

**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. 13142**

**APPLICATION OF THE NEW MEXICO OIL CONSERVATION  
DIVISION FOR AN ORDER REQUIRING MARALO, LLC TO  
REMEDiate HYDROCARBON CONTAMINATION AT AN  
ABANDONED WELL AND BATTERY SITE,  
LEA COUNTY, NEW MEXICO**

**PRE-HEARING STATEMENT**

This pre-hearing statement was submitted by Maralo, LLC as required by the New Mexico Oil Conservation Division.

**APPEARANCES OF THE PARTIES**

**APPLICANT**

Oil Conservation Division

**OPPONENT**

Maralo, LLC  
P. O. Box 832  
Midland, Texas 79702

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### STATEMENT OF THE CASE

#### OPPONENT:

The Oil Conservation District lacks authority to require Maralo, LLC to conduct the proposed remediation activities because it is impermissibly applying rules retroactively. For example, the Oil Conservation District is attempting to punish Maralo, LLC for conduct that was legal at the time it occurred, by using rules outlawing that conduct, which were adopted after the fact. This violates Maralo, LLC's constitutional due process rights, and violates the Constitution's Ex Post Facto provision. Maralo, LLC denies that the commission has jurisdiction or legislative authority to order Maralo, LLC to remediate property that was abandoned in 1988. Maralo, LLC also denies that it is otherwise liable for the charges filed against it.

### PROPOSED EVIDENCE

#### OPPONENT

##### WITNESSES

##### EST. TIME

##### EST. EXHIBITS

Philip Smith

30 minutes

Well File Excerpts  
Correspondence with OCD

Bill Hunt

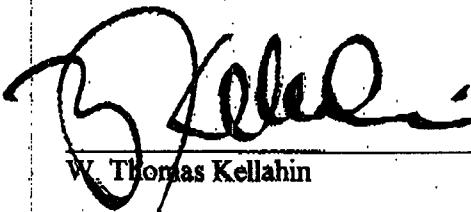
45 minutes

Well File Excerpts

### PROCEDURAL MATTERS

Maralo's motion to dismiss to be filed.

Maralo's requests that the hearing of this case be continued to the October 9, 2003 docket because one of Maralo's witnesses is not available for the September 18, 2003 docket and Maralo's Texas attorney has a previously scheduled hearing and is not available for the September 18, 2003 docket.



W. Thomas Kellahin