 NMAC**, which governs releases. Section 8 of Part 29 sets out the reporting requirements for releases, requiring the person operating or controlling either the release or the location of the release to notify the division of unauthorized release occurring during the storing, disposal, injection or transportation of produced water or oil field waste. Section 11 requires the responsible person to complete division-approved corrective action for releases that endanger public health or the environment, in accordance with a remediation plan or an abatement plan.

8. The OCD seeks an order requiring BTA to delineate contamination at the site, and remediate the contamination. The OCD requests that the order provide that the OCD may plug the well, remediate the site and forfeit the applicable financial assurance if BTA fails to complete the required corrective action, and requests that BTA be subject to 19.15.5.9 NMAC until it takes the required corrective action. The OCD cites the following authority for such an order:

- **19.15.29.11 NMAC**, which requires the responsible person to complete division-approved corrective action for releases that endanger public health or the environment, in accordance with a remediation plan or an abatement plan.
- **NMSA 1978, Section 70-2-14(B)**, which states if any of the requirements of the Act or the rules promulgated pursuant to the Act have not been complied with, the OCD, after notice and hearing, may order any well plugged and abandoned by the operator or surety or both in accordance with OCD rules and regulations, and forfeit the applicable financial assurance.
- **NMSA 1978, Section 70-2-12(B)**, which provides that “apart from any authority, express or implied, elsewhere given to or existing in the oil conservation division by virtue of the Oil and Gas Act or the statutes of this state,” the OCD “is authorized to make...orders for the purposes and with respect to” the subjects identified in that subsection, including:

“the disposition of water produced or used in connection with the drilling for or producing of oil or gas or both and to direct surface or subsurface disposal of the water...in a manner that will afford reasonable protection against contamination of fresh water supplies

designated by the state engineer" (NMSA 1978, Section 70-2-12(B)(15); and

"the disposition of nondomestic wastes resulting from the exploration, development, production or storage of crude oil or natural gas to protect public health and the environment" (NMSA 1978, Section 70-2-12(B)(21).

9. BTA agrees that the pit at the well is in violation of Order No. R-9147-C (1991), 19.115.26.10.B NMAC, 19.15.34 NMAC, 19.15.17 NMAC, and 19.15.29 NMAC.

10. BTA has plugged the wellbore of the well, and removed the tank battery.

11. BTA and the OCD agree that BTA will submit a remediation plan to investigate vadose zone and ground water contamination at the site of the pit and tank battery at the Pardue 8808 JV-P #001, and will remediate the contamination in accordance with an OCD-approved plan. To begin the process, BTA agrees to the following:

a. By February 25, 2010, BTA shall submit to the OCD's Environmental Bureau a plan to delineate the horizontal and vertical extent of the contamination at the site of the pit and tank battery, and characterize the impact of the produced water releases to the vadose zone, shallow perched aquifer, and the deeper regional aquifer. The OCD encourages BTA to work with the Environmental Bureau in drafting the plan. The plan shall include the following:

- BTA must propose an appropriate number of soil borings and monitor wells that will enable it to completely delineate the impact of the produced water releases to the vadose zone and to ground water.
- The vadose zone investigation must be comprehensive enough that BTA can use the data when removing the chloride-contaminated soil to approximately 20 feet below grade.
- BTA must collect and analyze soil and/or bedrock samples for benzene and total BTEX using 8021 B or 8260 B, TPH using EPA method 418.1, the GRO and DRO combined fractions using 8015 M and chlorides using method 300.1.
- If the GRO soil fraction exceeds 80 mg/kg, then BTA must also analyze for VOCs using method 8260.
- If the DRO soil fraction exceeds 200 mg/kg, then BTA must also analyze for SVOCs using method 8270.

- BTA's ground water investigation must establish background ground water concentrations for chlorides and must delineate the produced water contamination in both the perched aquifer and the deeper regional aquifer.
- BTA must install a sufficient number of monitor wells screened across the shallow perched aquifer with no more than 15 feet of screen (five feet above the water level with 10 feet below) to delineate the ground water contamination.
- BTA must also propose a location for a monitor well to determine whether the deeper regional aquifer has been contaminated.
- BTA must properly develop all monitor wells before sampling the ground water. Purged ground water must be properly collected and BTA must document how it intends to dispose of the purged water.
- BTA must collect and analyze ground water samples for benzene and total BTEX using 8021 B or 8260 B, the GRO and DRO combined fractions using 8015 M, and chlorides using method 300.1.

b. This case shall be continued until the March 4, 2010 docket. At that time the issue to be determined will be the adequacy of the delineation plan, and the next step to be taken in the delineation and remediation process. If the parties are able to enter into an amendment to this stipulated order specifying the next step(s), they may request that the case be continued until a future docket.

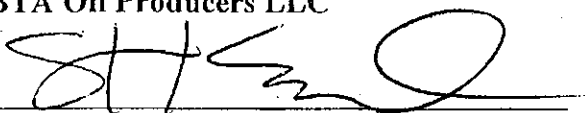
c. If BTA fails to meet any of the deadlines set in this order, or by any amendment to this order, the OCD may move for an order authorizing it to remediate the site and forfeit the applicable financial assurance.

d. BTA shall be in violation of 19.15.5.9 NMAC until it has submitted an acceptable delineation plan, received OCD approval of a remediation plan, completed soil remediation and begun remediation of water contamination. If the OCD remediates the site, BTA shall be in violation of 19.15.5.9 NMAC until it demonstrates that it has reimbursed the OCD for its expenses in excess of any amount recovered from the applicable financial assurance.

e. Either BTA or the OCD may move to re-open Case 14413 to request amendments to this order.


12. Nothing in this Order relieves BTA of its liability should it fail to investigate and remediate contamination that poses a threat to ground water, surface water, human health or the environment. In addition, nothing in this Order relieves BTA of its responsibility for compliance with any other federal, state or local laws and/or regulations.

BTA Oil Producers LLC


BTA Oil Producers LLC

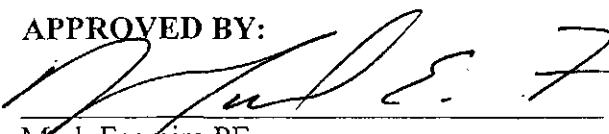
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Date

Oil Conservation Division


Daniel Sanchez,
Compliance and Enforcement Manager
Oil Conservation Division

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Date

APPROVED BY:


Mark Fesmire PE
Director
Oil Conservation Division

2/5/10
Date