

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

2006 SEP 7 PM 12 58

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

**IN THE MATTER OF THE APPLICATION OF THE
NEW MEXICO OIL CONSERVATION DIVISION FOR
REPEAL OF EXISTING RULES 709, 710, 711
CONCERNING SURFACE WASTE MANAGEMENT
AND ADOPTION OF NEW RULES GOVERNING SURFACE
WASTE MANAGEMENT**

No. 13586

**COMMENT ON PROPOSED SURFACE
WASTE MANAGEMENT RULES**

Gandy Marley, Inc., by and through undersigned counsel of record, hereby submits the following comments on OCD's Proposed Rules for Surface Waste Management Facilities.

1) 19.15.2.53.G(6)(e).

Section G(6) Treatment Zone Closure Performance Standards, requires the operator to "demonstrate compliance with the closure performance standards by collecting and analyzing" soil samples for specific constituents identified in paragraphs (a) through (e). Paragraph (e) identifies OCD constituent levels for constituents listed in Subsections A and B of 20.6.2.3103 NMAC, which are the "Standards for Groundwater of 10,000 mg/l TDS Concentration or Less." Section G(6)(e) sets forth closure concentration levels for thirty-nine identified constituents.

Gandy Marley opposes the inclusion of Section G(6)(e) as it is now drafted. GMI agrees with the comment made by the Stakeholder Task Force in the September 1, 2006 Memorandum, filed in this matter by Daniel Sanchez, Stakeholders Task Force Facilitator. In many cases, the constituent levels in Section G(6)(e) are not achievable. Many of the inorganics identified in

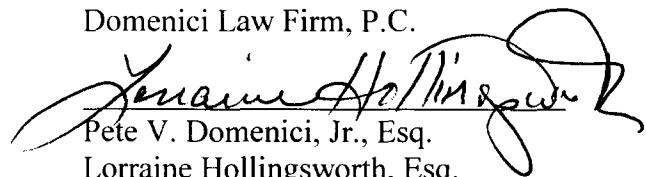
Section G(6)(e) cannot be remediated and remediation for the organics would be very difficult to achieve. Any soils that contained constituents above the levels identified in Section G(6)(e) would likely have to be removed from the landfarm, despite the fact that the waste containing the constituent was not prohibited by the operator's permit. The constituent levels in Section G(6)(e) levels appear to be based on groundwater levels and are much lower than necessary to protect human health and the environment.

2) 19.15.2.53.L(1), (2) and (3).

Gandy Marley supports the changes to 19.15.2.53.L., Transitional Provisions, proposed by the Stakeholder Task Force in the September 1, 2006 Memorandum.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of January, 2006, a copy of the foregoing Entry of Appearance in the above-captioned matter was served by mail on the following:

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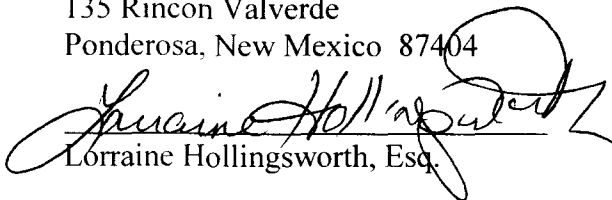
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