

NM1 - 49

**GENERAL
CORRESPONDENCE**

YEAR(S):

2008



New Mexico Energy, Minerals and Natural Resources Department

Bill Richardson
Governor

Joanna Prukop
Cabinet Secretary
Reese Fullerton
Deputy Cabinet Secretary

Mark Fesmire
Division Director
Oil Conservation Division



September 30, 2008

Mr. Wm. H. Livingston
President
Livingston Research Corporation
R223 North 13th Street
Artesia, New Mexico 88210

**RE: Proposal for a Surface Waste Management Facility
Livingston Research Corporation
Location: NW/4 SE/4 Section 24, Township 18 South, Range 28 East, NMPM
Eddy County, New Mexico**

Dear Mr. Livingston:

The New Mexico Oil Conservation Division (OCD) has reviewed Livingston Research Corporation's (LRC) proposals, dated September 11, 2008 and September 28, 2008, to utilize a collapsed brine well (Jim's Water Service Brine Well: Permit BW-005) for the disposal of drill cuttings and produced water in order to "help stabilize the hole and make it safe." Based upon the proposed operations, OCD is unable to consider the request since it was not pursued pursuant to the provisions of 19.15.36 NMAC, the Surface Waste Management regulations.

The initial proposal, dated September 28, 2008, suggests that since Jim's Water Service Brine Well (Permit BW-005) is permitted under the Water Quality Control Commission regulation 20.6.2 NMAC, that other regulations do not apply. OCD would like to clarify that the Jim's Water Service Brine Well (Permit BW-005) was permitted as a Class III well under 20.6.2 NMAC. As identified in Paragraph (3) of Subsection B of 20.6.2.5002 NMAC, "Class III wells inject fluids for the extraction of minerals or other natural resources, including sulfur, uranium, metals, salts, or potash by in situ extraction. This classification includes only in situ production from ore bodies that have not been conventionally mined." Jim's Water Service Brine Well (Permit BW-005) was permitted for extraction, not disposal. At the time of permitting and during operations it was also classified as an underground injection control well as specified under Paragraph (1) of Subsection A of 20.6.2.5002 NMAC, "any dug hole or well that is deeper than the largest surface dimension, where the principal function of the hole is emplacement of fluids." Based upon both proposals to dispose "of drill cuttings and waste brine water" into the sinkhole created from the collapsed brine well, OCD is unable to consider the proposed operations due to its contradiction to the intent of the original permit.

However, the operations described in the proposals are a surface waste management facility as defined in Paragraph (10) of Subsection S of 19.15.1.7 NMAC.

(10) Surface waste management facility means a facility that receives oil field waste for collection, disposal, evaporation, remediation, reclamation, treatment or storage except:



- (a) a facility that utilizes underground injection wells subject to division regulation pursuant to the federal Safe Drinking Water Act, and does not manage oil field wastes on the ground in pits, ponds, below-grade tanks or land application units;
- (b) a facility permitted pursuant to environmental improvement board rules or water quality control commission rules;
- (c) a temporary pit as defined in 19.15.17 NMAC;
- (d) a below-grade tank or pit that receives oil field waste from a single well, permitted pursuant to 19.15.17 NMAC, regardless of the capacity or volume of oil field waste received;
- (e) a facility located at an oil and gas production facility and used for temporary storage of oil field waste generated on-site from normal operations, if such facility does not pose a threat to fresh water, public health, safety or the environment;
- (f) a remediation conducted in accordance with a division-approved abatement plan pursuant to 19.15.1.19 NMAC, a corrective action pursuant to 19.15.3.116 NMAC or a corrective action of a non-reportable release;
- (g) a facility operating pursuant to an emergency order of the division;
- (h) a site or facility where the operator is conducting emergency response operations to abate an immediate threat to fresh water, public health, safety or the environment or as the division has specifically directed or approved; or
- (i) a facility that receives only exempt oil field waste, receives less than 50 barrels of liquid water per day (averaged over a 30-day period), has a capacity to hold 500 barrels of liquids or less and is permitted pursuant to 19.15.17 NMAC.

Based upon the information provided in the proposals, a surface waste management facility permit application for a commercial landfill, pursuant to 19.15.36 NMAC, is required for submittal for consideration by the OCD. OCD does not recommend the pursuit of a permit application due to the instability of the proposed site. OCD does not consider the proposed location as a viable site pursuant to siting requirement of Paragraph (6) of Subsection B of 19.15.36.13 NMAC.

