

GARBER AND HALLMARK, P.C.
ATTORNEYS AT LAW
200 W. MARCY, SUITE 203
POST OFFICE BOX 850
SANTA FE, NM 87504-0850

BRUCE S. GARBER
B. CULLEN HALLMARK

TELEPHONE (505) 983-3233
FACSIMILE (505) 983-6344

May 13, 2005

VIA FAX 476-3462
Oil Conservation Div.
Attn: William V. Jones and
Ted Apodaca, Division Hearing Examiners
1220 S. St. Francis Drive
Santa Fe, NM 87505

Re: Application of Artesia Aeration, LLC to Modify
Its Existing NMOCD Rule 711 Permit No. NM-01030
So That They May Accept Salt-Contaminated Oilfield
Wastes.
Case No. 13481

Dear Messrs. Jones and Apodaca:

Attached please find the Pre-Hearing Statement in the above referenced case.

Thank you for your attention.

Sincerely,



Bruce S. Garber

BSG/mrf
Attachment 1

WVJ 5/13/05

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

APPLICATION OF ARTESIA AERATION, LLC TO MODIFY
ITS EXISTING NMOCD RULE 711 PERMIT NO. NM-01030
SO THAT THEY MAY ACCEPT SALT-CONTAMINATED
OILFIELD WASTES.

CASE NO. 13481

PRE-HEARING STATEMENT

This entry of appearance and pre-hearing statement is submitted by ARTESIA AERATION, LLC by and through its attorneys Garber and Hallmark, P.C., (Bruce S. Garber).

APPEARANCES

APPLICANT

Artesia Aeration, LLC

APPLICANT'S ATTORNEY

Bruce S. Garber
Garber and Hallmark, P.C.
P.O. Box 850
Santa Fe, NM 87504-0850
(505) 983-3233
(505) 983-6344 (fax)
bsg@garbhall.com

OPPONENTS

Controlled Recovery Inc.

OPPONENTS' ATTORNEY

Michael H. Feldewert
Holland & Hart LLP
P.O. Box 2208
Santa Fe, NM 87504-2208
(505) 988-4421
(505) 983-6043 (fax)
mfeldewert@hollandhart.com

OTHER INTERESTED PARTIES

New Mexico Citizens for Clean
Air & Water, Inc.

ATTORNEY

pro se.
Donald Neeper, Ph.D.
2708 B. Walnut St.
Los Alamos, NM 87544-2050
(505) 662-4592

Oil Conservation Division

Gail MacQuesten
Oil Conservation Division
Energy, Minerals and Natural
Resources Department
1220 S. St. Francis Drive
Santa Fe, NM 87505
(505) 476-3451
(505) 476-3462 (fax)
gmacquesten@state.nm.us

ARTESIA AERATION, LLC'S STATEMENT OF THE CASE

Artesia Aeration, LLC, has applied to modify its existing surface waste management facility permit to allow the facility to accept oilfield waste, exempt from RCRA Subtitle C, including chloride impacted debris, drilling mud, soils, sludges, tank bottoms and filters associated with the drilling, operating and maintenance of oil and gas wells and related operations of the oil and gas industry, and certain non-exempt, non-hazardous oilfield waste.

ARTESIA AERATION, LLC'S PROPOSED EVIDENCE

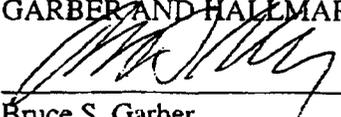
WITNESS:	ESTIMATED TIME:	EXHIBITS:
Ed Martin OCD Environmental Bureau	20 minutes	Items in OCD file
David Boyer Safety & Environmental Solutions, Inc.	40 minutes	Items in OCD file, possibly other exhibits unknown at this time.
Jim Wilson, Manager, Artesia Aeration, LLC	20 minutes	Items in OCD file
Possible Rebuttal Witnesses	Unknown	Unknown

PROCEDURAL MATTERS

Controlled Recovery Inc. has filed a motion to dismiss this case and rescind order 12307-A. Artesia Aeration, LLC has filed its opposition to this motion.

Respectfully submitted,

GARBER AND HALLMARK, P.C.



Bruce S. Garber
P.O. Box 850
Santa Fe, NM 87504-0850
(505) 983-3233
(505) 983-6344 (fax)
Attorney for Artesia Aeration, LLC
This 13th day of May, 2005.

