

**BW - \_\_\_\_\_ 008 \_\_\_\_\_**

**NOTICE OF  
VIOLATIONS  
(NOVs)**

## Chavez, Carl J, EMNRD

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**From:** Altomare, Mikal, EMNRD  
**Sent:** Wednesday, April 28, 2010 10:06 AM  
**To:** pieter@bergsteinerenterprises.com; zanejvaughn@gmail.com  
**Cc:** Chavez, Carl J, EMNRD; Griswold, Jim, EMNRD; VonGonten, Glenn, EMNRD; Macquesten, Gail, EMNRD  
**Subject:** Salty Dog Compliance Meeting 4/27/10 Follow Up [regarding Discharge Plan BW008]  
**Importance:** High

Gentlemen –

Thank you again for meeting with us yesterday regarding the Notice of Violation issued on April 1, 2010 relating to your Discharge Plan BW-008 ( currently under review for renewal). The the most recently issued permit for this site requires quarterly reporting, a condition which has not been met by your company. As we discussed, since the language of the newer permits being issued by the oCD now requires only annual reporting, the OCD is now only asking you submit a 2009 annual report with as much back-data as is available given the circumstances of your taking over operatorship of this facility. In the NOV, you will recall that we noted that the deadline for this annual report submission is June 30, 2010, and that this is because we need this report for purposes of preparing our agency report to the EPA for the UIC program.

We were very pleased to discover that you had come to the meeting not only prepared to discuss the current status of the well facility and possible paths forward, but that you came with a 2009 Annual Report already prepared and ready to provide to us for review. Jim Griswold of the OCD Environmental Bureau is in the process of reviewing that report and will advise if it appears that anything additional is required pursuant to the WQCC Regulations, WQA or the terms and conditions of the discharge permit – or that any clarification or additional information might be helpful in his assessment regarding the current status of the well for purposes of determining feasibility of renewal of the permit. We noted during the meeting that the Annual Report appeared to be missing an Area of Review (AOR) summary, and you have indicated that you will be preparing one to be inserted into the Annual Report.

Also discussed were two other key issues regarding this well/discharge facility: (1) outstanding remediation work to be completed and (2) the currently pending application for renewal of the discharge permit. Your consultant submitted a report on December 31, 2009 providing 4 different options for completing the remediation at the site. Our understanding is that the option that you prefer is that which would allow you to pump and use the water from the remediation for brine (as opposed to any of the other three, more expensive options ). However, as you are aware, that option is only viable if the well is determined to be a candidate for permit renewal. The OCD is currently considering the request for renewal of the application, but has indicated that it has concerns regarding this well's continued ability to operate safely, and that due to the fact that we are missing information in various parts of the record for this well, it is a difficult determination to make. Jim Griswold discussed with you the issues and concerns he has with the data reflected on the sonar log that was run most recently on the well, and noted that he does not feel that the numbers are consistent with the production/injection data for this well and that therefore the sonar test does not appear to provide an accurate picture of the well. Therefore, we have impressed upon you the importance of providing us with any and all information that you have available that you feel will assist the OCD in making this determination, and in completing its record for this well. As we stated, it is not our intention to stop brine production in New Mexico; however, we have an obligation to ensure that approval or renewal of a permit is appropriate and will not pose an undue risk to groundwater, human health, property or the environment based on the data available.

As we mentioned, once the environmental bureau has completed its review of the annual report, other reports or documents you submit, and any other information it is able to obtain regarding the status of this well and makes a determination regarding whether or not to renew the permit, there are two possible paths:

(1) if the OCD determines that it is feasible to renew the permit for a particular period of time, a proposed draft permit will be prepared and provided to you. Because of the circumstances of this well, the permit may have additional conditions (such as surface subsidence monitoring, etc.), as we discussed. If the permit is renewed,

then you may proceed with the preferred option for remediation under the recommendations of your consultant, Stephens.

(2) if the OCD determines that there are too many concerns regarding this well due to its age, size, instability, etc. to allow renewal of the permit, the request for renewal will be denied, and the OCD will work with you regarding the requirements for shutting the well in and for plugging and abandonment of the well. As we noted, there may be continued requirements for monitoring of the site after plugging. If the permit is not renewed, you will have to choose one of the remaining three options to complete the remediation. The OCD will then work with you to get an Abatement Plan in place under the WQCC to effect the remediation under that, since there will no longer be an active discharge permit under which to be working.

At this point, Jim Griswold is beginning his review of your annual report submitted yesterday, and we will await the submission of the additional AOR summary to go with it. Please feel free to contact us should you have any questions or concerns, or if anything changes with regard to the circumstances of this site or your company.

