

State of New Mexico
Energy, Minerals and Natural Resources Department

Michelle Lujan-Grisham
Governor

Melanie A. Kenderdine
Cabinet Secretary

Ben Shelton
Deputy Secretary (Acting)

Gerasimos "Gerry" Razatos
Division Director (Acting)
Oil Conservation Division



BY ELECTRONIC AND CERTIFIED MAIL

Ms. Michelle Kuhn
J&L Landfarm, Inc.
PO Box 356
Hobbs, NM 88241
jilrob9697@aol.com

NOTICE OF VIOLATION

The Director of the Oil Conservation Division (OCD) issues this Notice of Violation (NOV) pursuant to 19.15.5.10 NMAC.

(1) *Alleged Violator:* J&L Landfarm, Inc., OGRID 195303 (Operator).

(2) *Citation, Nature, and Factual and Legal Basis for Alleged Violations:*

PERMIT NM1-23: Issued February 5, 1999

LANDFARM CONSTRUCTION

Condition 1: The facility will be fenced and have a sign at the entrance.

Condition 2: Contaminated soils will not be placed within one hundred (100) feet of the boundary of the facility.

Condition 3: Contaminated soils will not be placed within twenty (20) feet of any pipelines crossing the landfarm. In addition, no equipment will be operated within ten (10) feet of a pipeline. All pipelines crossing the facility will have surface markers identifying the location of the pipelines.

Condition 4: The portion of the facility containing contaminated soils will be bermed to prevent run-off and run-on. A perimeter berm no less than five (5) feet above grade with a base of eight (8) feet and a crown of two (2) feet will be constructed and maintained such that it is capable of containing precipitation from a one-hundred-year flood for the specific region. Individual cells will be contained with a berm five (5) feet above grade with a base of eight (8) feet and a crown of two (2) feet.

LANDFARM OPERATION

Condition 1: Disposal will occur only when an attendant is on duty. The facility will be secured when no Attendant is present.

Condition 2: All contaminated soils received at the facility will be spread and disked within 72 hours of receipt.

Condition 3: Soils will be spread on the surface in six-inch lifts or less.

Condition 4: Soils will be disked a minimum of one time every two weeks (biweekly) to enhance biodegradation of contaminants.

WASTE ACCEPTANCE CRITERIA

Condition 1: The facility is authorized to accept only:

- A. Oilfield wastes that are exempt from RCRA Subtitle C regulations. 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 on a case-by-case basis after conducting a hazardous waste characterization ..."
- 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.

FINANCIAL ASSURANCE

Condition 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.

19.15.36 NMAC SURFACE WASTE MANAGEMENT FACILITIES

19.15.36.20 TRANSITIONAL PROVISIONS:

Existing permitted facilities. Surface waste management facilities in operation prior to the effective date of 19.15.36 NMAC pursuant to division permits or orders may continue to operate in accordance with such permits or orders, subject to the following provisions:

- A. Existing surface waste management facilities shall comply with the financial assurance, operational, monitoring, waste acceptance and closure and post closure requirements provided in 19.15.36 NMAC, except as otherwise specifically provided in the applicable permit or order, or in a specific waiver, exception or agreement that the division has granted in writing to the particular surface waste management facility.

19.15.36.15 NMAC SPECIFIC REQUIREMENTS APPLICABLE TO LANDFARMS:

- A. Oil field waste acceptance criteria. Only soils and drill cuttings predominantly contaminated by petroleum hydrocarbons shall be placed in a landfarm. The division may approve placement of tank bottoms in a landfarm if the operator demonstrates that the tank bottoms do not contain economically recoverable petroleum hydrocarbons. Soils and drill cuttings placed in a landfarm shall be sufficiently free of liquid content to pass the paint filter test and shall not have a chloride concentration exceeding 500 mg/kg if the landfarm is located where ground water is less than 100 feet but at least 50 feet below the lowest elevation at which the operator will place oil field waste. The person tendering oil field waste for treatment at a landfarm shall certify, on form C-138, that representative samples of the oil field waste have been subjected to the paint filter test and tested for chloride content, and that the samples have been found to conform to these requirements. The landfarm's operator shall not accept oil field waste for landfarm treatment unless accompanied by this certification. [. .]
- D. Treatment Zone Monitoring. The operator shall spread contaminated soils on the surface in eight-inch or less lifts or approximately 1000 cubic yards per acre per eight-inch lift. The operator shall conduct