CERTIFICATE OF SERVICE

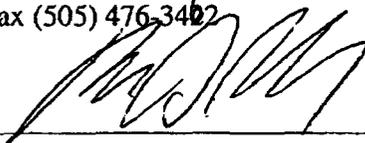
I hereby certify that a copy of the foregoing pleading was served by first-class mail and/or fax upon the following parties, this 13th day of May, 2005:

Michael H. Feldewert
Holland & Hart LLP
PO Box 2208
Santa Fe, NM 87504-2208
Fax (505) 983-6043

Dr. Donald A. Neeper
New Mexico Citizens for Clean Air & Water, Inc.
2708 B. Walnut St.
Los Alamos, NM 87544-2050
Fax (505) 662-4592

Pete V. Domenici, Jr.
Domenici Law Firm, P.C.
6100 Seagull Street NE, Suite 205
Albuquerque, NM 87109
Fax (505) 884-3424

Gail MacQuesten
Oil Conservation Division
Energy, Minerals and Natural Resources
Department
1220 S. St. Francis Drive
Santa Fe, NM 87505
Fax (505) 476-3462



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

CASE NO. 13481: APPLICATION OF ARTESIA AERATION, LLC TO MODIFY ITS EXISTING NMOCD RULE 711 PERMIT NO. NM-01-030 SO THAT THEY MAY ACCEPT SALT-CONTAMINATED OILFIELD WASTES.

PRE-HEARING STATEMENT

This entry of appearance and pre-hearing statement is submitted by the Oil Conservation Division.

APPEARANCES

APPLICANT

Artesia Aeration, LLC

APPLICANT'S ATTORNEY

Bruce Garber
Garber & Hallmark PC
P.O. Box 850
Santa Fe, NM 87504-0850
(505) 983-3233
(505) 983-6344 (FAX)
bsg@garbhall.com

OPPONENTS

Controlled Recovery Inc.

OPPONENTS' ATTORNEY

Michael H. Feldewert
Holland & Hart LLP
P.O. Box 2208 Santa Fe, NM
87504-2208
(505) 988-4421
(505) 983-6043 (FAX)
mfeldewert@hollandhart.com

OTHER INTERESTED PARTIES

New Mexico Citizens for Clean Air & Water, Inc.

ATTORNEY

pro se.
Donald Neeper, Ph.D.
2708 B. Walnut St.
Los Alamos, NM 87544-2050
(505) 662-4592

Oil Conservation Division

Gail MacQuesten
Oil Conservation Division
Energy, Minerals and Natural
Resources Department
1220 S. St. Francis Drive
Santa Fe, NM 87505
(505) 476-3451
(505) 476-3462 (FAX)
gmacquesten@state.nm.us

OIL CONSERVATION DIVISION'S STATEMENT OF THE CASE

Artesia Aeration, LLC, has applied to modify its existing surface waste management facility permit to allow the facility to accept oilfield waste, exempt from RCRA Subtitle C, including chloride impacted

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debris, drilling mud, soils, sludges, tank bottoms and filters associated with the drilling, operating and maintenance of oil and gas wells and related operations of the oil and gas industry, and certain non-exempt, non-hazardous oilfield waste.

The Oil Conservation Division will not be presenting a case in chief, but will present rebuttal evidence if needed.

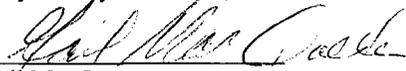
OIL CONSERVATION DIVISION'S PROPOSED EVIDENCE

WITNESS:	ESTIMATED TIME:	EXHIBITS:
Ed Martin, OCD Environmental Bureau	Unknown	Unknown

PROCEDURAL MATTERS

Controlled Recovery Inc. has filed a motion to dismiss this case and rescind order 12307-A.

Respectfully submitted,


Gail MacQuesten
Oil Conservation Division
Energy, Minerals and Natural
Resources Department
1220 S. St. Francis Drive
Santa Fe, NM 87505
(505) 476-3451

Attorney for the Oil Conservation Division

This 13th day of May, 2005.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was served by facsimile upon Bruce Garber (505 983-6344) and Michael H. Feldewert (505 983-6043), and by first class mail, postage pre-paid to Donald Neepser, Ph.D., 2708 B. Walnut St., Los Alamos, NM 87544-2050, this 13th day of May, 2005.


Gail MacQuesten

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

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

CASE NO. 13481

RECEIVED
MAY 13 2005
OIL CONSERVATION
DIVISION

APPLICATION OF

Artesia Aeration, LLC.

PRE-HEARING STATEMENT

This prehearing statement is submitted by New Mexico Citizens for Clean Air & Water, Inc. as required by the Oil Conservation Division.

APPEARANCES OF PARTIES

APPLICANT

ATTORNEY

name, address, phone and
contact person

OPPOSITION OR OTHER PARTY

ATTORNEY

New Mexico Citizens for Clean

pro se

Air & Water, Inc.
2708 B. Walnut St., Los Alamos,
New Mexico 87544-2050.

Donald A. Neeper 505-662-4592
name, address, phone and
contact person

STATEMENT OF CASE

APPLICANT

(Please make a concise statement of what is being sought with this application and the reasons therefore.)

OPPOSITION OR OTHER PARTY

(Please make a concise statement of the basis for opposing this application or otherwise state the position of the party filing this statement.)

Unlike light petroleum products, salt is not degraded by biological processes. In an arid climate, the repeated application of saline wastes to the land will cause a buildup of both sodium and chloride in the soil. This makes the soil increasingly unable to support plant life. An accepted measure of the potential impact on plant life is the sodium absorption ratio. Therefore, the acceptance of saline wastes by a landfarm should be restricted according to the sodium absorption ratio measured periodically at several depths below each disposal unit.

