NM1 - ___50_____

GENERAL CORRESPONDENCE

YEAR(S):

March 2010 – April 2010

New Mexico Energy, Minerals and Natural Resources Department

Bill Richardson
Governor

Jon Goldstein
Cabinet Secretary

Jim Noel
Deputy Cabinet Secretary

Mark Fesmire
Division Director
Oil Conservation Division

April 27, 2010

John J. Kiely
President
Crowe Blanco, LLC
401 S. LaSalle, Suite 606
Chicago, Illinois 60605

RE: Request for Additional Information – Permit Application Review for a Proposed Commercial Surface Waste Management Facility
Crowe Blanco, LLC – Blanco Landfarm
Facility Location: W/2 and SW/4 SE/4 of Section 16, Township 29 North, Range 9 West NMPM
San Juan County, New Mexico

Dear Mr. Kiely:

The Oil Conservation Division (OCD) has reviewed Crowe Blanco, LLC's application for a commercial surface waste facility permit for the Blanco Landfarm located in the W/2 and SW/4, SE/4 of Section 16, Township 29 North, Range 9 West NMPM, San Juan County, New Mexico. The review of the submittal is to determine if any additional information or modifications may be required before considering deeming the permit application complete. The application has been determined to be incomplete. Therefore, the OCD requests additional information.

Enclosed is a list of items that must be addressed prior to completing the review. Once this information is submitted, the OCD will determine if additional information is required. The OCD suggests that meetings be conducted with the OCD on a periodic basis to discuss the request for information. *The OCD recommends that a meeting be scheduled with the Division's Santa Fe office Environmental Bureau prior to making revisions to the application in order to determine if the proposed location is capable of satisfying the siting requirements of Subsections A and B of 19.15.36.13 NMAC for consideration of an application submittal.*

The OCD recommends that all corrections, additions, and modifications to the application be reviewed and cross-referenced before they are submitted, in order to verify that all responses correlate and coincide with each other throughout the application.

If there are any questions regarding this matter, please do not hesitate to contact me at (505) 476-3487 or brad.a.jones@state.nm.us.

Sincerely,

Brad A. Jones
Environmental Engineer

BAJ/baj

Attachments: 1) Request for Additional Information
2) Copy of 19.15.36 NMAC Surface Waste Management Facilities Regulations

Cc: OCD District III Office, Aztec w/ attachment 1
Terry Lattin, Industrial Ecosystems, Inc., 49 CR 3150, Aztec, NM 87410 w/ attachments

Request for Additional Information
Crowe Blanco, LLC – Blanco Landfarm
Commercial Surface Waste Management Facility
April 27, 2010

Page 1.1

Pursuant to Paragraph (1) of 19.15.36.8.C NMAC, the application shall include "the *names and addresses of the applicant* and principal officers and owners of 25 percent or more of the applicant." Please provide the name and address of the applicant (Crowe Blanco, LLC).

Page 2.2

The map is titled "On-site Off-site Topography." The map illustrates the contours across the proposed facility, but fails to provide elevations and a scale. The map also only illustrates the topography northeast and east of the proposed facility. It fails to illustrate the topography to the west, southwest, and south of the proposed facility, the areas in which all surface water run-off flow and discharge. Please provide the information identified above and/or addition maps that illustrate all of the surrounding areas.

Page 2.3

Pursuant to Paragraph (2) of 19.15.36.8.C NMAC, the application shall include "a plat and topographic map showing the surface waste management facility's location in relation to governmental surveys (quarter-quarter section, township and range); *highways or roads giving access to the surface waste management facility site; watercourses; fresh water sources, including wells and springs; and inhabited buildings within one mile of the site's perimeter.*" The map is titled "Water Well Locations within 1 Mile." Please provide a map or maps that satisfy this requirement.

Page 4.1

Pursuant to Paragraph (4) of 19.15.36.8.C NMAC, the application shall include "a description of the surface waste management facility *with a diagram indicating the location of fences and cattle guards*, and *detailed construction/installation diagrams of pits, liners, dikes, piping, sprayers, tanks, roads, fences, gates, berms, pipelines crossing the surface waste management facility, buildings and chemical storage areas.*" A brief written description was provided. Please provide "*a diagram indicating the location of fences and cattle guards*, and *detailed construction/installation diagrams of pits, liners, dikes, piping, sprayers, tanks, roads, fences, gates, berms, pipelines crossing the surface waste management facility, buildings and chemical storage areas*" as required.

Page 5.0, *Section 5*

Pursuant to Paragraph (5) of 19.15.36.8.C NMAC, the application shall include "engineering designs, certified by a registered professional engineer, including technical data on the design elements of each applicable treatment, remediation and disposal method and detailed designs of surface impoundments." Please provide the engineering designs, as required.

Page 5.2

Please provide the engineering designs for the shaker pits, the slurry holding pit, the centrifuge, storage tanks, and centrate tank. The engineering designs should include the

secondary containment features associated with the above-mentioned items. Also, include "technical data on the design elements of each applicable treatment, remediation and disposal method" as required by Paragraph (5) of 19.15.36.8.C NMAC.

The biopiles are described as having such dimensions as "approximately 12-15' wide and no more than 12' tall." Please demonstrate how the proposed dimensions comply with the regulatory maximum amount of soils of "3000 cubic yards per acre" of Subsections D and F of 19.15.36.15 NMAC. Please provide the proposed length of the biopile and the maximum number of biopiles allowed per acre. Also, please identify the source of the manure that will be utilized to enhance the bioremediation process and provide an engineering design for the manure containment and storage feature.

Page 6.1

Introduction:

The last sentence of the first paragraph states that "these procedures comply with the applicable requirements contained pursuant to 19.15.36.13, 19.15.36.15, and *19.15.36.17* NMAC." There is no information provided in the Operational Plan that addresses any of the requirements of 19.15.36.17 NMAC. Please explain or demonstrate compliance with the applicable provisions of 19.15.36.17 NMAC, *Specific Requirements Applicable to Evaporation, Storage, Treatment, and Skimmer Ponds.*

Section 1, Waste:

The last sentence or paragraph provided in this section states "exempt waste is prohibited from being mixed with non-exempt waste." Based upon the flow chart provided on page 5.1, please explain how this requirement will be implemented with the development of the biopile.

Section 1.1, Exempt Oilfield Waste:

In the first sentence of the first paragraph of the section, please identify the "applicable test and analytical methods required by NMOCD" mentioned in the text and provide the appropriate regulatory references.