treatment zone monitoring to ensure that prior to adding an additional lift the TPH concentration of each lift, as determined by EPA SW-846 method 8015M or EPA method 418.1 or other EPA method approved by the division, does not exceed 2500 mg/kg and that the chloride concentration, as determined by EPA method 300.1, does not exceed 500 mg/kg if the landfarm is located where ground water is less than 100 feet but at least 50 feet below the lowest elevation at which the operator will place oil field waste. The operator shall collect and analyze at least one composite soil sample, consisting of four discrete samples, from the treatment zone at least semi-annually using the methods specified below for TPH and chlorides. The maximum thickness of treated soils in a landfarm cell shall not exceed two feet or approximately 3000 cubic yards per acre. When that thickness is reached, the operator shall not place additional oil field waste in the landfarm cell until it has demonstrated by monitoring the treatment zone at least semi-annually that the contaminated soil has been treated to the standards specified in Subsection F of 19.15.36.15 NMAC or the contaminated soils have been removed to a division-approved surface waste management facility.

E. Vadose zone monitoring.

[. . .]

- (2) Semi-annual monitoring program. The operator shall collect and analyze a minimum of four randomly selected, independent samples from the vadose zone at least semi-annually using the methods specified in 19.15.36.15.F for TPH, BTEX and chlorides and shall compare the result to the higher of the PQL or the background soil concentrations to determine whether a release has occurred.
- (3) Five-year monitoring program. The operator shall collect and analyze a minimum of four randomly selected, independent samples from the vadose zone, using the methods specified in 19.15.36.15.F for the constituents listed in Subsections A and B of 20.6.2.3103 NMAC at least every five years and shall compare each result to the higher of the PQL or the background soil concentrations to determine whether a release has occurred.

Findings of Fact

1. J&L Landfarm (Landfarm) is subject to the permit requirements/conditions of Permit NM1-23 and the Transitional Provisions of 19.15.36.20 NMAC.
2. The OCD conducted an onsite inspection of the Landfarm on September 4, 2024; the OCD determined the below permit and/or 19.15.36 NMAC violations:
 - Failure to provide fencing on the north side of the Landfarm which is a violation of Permit Condition 1, Landfarm Construction.
 - Landfarm is not secured on west side of railroad tracks due to a shared entry gate with well operators. Landfarm Operator indicated the gate stays open on a continued basis which is a violation of Permit Condition 1, Landfarm Operation.
 - Contaminated soils are placed within 100 feet of the south side boundary of the Landfarm which is a violation of Permit Condition 2, Landfarm Construction.
 - Contaminated soils are placed within 20 feet of and in some cases directly on top of known pipelines. Also, trucks and earthmoving equipment operate within 10 feet of and directly on top of pipelines. This is in violation of Permit Condition 3, Landfarm Construction.
 - Multiple cells are not contained within a berm that meets the permit berm size requirements. Several cell berms are extremely eroded and cells along the Landfarm access roads are not contained within a berm. This is violation of Permit Condition 4, Landfarm Construction.
 - The OCD reviewed historical aerial imaging of the Landfarm which indicated a pattern of stockpiling contaminated soils throughout the Landfarm. When questioned by the OCD, the Landfarm Operator was not aware of the permit requirement to spread and disk the soils within 72 hours of receipt. Furthermore, the Landfarm Operator stated he had been stockpiling the soils until he had a full cell. This is in violation of Permit Condition 2, Landfarm Operation.
 - When questioned by the OCD, the Landfarm Operator was not aware of the permit requirement to disk soils a minimum of one time every two weeks which is in violation of Permit Condition 4,

Landfarm Operation.

