

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

**APPLICATION OF SOUTHWEST ROYALTIES, INC. FOR APPROVAL OF A
REMEDICATION PLAN PURSUANT TO 19.15.29.11 NMAC FOR THE ARCO
FEDERAL WELL NO. 1 TANK BATTERY, EDDY COUNTY, NEW MEXICO.**

CASE NO. 14732

RECEIVED OGD
2011 SEP 23 P 3:52

APPLICANT'S PRE-HEARING STATEMENT

Southwest Royalties, Inc. submits this Pre-Hearing Statement for the above referenced matter pursuant to the rules of the Oil Conservation Division.

APPEARANCES

APPLICANT

Southwest Royalties, Inc.
6 Desta
Midland, Texas 79705

ATTORNEY

Michael H. Feldewert, Esq.
Holland & Hart, LLP
Post Office Box 2208
Santa Fe, New Mexico 87504-2208
(505) 988-4421

OPPONENT

New Mexico Oil Conservation Division

ATTORNEY

Gabrielle A. Gerholt

APPLICANT'S STATEMENT OF CASE

Applicant seeks an order allowing the trench burial of salt impacted soil pursuant to a surface re-vegetation and remediation plan approved by the Bureau of Land Management (BLM) for a 1970's era produced water disposal pit at the ARCO Federal Well No. 1 Tank Battery (API No. 30-015-20631). This federal land is located in Section 17, Township 17 South, Range 30 East, NMPM, Eddy County, New Mexico.

Following the reporting of a minor spill on this ARCO Federal Well No. 1 Tank Battery, the BLM requested that the Applicant develop a plan for removing salt impacted soil and revegetating the area to improve the general habitat. As part of the process, Applicant and the BLM employed a Net Environmental Benefit Analysis to determine the best means of disposing of the salt impacted soil. Following this analysis, the BLM approved trench burial of the salt impacted soil at this federal well site as part of the overall remediation plan designed to improve the vegetation and habitat at this location. In June, Applicant submitted the BLM approved remediation plan to the Oil Conservation Division pursuant to NMAC 19.15.29.11. Citing NMAC 19.15.34.11, the Division by letter dated June 25, 2011, denied the BLM approved surface remediation plan, stating:

OCD is not requiring Southwest Royalties to conduct corrective action at this site because there is no protectable water and no threat to human health. Surface remediation for revegetation purposes should be completed pursuant to the surface land management's requirements.

However, OCD will not allow Southwest Royalties to dispose of contaminated soil in a pit and hereby denies Southwest Royalties proposed surface remedy. OCD again suggests that Southwest Royalties confer with the BLM about what surface restoration BLM is requiring.

See Attached letter dated June 25, 2011.

It is undisputed that no protectable groundwater exists in this area and that this salt impacted soil poses no threat to human health. The BLM has determined that trench burial of this salt impacted soil at this federal well site is the best means of achieving the desired revegetation and habitat improvement. Accordingly, Applicant requests that the Division grant an exception to the general prohibition set forth in Rule 34.11 either as an approved remediation plan pursuant to Part 29 (which is a regulatory exception to Rule 34.11); as a matter of comity to

the BLM, the agency with primary responsibility over these federal lands; or pursuant to the Division's general powers and duties to regulate the disposition of nondomestic oilfield wastes.

APPLICANT'S PROPOSED EVIDENCE

WITNESS Name and Expertise	ESTIMATED TIME	EXHIBITS
Randall Hicks – Geohydrologist	Approx. 20 minutes	Approx. 9

PROCEDURAL MATTERS

None at this time.

Respectfully submitted,

HOLLAND & HART, LLP



Michael H. Feldewert
Post Office Box 2208
Santa Fe, New Mexico 87504-2208
(505) 988-4421
(505) 983-6043 Facsimile
mfeldewert@hollandhart.com

ATTORNEYS FOR SOUTHWEST ROYALTIES, INC.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was electronically mailed on September 22, 2011 to the following counsel of record:

Gabrielle A. Gerholt
Oil Conservation Division
Energy, Minerals and Natural Resources Department
1220 South St. Francis Drive
Santa Fe, New Mexico 87505
(505) 476-3463
Gabrielle.Gerholt@state.nm.us

A handwritten signature in black ink, appearing to read "Michael Feldewert", written over a horizontal line.

Michael Feldewert



New Mexico Energy, Minerals and Natural Resources Department

Susana Martinez
Governor

John H. Benis
Cabinet Secretary-Designate

Brett F. Woods, Ph.D.
Deputy Cabinet Secretary

Jami Bailey
Division Director
Oil Conservation Division



JUNE 25, 2011

Mr. Luis Gonzales
Southwest Royalties
Six Desta Drive
Suite 2100
Midland, TX 79705

RE: SURFACE REMEDY FOR SOUTHWEST ROYALTIES ARCO FEDERAL NO. 1
TANK BATTERY, API NO. 30-015-20631
UNIT LETTER K, SECTION 17, TOWNSHIP 17 SOUTH, RANGE 30 EAST

Mr. Gonzales:

The Oil Conservation Division (OCD) has reviewed the proposal submitted by R.T. Hicks Consultants (RTH) on behalf of Southwest Royalties on June 20, 2011 to address a release of produced water at the Southwest Royalties ARCO Federal No. 1 tank battery, API No. 30-015-20631, located in Unit Letter K, Section 17, Township 17 South, Range 30 East, in Eddy County, New Mexico. This is the same proposal that Southwest Royalties had previously submitted to the Bureau of Land Management (BLM). By letter dated June 16, 2011, OCD informed Southwest Royalties that it was prohibited from disposing of remediation waste in a pit by 19.15.34.11 NMAC (*Disposition of Produced Water and Other Oil Field Waste*), except as authorized by other OCD rules.

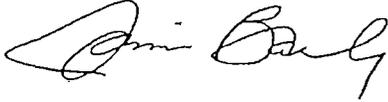
Southwest Royalties has resubmitted its proposal as a "Remediation Plan" pursuant to 19.15.29.11 NMAC (*Corrective Action*). OCD is not requiring Southwest Royalties to conduct corrective action at this site because there is no protectable water and no threat to human health. Surface remediation for revegetation purposes should be completed pursuant to the surface land management's requirements.

However, OCD will not allow Southwest Royalties to dispose of contaminated soil in a pit and hereby denies Southwest Royalties' proposed surface remedy. OCD again suggests that Southwest Royalties confer with BLM about what surface restoration BLM is requiring.

Mr. Gonzales
June 25, 2011
Page 2 of 2

If you have any questions, please contact Glenn von Gonten at (505) 476-3488.

Sincerely,



Jami Bailey
Director

JB/gvg

Cc: Daniel Sanchez, OCD
Mike Bratcher, OCD District 2
Terry Gregston, BLM
Randy Hicks, R.T. Hicks