

**From:** Patterson, Heather, EMNRD  
**To:** "Bob Asher"  
**Cc:** Katie Parker; Bratcher, Mike, EMNRD; Billings, Bradford, EMNRD  
**Subject:** RE: Red Bluff Draw Work Plan  
**Date:** Wednesday, September 30, 2015 9:39:00 AM

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Mr. Asher,

You are absolutely correct in that I should not be using part 17 in my justification, even if it was simply as a definition. The Rule I should use is part 30. The objective of part 30 states:

19.15.30.6

To abate pollution of subsurface water so that ground water of the state that has a background concentration of 10,000 mg/l or less TDS is either remediated or protected for use as domestic, industrial and agricultural water supply, and to remediate or protect those segments of surface waters that are gaining because of subsurface-water inflow for uses designated in the water quality standards for interstate and intrastate surface waters in New Mexico, 20.6.4 NMAC; and abate surface-water pollution so that surface waters of the state are remediated or protected for designated or attainable uses as defined in the water quality standards for interstate and intrastate surface waters in New Mexico, 20.6.4 NMAC.

20.6.4 defines surface waters (in part):

20.6.4.7.S(5)

**"Surface water(s) of the state"** means all surface waters situated wholly or partly within or bordering upon the state, including lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, reservoirs or natural ponds. Surface waters of the state also means all tributaries of such waters, including adjacent wetlands, any manmade bodies of water that were originally created in surface waters of the state or resulted in the impoundment of surface waters of the state, and any "waters of the United States" as defined under the Clean Water Act that are not included in the preceding description.

In the interest of consistency, I would like to propose a compromise and go with a site ranking of 20. All the other players in the Red Bluff project will also use a site ranking of 20. This will not alter your course of action in the approved work plan

Thank you,

Heather Patterson  
Environmental Specialist  
NMOCD District II  
Office (575)748-1283 ext.101  
Cell (575)703-0228

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**From:** Bob Asher [mailto:BobA@yatespetroleum.com]  
**Sent:** Monday, September 28, 2015 11:45 AM  
**To:** Patterson, Heather, EMNRD  
**Cc:** Katie Parker; Bratcher, Mike, EMNRD; Billings, Bradford, EMNRD  
**Subject:** RE: Red Bluff Draw Work Plan

Ms. Patterson,

Your usage of the Pit Rule, 19.15.17.7, Definitions:

P. "Significant watercourse" means a watercourse with a defined bed and bank either named or identified by a dashed blue line on a USGS 7.5 minute quadrangle map or the next lower order tributary with a defined bed and bank of such watercourse.

Yates' questions then are:

How does this definition apply to the current work plan when Yates is not constructing a pit, closed-loop system, below-grade tank and or sumps?

When the USGS Topographic Map Symbols (Rivers, Lakes and Canals) shows a 'dashed blue line' as a 'Intermittent stream' and the USGS New Mexico Water Glossary defines an Intermittent Stream as a stream that ceases to flow occasionally or seasonally because evaporation and leakage to ground water exceed the available water supply. Where as in the Guidelines for Remediation of Leaks, Spills and Releases (August 13, 1993), III. Site Assessment, A. General Site Characteristics, 3. Distance To Nearest Surface Water Body, a perennial river is defined as a stream that flows continuously. (USGS New Mexico: Water Glossary). A intermittent stream would not fall under the General Site Characteristics, Distance To Nearest Surface Water Body of the Guidelines?

Will the NMOCD allow Yates to utilize Table II of the Pit Rule for closure criteria for burial trenches and waste left in place in temporary pits for releases since this current work plan is for remediation of a release if the NMOCD is using definitions from the Pit Rule?

Why is the NMOCD referring to the Pit Rule, when Yates has asked in the past to utilize the Pit Rule for releases, the NMOCD will not allow use of the Pit Rule for releases?

How is the 'Significant watercourse' definition applicable to the site ranking of '30' when the definition is part of the Pit Rule and "Significant watercourse' is not within the General Site Characteristics, for the site ranking to be considered 30 by the OCD.

