

**From:** [Yu, Olivia, EMNRD](#)  
**To:** [Andrew Parker](#)  
**Cc:** [Billings, Bradford, EMNRD](#); [Hernandez, Christina, EMNRD](#); "[Bradley Blevins](#)"; "[David Harwell](#)"; "[Jimmy Smith](#)"; "[Clabe Pearson](#)"; [r@rthicksconsult.com](mailto:r@rthicksconsult.com)  
**Subject:** RE: Advance Energy - 1RP-4953  
**Date:** Friday, June 29, 2018 7:28:00 AM

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Good morning Mr. Parker:

Thank you for the update regarding the status of completion of release characterization for 1RP-4953. In response to Mr. Hicks's email dated June 20, 2018, NMOCD will assume that the proposed removal of impacted soil above the caliche layer, before situating the drilling rig for additional vertical delineation, is valid based on professional judgement.

Thanks,  
Olivia

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**From:** Andrew Parker <[andrew@rthicksconsult.com](mailto:andrew@rthicksconsult.com)>  
**Sent:** Thursday, June 28, 2018 3:57 PM  
**To:** Yu, Olivia, EMNRD <[Olivia.Yu@state.nm.us](mailto:Olivia.Yu@state.nm.us)>  
**Cc:** Billings, Bradford, EMNRD <[Bradford.Billings@state.nm.us](mailto:Bradford.Billings@state.nm.us)>; Hernandez, Christina, EMNRD <[Christina.Hernandez@state.nm.us](mailto:Christina.Hernandez@state.nm.us)>; 'Bradley Blevins' <[bblevins5252@gmail.com](mailto:bblevins5252@gmail.com)>; 'David Harwell' <[DHarwell@advanceenergypartners.com](mailto:DHarwell@advanceenergypartners.com)>; 'Jimmy Smith' <[altech@pvt.net](mailto:altech@pvt.net)>; 'Clabe Pearson' <[Clabe@merchantlivestock.com](mailto:Clabe@merchantlivestock.com)>; [r@rthicksconsult.com](mailto:r@rthicksconsult.com)  
**Subject:** RE: Advance Energy - 1RP-4953

Ms. Yu:

I am working on scheduling a drill rig to further delineate the above referenced location in mid-July. The drill rig may not be available until late-July. Early next week I will send you proposed borehole locations plotted on an aerial photo. Boreholes were determined using your June 8<sup>th</sup> (see below) email as guidance and past delineation activities. Our preference is to obtain additional delineation data prior to remediation activities.

Andrew Parker  
R.T. Hicks Consultants  
Durango Field Office  
970-570-9535

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**From:** Clabe Pearson [<mailto:Clabe@merchantlivestock.com>]  
**Sent:** Friday, June 08, 2018 4:48 PM  
**To:** [r@rthicksconsult.com](mailto:r@rthicksconsult.com)  
**Cc:** Olivia Yu; Billings, Bradford, EMNRD; Hernandez, Christina, EMNRD; Bradley Blevins; David Harwell; Andrew Parker; Jimmy Smith  
**Subject:** Re: Advance Energy - 1RP-4953

The Surface Owner has not agreed to an excavation of 4-feet and the installation of a 20 mil

liner.

The spills were discovered on or about 1-17-2018. Had excavation begun immediately upon the discovery of the spills the clean up would have been minimal and at minimal expense to Advance Energy. Several rains and five months of time have driven the contamination deeper and further both horizontally and vertically.

Upon discovery of the spills the Surface Owner requested delineation to define both horizontal and vertical extent. If the spills had been addressed in a timely fashion, vertical extent would probably have been less than the four foot proposal.

The Surface Owner is strongly opposed to the submitted proposed remediation plan.

Thank you,

Clabe Pearson  
President  
The Merchant Livestock Company (Surface Owner)

On Jun 8, 2018, at 3:36 PM, Randall Hicks <[r@rthicksconsult.com](mailto:r@rthicksconsult.com)> wrote:

Ms. Yu

Advance Energy has communicated with the surface owner regarding this release. Advance agrees

- excavate to 4-feet and install a properly keyed minimal 20 mil liner
- sample each excavated area by discrete bottom and sidewall samples, at no greater than 75 ft.
- That confirmation sample locations will be clearly marked on scaled maps with GPS coordinates
- To submit samples to Cardinal Laboratory for analysis of chloride with at least one bottom sample from each excavation evaluated for hydrocarbons.