Pursuant to Paragraph (3) of 19.15.36.7.A NMAC ""Landfarm" means a discrete area of land designated and used for the remediation of petroleum hydrocarbon-contaminated soils and drill cuttings." Pursuant to Subsection A of 19.15.36.15 NMAC, "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." The information provided in this section identifies four "major types of operations that generate exempt waste." The second type of operation identified is the "production of tank bottom sludge" which includes "the pigging of transmission lines, and the maintenance and reclamation of settling ponds." Please compare this interpretation to the definition of "tank bottoms" provided in Paragraph (1) of 19.15.2.7.T NMAC. Also, waste generated from "the pigging of transmission lines" may be classified as RCRA non-exempt depending on the status of the transmission line. The third type of operation identified is the "production of drilling fluids." The definition of "landfarm" provided in Paragraph (3) of 19.15.36.7.A NMAC and the landfarm waste acceptance criteria of Subsection A of 19.15.36.15 NMAC clearly identifies the acceptance of *drill cuttings*, not "drilling fluids." The fourth type of operation identified is the "production of high TDS fluids." Please reference a provision within 19.15.36 NMAC that

clearly states that such fluids satisfy the waste acceptance criteria for landfarms. Please confirm and verify the proposed exempt waste streams in order to determine if they comply with the waste acceptance provisions of 19.15.36 NMAC regarding landfarms.

Section 1.2, Non-Exempt, Non-Hazardous Oilfield Waste:

Please provide examples of potential types of RCRA non-exempt, non-hazardous waste that is anticipated to be received at the proposed landfarm.

The first sentence of the first paragraph states that RCRA non-exempt, non-hazardous waste will be identified by "all applicable test and analytical methods required by NMOCD." The determination of the status (hazardous or non-hazardous) of RCRA non-exempt waste is dictated the USEPA and the requirements of RCRA. The applicable tests, analytical methods, and standards are identified in subpart C of 40 CFR part 261. Please modify the response to address appropriate testing requirements. Also, please identify any additional waste acceptance criteria applicable to the requirements of 19.15.36 NMAC in regards to non-exempt waste.

Also as a clarifying point regarding a statement provided in the second paragraph, RCRA exempt waste loses its' exemption if mixed with RCRA non-exempt waste. Therefore, it becomes RCRA non-exempt.

Page 6.2

Section 1.4, Waste Characterization:

Pursuant to Subsection A of 19.15.36.15 NMAC, "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." Please view the comments provided for Section 1.1 regarding "drilling fluids." Also, "debris waste" is not a term used or defined within the OCD rules. Please provide an explanation of what "debris waste" may represent. Please confirm and verify the proposed waste streams in order to determine if they comply with the waste acceptance provisions of 19.15.36 NMAC regarding landfarms.

Section 1.5, Prohibited Waste

Pursuant to Subsection E of 19.15.36.13 NMAC, "The operator shall not place oil field waste containing *free liquids* in a landfill or landfarm cell." Please identify "free liquids" as a waste prohibited from being disposed of at the facility.

Section 2, Waste Acceptance:

The second bullet of the waste acceptance protocol discusses the monitoring of hydrogen sulfide of liquid waste. Please clearly identify or define the "liquid" waste. Also, please identify the concentration regarding the "unacceptable levels of hydrogen sulfide."

The fifth bullet of the waste acceptance protocol discusses the chloride concentration limit (1000 mg/kg) in regards to the depth to ground water. The fifth bullet also notes that the "facility is located where ground water is 100' or more below the lowest elevation." The proposed facility location has not been properly investigated or assessed in regards to the siting criteria. Based upon the information provided within the application, there is some concern in respect to the determination of the separation to ground water. Water well SJ 02883, as properly

located and illustrated on the water well map of Page 2.3, is noted on the Office of the State Engineer well log information sheet to have a depth to water of 87 feet (page 46 of Section 15). Water well SJ 02883 is abutting the proposed facility to the east within Section 16. Please make arrangements to schedule a meeting with myself to discuss the submittal of a boring plan in order to properly assess the proposed location in regards to the siting criteria of 19.15.36 NMAC.

Page 6.3

Section 3.1, Form C-138:

The information provided in Section 1.3, on page 6.2, indicates that the facility may accept emergency non-oilfield waste. Pursuant to Paragraph (3) of 19.15.36.13.F NMAC, if such waste is received "the operator shall complete a form C-138, oil field waste document, describing the waste, and maintain the same, accompanied by the department of public safety order, subject to division inspection." The information provided in this section, 3.1, does not recognize that a C-138 is required for emergency non-oilfield waste, or that the C-138 must be accompanied by the department of public safety order, and it does not include the regulatory reference in the subject title. Please modify the response appropriately.

Page 6.4

Section 4.1, Flowchart for Waste Acceptance/Disposal:

The pink boxes, the third box on the left side and the fourth box on the right side of the flow chart, indicate that the waste must pass the paint filter test upon arrival at the landfarm. Then the flow chart continues on each side with the acceptance of liquids. If the waste material is determined to contain free liquids, it fails the paint filter test. Please explain. Also, please explain why chloride testing is not performed on any of the solidified tank bottoms prior to placement into a biopile.

Page 6.5

Section 4.2, Migratory Bird Protection:

Pursuant to Paragraph (4) of 19.15.36.8.C NMAC, the application shall include "a description of the surface waste management facility with a diagram indicating the location of fences and cattle guards, and *detailed construction/installation diagrams of pits, liners,* dikes, piping, sprayers, *tanks,* roads, fences, gates, berms, pipelines crossing the surface waste management facility, buildings and chemical storage areas." Please provide "*detailed construction/installation diagrams*" of any pits, liners, and tanks and illustrate the proposed screen or netting that will be utilized for the protection of migratory birds.

Section 5.0, Treatment/Bioremediation:

Pursuant to Paragraph (4) of 19.15.36.15.C NMAC, within "72 hours after receipt, the operator shall spread and disk contaminated soils in eight-inch or less lifts or approximately 1000 cubic yards per acre per eight-inch lift or biopile." The language provided in the first paragraph of the response is not the equivalent to the regulatory requirement. The written response would allow for the waste to be placed into a biopile without any limits in regards to lift thickness or volume. Please modify the response to comply with the requirement.

Also, there is no language in the response that provides the details and regulatory requirements that must satisfied if such a lift is placed on existing soils. Please address the requirements of Subsection D of 19.15.36.15 NMAC regarding adding an additional lift.

Section 5.1, Solid Waste:

Please make a distinction in the title to identify if this section is referring to exempt or non-exempt solid waste. Also, please either identify the waste acceptance criteria or reference a section that directly addresses it in detail.

The title or heading for everything addressed under Section 5.0 is identified as treatment and bioremediation. The OCD anticipates that the treatment and bioremediation details will be provided when each waste stream is addressed. Such as in Step 3, please provide the mixing ratio of manure to petroleum hydrocarbon-contaminated soils and drill cuttings. Also, please identify what types of "organic waste" may be added to get the remediation process started. Please provide MSDS's for the proposed chemical enhancers.

In Step 4, please explain what is meant that a "biopile/lift is completed"? Please explain the process in which this is determined.

In Step 5, please identify the temperatures, initial and maintenance, that must be obtained in order to promote and facilitate the remediation process. Also, please identify what types of "additional remediation materials" may be added to maintain and control the remediation process.

Step 6 states that "soils will be disked bi-weekly." Based upon the description of biopiles (page 5.2) of being "approximately 12-15' wide and no more than 12' tall," how will disking occur as the height of the biopile increases? Please explain.

