

From: [Pruett, Maria, EMNRD](#)
To: ["Chase Settle"](#)
Cc: [Bratcher, Mike, EMNRD](#); [Bob Asher](#); [Yvette Moore](#); [Katie Jamison](#)
Subject: RE: 2RP-4422 Remediation Plan Denial : Kleeman PB Battery Work Plan
Date: Tuesday, September 11, 2018 4:02:00 PM
Attachments: [2RP-4422 OCD Denial Confirmation Response.pdf](#)
[image001.png](#)

Hello Mr. Settle,

Thank you for your response to my previous email regarding denial of the Remediation Plan for 2RP-4422. This communication is to provide further clarity on the denial decision. NMOCD is tasked with, among other things, "*to protect public health and the environment*" as well as the, "*protection against contamination of fresh water supplies*" (70-2-12, NMSA). Fresh water includes ground water containing, "*10,000 mg/l or less of TDS*" (19.15.2.7, NMAC). Ground water fluctuates seasonally and across years due to naturally occurring changes in precipitation. Ground water can also fluctuate across years due to atypical precipitation events such as drought. Because NMOCD seeks to avoid/reduce fresh water contamination the determination of distances to fresh water includes measurements from, "*ordinary high-water mark(s)*" (19.15.29.12, NMAC) to capture these natural fluctuations. This allows NMOCD to make an accurate determination of the risk of contamination.

On September 12, 2017 there was a spill of 27 bbls of oil and 110 bbls of produced water at location: 32.71563, -104.35731. There are eight USGS ground water wells surrounding the spill site, including USGS 324249104220601 (601) which was chosen by EOG Y Resources (EOG Y) as representative of DTW. Well 601 is pinned and highlighted in blue in the following attachments. Each of these wells including 601 show cyclical if not continuous DTW of less than 51' which is the Table 1 19.15.29.12 NMAC guideline cutoff. The last measured DTW for 601 in 2005 shows 50.72' and 7 of the 8 have last measured DTW below 51' which makes the remediation criteria for this site as follows: Chlorides: 600 mg/kg, TPH: 100 mg/kg, BTEX 50 mg/kg, and Benzene: 10 mg/kg. These shallow depths show a high risk of ground water contamination if spill fluids were to remain in place.

Regarding remediating only the top 4', prior to the revision of 19.15.29 NMAC (New Rule) this was a common activity. The New Rule now states that responsible parties must *remediate impacted areas to Table 1 19.15.29.12 NMAC*. As this is now Rule, NMOCD will abide by this standard.

There are several options moving forward for EOG Y. These options include a revision of the current Remediation Plan, and submission of a hearing application. Hearing applications must be submitted within 30 days of denial therefore NMOCD should receive this application by October 3, 2018 (19.15.29.12, NMAC). Please let me know how EOG Y would like to proceed. NMOCD will make every effort to work with your team with either choice.

Best Regards,

Maria Pruett

Environmental Specialist
N.M. Oil Conservation Division
District 2
811 S. 1st Street
Artesia, NM 88210
Desk: 575 748-1283 X 101
Cell: 575 840-5963
Fax: 575748-9720

From: Chase Settle <Chase_Settle@eogresources.com>
Sent: Wednesday, September 5, 2018 2:00 PM
To: Pruett, Maria, EMNRD <Maria.Pruett@state.nm.us>
Cc: Bratcher, Mike, EMNRD <mike.bratcher@state.nm.us>; Bob Asher <Bob_Asher@eogresources.com>; Yvette Moore <Yvette_Moore@eogresources.com>; Katie Jamison <Katie_Jamison@eogresources.com>
Subject: RE: 2RP-4422 Remediation Plan Denial : Kleeman PB Battery Work Plan

Ms. Pruett,

EOG Y Resources, Inc. respectfully disagrees with the depth to groundwater conclusion at which NMOCD has arrived using the well data from the 3 USGS wells in closest proximity to the site. The data that NMOCD has used to establish that groundwater is less than 50' is not the most recent data available, therefore cannot be the most accurate measurement of the current depth to protectable groundwater. Well 1 (324249104213301) hasn't been measured since 1963 (55 years ago), Well 2 (324238104220401) hasn't been measured since 1914 (108 years ago), and the data for Well 3 (324249104220601) hasn't been to a depth of 24' since 1958 (60 years ago). The only accurate well information at this time would be the wells listed by NMOSE, which were drilled in 1983 & 1984 that all show water depth to be 50' or greater, and USGS Well 3 (324249104220601). Even more accurately though, Well 3 has measurements from 1999 to 2005 that lists the agency that physically conducted each measurement whereas all other measurements do not list the agency conducting the test and therefore cannot be substantiated for accuracy. The agencies that are listed, determined that groundwater was greater than 50' with all measurements. And it should also be noted that all of these measurements have occurred prior to the state of New Mexico pumping groundwater to add to the Pecos River in an effort to repay Texas for the water it diverted in previous years. This has undoubtedly led to a greater depth to the water table with the millions of gallons of water pumped out of the aquifer. EOG does not think it is accurate to use water well measurements from over 50 years ago to demonstrate current depth to groundwater with the population increases that have occurred, the drought events that have occurred, the increased use of water by the oil and gas sector, and the fact that the state of New Mexico is now pumping groundwater into the Pecos River to repay Texas for water it owes.

