

Venegas, Victoria, EMNRD

From: William Bryan Burns <wburns@burnettoil.com>
Sent: Friday, April 24, 2020 12:29 PM
To: Venegas, Victoria, EMNRD
Subject: [EXT] RE: NAB1909539458 GISSLER B 3-3 TANK BATTERY @ FAB1909538882 2RP-5333

Thank you I was not expecting such a quick response. I was working on the Site Map as I got it back. I think the gray scaling the photo and leave the points in color really helps to make them more visible. I will start doing that. I haven't figured out how to add circles to the Site Map on Google Earth but I'll figure it out.

I include the analytical table with the lab data on it which gives a easier visual representation of how the numbers are dropping. I will add all of the lab reports to the file and clarify these points as you have suggested. Sometimes I feel like I'm too wordy but I guess I wasn't wordy enough. I read through the spill rule this morning and all I could find was the 90 day timeline from approval of the remediation plan. I thought I had requested a variance but it was probably how I worded it. I will make sure to specifically request that in my re-submission.

Thank you for the direction.

From: Venegas, Victoria, EMNRD <Victoria.Venegas@state.nm.us>
Sent: Friday, April 24, 2020 12:14 PM
To: William Bryan Burns <wburns@burnettoil.com>; Hamlet, Robert, EMNRD <Robert.Hamlet@state.nm.us>; Bratcher, Mike, EMNRD <mike.bratcher@state.nm.us>
Cc: Bratcher, Mike, EMNRD <mike.bratcher@state.nm.us>
Subject: [EXTERNAL] NAB1909539458 GISSLER B 3-3 TANK BATTERY @ FAB1909538882 2RP-5333

NAB1909539458 GISSLER B 3-3 TANK BATTERY @ FAB1909538882 2RP-5333

Hi Mr. Burns,
Please see the answer below -in blue-.
Thank you

Victoria Venegas
State of New Mexico
Energy, Minerals, and Natural Resources
Oil Conservation Division
811 S. First St., Artesia NM 88210
(575) 748-1283
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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 groundwater, 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, or local laws and/or regulations.

From: William Bryan Burns <wburns@burnettoil.com>
Sent: Friday, April 24, 2020 9:33 AM

To: Venegas, Victoria, EMNRD <Victoria.Venegas@state.nm.us>; Hamlet, Robert, EMNRD <Robert.Hamlet@state.nm.us>; Bratcher, Mike, EMNRD <mike.bratcher@state.nm.us>; Eads, Cristina, EMNRD <Cristina.Eads@state.nm.us>
Cc: CFO_Spill, BLM_NM <blm_nm_cfo_spill@blm.gov>
Subject: [EXT] RE: NAB1909539458 GISSLER B 3-3 TANK BATTERY @ FAB1909538882 2RP-5333

I would like to request a little feedback on this if I can. Johnny is no longer with us and I removed him from this chain it is no longer an active email. I took over after him for the field work and this was my first report to file. I went through and tried to address all of the points made by Mrs. Eads but would like to get it all squared away before resubmitting. Not trying to be difficult I just want to get a handle on this. I am a retired police officer but have been with Burnett for 6 years. I've been helping Johnny with the safety and environmental side for the last couple of years. I am not trying to be argumentative just want to learn and understand.

- OCD agrees with depth to groundwater > 100' as a closure criteria for this site.

I've been researching this pretty hard. From what I have found historically this area isn't expected to have ground water above 300 ft. I've only found two wells drilled in this area and both of them were over 380 ft. and neither produced. Ray Westall spent over a million dollars to bring in water from above the cap down to Loco Hills instead of trying to drill his own well. It is my understanding from talking to drillers that the water they encounter below 300 ft. is very briny, not potable. The state even granted Ray Westall a license for an above ground open disposal pit there in Loco Hills less than 2 miles from this release. I know Bratcher has a lot of Historical knowledge in this area that he impressed me with. [Mr. Bratcher have a very high degree of confidence that protectable groundwater will not be encountered in T17S R30E and T17S R31E.](#) OCD agrees with depth to groundwater > 100' for T17S R30E and T17S R31E.

- The SP2 area has to be delineated to 2500 mg/kg for TPH.

Here is where I would say you can see where this process is working in March 2019 the TPH at this sample point was 12000 in January 2020 it was at 4100. We have an improvement across the board in the Chlorides as well. [Please include that clarification in your report. It is very important to know that the bioremediation process is working. Also provide the corresponding lab data.](#)

- Sample SP6 it is not shown in Figure 1.

This was my fault we in remade the map and added in the additional points I did not relabel it when I dropped the pin. So there are two Sample Pt. 1's. I will fix that. Sample Pt. 1 is inside the berm the Sample Pt. 1 on the outside edge should have been 6. [I would like to suggest that you, please, use brighter colors on your maps as well as larger letters and numbers. Sometimes maps are not clear enough and that makes it difficult to read and understand.](#)

- Include data collected from Atkins Engineering, including lab reports and soil bore information, in the report.