PROPOSED EVIDENCE

APPLICANT

WITNESSES
(Name and expertise)

EST. TIME EXHIBITS

OPPOSITION

WITNESSES
(Name and expertise)

EST. TIME EXHIBITS

Donald A. Neeper, Ph.D.
Transport of contaminants
and effects of sodium in
the soil.

No time is requested, pending
approval to include in the
record of this case the testimony
presented in Case 13480 and any
cross-examination consequent to
that testimony.

PROCEDURAL MATTERS

(Please identify any procedural matters which
need to be resolved prior to the hearing)

The witness will appear *pro se*, but will bear written authorization
to speak as a technical representative of NMCCA&W, Inc.

This testimony will apply equally to Case 13480 and Case 13481.
The witness will request that the testimony presented in Case
13480 be included in the record of Case 13481 without repeating
the testimony while Case 13481 is being heard.

Donald A. Neeper

Signature

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

**APPLICATION OF ARTESIA AERATION, LLC TO MODIFY
ITS EXISTING NMOCD RULE 711 PERMIT No. NM-01030
SO THAT THEY MAY ACCEPT SALT-CONTAMINATED
OILFIELD WASTES.**

CASE NO. 13481

CRI's PRE-HEARING STATEMENT

This pre-hearing statement is submitted by Holland & Hart LLP on behalf of Controlled Recovery Inc. ("CRI").

APPEARANCES

INTERESTED PARTY

Controlled Recovery Inc.
Post Office Box 388
Hobbs, New Mexico 88241-0388

ATTORNEY

William F. Carr
Michael H. Feldewert
Holland & Hart LLP
P.O. Box 2208
Santa Fe, NM 87504
505-988-4421

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CRI's STATEMENT OF THE CASE

CRI and other properly permitted facilities are available in southeast New Mexico to accept salt contaminated oilfield wastes. In contrast, Artesia Aeration's land farming operations are not suitable for disposal of salt contaminated wastes. Artesia Aeration has not filed any application with the Division describing the types of wastes it intends to accept, the facilities it proposes to use to accept those undisclosed wastes, the provisions for handling and storing these undisclosed wastes, a closure plan, or any of the other Rule 711 requirements. CRI believes that the Artesia Aeration's site is not suitable to accept salt contaminated oilfield wastes, and that disposal of these wastes at this site will pose a threat to the public health and environment, including groundwater.

CRI will also present evidence demonstrating that the information and procedures utilized by the Division to evaluate these types of applications are inadequate, and should instead follow the rigorous analysis utilized by the New Mexico Environment Department for similar facilities. Under these more rigorous standards, Artesia Aeration's application would not be sufficient to obtain a discharge permit.

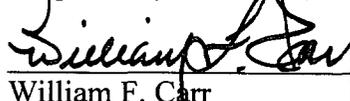
CRI's PROPOSED EVIDENCE

<u>WITNESSES</u>	<u>ESTIMATED TIME</u>	<u>EXHIBITS</u>
Ken Marsh, President of CRI	Approx. 20 Minutes	Approx. 5
Mark Turnbough, Regulatory & Environmental Compliance Specialist	Approx. 1 hour	Approx. 5
Jim Bonner, Registered Professional Geologist	Approx. 30 minutes	Approx. 3
Keith Gordon, Registered Professional Engineer	Approx. 30 minutes	Approx. 6

PROCEDURAL MATTERS

CRI's has filed a motion with the Division to dismiss this case and to rescind Order 12307-A, which currently authorizes Artesia Aeration to accept salt contaminated waste on a temporary basis until a determination is made by the Division on this matter.

Respectfully submitted,



William F. Carr
Michael H. Feldewert
Post Office Box 2208
Santa Fe, New Mexico 87504-2208
(505) 988.4421

Attorneys for Controlled Recovery Inc.

CERTIFICATE OF SERVICE

I certify that on May 13, 2005, I served a copy of the foregoing Pre-Hearing Statement on the following:

Via Hand Delivery to:

Gail MacQuesten
State of New Mexico
Energy, Minerals, Natural Resources Department
Oil Conservation Division
1200 South St. Francis Drive
Santa Fe, New Mexico 87505

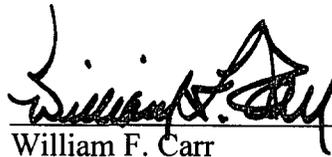
Via U.S. Mail, postage prepaid

Donald A. Neeper
New Mexico Citizens for Clean Air
& Water, Inc.
2708 B. Walnut Street
Los Alamos, New Mexico 87544-2050

Via U.S. Mail, postage prepaid & Facsimile to:

Jim Wilson
Artesia Aeration, LLC
Post Office Box 310
Hobbs, New Mexico 88241
(505) 392-3085 facsimile

Peter V. Domenici, Jr.
Dolan & Domenici, PC
6100 Seagull Street, NE, #205
Albuquerque, New Mexico 87109-2500
(505) 884-3424 facsimile



William F. Carr