In Step 8, please identify the test frequency, test protocols and test methods required by Subsection D of 19.15.36.15 NMAC.

Section 5.2, Liquid Waste:

Please make a distinction in the title to identify if this section is referring to exempt or non-exempt liquid waste. Also, please either identify the waste acceptance criteria or reference a section that directly addresses it in detail.

Step 1 indicates that liquid waste will be "offloaded in the concrete impoundment or tank." In the review of the application there has not been any mention of concrete impoundments. Pursuant to Subsection C of 19.15.36.9 NMAC, please provide engineering designs and detailed construction/installation diagrams of any concrete impoundment and/or tanks and also provide a facility map that illustrates their locations within the facility boundary.

In Step 3, please define and explain what would constitute "reclaimed" soils. Also, please explain how the "Biopile Records" form, as discussed in Step 2 of Section 5.1, will be maintained when mixing non-separated generator liquids with generator load specific "reclaimed" soils.

In Step 4, please provide the mixing ratio of manure to petroleum hydrocarbon-contaminated soils and drill cuttings. Also, please identify what types of "organic waste" may be added to get the remediation process started. Please provide MSDS's for the proposed chemical enhancers.

In Step 5, please explain why chloride testing is not required for biopiles in which liquid waste is stabilized with potentially "reclaimed" soils prior to placement within the landfarm cell.

Page 6.6

Section 5.3, Non-Exempt Waste:

Based upon the information in this section, the only assumption that can be made is that only solid non-exempt waste will be accepted. The steps for treatment/bioremediation do not include or address stabilization of fluids or liquids. If this is not correct, please provide treatment/ bioremediation process procedures regarding liquid non-exempt waste. Pursuant to Subsection C of 19.15.36.9 NMAC, please provide a facility map that illustrates the separate section of the facility that is "strictly designated for the storage and bioremediation of non-exempt waste." The map should also illustrate the location of the storage and treatment impoundments and the area which is dedicated for non-exempt waste biopiles within the facility boundary.

Please either identify the waste acceptance criteria or reference a section within the permit application that directly addresses it in detail. There are only five process steps provided regarding the handling of RCRA non-exempt waste. Please explain why the eight process steps provided in Section 5.1 for solid waste would not be appropriate for RCRA non-exempt waste.

Pursuant to Paragraph (5) of 19.15.16.15 NMAC, the "operator shall ensure that soils are disked biweekly and biopiles are turned at least monthly." Please explain why compliance with this provision does not apply to biopiles of RCRA non-exempt waste.

In Step 3, please provide the mixing ratio of manure to RCRA non-exempt waste. Also, please identify what types of "organic waste" may be added to get the remediation process started. Please provide MSDS's for the proposed chemical enhancers.

In Step 4, please identify the temperatures, initial and maintenance, that must be obtained in order to promote and facilitate the remediation process. Also, please identify what types of "additional remediation materials" may be added to maintain and control the remediation process.

In Step 5, please identify the test frequency, test protocols and test methods required by Subsection D of 19.15.36.15 NMAC.

Section 5.4, Produced Water:

Please identify the "acceptable criteria" and the associated concentrations for produced water that may be suitable for dust control within the facility. Also, please provide a regulatory reference in regards to the "acceptable criteria." Please describe how the produced water will be utilized for dust control within the facility boundary, such as where and how it will be applied.

The last sentence of the paragraph states that a "form C-133 showing State approval must accompany produced water sent off-site." Pursuant to Subsection A of 19.15.34.8 NMAC, a "person shall not transport produced water, drilling fluids or other liquid oil field waste, including drilling fluids and residual liquids in oil field equipment, except for small samples removed for analysis, by motor vehicle from a lease, central tank battery or other facility without an approved form C-133, authorization to move liquid waste. The transporter shall maintain a

photocopy of the approved form C-133 in the transporting vehicle." The approved C-133 is linked the transporter only, not the produced water. Please modify the response to properly reflect the regulatory requirements of 19.15.34.8 NMAC.

Page 6.7

Section 7.1, Treatment Zone Monitoring:

Please describe how the implementation of the semi-annual treatment zone monitoring will occur. Based upon the information provided in Section 5 of the application, biopiles will be constructed in a generator specific manner. Since each biopile will be in a different stage of remediation, will each biopile be sampled? Please describe the protocol.

Pursuant to Paragraph (4) of 19.15.36.15.C NMAC, within "72 hours after receipt, the operator shall spread and disk contaminated soils in eight-inch or less lifts or approximately 1000 cubic yards per acre per eight-inch lift or biopile." The language provided in the second paragraph of the response is not the equivalent to the regulatory requirement. The written response would allow for the waste to be placed into a biopile without any limits in regards to lift thickness or volume. Please modify the response to comply with the requirement. Also, please describe the protocols that will be implemented and the conditions that must be satisfied in order the soils to be utilized for the stabilization of liquid waste.

The second bullet of the treatment zone additional lift protocol discusses the chloride concentration limit (1000 mg/kg) in regards to the depth to ground water. The second bullet also notes that "ground water is 100' or more below the lowest elevation." The proposed facility location has not been properly investigated or assessed in regards to the siting criteria. Based upon the information provided within the application, there is some concern in respect to the determination of the separation to ground water. Water well SJ 02883, as properly located and illustrated on the water well map of Page 2.3, is noted on the Office of the State Engineer well log information sheet to have a depth to water of 87 feet (page 46 of Section 15). Water well SJ 02883 is abutting the proposed facility to the east within Section 16. Please make arrangements to schedule a meeting with myself to discuss the submittal of a boring plan in order to properly assess the proposed location in regards to the siting criteria of 19.15.36 NMAC.

In the third paragraph, please provide the estimated number of biopiles that would be equivalent to maximum thickness of treated soils in a landfarm cell of "two feet or approximately 3000 cubic yards per acre." Please provide the standard dimensions (height, width, and length) of the biopile utilized for this assessment.

Section 7.2, Vadose Zone Monitoring:

Pursuant to Paragraph (1) of 19.15.36.E NMAC, the "operator shall monitor the vadose zone beneath the treatment zone in each landfarm cell." The first sentence/paragraph of the response states that "sampling will be obtained from the ground below landfarm cell treatment areas." Please modify the language in order to clarify that sampling will occur beneath the treatment zone in each landfarm cell.

Semi-annual Monitoring:

Please modify the language in the first sentence of the first paragraph to clarify that sampling will occur beneath the treatment zone in each landfarm cell. Also, please identify additional sampling protocols, such as obtaining samples beneath active landfarm cells/biopiles

and measures that will be implemented to backfill sampling locations, within the sampling criteria bullets.

Five Year Monitoring:

Please describe the sampling protocol for the five year monitoring event of Paragraph (3) of 19.15.36.15.E NMAC or refer to the semi-annual monitoring sampling protocol.

Page 6.8

Section 8.0, Treatment Zone Closure Standards:

Please describe how the implementation of the treatment zone closure performance standard sampling will occur. Based upon the information provided in Section 5 of the application, biopiles will be constructed in a generator specific manner. Since each biopile will be in a different stage of remediation, will each biopile be sampled? Please describe the protocol.

