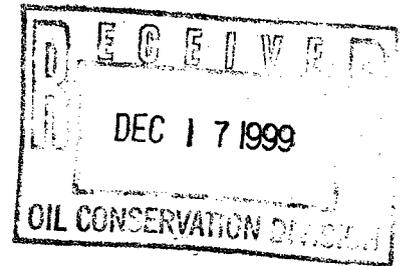




STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION
2040 S. PACHECO
SANTA FE, NEW MEXICO 87505
(505) 827-7131

November 29, 1999



CERTIFIED MAIL
RETURN RECEIPT NO. P-326-936-642

Mr. Rob Mathews
Artesia Aeration L.L.C.
P.O. Box 248
Artesia, NM 88210

RE: OCD Rule 711 Permit Approval NM-01-0030
Artesia Aeration L.L.C.
Commercial Landfarm
N/2 of Section 7, Township 17 South, Range 32 East, NMPM, Lea County, New Mexico

Dear Mr. Mathews:

The permit application for the Artesia Aeration L.L.C. (Artesia Aeration) commercial surface waste management facility located in the N/2 N/2 of Section 9 and the N/2 N/2 of Section 10, Township 20 South, Range 38 East, NMPM, Lea County, New Mexico, **is hereby approved** in accordance with New Mexico Oil Conservation Division (OCD) Rule 711 under the conditions contained in the enclosed attachment. **This permit approval is conditional upon the receipt and approval by the Director of financial assurance in the amount of \$93,420.** According to the schedule outlined in the financial assurance section of the enclosed attachment, **\$25,000** is required within thirty (30) days of the date of this permit approval letter. The application consists of the permit application Form C-137 dated June 29, 1999, the public notice dated October 11, 1999, and supplemental materials dated July 15, 1999.

The operation, monitoring and reporting shall be as specified in the enclosed attachment. All modifications and alternatives to the approved landfarming methods must receive prior OCD approval. Artesia Aeration is required to notify the Director of any facility expansion or process modification and to file the appropriate materials with the Division.

Please be advised approval of this facility permit does not relieve Artesia Aeration of liability should your operation result in pollution of surface water, ground water, or the environment. In addition, OCD approval does not relieve Artesia Aeration of responsibility for compliance with other federal, state or local laws and/or regulations.

Before the OCD
Case 13454 \$ 13455
OCD Ex. 3

Mr. Rob Mathews
November 29, 1999
Page 2

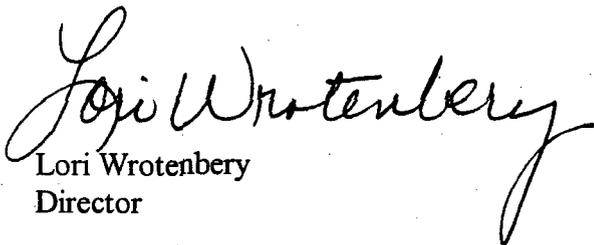
Please be advised that all tanks exceeding 16 feet in diameter and exposed pits, ponds or lagoons must be screened, netted or otherwise rendered nonhazardous to migratory birds. In addition, OCD Rule 310 prohibits oil from being stored or retained in earthen reservoirs or open receptacles.

The facility is subject to periodic inspections by the OCD. The conditions of this permit will be reviewed by the OCD no later than five (5) years from the date of this approval and the facility will be inspected at least once a year. In addition, the closure cost estimate will be reviewed according to prices and remedial work estimates at the time of the five (5) year review. The financial assurance may be adjusted to incorporate any closure cost changes.

Enclosed are two copies of the conditions of approval. **Please sign and return one copy to the OCD Santa Fe Office within five working days of receipt of this letter.**

If you have any questions please do not hesitate to contact Martyne J. Kieling at (505) 827-7153.

Sincerely,



Lori Wrotenbery
Director

LW/mjk

xc with attachments:
Hobbs OCD Office

ATTACHMENT TO OCD 711 PERMIT APPROVAL
PERMIT NM-01-0030
ARTESIA AERATION L. L.C.
N/2 of Section 7, Township 17 South, Range 32 East, NMPM,
Lea County, New Mexico
(November 29, 1999)

LANDFARM CONSTRUCTION

1. Construction must commence on the landfarm area within one (1) year of the permit approval date. If construction does not commence within one (1) year of the permit approval date, this permit will be of no effect.
2. The facility must be fenced and have a sign at the entrance. The sign must be legible from at least fifty (50) feet and contain the following information: a) name of the facility; b) location by section, township and range; and c) emergency phone number.
3. Contaminated soils may not be placed within one hundred (100) feet of the boundary of the facility.
4. Contaminated soils may not be placed within twenty (20) feet of any pipeline crossing the landfarm. In addition, no equipment will be operated within ten (10) feet of a pipeline. All pipelines crossing the facility must have surface markers identifying the location of the pipelines.
5. The portion of the facility containing contaminated soils must be bermed to prevent runoff and runoff. A perimeter berm no less than five (5) feet above grade with a base of at least thirty (30) feet must be constructed and maintained such that it is capable of containing precipitation from a one-hundred year flood for the specific region. Individual cells must be contained with a berm no less than five (5) feet above grade with a base of at least thirty (30) feet.
6. All above-ground tanks, saddle tanks or drums located at the facility and containing materials other than fresh water must be placed on an impermeable pad with curb containment. The pad and curb containment must be able to hold one and one-third the volume of the largest tank or all interconnected tanks. The tanks and containers must be labeled as to contents and hazards.