- 19.15.36.15.A NMAC stipulates that soils and drill cuttings placed in a landfarm shall be sufficiently free of liquid content to pass the paint filter test and shall not have a chloride concentration exceeding 500 mg/kg if the landfarm is located where ground water is less than 100 feet but at least 50 feet. Therefore, the Landfarm Operator must require the person tendering oil field waste for treatment at the Landfarm to certify, on Form C-138 that representative samples of the oil field waste have been subjected to the paint filter test and tested for chloride content, and that the samples have been found to conform with these requirements. When questioned by the OCD on the Landfarm's waste acceptance criteria, the Landfarm Operator admitted that waste is accepted without the required certification Form C-138 and the Landfarm Manager also admitted to filling in and certifying Form C-138s instead of the generator after waste acceptance. The Landfarm is in violation with 19.15.36.15.A NMAC.
- During the inspection, the OCD collected five random soil samples from stockpiles and disked rows. Analytical results showed 2 out of the 5 samples exceeded the Landfarm's chloride concentration limit of 500 mg/kg. This is a violation of 19.15.36.15.A NMAC.
- During the inspection, the OCD saw plastic and metal debris throughout the Landfarm. The Landfarm is only allowed to accept oilfield waste and non-oilfield wastes ordered by the Department of Public Safety in the event of a public emergency. This is in violation of Permit Condition 1, Waste Acceptance Criteria.
- Landfarm is spreading contaminated soils in lifts greater than 6 inches and is not determining the maximum thickness of treated soils in the landfarm cells. The maximum thickness of treated soils in a landfarm cell is limited to 2 feet or approximately 3,000 cubic yards. The Landfarm Operator has stated that soils are stockpiled in cells until full and then spread and disked. The Landfarm is in violation with Permit Condition 3, Landfarm Operation and 19.15.36.15.D NMAC.
- An OCD administrative records review of the Landfarm indicates the Landfarm has never conducted semi-annual treatment zone monitoring for TPH and chlorides. This is in violation of 19.15.36.15.D NMAC.
- An OCD administrative records review of the Landfarm indicates the Landfarm has not conducted semi-annual vadose zone monitoring for TPH, BTEX, and chlorides since May 2017. This is in violation of 19.15.36.15.E(2) NMAC.
- An OCD administrative records review of the Landfarm indicates the Landfarm has not conducted 5-year vadose zone monitoring for constituents listed in Subsections A and B of 20.6.2.3103 NMAC since July 2014. This is in violation of 19.15.36.15.E(3) NMAC.

(3) Compliance:

- The Operator must **immediately** bring the Landfarm into compliance with the violations identified in the above Findings of Fact. The Operator must submit to the OCD an operational and maintenance plan, a sampling and monitoring plan, and a waste acceptance plan to demonstrate the Operator's commitment to comply with the conditions of Permit NM1-23 and the transitional provisions of 19.15.36.20.A NMAC.
- Furthermore, Permit Condition 1, Financial Assurance (FA) allows the OCD to evaluate the Operator's closure cost estimate according to prices and remedial work estimates at the time of review; therefore, the OCD is also requesting a current closure/post-closure plan to determine if the current FA needs to be adjusted to incorporate any closure cost changes. All plans are due to the OCD within 30-days of receipt of the NOV and must be submitted through OCD's Permitting System as a "Non-Fee SWMF Submittal."
- All required treatment zone and vadose zone sampling/monitoring must resume within 30-days of receipt of the NOV.

(4) Sanction(s): OCD may impose one or more of the following sanctions:

- modification, suspension, cancellation, or termination of a permit or authorization
- remediation and restoration of the facility location, including the removal of surface and

- subsurface equipment and other materials
- forfeiture of financial assurance
- any other remedy authorized by law

Civil Penalty:

OCD proposes a cumulative total of \$110,000 for 14 separate violations related to the Site Location(s) listed in paragraph 1 and detailed in the Civil Penalty Calculator. See *Exhibit A*.