Delineation below 4 feet does not change the remedy. To conduct delineation consistent with guidance of Mr. Griswold requires mobilization of a drill rig, more time and expense that provides no value. Because the releases occurred on undisturbed ground (i.e. the releases are a one-time event) and depth to groundwater exceeds 150 feet we are confident that the plan conforms to the Rule, albeit not with the state-wide

guidance of Mr. Griswold.

Therefore, we request that OCD approve the proposed remediation plan with the condition that the excavations include the keyed 20-mil liner.

Field analyses of samples of hard caliche at or above 4-feet may show that chloride does not exceed 600 mg/kg. Additionally, the hard caliche may require blasting to meet the 4-foot mandate. If we encounter hard caliche above 4-feet, we will

- Collect bottom samples for field analysis
- confer with the surface owner
- develop a proposed alternative to excavation to 4-feet and
- communicate the alternative to OCD prior to backfilling.

Thank you for your consideration and have a good weekend.

Randall Hicks  
R.T. Hicks Consultants  
Cell: 505-238-9515  
Office: 505-266-5004

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**From:** Yu, Olivia, EMNRD [<mailto:Olivia.Yu@state.nm.us>]  
**Sent:** Friday, June 8, 2018 11:14 AM  
**To:** Randall Hicks; Billings, Bradford, EMNRD; Hernandez, Christina, EMNRD  
**Cc:** [clabe@merchantlivestock.com](mailto:clabe@merchantlivestock.com); [bblevins5252@gmail.com](mailto:bblevins5252@gmail.com); 'David Harwell'; 'Andrew Parker'; [altech@pvt.net](mailto:altech@pvt.net)  
**Subject:** RE: Advance Energy - 1RP-4953

Good morning Mr. Hicks:

As previously mentioned, NMOCD abides by current guidelines. The second question will be addressed first as it relates to completion of delineation, then proposed remediation.

1. In general, completion of vertical delineation with samples from a soil bore is determined by the preliminary dataset. As 1RP-4953 encompasses 4 releases over 3 release locations, at least one soil bore for each release location will be required to complete release characterization. In addition to any identified pooling locations, soil bores are expected based on the provided data at:
  - a. Battle 34- area represented by TB1/B2/T4. Horizontal delineation will need to be completed northward of T4 North. Area represented by B3 can be evaluated to complete

- vertical delineation using a drilling rig or test trench.
- b. West of Merchant- Area represented by T2.
  - c. Latitude 32 26 50- Area represented by release point, BH1, and BH2. Horizontal delineation needs to be completed East and South of the S of RP sample location. The sample location Road NW can be further delineated vertically using a drilling rig or test trench.
2. Once delineation is completed, then a 4 ft. maximum excavation may approved as the proposed remedial activity. If the delineation data indicate chloride-impacted soil deeper than 4 ft, then a properly keyed minimal 20 mil liner will be required. In addition, each excavated area must have laboratory analyses of discrete bottom and sidewall samples, at no greater than 75 ft. apart. Confirmation sample locations must be clearly marked on scaled maps with GPS coordinates.

Please be advised that averaging of field data of soil samples from different depths are not per conventional protocol. Nonetheless, the determination of permissible chloride levels remaining in situ is through laboratory analyses of discrete soil samples from identified depths of the bottom and sidewalls of the excavated areas.

Thanks,  
Olivia

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**From:** Randall Hicks <[r@rthicksconsult.com](mailto:r@rthicksconsult.com)>  
**Sent:** Wednesday, June 6, 2018 4:35 PM  
**To:** Yu, Olivia, EMNRD <[Olivia.Yu@state.nm.us](mailto:Olivia.Yu@state.nm.us)>; Billings, Bradford, EMNRD <[Bradford.Billings@state.nm.us](mailto:Bradford.Billings@state.nm.us)>  
**Cc:** [clabe@merchantlivestock.com](mailto:clabe@merchantlivestock.com); [bblevins5252@gmail.com](mailto:bblevins5252@gmail.com); 'David Harwell' <[DHarwell@advanceenergypartners.com](mailto:DHarwell@advanceenergypartners.com)>; 'Andrew Parker' <[andrew@rthicksconsult.com](mailto:andrew@rthicksconsult.com)>; [altech@pvt.net](mailto:altech@pvt.net)  
**Subject:** RE: Advance Energy - 1RP-4953

Ms. Yu

We have two questions in yellow highlight for your consideration. Advance does not intend to wait until August to submit a revised plan (as allowed in the Transitional Provisions of the proposed Rule) and then implement a remedy sometime in October.