LANDFARM OPERATION

1. Disposal may occur only when an attendant is on duty. The facility must be secured when

attendant is present.

2. All contaminated soils received at the facility must be spread and disked within 72 hours of receipt.
3. Soils must be spread on the surface in lifts of six inches or less.
4. Soils must be disked a minimum of one time every two weeks (biweekly) to enhance biodegradation of contaminants.
5. Exempt contaminated soils must be placed in the landfarm so that they are physically separate (*i.e.*, bermed) from non-exempt contaminated soils. There may be no mixing of exempt and non-exempt soils.
6. Successive lifts of contaminated soils may not be spread until a laboratory measurement of total petroleum hydrocarbons (TPH) in the previous lift is less than 100 parts per million (ppm), the sum of all aromatic hydrocarbons (BTEX) is less than 50 ppm, and benzene is less than 10 ppm. Comprehensive records of the laboratory analyses and the sampling locations must be maintained at the facility. Authorization from the OCD must be obtained prior to application of successive lifts and/or removal of the remediated soils.
7. Moisture may be added as necessary to enhance bioremediation and to control blowing dust. There may be no ponding, pooling or run-off of water allowed. Any ponding of precipitation must be removed within twenty-four (24) hours of discovery.
8. Enhanced bio-remediation through the application of microbes (bugs) and/or fertilizers requires prior approval from the OCD. Requests for application of microbes or fertilizers must include the location of the area designated for the program, the composition of additives, and the method, amount and frequency of application.
9. Any design changes to the landfarm facility must be submitted to the OCD Santa Fe office for approval and a copy must be sent to the Hobbs District office.
10. Landfarm inspection and maintenance must be conducted on at least a biweekly basis and immediately following each consequential rainstorm or windstorm. The OCD Santa Fe and Hobbs offices must be notified within 48 hours if any defect is noted. Repairs must be made as soon as possible. If the defect will jeopardize the integrity of the landfarm, additional wastes may not be placed into the landfarm until repairs have been completed.

WASTE ACCEPTANCE CRITERIA

1. The facility is authorized to accept only:
 - a. Oilfield wastes that are exempt from RCRA Subtitle C regulations and that do not contain Naturally Occurring Radioactive Material regulated pursuant to 20 NMAC 3.1 Subpart 1403 (NORM). All loads of these wastes received at the facility shall be accompanied by a "Generator Certificate of Waste Status" signed by the generator
 - b. "Non-hazardous" non-exempt oilfield wastes that do not contain NORM. These wastes may be accepted on a case-by-case basis after a hazardous waste determination is made. Samples, if required, must be obtained from the wastes prior to removal from the generator's facility and without dilution in accordance with EPA SW-846 sampling procedures. All "non-hazardous" non-exempt wastes received at the facility must be accompanied by:
 - i. An approved OCD Form C-138 "Request For Approval To Accept Solid Waste."
 - ii. A "Generator Certificate of Waste Status" signed by the generator.
 - iii. A verification of waste status issued by the appropriate agency, for wastes generated outside OCD jurisdiction. The agency verification is based on specific information on the subject waste submitted by the generator and demonstrating the exempt or non-hazardous classification of the waste.
 - c. Non-oilfield wastes that are non-hazardous if ordered by the Department of Public Safety in a public health emergency. OCD approval must be obtained prior to accepting the wastes.
2. At no time may any OCD-permitted surface waste management facility accept wastes that are hazardous by either listing or characteristic testing.
3. No free liquids or soils with free liquids may be accepted at the facility.
4. Materials that may be accepted into the facility must pass a paint filter test by EPA Method 9095A prior to receipt.
5. The transporter of any wastes to the facility must supply a certification that wastes delivered are those wastes received from the generator and that no additional materials have been added.