Yates Petroleum Corporation appreciates your responses to our questions as we seek to understand OCD's position and justification of recent requirements.

Thank you.

**Robert Asher**

**Yates Petroleum Corporation**

**NM Environmental Regulatory Supervisor**

575-748-4217 (O)

[boba@yatespetroleum.com](mailto:boba@yatespetroleum.com)

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**From:** Patterson, Heather, EMNRD [<mailto:Heather.Patterson@state.nm.us>]  
**Sent:** Monday, September 28, 2015 7:31 AM  
**To:** Bob Asher  
**Cc:** Katie Parker; Bratcher, Mike, EMNRD; Billings, Bradford, EMNRD  
**Subject:** RE: Red Bluff Draw Work Plan

Bob,

The definition can be found in part 17:

“A significant watercourse is a watercourse with a defined bed and bank either named or identified by a dashed blue line on a USGS 7.5 minute quadrangle map or the next lower order tributary with a defined bed and bank of such watercourse.”

Heather Patterson  
Environmental Specialist  
NMOCD District II  
Office (575)748-1283 ext.101  
Cell (575)703-0228

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**From:** Bob Asher [<mailto:BobA@yatespetroleum.com>]  
**Sent:** Thursday, September 24, 2015 3:29 PM  
**To:** Patterson, Heather, EMNRD  
**Cc:** Katie Parker; Bratcher, Mike, EMNRD; Billings, Bradford, EMNRD  
**Subject:** RE: Red Bluff Draw Work Plan

Ms. Patterson,

Yates would like to ask how it was determined that the OCD considered the site ranking to be a 30 and what the OCD standards were that considered the draw to be a significant water course?

Thank you.

**Robert Asher**  
**Yates Petroleum Corporation**  
**NM Environmental Regulatory Supervisor**  
575-748-4217 (O)  
[boba@yatespetroleum.com](mailto:boba@yatespetroleum.com)

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**From:** Patterson, Heather, EMNRD [<mailto:Heather.Patterson@state.nm.us>]  
**Sent:** Tuesday, September 22, 2015 1:17 PM  
**To:** Bob Asher  
**Cc:** Katie Parker; Bratcher, Mike, EMNRD; Billings, Bradford, EMNRD  
**Subject:** RE: Red Bluff Draw Work Plan

RE: Yates \* Cigarillo SWD System/Red Bluff Draw \* 30-015-36913 \* 2RP-2580

Mr. Asher,

Your proposed work plan is approved with the following stipulations:

- The site ranking will be considered 30 by the OCD as Red Bluff Draw has been deemed a significant water course by OCD standards;
- In the event that the Micro Blaze application is ineffective, manual excavation of contaminated plant material may still be necessary as outlined in the GL Environmental remediation plan;
- Once excavation is completed, the draw is to be returned to as close to its pre-release state as possible.

OCD approval does not relieve the operator of liability should their operations fail to adequately investigate and remediate contamination that may pose a threat to ground water, surface water, human health or the environment. In addition, OCD approval does not relieve the operator of responsibility for compliance with any other federal, state, local laws and/or regulations.

If you have any questions or concerns, and for notification, please contact me.

Heather Patterson  
Environmental Specialist  
NMOCD District II  
Office (575)748-1283 ext.101  
Cell (575)703-0228

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**From:** Bob Asher [<mailto:BobA@yatespetroleum.com>]

**Sent:** Tuesday, September 15, 2015 3:15 PM

**To:** Bratcher, Mike, EMNRD; Patterson, Heather, EMNRD; Billings, Bradford, EMNRD

**Cc:** Katie Parker

**Subject:** Red Bluff Draw Work Plan

I've included Yates' analytical results of water and soil samples within the draw area.

Thank you.

**Robert Asher**  
**NM Environmental Regulatory Supervisor**  
**Yates Petroleum Corporation**  
105 S. 4<sup>th</sup> Street  
Artesia, NM 88210  
575-748-4217 (Office)  
575-365-4021 (Cell)

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