You have advised that James Millett, who was our primary point of contact and the person on site at the facility, is no longer in your employ. However, you have indicated that you are in the process of interviewing and selecting a new "hands on" person to be our primary contact for this project/facility. Please keep us apprised of who you select so that we can keep lines of communication open and keep things moving forward. Also, please note that any changes to operator contact information/operator administrator assignment also need to be updated (by you/the operator) on the OCD online system. Dorothy Phillips (505-476-3461) in our office can assist you with this if you have any questions.

Finally, as I mentioned in our meeting, "Salty Dog, Inc." is still not a properly registered company in the state of New Mexico, which is an issue I had previously brought to your attention in May of 2008. I noted that if our agency issues any permit, it must be issued to the correct entity, which at this point is actually "Pieter Bergstein *dba* 'Salty Dog, Inc.'" You have indicated that it is your intention to register Salty Dog Inc. properly, and that you would be contacting the PRC immediately to begin that process. I would appreciate you keeping me updated regarding this process as well so that we can keep our records updated.

Again, thank you for coming in yesterday. I think that as is apparent from our meeting yesterday, if we can keep the lines of communication open, we should be able to move things forward in a much smoother fashion, and without concerns regarding issues of compliance.

Please let me know if I have mis-stated anything from yesterday's meeting, and do not hesitate to let us know if you have any questions.

Sincerely,  
Mikal Altomare



Mikal M. Altomare

Assistant General Counsel  
Oil Conservation Division  
Energy, Minerals & Natural Resources Department  
1220 South St. Francis Drive  
Santa Fe, NM 87505  
Tel 505.476.3480 ~ Fax 505.476.3462  
[mikal.altomare@state.nm.us](mailto:mikal.altomare@state.nm.us)

## Chavez, Carl J, EMNRD

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**Subject:** Salty Dog NOV Meeting (BW-008)  
**Location:** OCD Conf. Rm.

**Start:** Thu 4/22/2010 10:00 AM  
**End:** Thu 4/22/2010 12:00 PM  
**Show Time As:** Tentative

**Recurrence:** (none)

**Meeting Status:** Not yet responded

**Organizer:** Chavez, Carl J, EMNRD  
**Required Attendees:** Altomare, Mikal, EMNRD; VonGonten, Glenn, EMNRD; Griswold, Jim, EMNRD; Chavez, Carl J, EMNRD

## *James Millett*

Director of Assets and Drilling  
PAB Services Inc.  
806-741-1080 Work  
806-241-7405 Cell  
806-741-1301 FAX  
PO Box 2724  
Lubbock, Tx 79408

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**From:** Chavez, Carl J, EMNRD [<mailto:CarlJ.Chavez@state.nm.us>]  
**Sent:** Thursday, April 08, 2010 10:58 AM  
**To:** James Millett  
**Cc:** VonGonten, Glenn, EMNRD; Griswold, Jim, EMNRD; Altomare, Mikal, EMNRD  
**Subject:** April 1, 2010 NOV Letter & Meeting Schedule (BW-008)

James:

This e-mail serves to document our telephone call this morning regarding the NOV meeting in the letter.

You agreed to contact OCD by COB on Friday, April 16, 2010 with a proposed date and time for the above subject meeting.

Please contact me if you have questions. Thank you.

Carl J. Chavez, CHMM  
New Mexico Energy, Minerals & Natural Resources Dept.  
Oil Conservation Division, Environmental Bureau  
1220 South St. Francis Dr., Santa Fe, New Mexico 87505  
Office: (505) 476-3490  
Fax: (505) 476-3462  
E-mail: [CarlJ.Chavez@state.nm.us](mailto:CarlJ.Chavez@state.nm.us)  
Website: <http://www.emnrd.state.nm.us/oecd/index.htm>  
(Pollution Prevention Guidance is under "Publications")

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New Mexico Energy, Minerals & Natural Resources Dept.  
Oil Conservation Division, Environmental Bureau  
1220 South St. Francis Dr., Santa Fe, New Mexico 87505  
Office: (505) 476-3490  
Fax: (505) 476-3462  
E-mail: [CarlJ.Chavez@state.nm.us](mailto:CarlJ.Chavez@state.nm.us)  
Website: <http://www.emnrd.state.nm.us/ocd/index.htm>  
(Pollution Prevention Guidance is under "Publications")

*... an inquiry*

# New Mexico Energy, Minerals and Natural Resources Department

**Bill Richardson**

Governor

Jon Goldstein  
Cabinet Secretary

Jim Noel  
Deputy Cabinet Secretary

Mark Fesmire  
Division Director  
Oil Conservation Division



## NOTICE OF VIOLATION

April 1, 2010

Mr. Pieter Bergstein  
Pieter Bergstein d/b/a "Salty Dog, Inc."  
PO Box 2724  
Lubbock, Texas 79408