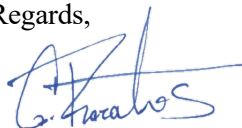
The civil penalty calculations are attached. OCD may recalculate the civil penalties for ongoing violations occurring on or after the date of issuance of this NOV and will take into consideration Operator's good faith effort to comply with the applicable requirements.

(5) *Informal Review and Resolution:* A process is available for the informal review and resolution of the alleged violations in the NOV. To initiate the informal review process, contact the OCD employee identified at the end of this letter. If OCD and the alleged violator agree to resolve the alleged violations in the NOV, the agreement will be incorporated into a stipulated final order signed by both parties and stating that the alleged violator admits OCD's jurisdiction to file the NOV, consents to the specified relief, including the civil penalty, if any, and waives the right of review by the Oil Conservation Commission.

(6) *Hearing:* If this Notice of Violation is not resolved within thirty (30) days of receipt of service, OCD will hold a hearing on **June 12, 2025**. Please see 19.15.5.10 NMAC for more information regarding the hearing. However, please note that the hearing does not prohibit OCD from negotiating with the alleged violator at any time to settle the NOV.

For more information regarding this NOV, contact Jesse Tremaine, OCD Legal Director, at (505) 231-9312 or jessek.tremaine@emnrd.nm.gov.

Regards,



Gerasimos Razatos
Director (Acting)

3/28/2025

Date

cc: EMNRD-OGC



Alleged Violator	J&L Landfarm, Inc.	
Alleged Violator OGRID	195303	
History of Non-Compliance	No history	0
Economic Impact	Less than 50 wells or gross sales less than \$500,000	0
Total Penalty	\$ 110,000	

