

**STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION DIVISION**

**IN THE MATTER OF THE PROCEEDING
CALLED BY THE OIL CONSERVATION
DIVISION FOR THE PURPOSE OF CONSIDERING:**

**REQUEST OF ARTESIA AERATION, LLC
FOR AN EMERGENCY ORDER TO OPERATE**

CASE NO. 13455
ORDER NO. R-12307

ORDER

BY THE DIVISION:

This matter came on for decision before the Director of the Oil Conservation Division on March 11, 2005, upon the request of Artesia Aeration, LLC for an emergency order pursuant to NMSA 1978, § 70-2-23 allowing its commercial landfarm, located in the N/2 of Section 7, Township 17 South, Range 32 East, in Lea County, New Mexico, to accept salt-contaminated oilfield waste until a determination is made by the Hearing Examiner on Artesia Aeration, LLC's application to amend its current landfarm permit.

NOW, on this 11th day of March 2005, the Division Director, having considered the request,

FINDS THAT:

- (1) The Oil Conservation Division ("Division") has jurisdiction over this case and its subject matter.
- (2) Artesia Aeration, LLC ("Operator") is the operator of record of a commercial landfarm located in the N/2 of Section 7, Township 17 South, Range 32 East, in Lea County, New Mexico (hereinafter "landfarm").
- (3) The landfarm is permitted pursuant to 19.15.9.711 NMAC under permit number NM-01-0030.
- (4) The public notice given prior to issuance of landfarm permits stated that the permits were for landfarming to remediate hydrocarbon-contaminated soils.
- (5) The language of the landfarm permits, however, was broader than the language in the public notice, allowing the facilities to accept oilfield contaminated solids that are either exempt from the Federal RCRA Subtitle C (hazardous waste) regulations or are "nonhazardous" by characteristic testing or listing.

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CRI Exhibit No. 1

Hearing Date: March 25, 2005

(6) If the language of the landfarm permits is interpreted to allow landfarms to accept oilfield waste contaminated with salts, the salts could compromise the biodegradation capacity of the landfarms. And because salts leach more easily than hydrocarbons, unless the site is appropriate, a landfarm accepting salt-contaminated oilfield wastes could pose a threat to groundwater.

(7) According to the terms of the landfarm permits, the Division may change the permit conditions administratively for good cause shown as necessary to protect fresh water, human health and the environment.

(8) By letter dated March 4, 2005, Division Director Mark Fesmire notified the holders of landfarm permits that the Division had determined that it was necessary to modify the landfarm permits as follows, in order to protect fresh water, human health and the environment:

"Effective immediately, the NMOCD permitted landfarm identified above is prohibited from accepting oilfield waste contaminated with salts."

The letter stated that for a landfarm to accept salts, the operator would need to apply for a modification of the permit pursuant to 19.15.9.711.B(1) NMAC and follow the notice requirements of 19.15.9.711.B(2).

(9) Operator has applied for a modification of its permit to allow it to accept salt-contaminated oilfield wastes.

(10) On March 11, 2005, Operator applied for an emergency order allowing it to accept salt-contaminated oilfield waste pending a decision on its application for a permit modification. In support of its request, Operator asserts the following:

- a. There is no groundwater at the site evidenced by a 120' monitor well.
- b. There are no fresh water wells or watercourses (wet or dry) within 1,000 feet of the landfarm.
- c. An emergency order is necessary because there is a critical need in the area of the landfarm for a facility that can accept salt-contaminated soils due to extensive drilling programs and remediation programs in the area by oil and gas operators.

(11) The records of the Oil Conservation Division confirm Operator's description of conditions at the site of the landfarm.

(12) Conditions at the site of the landfarm are such that the landfarm may accept salt-contaminated oilfield wastes without posing a hazard to groundwater.

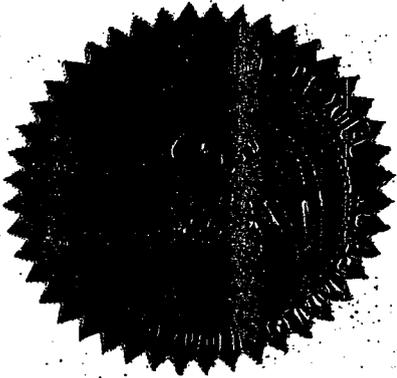
(13) Division staff has confirmed that the Operator will keep salt-contaminated oilfield waste separate from hydrocarbon-contaminated oilfield waste.

(14) Operator has demonstrated an emergency requiring the issuance of an order without a hearing allowing Operator to accept salt-contaminated oilfield waste at the landfarm pending a determination by the Hearing Examiner on Operator's application to amend the current permit.

IT IS THEREFORE ORDERED THAT:

- (1) Artesia Aeration, LLC's request for an emergency order allowing it to accept salt-contaminated oilfield wastes pending a decision on its application for a permit modification is granted.
- (2) This order shall remain effective as provided in NMSA 1978, § 70-2-23.
- (3) Jurisdiction of this case is retained for the entry of such further orders as the Division may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.



SEAL

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

for MARK E. FESMIRE, P.E.
Director