Please modify the fourth bullet regarding the analytical test method and closure standard for TPH to comply with the requirements of Paragraph (3) of 19.15.36.15.F NMAC.

The fifth bullet discusses the chloride concentration limit (1000 mg/kg) in regards to the depth to ground water. The fifth bullet also notes that "ground water is 100' or more below the lowest elevation." The proposed facility location has not been properly investigated or assessed in regards to the siting criteria. Based upon the information provided within the application, there is some concern in respect to the determination of the separation to ground water. Please make arrangements to schedule a meeting with myself to discuss the submittal of a boring plan in order to properly assess the proposed location in regards to the siting criteria of 19.15.36 NMAC.

Please provide a clarifying statement at the end of the sixth bullet that recognizes the responsibility of the operator to comply with the requirements of Paragraph (4) of 19.15.36.15.G NMAC, if the result of the site specific risk assessment is a request of an alternative closure standard.

Section 9.0, Final Disposition of Treated Soils:

Please correct the regulatory reference at the end of the first sentence of the second paragraph. The current regulatory reference, 19.15.36.15.H, refers to the bioremediation endpoint approach. This approach/method is not proposed or discussed within the application and would not be applicable based upon the methods of biopile construction and development proposed within Section 5 of the application. Please provide the correct regulatory reference, Paragraph (2) of 19.15.36.15.G NMAC, that coincides with the language provided in the sentence.

In the last sentence of the second paragraph, please identify the responsibility of the operator to "give division-approved public notice of an application for alternative soil closure standards in the manner provided in 19.15.36.9 NMAC" pursuant to Paragraph (4) of 19.15.36.15.G NMAC.

Please provide language that recognizes the potential impact on the operator's financial assurance, pursuant to Paragraph (3) of 19.15.36.15.G NMAC, if the closure standards cannot be achieved.

Section 10.1, Facility Identification:

Pursuant to Subsection J of 19.15.36.13 NMAC, the sign is required to have the operator's name on it. Please modify the response appropriately.

Section 10.2, Facility Requirements:

On the application form, the C-137, Line 21 requires the applicant to attach demonstrations of compliance in regards to the siting requirements of Subsection A and B of 19.15.36.13 NMAC. The OCD was unable to locate any documents within the application that illustrate or demonstrate that the proposed facility area satisfies or complies with siting requirements. Please provide documents that demonstrate compliance to each of the siting criterion and reference its location within the application. Also, on the top of the front page of the C-137 application, there is a note that instructs the applicant of the following: *A meeting should be scheduled with the Division's Santa Fe office Environmental Bureau prior to pursuing an application for a surface waste management facility in order to determine if the proposed location is capable of satisfying the siting requirements of Subsections A and B of 19.15.36.13 NMAC for consideration of an application submittal.* The OCD recommends that such a meeting be scheduled prior to making revisions to the application.

Section 10.3, Berms:

Please provide the correct regulatory reference in the title of this section. Please modify and reference Paragraph (1) of 19.15.36.15.C NMAC.

Pursuant to Paragraph (4) of 19.15.36.8.C NMAC, the application shall include "a description of the surface waste management facility *with a diagram indicating the location of fences and cattle guards*, and *detailed construction/installation diagrams of pits, liners, dikes, piping, sprayers, tanks, roads, fences, gates, berms, pipelines crossing the surface waste management facility, buildings and chemical storage areas.*" Please provide detailed construction/installation diagrams of the berms within the surface waste management facility and reference their location within the application.

Page 6.9

Section 10.5, Placement of Contaminated Waste:

Please provide the correct regulatory references in the title of this section. Please modify and reference Paragraphs (2) and (3) of 19.15.36.15.C NMAC.

Please provide a facility map that illustrates the areas in which contaminated soils may be placed within the facility in regards to compliance with the appropriate siting and operational setbacks requirements of 19.15.36 NMAC. The facility map should also illustrate the proposed locations of buildings, roads, utilities, processing areas, remediation areas (exempt and non-exempt), and other site improvements.

Section 10.6, Spill Reporting:

Pursuant to Subsection K of 19.15.36.13 NMAC, the operator "shall comply with the spill reporting and corrective action provisions of 19.15.30 NMAC or 19.15.29 NMAC." The response indicates that compliance is "outlined in the company Spill Prevention Control & Contingency Plan." The OCD was unable to find a document in the application by that title, please reference a page number or section in which the plan can be located within the permit

application. A Storm Water Pollution Prevention (SWPP) Plan was submitted separately but with the permit application. The information provided Section 4.4, Spill Prevention and Response, of the SWPP plan *does not demonstrate compliance* with spill reporting and corrective action required by state regulation. Such documents should not be referenced.

Also, please properly rename the title of this section. The regulations identified within this provision address both spill reporting and corrective action, not just spill reporting.

Section 10.7, Monthly Inspections & Maintenance Activities:

The response indicates that only Paragraph (3) of 19.15.36.13.L NMAC is addressed in the company Routine Inspection & Maintenance Activities plan. Based upon information provided in the permit application regarding the use of surface impoundments, the plan must address compliance with Paragraph (1) of 19.15.36.13.L NMAC. Also, please reference a page number or section in which the "company Routine Inspection & Maintenance" plan can be located within the permit application.

Section 10.8, Run On/Off Water Control:

A Storm Water Pollution Prevention (SWPP) Plan was submitted separately but with the permit application. The information provided within the SWPP plan does not address the provisions of Subsection M of 19.15.36.13 NMAC. Please provide the information required of Subsection M of 19.15.36.13 NMAC or reference the location within the permit application where the required information is provided.

Section 10.9, Contingency Plans:

Please provide the correct regulatory references in the title of this section. Please modify and reference 19.15.11 NMAC regarding compliance with hydrogen sulfide.

The response indicates that "contingency plan(s)" are only required to "comply with provision 19.15.36.13.N NMAC." This is not correct. The contingency plan required by Subsection N of 19.15.36.13 NMAC and Paragraph (10) of 19.15.36.8.C NMAC is required to "be designed to minimize hazards to fresh water, public health, safety or the environment from fires, explosions or an unplanned sudden or non-sudden release of contaminants or oil field waste to air, soil, surface water or ground water." Pursuant to Paragraph (8) of 19.15.36.8.C NMAC, the application shall include "a hydrogen sulfide prevention and contingency plan that complies with those provisions of 19.15.11 NMAC that apply to surface waste management facilities." These are two separate plans based upon the requirements of two separate regulations. Please reference a page number or section in which each plan can be located within the permit application.

Section 11.0, Records Management:

Please include and recognize the recordkeeping responsibilities of the operator in accordance with Section 15 of 19.15.35 NMAC, such as waste acceptance, background sampling, operations, treatment and vadose zone monitoring, and closure.