Also, regardless of the depth to groundwater, the scope of work presented with the work plan does adhere to the remediation section of the Spill Rule, 19.15.29.12.(C).(2)-(3). Excavating and disposing of the top 4' of impacted material, installing a 20 ml synthetic liner, and backfilling with uncontaminated, clean soil meets the "other applicable remediation standard". This has shown to be an applicable remediation standard for chloride impacted sites by NMOCD (19.15.17 NMAC), therefore it meets the "other applicable remediation standard" allowed in the Spill Rule (19.15.29.12 NMAC). This also serves to restore the surface, meeting other requirements of the Spill Rule (19.15.329.13 NMAC).

EOG respectfully requests approval of the work plan as originally submitted.

Thank you,

Chase Settle, M.S.
Rep Safety & Environmental II

EOG Resources

105 S. 4th Street
Artesia, NM 88210
575-748-4171 (Office)
575-703-6537 (Cell)



From: Pruett, Maria, EMNRD [<mailto:Maria.Pruett@state.nm.us>]
Sent: Tuesday, September 4, 2018 4:25 PM
To: Chase Settle <Chase_Settle@eogresources.com>
Cc: Bratcher, Mike, EMNRD <mike.bratcher@state.nm.us>; Bob Asher <Bob_Asher@eogresources.com>; Yvette Moore <Yvette_Moore@eogresources.com>
Subject: 2RP-4422 Remediation Plan Denial : Kleeman PB Battery Work Plan

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Good Afternoon Mr. Settle,

Thank you for speaking with me today. As we discussed, OCD has received your Remediation Plan for 2RP-4422, all of the sections are present and the lab data and maps look great!

At this time OCD is denying this Remediation Plan for the following reasons:

1. OCD has found DTW to be less than 50' per 3 USGS wells in closest proximity to the site (note there are 5 additional wells in "cardinal" directions further out that have similar DTW):
 - a. 44' DTW 0.18 miles at well 324249104213301,
 - b. 0' (Artesian) DTW 0.71 miles at well 324238104220401,
 - c. 24' DTW 0.68 miles at well 324249104220601
2. In sections 19.15.29.12.(C).(2) – (3) of the New Spill Rule, responsible parties must restore and remediate impacted areas per Table 1 of 19.15.29.12 NMAC.

Please let me know if you have additional questions or would like to schedule a time to discuss options moving forward.

Best Regards,

Maria Pruett

Environmental Specialist
N.M. Oil Conservation Division
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811 S. 1st Street
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From: Chase Settle <Chase_Settle@eogresources.com>
Sent: Wednesday, August 29, 2018 2:45 PM
To: Pruett, Maria, EMNRD <Maria.Pruett@state.nm.us>
Cc: Bratcher, Mike, EMNRD <mike.bratcher@state.nm.us>; Bob Asher <Bob_Asher@eogresources.com>; Yvette Moore <Yvette_Moore@eogresources.com>
Subject: RE: Kleeman PB Battery Work Plan 2RP-4422

Ms. Pruett,

Please find attached the Remediation Form for the referenced location.

Thank you,

Chase Settle, M.S.
Rep Safety & Environmental II

EOG Resources
105 S. 4th Street
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575-703-6537 (Cell)



From: Pruett, Maria, EMNRD [mailto:Maria.Pruett@state.nm.us]
Sent: Tuesday, August 28, 2018 5:30 PM
To: Chase Settle <Chase_Settle@eogresources.com>; Bratcher, Mike, EMNRD

<mike.bratcher@state.nm.us>

Cc: Bob Asher <Bob_Asher@eogresources.com>; Yvette Moore

<Yvette_Moore@eogresources.com>

Subject: RE: Kleeman PB Battery Work Plan 2RP-4422

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Hello Mr. Settle,

Please include the Remediation Plan section of the updated C-141 for this submittal. Below are links to the New Rule and updated C-141.

New Spill Rule:

<http://www.emnrd.state.nm.us/OCD/documents/NaturalResourcesWildlifeOilandGasReleases.pdf>

C-141: <http://www.emnrd.state.nm.us/OCD/documents/C141.pdf>

Best Regards,

Maria Pruett

Environmental Specialist
N.M. Oil Conservation Division
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From: Chase Settle <Chase_Settle@eogresources.com>

Sent: Tuesday, August 21, 2018 3:20 PM

To: Bratcher, Mike, EMNRD <mike.bratcher@state.nm.us>; Pruett, Maria, EMNRD <Maria.Pruett@state.nm.us>

Cc: Bob Asher <Bob_Asher@eogresources.com>; Yvette Moore <Yvette_Moore@eogresources.com>

Subject: Kleeman PB Battery Work Plan 2RP-4422

Please find attached the work plan for the below listed location.

Kleeman PB Battery
30-015-00253

Section 26, T18S-R26E
Eddy County, New Mexico
2RP-4422

Thank you,

Chase Settle, M.S.

Rep Safety & Environmental II

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