I will attach a file with all of the lab reports we got back so you can review them. I just sent them the way I was shown. I will make sure that they have the chain of custody forms in the PDF files they send me. All of their information was input into the table but I did not attach reports. [Please, include all the documentation as an Appendix within the report. If you submit lab data separately through the OCD fee portal, you must pay an additional \\$ 150 fee for each document.](#)

- Include a Figure depicting the proposed Locations of probiotic injection points

We had discussed this with Mrs. Eads and maybe I didn't work it well but our probiotic is topical and is sprayed over the entire footprint of the release. This is done weekly to saturation. We don't do injection holes. We have had good success with this and get good vegetation re-growth. There are no injection points. Aspen Grown is provided with our

site map and the spray the entire outlined area of the map. Please, include that clarification in the report. It is important to be very specific and provide as much information as possible.

- Confirmation sampling protocol after probiotic application, that is, a figure that includes the proposed location of the confirmation samples. Each samples should not represent more than 200 square feet.

I did indicate that we take samples at 8 weeks until we get below regulatory limits. I did not state that we take our samples from next to each sample point until that area falls below regulatory limits and we will continue with each point until they are all under regulatory limits. So would it be best to do another picture with maybe a circle around each sample point to indicate the sampling area? Would that work? Yes, please include it in the report.

- This release occurred on March, 2019. The OCD does not approve the requested extension for this site.

What does this mean for us? With the above information can we request the extension so that we can have time to adequately remediate this? We have already seen improved results and I know with time we can get this to approved levels. The only other way would be to do the typical Dig and Haul, which I am not a big fan of. I was a Boy Scout, Cubmaster, Scoutmaster and am an advocate of protecting our environment and I would much rather treat this in place than send more contaminated material to R360 or CRI. To me those are just environmental nightmares that we will have to deal with one day. OCD agrees that bioremediation is a process that needs time to lower the hydrocarbon concentration values. However, the Spill Rule requires that the remediation process be completed in a very specific period of time. The current spill rule may be viewed here: <http://164.64.110.134/parts/title19/19.015.0029.html>. The rule also allows operators to request a Variance from any requirement of the rule (NMAC 19.15.29.14.A). Burnett Oil can include a variance request for this remediation project in your next submittal.

Finally, for further clarifications regarding the implementation of the spill rule, please visit the OCD web site: <http://www.emnrd.state.nm.us/OCD/documents/OCDInternalPolicy-SpillRuleClarifications.pdf>

Thank you for your time and Consideration.

Bryan Burns
575-706-5999

From: Venegas, Victoria, EMNRD <Victoria.Venegas@state.nm.us>

Sent: Thursday, April 23, 2020 3:04 PM

To: William Bryan Burns <wburns@burnettoil.com>; Hamlet, Robert, EMNRD <Robert.Hamlet@state.nm.us>; Bratcher, Mike, EMNRD <mike.bratcher@state.nm.us>; Eads, Cristina, EMNRD <Cristina.Eads@state.nm.us>

Cc: CFO_Spill, BLM_NM <blm_nm_cfo_spill@blm.gov>; Johnny Titsworth <jtitsworth@burnettoil.com>

Subject: [EXTERNAL] NAB1909539458 GISSLER B 3-3 TANK BATTERY @ FAB1909538882 2RP-5333

NAB1909539458 GISSLER B 3-3 TANK BATTERY @ FAB1909538882 2RP-5333

Mr. Burns,

The OCD has denied the submitted NAB1909539458 GISSLER B 3-3 TANK BATTERY @ FAB1909538882 2RP-5333 for the following reasons:

- OCD agrees with depth to groundwater > 100' as a closure criteria for this site.
- The SP2 area has to be delineated to 2500 mg/kg for TPH.

- Sample SP6 it is not shown in Figure 1.
- Include data collected from Atkins Engineering, including lab reports and soil bore information, in the report.
- Include a Figure depicting the proposed Locations of probiotic injection points
- Confirmation sampling protocol after probiotic application, that is, a figure that includes the proposed location of the confirmation samples. Each samples should not represent more than 200 square feet.
- Include laboratory data results in the report, including Chain of Custody.
- This release occurred on March, 2019. The OCD does not approve the requested extension for this site.

The Denied C-141 can be found in the online image file

<http://ocdimage.emnrd.state.nm.us/imaging/IncidentFileView.aspx?incident=nAB1909539458>.

Please review and make the required correction prior to resubmitting through the fee portal.

Thank you,

Victoria Venegas
 State of New Mexico
 Energy, Minerals, and Natural Resources
 Oil Conservation Division
 811 S. First St., Artesia NM 88210
 (575) 748-1283
Victoria.Venegas@state.nm.us

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