Page 6.10

Section 11.2, Material Entry Record:

Pursuant to Subsection G of 19.15.36.13 NMAC, the "operator of a commercial facility shall maintain records reflecting the generator, the location of origin, the location of disposal

within the commercial facility, the volume and type of oil field waste, the date of disposal and the hauling company for each load or category of oil field waste accepted at the commercial facility." Please include the two unlined items above in the list of information that will be compiled for compliance with Subsection G of 19.15.36.13 NMAC.

Page 6.13
Exhibit (C)

Please identify the provisions with 19.15.36 NMAC that allows the acceptance of the following waste material: tank cleaning residue, charcoal filter material, and washout liquids. If no such provisions can recognized to allow the acceptance of such waste or provisions prohibit the acceptance of such waste, please remove the waste streams from the form.

Page 6.17
Sheet 6 of 11, 10 Acre Cells Map:

The map illustrates that several of the landfarm cells extend beyond the proposed facility boundary. Please modify the map to represent the area that has requested to be permitted. The current map confuses this matter. Please provide a facility map that illustrates the areas in which contaminated soils may be placed within the facility in regards to compliance with the appropriate siting and operational setbacks requirements of 19.15.36 NMAC. The facility map should also illustrate the proposed locations of buildings, roads, utilities, processing areas, remediation areas (exempt and non-exempt), and other site improvements.

Page 6.18
Sheet 7 of 11, Site Plan:

The site plan only illustrates a small portion of the proposed facility. Please explain the purpose and function of the designated area "set aside for water."

Page 7.1
Table 1, Routine Maintenance Activities:

The control and collection of fugitive trash and debris should be a daily task rather than weekly. Please modify the frequency in order to prevent violations of other state rules and regulations.

Compliance with Paragraph (1) of 19.15.36.13.L NMAC, regarding the inspection, sampling, maintenance and recordkeeping requirements of leak detection systems is not addressed in this section. Information provided within the application suggests and discusses the use of surface impoundments, but the application does not include the detailed engineering designs and construction/installation diagrams required of Paragraphs (4) and (5) of 19.15.36.8.C NMAC. Please include the required diagrams and designs and if such impoundments requirement leak detection and please modify and address the requirements of Paragraph (1) of 19.15.36.13.L NMAC.

Page 7.3
Moisture/Dust Control:

The last sentence of the response provided in the "results expected" column states that "biopiles will be trenched with water." Please explain this process.

Unloading/Mixing Area(s):

The instructions provided in the "results expected" column, regarding leaking metal pits and spills, does not include compliance with the requirements of Subsection K of 19.15.36.13 NMAC. Please modify.

Page 7.4
Tank Battery:

In the row that addresses liner, please explain why a liner would require maintenance and be fully covered if visible. Also, please clarify in the liner "results expected" column by adding the following language "replacement of liner material requires OCD approval prior to replacement and installation."

The instructions provided in the "results expected" column, regarding spills does not include compliance with the requirements of Subsection K of 19.15.36.13 NMAC. Please modify.

Page 8.0
Hydrogen Sulfide Contingency Plan:

Pursuant to Paragraph (8) of 19.15.36.8.C NMAC, the application shall include "a hydrogen sulfide prevention and contingency plan that complies with those provisions of 19.15.11 NMAC that apply to surface waste management facilities." The H2S contingency plan provided in this section of the permit application does not address all of the requirements nor does it provide all of the information required of 19.15.11 NMAC. The plan incorporates provisions of Subsection N of 19.15.36.13 NMAC and refers to documents (the SPCC plan) which are not provided in the permit application packet, both which are not appropriate or applicable when addressing a H2S release.

Page 8.1
H2S / Contingency Plan:

As stated above, pursuant to Paragraph (8) of 19.15.36.8.C NMAC, the application shall include "a hydrogen sulfide prevention and contingency plan that complies with those provisions of 19.15.11 NMAC that apply to surface waste management facilities." The regulatory references, "19.15.3.11 & 19.15.36.13.N", provided beneath the title at the top of the page are not correct. The general contingency plan required of Paragraph (8) of 19.15.36.8.C NMAC and Subsection N of 19.15.36.13 NMAC is a separate plan or submittal from the hydrogen sulfide prevention and contingency plan required of Paragraph (8) of 19.15.36.8.C NMAC. The requirements of Subsection N of 19.15.36.13 NMAC should not be incorporated and addressed in the H2S contingency plan. Please provide the correct references, such as Paragraph (8) of 19.15.36.8.C NMAC and 19.15.11 NMAC. The building address provided on this page is for IEI/JFJ's current landfarm, Permit NM1-010 B. The H2S contingency plan should address the facility proposed in the application. Please modify.

Pursuant to Paragraph (2) of 19.15.11.9.B NMAC, the hydrogen sulfide contingency plan shall contain "telephone numbers of emergency responders, public agencies, local government and other appropriate public authorities." The only telephone number provided is 9-911. Please provide properly identify the appropriate parties and their associated numbers as required by the regulations.

Page 8.3

Section I: Purpose and Objectives

In accordance with the provisions of 19.15.11 NMAC, the owner/operator is responsible for providing training to emergency responders regarding the H2S contingency plan, briefings and training to residents and public officials, coordination with the state emergency plan, and filing an annual inventory of contingency plans with the appropriate local emergency planning committee and the state emergency response commission. These requirements are not identified or addressed in the contingency plan. The last sentence of the second paragraph references compliance to "19.15.36.13.N.2 & 19.15.36.13.N.7" which apply the general facility contingency plan, but are not applicable to the requirements of 19.15.11 NMAC. Please focus the development of the H2S contingency plan on the applicable and required requirements of 19.15.11 NMAC.

Page 8.4

Section III: Responsibilities of Primary Emergency Coordinator and/or Alternative Emergency Coordinator(s)

Items 13 through 16 on this page provide reference of compliance for provisions in regards to a general contingency plan required by 19.15.36.13 NMAC. There are also references to the implementation of the SPCC Plan in an event of a hydrogen sulfide gas release. The OCD has been unable to locate a SPCC Plan within the permit application in order to determine if it addresses the response and actions that must be implemented during a hydrogen sulfide gas release. Spill Prevention, Control and Countermeasure (SPCC) Plans usually identify preventive measures to assure that a spill from an Aboveground Storage Tank (AST) is contained and countermeasures are established to prevent oil spills that could reach navigable waters. The procedures and protocols in a SPCC Plan usually are not applicable when addressing a hydrogen sulfide gas release. Please focus the development of the H2S contingency plan on the applicable and required requirements of 19.15.11 NMAC.

Page 8.5

Signs and Markers:

Pursuant to Section 10 of 19.15.11 NMAC, the "sign or marker shall be readily readable, and shall contain the words "poison gas" and other information sufficient to warn the public that a potential danger exists. The person shall prominently post signs or markers at locations, including entrance points and road crossings, sufficient to alert the public that a potential danger exists." Please modify this section in order to demonstrate compliance to the above-referenced provision.