API # or Facility ID	Violation Citation	Type of Violation	Description	MinPA(\$)	Multi Day / Single Day	Days in violation	Days Penalized	Penalty Subtotal	Effort to Comply		Negligence and Willfulness		Factor Subtotal	Outstanding Conditions		TOTAL	Comments
IEEM0112339187 Permit NM1-23	36.13 (Cond. 2)	fail to comply with other requirement	Failure to fence entire facility	\$ 1,000	Multiple	365	365	\$ 365,000	Cooperation and Compliance	0	Negligence	0.2	1.2	No outstanding conditions	\$ 2,500.00	\$ 2,500	
	36.15	fail to comply with requirement for landfarm	Contaminated soils placed within 100 feet of facility boundary	\$ 1,000	Multiple	2008	2008	\$ 2,008,000	Cooperation and Compliance	0	Negligence	0.2	1.2	No outstanding conditions	\$ 2,500.00	\$ 2,500	
	36.15	fail to comply with requirement for landfarm	Contaminated soils placed within 20 feet of a pipeline crossing	\$ 1,000	Multiple	2008	2008	\$ 2,008,000	Cooperation and Compliance	0	Negligence	0.2	1.2	No outstanding conditions	\$ 2,500.00	\$ 2,500	
	36.15	fail to comply with requirement for landfarm	Cells are not within required berm	\$ 1,000	Multiple	2008	2008	\$ 2,008,000	Cooperation and Compliance	0	Gross Negligence	0.4	1.4	Violation presents a risk to public health or safety; may cause significant enviromental harm	\$ 10,000.00	\$ 10,000	
	36.15	fail to comply with requirement for landfarm	Facility is not properly secured when no attendant present.	\$ 1,000	Multiple	365	365	\$ 365,000	Cooperation and Compliance	0	Negligence	0.2	1.2	No outstanding conditions	\$ 2,500.00	\$ 2,500	
	36.15	fail to comply with requirement for landfarm	Failure to spread and disk soils within 72 hours of receipt	\$ 1,000	Multiple	143	143	\$ 143,000	Cooperation and Compliance	0	Gross Negligence	0.4	1.4	Violation presents a risk to public health or safety; may cause significant enviromental harm	\$ 10,000.00	\$ 10,000	
	36.15	fail to comply with requirement for landfarm	Failure to spread soils in 6-inch or less lifts	\$ 1,000	Multiple	143	143	\$ 143,000	Cooperation and Compliance	0	Gross Negligence	0.4	1.4	Violation presents a risk to public health or safety; may cause significant enviromental harm	\$ 10,000.00	\$ 10,000	
	36.15	fail to comply with requirement for landfarm	Failure to disk a minimum of one time every two-weeks	\$ 1,000	Multiple	143	143	\$ 143,000	Cooperation and Compliance	0	Gross Negligence	0.4	1.4	Violation presents a risk to public health or safety; may cause significant enviromental harm	\$ 10,000.00	\$ 10,000	
	36.15	fail to comply with requirement for landfarm	Failure to accept only exempt and non-exempt oilfield wastes	\$ 1,000	Single	365	365	\$ 365,000	Cooperation and Compliance	0	Negligence	0.2	1.2	Violation presents a risk to public health or safety; may cause significant enviromental harm	\$ 10,000.00	\$ 10,000	
	36.15	fail to comply with requirement for landfarm	Failure to require certified C-138 Forms from generator prior to waste acceptance.	\$ 1,000	Multiple	4745	338	\$ 338,000	Cooperation and Compliance	0	Probable or Actual Willfulness	0.6	1.6	Violation presents a risk to public health or safety; may cause significant enviromental harm	\$ 10,000.00	\$ 10,000	
	36.15	fail to comply with requirement for landfarm	Failure to accept only contaminated soils/waste with less than 500 mg/kg of chlorides	\$ 1,000	Multiple	4745	338	\$ 338,000	Cooperation and Compliance	0	Gross Negligence	0.4	1.4	Violation presents a risk to public health or safety; may cause significant enviromental harm	\$ 10,000.00	\$ 10,000	
	36.15	fail to comply with requirement for landfarm	Failure to conduct periodic treatment zone monitoring	\$ 1,000	Multiple	4745	4745	\$ 4,745,000	Cooperation and Compliance	0	Gross Negligence	0.4	1.4	Violation presents a risk to public health or safety; may cause significant enviromental harm	\$ 10,000.00	\$ 10,000	
	36.15	fail to comply with requirement for landfarm	Failure to conduct semi-annual vadose zone monitoring	\$ 1,000	Multiple	2555	2555	\$ 2,555,000	Cooperation and Compliance	0	Gross Negligence	0.4	1.4	Violation presents a risk to public health or safety; may cause significant enviromental harm	\$ 10,000.00	\$ 10,000	
	36.15	fail to comply with requirement for landfarm	Failure to conduct 5-year vadose zone monitoring	\$ 1,000	Multiple	1825	1825	\$ 1,825,000	Cooperation and Compliance	0	Gross Negligence	0.4	1.4	Violation presents a risk to public health or safety; may cause significant enviromental harm	\$ 10,000.00	\$ 10,000	

Sante Fe Main Office
Phone: (505) 476-3441

General Information
Phone: (505) 629-6116

Online Phone Directory
<https://www.emnrd.nm.gov/ocd/contact-us>

State of New Mexico
Energy, Minerals and Natural Resources
Oil Conservation Division
1220 S. St Francis Dr.
Santa Fe, NM 87505

CONDITIONS

Action 447076

CONDITIONS

Operator: J&L LANDFARM INC PO Box 356 Hobbs, NM 88241	OGRID: 195303
	Action Number: 447076
	Action Type: [C-137] Non-Fee SWMF Submittal (SWMF NON-FEE SUBMITTAL)

CONDITIONS

Created By	Condition	Condition Date
joseph.kennedy	None	3/31/2025