Would OCD approve the proposed dig-haul-dispose remedy (to a depth of no more than 4-feet) and agree to the completion of the characterization in accordance to the guidance of Mr. Griswold (600 mg/kg) as we proceed with the remedy? Upon completion of the remedy, Advance would submit a Closure Report with the characterization data following the sampling protocol defined by the new Rule (which is quite exhaustive).

Although vertical characterization to define a 10-foot interval where chloride concentrations are less than 600 mg/kg will not provide any data that would change the proposed remedy (Table 1 criteria), Advance is willing to provide that data to OCD and the surface owner in order to move the process forward. A drilling rig or an

excavator will be required to collect samples as a backhoe is unable to penetrate the caliche or obtain the depth required for the characterization currently mandated by guidance. We have been told by OCD Santa Fe that vertical delineation is considered acceptable if the data are derived from the area of release or pooling. In other words, we need to provide vertical delineation at only one location at a given release. Is this the case with OCD District 1?

I was present at the first day of the Spill Rule hearing. While the Commission will change some wording of the proposed Rule, the main tenants of the proposed Rule will remain in place. Thus, the experts at OCD are and the Commission appears to be supporting the closure criteria established by Table 1 of the new Rule. Additionally, I believe that laboratory methods for chloride analysis will be expanded to include Method 4500.

Thanks for your consideration.

Randall Hicks  
R.T. Hicks Consultants  
Cell: 505-238-9515  
Office: 505-266-5004

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**From:** Yu, Olivia, EMNRD [<mailto:Olivia.Yu@state.nm.us>]  
**Sent:** Wednesday, May 23, 2018 1:00 PM  
**To:** Randall Hicks; Billings, Bradford, EMNRD  
**Cc:** [clabe@merchantlivestock.com](mailto:clabe@merchantlivestock.com); [bblevins5252@gmail.com](mailto:bblevins5252@gmail.com); David Harwell; 'Andrew Parker'; [altech@pytn.net](mailto:altech@pytn.net)  
**Subject:** RE: Advance Energy - 1RP-4953

Mr. Hicks:

In general, delineation is incomplete for 1RP-4953 under the current guideline for permissible chloride levels of 600 mg/kg.

Olivia

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**From:** Randall Hicks <[r@rthicksconsult.com](mailto:r@rthicksconsult.com)>  
**Sent:** Monday, April 30, 2018 2:24 PM  
**To:** Yu, Olivia, EMNRD <[Olivia.Yu@state.nm.us](mailto:Olivia.Yu@state.nm.us)>; Billings, Bradford, EMNRD <[Bradford.Billings@state.nm.us](mailto:Bradford.Billings@state.nm.us)>  
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**Subject:** Advance Energy - 1RP-4953

Ms. Yu

Attached is the Remediation Plan for the above-referenced site. We believe you will find that the

report complies with the existing Rule 29 as well as the proposed Rule.

Please contact David Harwell or me if you have any questions.

Randall Hicks  
R.T. Hicks Consultants  
Cell: 505-238-9515  
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**Subject:** RE: Advance Energy - 1RP-4953  
**Date:** Wednesday, June 20, 2018 6:11:13 AM  
**Attachments:** AdvanceDrillingLogisticsPhoto.pdf  
Advanced PW 4\_East\_of\_Battle.kmz

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Ms. Yu

Andrew Parker of my staff will be scheduling and coordinating a vertical characterization program to complete the investigation in conformance with the guidelines. Please expect communication from him shortly with some details and firm dates for the program. The attachment illustrates a logistical problem relating to drilling at the Latitude 32 site and the attached KMZ file shows the same relationship is obvious for the 4<sup>th</sup> site that was never characterized.

We may need the driller to look hard at these locations prior to scheduling in order to define the best way to tackle the access. This effort may require several weeks before a rig can complete the vertical sampling effort.