Regulatory Threshold:

The first sentence of the first paragraph states "It has been determined that H2S concentrations on the facility are below 100 ppm." The OCD finds this statement difficult to accept since the facility has not been permitted, constructed, or that any waste material has been delivered to the proposed facility location in order to make a determination. The second sentence of the first paragraph states that "all trucks.... will be screened for H2S upon arrival." Please identify the H2S screening level that will insure any further development of H2S in the liquid waste storage tanks that would exceed any regulatory limit.

The first sentence of the second paragraph states "As per 19.15.11 NMAC no further actions are required for concentrations below 100 ppm." This statement is not accurate. Pursuant to Section 2 of 19.15.11 NMAC, "19.15.11 NMAC does not exempt or otherwise

excuse surface waste management facilities the division permits pursuant to 19.15.36 NMAC from more stringent conditions on the handling of hydrogen sulfide required of such facilities by 19.15.36 NMAC or more stringent conditions in permits issued pursuant to 19.15.36 NMAC, nor shall the facilities be exempt or otherwise excused from the requirements set forth in 19.15.11 NMAC by virtue of permitting under 19.15.36 NMAC." Furthermore, Subparagraph (f) of Paragraph (2) of 19.15.11.9.B NMAC states that the "hydrogen sulfide contingency plan shall include the activation level and a description of events that could lead to a release of hydrogen sulfide sufficient to create a concentration in excess of the activation level." Also, pursuant to Subsection C of 19.15.11.9 NMAC the "person shall activate the hydrogen sulfide contingency plan when a release creates a hydrogen sulfide concentration greater than the activation level set forth in the hydrogen sulfide contingency plan. At a minimum, the person shall activate the plan whenever a release may create a hydrogen sulfide concentration of more than 100 ppm in a public area, 500 ppm at a public road or 100 ppm 3000 feet from the site of release." Please review the definitions for "public area" and "public road." Also, please establish "activation levels" that will prevent the exposure to workers and other parties within the proposed facility to H2S that exceeds other regulatory thresholds.

Activation Levels:

Subparagraph (f) of Paragraph (2) of 19.15.11.9.B NMAC states that the "hydrogen sulfide contingency plan shall include the activation level and a description of events that could lead to a release of hydrogen sulfide sufficient to create a concentration in excess of the activation level." Please see the comments above provided in the "*Regulatory Threshold*" section. The Immediately Dangerous to Life or Health (IDLH) concentration for hydrogen sulfide is 100 ppm. The emergency activation level proposed in the permit application is "100 ppm or higher." The US National Institute of Occupational Safety and Health (NIOSH) define IDLH as exposure to airborne contaminants that is "likely to cause death or immediate or delayed permanent adverse health effects or prevent escape from such an environment." Please establish "activation levels" that will prevent the exposure to workers and other parties within the proposed facility to H2S that exceeds other regulatory thresholds.

In the Event of a H2S Release:

In the first step, please identify the concentration limit in which the alarm system will be activated. Please describe how or what the alarm systems sound like and how the alarm that identifies a hydrogen sulfide release will be or can be distinguished from other alarms. Also, please provide information regarding the H2S monitors/sensors and their capabilities that will be used to determine if a release has occurred. The second sentence of the first step mentions "monitor boxes" and "evacuation maps." Please discuss the function of the "monitor boxes" and provide the "evacuation maps" in this section or reference the location of the maps within the permit application. The OCD was unable to locate any "evacuation maps."

In the second step, please explain how a person would discover a hydrogen sulfide release and at what concentration a person would initiate the notice process. Please provide.

General Public Protection from H2S at Tank Battery:

Please include the posting of a sign or marker that complies with the requirements of Section 10 of 19.15.11 NMAC.

Section V: General Evacuation Procedures for Building/Landfarm Occupants

The regulatory reference provided with the subject title of this section is not appropriate for this subject. Pursuant to Subparagraph (a) of Paragraph (2) of 19.15.11.9.B NMAC, the hydrogen sulfide contingency plan shall contain "an immediate action plan as described in the API document referenced in Paragraph (1) of Subsection B of 19.15.11.9 NMAC" and shall "include the locations of potentially affected public areas and public roads and shall describe proposed evacuation routes, locations of road blocks and procedures for notifying the public..." Based upon the information provided in this section, the hydrogen sulfide contingency plan was not developed "with due consideration of paragraph 7.6 of the guidelines in the API publication Recommended Practices for Oil and Gas Producing and Gas Processing Plant Operations Involving Hydrogen Sulfide, RP-55, most recent edition," as required by Paragraph (1) of 19.15.11.9.B NMAC. Please modify this section to reflect the provisions of the document identified above.

Page 8.6

Section VI: Disabled Occupants

The actions and protocols proposed in this section to address to removal of any "disabled occupants" does not consider the risk and concerns associated with a hydrogen sulfide release. If a hydrogen sulfide plume were to develop and evacuation is required, any personnel or emergency responders would need to don the appropriate PPE prior to entering the area in order to prevent become victims themselves. Also, waiting for assistant may not be an option unless the "disabled occupant" is provided some type of supplied air/oxygen breathing device. Please modify this section and provide response procedures that address the concerns of a hydrogen sulfide release.

Section VII: Accountability Procedures for Emergency Evacuation

An evacuation in response to a hydrogen sulfide release should be based upon the assessment of the status of the plume. Designated meeting sites may be downwind of hydrogen sulfide plume and gathering at such designated locations may pose a greater risk of exposure. Procedures and protocols should be established to readily identify the potential source of the hydrogen sulfide release, such as having H2S sensors that have flashing beacons on top that activate when a certain concentration is detected. If such a monitoring system is installed then the evacuation procedures and responses could include the assessment of the wind direction in order to ensure the personnel, visitors, and delivery personnel evacuate the area in a manner away from the downwind direction of hydrogen sulfide plume. The accountability procedures should expand beyond just on-site personnel and include all visitors and any delivery personnel or contractors. Also, if the Emergency Coordinator responsibility include searching for any remaining personnel prior to leaving the area, then it would be advisable to ensure that the Emergency Coordinator don the appropriate PPE prior to beginning the task so not to become a victim.

Section VIII: Rescue and Medical

Release notification should be established in order to ensure that relevant information is provided to all first responders. If emergency responders are not informed that they are responding to a hydrogen sulfide release, then they may be placed in great risk of exposure and become victims themselves. Please modify this section appropriately. Injured personnel should be removed from the hydrogen sulfide release exposure area prior to receiving any medical attention.

Page 8.7

Section IX: Resources and Responsibility List

As stated above, pursuant to Paragraph (8) of 19.15.36.8.C NMAC, the application shall include "a hydrogen sulfide prevention and contingency plan that complies with those provisions of 19.15.11 NMAC that apply to surface waste management facilities." The regulatory reference, "19.15.36.13.N", provided beside "Emergency Contact Names and Numbers" heading is not correct. The general contingency plan required of Paragraph (8) of 19.15.36.8.C NMAC and Subsection N of 19.15.36.13 NMAC is a separate plan or submittal from the hydrogen sulfide prevention and contingency plan required of Paragraph (8) of 19.15.36.8.C NMAC. The requirements of Subsection N of 19.15.36.13 NMAC should not be incorporated and addressed in the H2S contingency plan. Please provide the correct references. The building address and contact information provided on this page is for IEI/JFJ's current landfarm, Permit NM1-010 B. The H2S contingency plan should address the facility proposed in the application. Please modify.