VIA CERTIFIED MAIL

RETURN RECEIPT NO:

7001 1940 0004 7923 0766

Ernest L. Padilla  
Padilla Law Firm  
1512 S Saint Francis Dr.  
Santa Fe, NM 87505

**Re: Discharge Permit Notice of Violations (BW-008)  
Pieter Bergstein d/b/a "Salty Dog, Inc." Class III Brine Production Well  
Brine Supply Well No. 1, (API No. 30-025-26307)  
1980 FSL and 1980 FEL Unit Letter J in Section 5 of T19S, R36E  
Lea County, New Mexico**

Dear Mr. Bergstein:

The New Mexico Oil Conservation Division (OCD) has not received an Annual Report for 2009 nor have we received the other reporting documentation required by the provisions of the discharge permit for the Pieter Bergstein d/b/a "Salty Dog, Inc." (hereafter "SDI") Brine Supply Well No. 1 (BW-008). The discharge permit, issued under the New Mexico Underground Injection Control (UIC) Program, established a deadline of January 31, 2010 for SDI to submit an Annual Report to the OCD. Because SDI has failed to meet this deadline, the OCD has determined that SDI is in violation of Water Quality Control Commission (WQCC) Regulations 20.6.2.5208 NMAC and Federal Underground Injection Control Regulations § 40 CFR 144 & 146, et seq.

New Mexico WQCC 20.6.2.1220 NMAC provides that when an operator violates the terms of a discharge permit issued pursuant to the Water Quality Act, the operator may be subject to enforcement actions including but not limited to a compliance order, penalty assessment or action filed in District Court. You will recall that you were advised via letter of October 7, 2009 from OCD Senior Hydrologist Jim Griswold that the OCD had determined SDI was noncompliant with regard to filing required reports for this facility. In that correspondence Mr. Griswold specifically informed you that failing to provide the required information would result in negative consequences including but not limited to a determination of non-compliance, disapproval of your pending renewal application and possible suspension of permits.

**By this Notice, the OCD is hereby advising SDI it is required to submit the delinquent Annual Report for 2009 and any other reporting required by the terms and conditions of discharge permit BW-008 to the OCD on or before June 30, 2010.** Furthermore, SDI is advised that the OCD is required to report the violations to the EPA under the Federal Fiscal Year Quarter 2 (January –March) period.



Pieter Bergstein d/b/a "Salty Dog, Inc."

April 1, 2010

Page 2

Failure to comply with the June 30, 2010 deadline referenced above will result in escalated enforcement under the Federal "Significant non-Compliance" designation. If the SID does not satisfy the reporting requirements by the June 30, 2010 date, it shall immediately shut-in the referenced facility and shall be required to submit a C-103 to the OCD for plugging and abandoning the well no later than September 30, 2010.

Please contact Carl Chavez of my staff at (505) 476-3490 or by email at [carl.chavez@state.nm.us](mailto:carl.chavez@state.nm.us) within 14 days of receipt of this NOV to arrange for a compliance and enforcement meeting at the OCD office in Santa Fe, New Mexico. In addition to SDI's noncompliance with the terms of its discharge permit, our records indicate this facility is currently under review for renewal of its discharge permit. It is therefore imperative that you promptly make arrangements to meet with us if you wish to not only resolve the compliance issue, but also wish to continue to pursue the renewal of your discharge permit for this facility. If SDI fails to contact the OCD within 14 days of receipt as indicated, the OCD will assume SDI no longer wishes to seek renewal of the discharge permit for the Brine Supply No. 1, designated BW-008.

Sincerely,



Daniel Sanchez, Compliance & Enforcement Manager and UIC Director

DS/cc

xc: OCD District I Office, Hobbs  
Mikal Altomare, Assistant General Counsel

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Mark Fesmire  
Division Director  
Oil Conservation Division



E OF VIOLATION

7001 1940 0004 7923 0766

Sent To  
Mr. Pieter Bergstein  
Street, Apt. No.,  
or PO Box No. P.O. Box 2724 79408  
City, State, ZIP+4  
Lubbock, Texas  
PS Form 3800, January 2001  
See Reverse for Instructions

Pieter Bergstein d/b/a "Salty Dog, Inc."  
PO Box 2724  
Lubbock, Texas 79408  
**VIA CERTIFIED MAIL**  
**RETURN RECEIPT NO:**  
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Oil Conservation Division \* 1220 South St. Francis Drive  
\* Santa Fe, New Mexico 87505

\* Phone: (505) 476-3440 \* Fax (505) 476-3462\* <http://www.emnrd.state.nm.us>



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