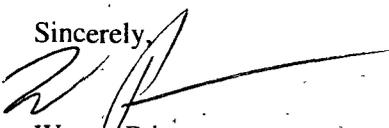
B. No surface waste management facility shall be located:

(6) within an unstable area, unless the operator demonstrates that engineering measures have been incorporated into the surface waste management facility design to ensure that the surface waste management facility's integrity will not be compromised.

The area surrounding the brine well collapse still remains unstable and continues to collapse and expand. This process may continue for several years and will require continual subsurface investigations and assessments. Engineering measures will not be considered by OCD due to the constantly changing subsurface conditions at the proposed site.

If there are any questions regarding this matter, please contact Brad Jones of my staff at (505) 476-3487 or brad.a.jones@state.nm.us.

Sincerely,


Wayne Price
Environmental Bureau Chief

LWP/baj

cc: OCD District II Office, Artesia

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2008 SEP 3 PM 3 05

LIVINGSTON RESEARCH CORPORATION

R223 North 13th Street
Artesia, New Mexico 88210

28 September 2008

Jim's Water Service

New Mexico Oil Conservation Division:

Dear Sirs:



Livingston Research Corporation (LRC) makes the following offer to alleviate the problems caused by the cave in of the Jim's Water Service (JMS) Brine Water Production Site . (BWPS).

1. LRC will pay JMS five percent .5% of the profit made by LRC's oil field disposal procedures. This will start 3 months after the disposal operation is established and "IF": a profit has been developed. Costs and procedures have not been established. This lease will be automatically renewed by JMS, and the OCS. and can only be canceled by LRC.
2. LRC agrees to proceed as profitable as possible, but in all new ventures unexpected problems will occur
3. LRC agrees to limit the amount of potential contaminants added to the disposal area. different methods may be used. The primary ingredient will by drill stem cuttings and brine water.

The Oil Field Conservation Division agrees to:

1. Establish simple guide lines for the operation, and limits of the extent of the possible danger.
2. Provide a fence around the danger zone, that protects both, animals and human from access.
3. Agrees that additional contamination of fresh water is impossible, with the limited amount of fluids to be added to the fill. The subject hole is full of brine water from the bottom up, left there from dissolving pre historic oceans..
4. That there is no recoverable un polluted water in the hole..

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PROPOSAL IS RESPECTFULLY SUBMITTED:


Wm. H. Livingston, BS/DWM
President LRC . .

PS Request specific answers and proof from the OCD: Why this proposal can not be approved. Please do not quote your regulations, because they do not apply. Because this was a brine production well approved by the OCD, and created under the supervision of all the OC D personal since its inception.

Please respond immediately..

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LIVINGSTON RESEARCH CORPORATION

R223 North 13th Street
Artesia, New Mexico 88210

2008 SEP 15 PM 3 20

September 11, 2008

N.M. OCD
1920 South Fremont Drive
Santa Fe, N.M. 87505

Director New Mexico Oil Conservation Division

Sir:

A. Reference LRC letter dated September 11, 2008.

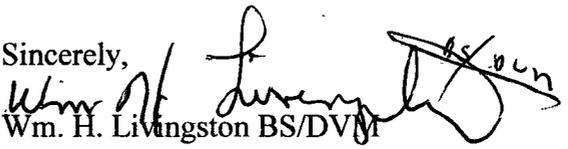
1. LRC proposed to utilize the brine water hole in Eddy County by disposing of drill cuttings and waste brine water in it. This will help stabilize the hole and make it safe.

2. LRC will use consultants from the salt mines in Carlsbad, N. M. We believe LRC with this help can fill the hole safely.

B. The work will be experimental at first, and may be slow developing but will go faster as soon as safe and proper techniques are developed.

C. LRC proposes to donate 50% of the profit from filling the hole with oil field waste to the Cerebral Palsy Fund of New Mexico.

THIS WILL BE A DIRECT GIFT FROM GOD AND THE OCD FOR THE CRIPPLED CHILDREN OF NEW MEXICO.

Sincerely,

Wm. H. Livingston BS/DVM
President: Livingston Research Corporation

Distribution:

- 1. OCD
- 2. United Press of New Mexico