Page 8.8

Section X: Operations Shutdown

In the event of a hydrogen sulfide release, the shutting down of equipment should not take precedence over the safety of personnel. If shutting down certain equipment will result in the containment or prevent the further release of hydrogen sulfide, the protocols and procedure should initially address the protection of the response personnel, such as donning appropriate PPE. Please modify this section to insure that response personnel do not become victims of a hydrogen sulfide release.

Section XI: Training and Communications

Pursuant to Subparagraph (d) of Paragraph (2) of 19.15.11.9.B NMAC, the "hydrogen sulfide contingency plan shall provide for training and drills, including training in the responsibilities and duties of essential personnel and periodic on-site or classroom drills or exercises that simulate a release, and shall describe how the person will document the training, drills and attendance. The hydrogen sulfide contingency plan shall also provide for training of residents as appropriate on the proper protective measures to be taken in the event of a release, and shall provide for briefing of public officials on issues such as evacuation or shelter-in-place plans." The information provided in this section does not address all of the requirements of the provision. Please modify and provide the required information. Also, the topic of "Communications" is not addressed in this section. Please provide information regarding "Communications."

Page 8.9

Section XII: Plan Amendments

Please modify the information in this section to demonstrate compliance with the applicable provisions of 19.15.11 NMAC, instead of 19.15.36.13.N NMAC. Please address the submission provisions of Subsection D of 19.15.11.9 NMAC and the review and amendment provisions of Subsection F of 19.15.11.9 NMAC.

Page 8.10

Hydrogen Sulfide Characteristics and Effects

Please correct the spelling of "sulfide" and provide the appropriate regulatory reference in the title of this page. Pursuant to Subparagraph (b) of Paragraph (2) of 1.15.11.9.B NMAC,

the "hydrogen sulfide contingency plan shall include a discussion of the characteristics of hydrogen sulfide and sulfur dioxide." Please provide the required information in regards to the characteristics of sulfur dioxide.

Page 8.11

Table #3

Please limit the information in the table to the information required by the regulation. Pursuant to Subparagraph (b) of Paragraph (2) of 1.15.11.9.B NMAC, the "hydrogen sulfide contingency plan shall include a discussion of the characteristics of hydrogen sulfide and sulfur dioxide." It is recommended to keep the characterization of each compound separate for accessibility and applicability instead of combining the information.

STEL (short term exposure limits)

The last sentence provided in this section states "IEI has procedures to evacuate the area at 10 PPM and to mask at 15 PPM." The OCD is unable to locate the procedures identified in the statement above within the hydrogen sulfide contingency plan. Please provide this information in the appropriate sections of the hydrogen sulfide contingency plan, such as when addressing the "activation levels" and in the required "immediate action plan."

The following underlined provisions were not addressed in the submitted hydrogen sulfide contingency plan:

19.15.11.9.B(1) NMAC The person shall develop the hydrogen sulfide contingency plan with due consideration of paragraph 7.6 of the guidelines in the API publication Recommended Practices for Oil and Gas Producing and Gas Processing Plant Operations Involving Hydrogen Sulfide, RP-55, most recent edition, or with due consideration to another division-approved standard.

19.15.11.9.B(2)(a) NMAC The hydrogen sulfide contingency plan shall contain information on emergency procedures the person will follow in the event of a release and shall include, at a minimum, information concerning the responsibilities and duties of personnel during the emergency, an immediate action plan as described in the API document referenced in Paragraph (1) of Subsection B of 19.15.11.9 NMAC, and telephone numbers of emergency responders, public agencies, local government and other appropriate public authorities. The plan shall also include the locations of potentially affected public areas and public roads and shall describe proposed evacuation routes, locations of road blocks and procedures for notifying the public, either through direct telephone notification using telephone number lists or by means of mass notification and reaction plans.

19.15.11.9.B(2)(b) NMAC The hydrogen sulfide contingency plan shall include a discussion of the characteristics of hydrogen sulfide and sulfur dioxide.

19.15.11.9.B(2)(c) NMAC The hydrogen sulfide contingency plan shall include maps and drawings that depict the area of exposure and public areas and public roads within the area of exposure.

19.15.11.9.B(2)(d) NMAC Training and drills. The hydrogen sulfide contingency plan shall provide for training and drills, including training in the responsibilities and duties of essential personnel and periodic on-site or classroom drills or exercises that simulate a release, and shall describe how the person will document the training, drills and attendance. The hydrogen sulfide contingency plan shall also provide for training of residents as appropriate on the proper protective measures to be taken in the event of a release, and shall provide for briefing of public officials on issues such as evacuation or shelter-in-place plans.

19.15.11.9.B(2)(e) NMAC Coordination with state emergency plans. The hydrogen sulfide contingency plan shall describe how the person will coordinate emergency response actions under the plan with the division and the New Mexico state police consistent with the New Mexico hazardous materials emergency response plan.

19.15.11.9.B(2)(f) NMAC Activation levels. The hydrogen sulfide contingency plan shall include the activation level and a description of events that could lead to a release of hydrogen sulfide sufficient to create a concentration in excess of the activation level.

19.15.11.13 NMAC PERSONNEL PROTECTION AND TRAINING: The person shall provide persons responsible for implementing a hydrogen sulfide contingency plan training in hydrogen sulfide hazards, detection, personal protection and contingency procedures.

19.15.11.13 NMAC NOTIFICATION OF THE DIVISION: The person shall notify the division upon a release of hydrogen sulfide requiring activation of the hydrogen sulfide contingency plan as soon as possible, but no more than four hours after plan activation, recognizing that a prompt response should supersede notification. The person shall submit a full report of the incident to the division on form C-141 no later than 15 days following the release.

Page 9.1

Closure and Post Closure Plan:

The plan only addresses the closure and post closure requirements in regards to the landfarm soils and cells. The plan fails to address the closure of the processing of waste material in pits, tanks, and other site improvements. Please modify the closure and post closure plan to address all operations associated with the proposed facility within the facility boundary. Also, please explain the February 14, 2007 date that follows all of the regulatory references. The February 14, 2007 date is the effective date of 19.15.36 NMAC. Since the effective date, the regulation has been amended and can be subject to future changes and amendments. If the purpose is to attempt to revert back to the February 14, 2007 regulations, then the OCD cannot consider the application for approval. The OCD does not recommend dating regulatory reference since regulations are subject to change.

Pursuant to Paragraph (2) of 19.15.36.18.A NMAC, the "division shall notify the operator within 60 days after the date of cessation of operations specified in the operator's closure notice of modifications of the closure plan and proposed schedule or additional requirements..." The current language in the second paragraph suggests that the division has 60 days from the operator's notice to respond. This is incorrect. Please modify the last sentence of the second paragraph to coincide with the regulatory language and requirements.