Andrew will keep in touch.

Randall Hicks  
R.T. Hicks Consultants  
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Office: 505-266-5004

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**To:** Yu, Olivia, EMNRD <Olivia.Yu@state.nm.us>; Billings, Bradford, EMNRD <Bradford.Billings@state.nm.us>  
**Cc:** clabe@merchantlivestock.com; bblevins5252@gmail.com; 'David Harwell' <DHarwell@advanceenergypartners.com>; 'Andrew Parker' <andrew@rthicksconsult.com>; altech@pvt.net  
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Randall Hicks  
R.T. Hicks Consultants  
Cell: 505-238-9515  
Office: 505-266-5004

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**Sent:** Wednesday, May 23, 2018 1:00 PM  
**To:** Randall Hicks; Billings, Bradford, EMNRD  
**Cc:** [clabe@merchantlivestock.com](mailto:clabe@merchantlivestock.com); [bblevins5252@gmail.com](mailto:bblevins5252@gmail.com); David Harwell; 'Andrew Parker'; [altech@pvt.net](mailto:altech@pvt.net)  
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**Subject:** Advance Energy - 1RP-4953

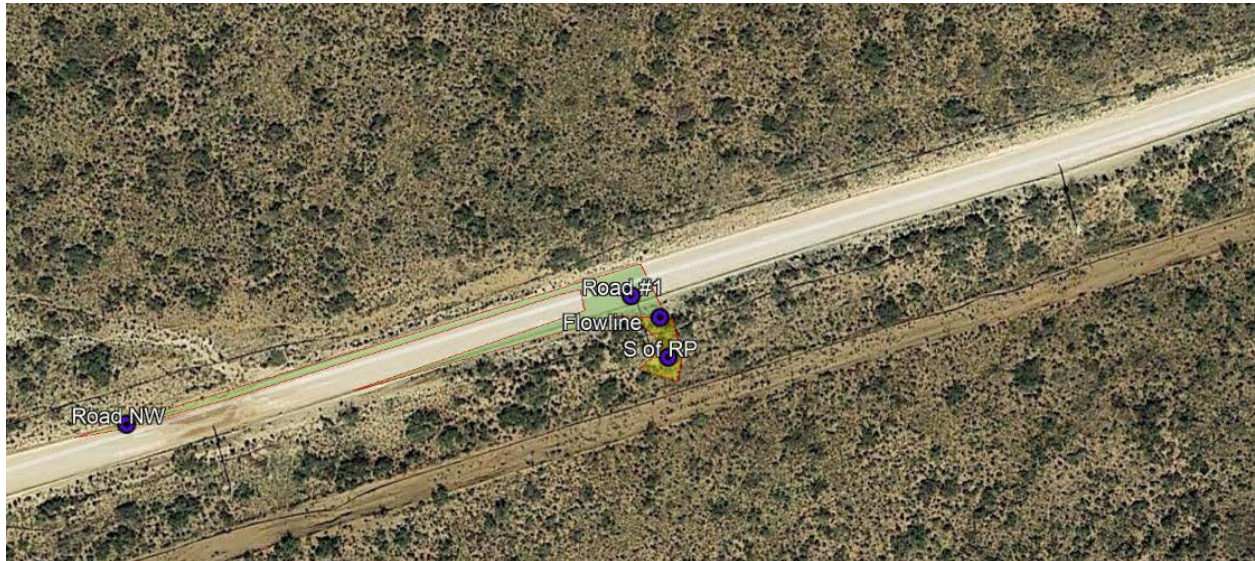
Ms. Yu

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Please contact David Harwell or me if you have any questions.

Randall Hicks  
R.T. Hicks Consultants  
Cell: 505-238-9515  
Office: 505-266-5004

At the two release locations east of Battle 34, the presence of a pipeline, overhead electrical wires and uneven terrain at the release points will create logistical problems for a drilling rig at the desired locations. These access issues may be resolved by conducting excavation and removal with horizontal characterization to the top of caliche or 4-feet then conducting the drilling; The situation is shown in the images below



The Google image shows the spill footprint for the Latitude 32 Release, the pipeline scar to the south, the overhead power lines and the road. The image below shows the uneven terrain south of the road.