TREATMENT ZONE MONITORING

1. One (1) background soil sample must be taken from the center portion of the landfarm two (2) feet below the native ground surface prior to operation. The sample must be analyzed for total petroleum hydrocarbons (TPH), volatile aromatic organics (BTEX), major cations/anions and Water Quality Control Commission (WQCC) metals.
2. A treatment zone not to exceed three (3) feet beneath the landfarm native ground surface must be monitored. A minimum of one random soil sample must be taken from each individual cell, with no cell being larger than five (5) acres, six (6) months after the first contaminated soils are received in the cell and then quarterly thereafter. The sample must be taken at two (2) to three (3) feet below the native ground surface.
3. The soil samples must be analyzed using EPA-approved methods for total petroleum hydrocarbons (TPH) and volatile aromatic organics (BTEX) quarterly and for major cations/anions and Water Quality Control Commission (WQCC) metals annually.
4. After soil samples are obtained, the boreholes must be filled with an impermeable material such as cement or bentonite.

REPORTING

1. Analytical results from the treatment zone monitoring must be submitted to the OCD Santa Fe office **within thirty (30) days** of receipt from the laboratory.
2. Background sample analytical results must be submitted to the OCD Santa Fe office **within thirty (30) days** of receipt from the laboratory.
3. Records of landfarm inspections and maintenance must be kept and maintained for OCD review.
4. Artesia Aeration L.L.C. must notify the **OCD Santa Fe and Hobbs offices within 24 hours** of any fire, break, leak, spill, blow out or any other circumstance that could constitute a hazard or contamination in accordance with OCD Rule 116.
5. Comprehensive records of all material disposed of at the facility must be maintained at the facility. The records for each load must include: 1) generator; 2) origin; 3) date received; 4) quantity; 5) certification of waste status as exempt or non-exempt with any necessary supporting documentation to certify non-hazardous status for non-exempt waste; 6) NORM status declaration; 7) transporter; 8) exact cell location; and 9) any addition of microbes, moisture, fertilizers, *etc.*

6. Analytical results regarding remediated soil must be submitted to the OCD Santa Fe office, reporting required with a copy to the Hobbs District office, along with any request to close the cell, apply successive lifts or remove the remediated material.
7. The OCD must be notified prior to the installation of any pipelines or wells or other construction within the boundaries of the facility.

FINANCIAL ASSURANCE

1. Financial assurance in the amount of **\$93,420** (the estimated cost of closure) in the form of a surety or cash bond or a letter of credit, which is approved by the Division, is required from Artesia Aeration L.L.C. for the commercial surface waste management facility.

By December 29, 1999 Artesia Aeration must submit financial assurance in the amount of **\$25,000**.

By December 29, 2000 or when the facility is filled to 50% of the permitted capacity, whichever comes first, Artesia Aeration must submit financial assurance in the amount of **\$46,710**.

By December 29, 2001 or when the facility is filled to 75% of the permitted capacity, whichever comes first, Artesia Aeration must submit financial assurance in the amount of **\$70,065**.

By December 29, 2002 or when the facility is filled to 100% of the permitted capacity, whichever comes first, Artesia Aeration must submit financial assurance in the amount of **\$93,420**.

2. The facility is subject to periodic inspections by the OCD. The conditions of this permit and the facility will be reviewed no later than five (5) years from the date of this approval. In addition, the closure cost estimate will be reviewed according to prices and remedial work estimates at the time of review. The financial assurance may be adjusted to incorporate any closure cost changes.

CLOSURE

1. The OCD Santa Fe and Hobbs offices must be notified when operation of the facility is discontinued for a period in excess of six (6) months or when the facility is to be dismantled. Within six (6) months of discontinued use or within 30 days of deciding to dismantle the facility a closure plan must be submitted to the OCD Santa Fe office. The operator must

- complete cleanup of constructed facilities and restoration of the facility site within the following six (6) months, unless an extension of time is granted by the Director.
2. Upon six (6) months of discontinued use or within 30 days of deciding to dismantle the facility a closure plan to include the following procedures must be submitted to the OCD Santa Fe office for approval:
- a. When the facility is to be closed no new material may be accepted.
 - b. Existing landfarm soils must be remediated until they meet the OCD standards in effect at the time of closure.
 - c. The soils beneath the landfarm cells must be characterized as to the total petroleum hydrocarbons (TPH) and volatile aromatic organics (BTEX) content in order to determine potential migration of contamination beneath the facility.
 - d. Contaminated soils exceeding OCD closure standards for the site must be removed or remediated.
 - e. The area must be contoured, seeded with native grasses and allowed to return to its natural state. If the landowner desires to keep existing structures, berms, or fences for future alternative uses the structures, berms, or fences may be left in place.
 - f. Closure must be pursuant to all OCD requirements in effect at the time of closure, and any other applicable local, state and/or federal regulations.

CERTIFICATION

Artesia Aeration L.L.C., by the officer whose signature appears below, accepts this permit and agrees to comply with all terms and conditions contained herein. Artesia Aeration L.L.C. further acknowledges that these conditions and requirements of this permit may be changed administratively by the Division for good cause shown as necessary to protect fresh water, human health and the environment.

Accepted:

ARTESIA AERATION L.L.C.

Signature



Title Registered Agent

Date

12-10-99