Pursuant to Paragraph (5) of 19.15.36.18.A NMAC, "Closure shall proceed in accordance with the approved closure plan and schedule and modifications or additional requirements the division imposes." The first sentence of the provision identifies that OCD approval is required in order to proceed with the closure. Please modify the third paragraph to identify the condition in which closure can proceed.

The fourth paragraph seems to out of sequence. It seems to be the lead in to the sixth paragraph and the other identified provisions associated with Paragraph (4) of 19.15.36.18.D NMAC. Please relocate the proposed language to its appropriate place within the closure plan.

The fifth paragraph, which addresses re-vegetation, seems to out of sequence. Please relocate the proposed language to its appropriate place within the closure plan and to the

sequence in which activities will be completed. The fifth paragraph also fails to identify the minimum regulatory seed mixture requirements regarding re-vegetation and the duration in which the operator is responsible for maintaining the vegetative cover, as specified within Paragraph (6) of 19.15.36.18.A NMAC. Please modify the fifth paragraph to identify all of the regulatory requirements of the operator in regards to re-vegetation.

The third bullet in the sixth paragraph fails to identify the operator's responsibility to fill in the cell, after the treated soils are removed, with native soils pursuant to Subparagraph (d) of Paragraph (4) of 19.15.36.18.D NMAC. Please modify in order to satisfy the regulatory language and requirements.

The fourth bullet in the sixth paragraph fails to identify the operators' responsibility to fill in the landfarm remediation area, after contaminated soils are removed, with native soils pursuant to Subparagraph (c) of Paragraph (4) of 19.15.36.18.D NMAC. Please modify in order to satisfy the regulatory language and requirements.

The eighth (last) bullet addresses the protocol an operator must satisfy if the operator utilizes the bioremediation endpoint approach. This approach/method is not proposed or discussed within the application and would not be applicable based upon the methods of biopile construction and development proposed within the application. Please omit the eighth bullet.

The closure portion of the plan fails to address the closure of the pits and tanks associated with the processing of liquids and soils prior to placement within a landfarm cell and biopile. The OCD requires that such closures be addressed in the closure plan by utilizing the applicable provisions of Paragraph (1) of 19.15.36.18.D NMAC for tanks and Subsection E of 19.15.36.18 NMAC for pits. Please provide.

The last paragraph on the page discusses the option for IEI to pursue an alternative to re-vegetation. Pursuant to Subsection G of 19.15.36.18 NMAC only the "landowner" can pursue such a request. Since IEI is not identified as the landowner within the permit application, the language in the paragraph must be modified in order to satisfy the regulatory language and requirements. Please modify. Also, please include language that identifies the impact on the release of the operator's financial assurance.

Page 9.2

Closure / Post Closure Estimate:

Pursuant to Paragraph (9) of 19.15.36.8.C NMAC, the application shall include "a closure and post closure plan, including a responsible third party contractor's cost estimate, sufficient to close the surface waste management facility in a manner that will protect fresh water, public health, safety and the environment." The cost estimates should reflect those costs the OCD would incur to hire a third party to complete the closure and post closure activities if the operator is no longer involved. Based upon information provided in the application, the size of the facility is 291 acres with 30 proposed landfarm cells that are approximately 10 acres each. The application also identifies that soils remediation will be accomplished by the use of biopiles rather than landfarm cells. Please provide a detailed breakdown of the proposed closure and post closure cost estimates.

Closure Cost Estimates:

The first cost estimate is based upon "testing for two years." It identifies that 20 of the proposed 30 landfarm cells will be tested at a cost of $1200.00 per test. Please justify the testing of 20 landfarms cells, rather than individual biopiles (especially when each biopile will be in a different phase of remediation). Also, please provide a breakdown of the $1200 test cost estimate. How much will be dedicated for hiring a field tech to mobilize to facility, obtain the sample, demobilize, deliver the sample to the laboratory, and submit a report of the results to the OCD per sampling event? How much will it cost per sampling event for equipment rental and delivery, especially for vadose zone monitoring? How much will each of the semi-annual treatment zone monitoring events cost? How much will each semi-annual vadose monitoring event costs and will the costs include equipment and equipment operators to obtain the sample? How much will each treatment zone closure sampling event cost? Please provide a breakdown for each cost and identify the number of sampling events.

If testing is estimated for two years, then the bi-weekly disking of soils and monthly turning of biopiles must continue "until soils within the cells are remediated to the standards provided in Subsection F of 19.15.36.15 NMAC, or as otherwise approved by the division," pursuant to Subparagraph (a) of Paragraph (4) of 19.15.36.18.D NMAC. Please provide a cost estimate for the OCD to hire a third party to complete this task and include the cost estimates for equipment rental and/or mobilization and demobilization to and from the proposed facility.

Pursuant to Subparagraph (f) of Paragraph (4) of 19.15.36.18.D NMAC, please include the cost estimates associated with the removal of buildings, fences, roads and equipment, site cleaned-up and tests conducted on the soils for contamination.

In regards to the proposed cost estimates associated with grading and shaping, please justify why only 200 acres of the 291 acre facility requires this work. Please provide a breakdown of the equipment hourly rate. Does it include mobilization and demobilization to and from the facility and does it include the cost of the equipment operator? Please clarify by providing a breakdown of costs. The same should be done in regards to seeding. Why will only 200 acres of the 291 acres be seeded? How many pounds of seed is required per acre to obtain the re-vegetation requirements of Paragraph (6) of 19.15.36.18.A NMAC? What method will be utilized to complete the task? Please provide a breakdown of the seeding costs.

The removal of tanks and pits will also include the removal and disposal of any remaining liquids and contaminated waste material, the disposal of the tank and/or pit material, and the testing beneath each tank and pit to determine if the operation of the tank or pit resulted in the contamination of soils beneath it. Please provide a breakdown for costs associated with each of the tasks identified above.

During the post closure period, the operator "shall regularly inspect and maintain required re-vegetation." Pursuant to Paragraph (6) of 19.15.36.18.A NMAC, the operator is required to provide maintenance of the vegetative cover "through two successive growing seasons." Please provide a cost breakdown of the proposed $300.00 quarterly cost and a description of what it represents.

Page 10.1
Contingency Plan:

The first paragraph identifies the function of the facility as "specializing in remediating RCRA exempt oilfield waste." This statement conflicts with the non-exempt waste identified on page 10.4 of the contingency plan. Please modify the statement to coincide with information provided in the application.

In the first sentence of both the second and third paragraphs, the proposed language suggests that the contingency plan should only address actions to be taken "in the event of a major spill, fire, or other response to incident" and "whenever there is a major emergency." The regulation does not make a distinction between major or minor emergencies, spills, and fires. Pursuant to Subsection N of 19.15.36.13 NMAC, the "operator shall carry out the plan's provisions immediately whenever there is a fire, explosion or release of contaminants or oil field waste constituents that could threaten fresh water, public health, safety or the environment." The regulation also requires the plan to "be designed to minimize hazards to fresh water, public health, safety or the environment from fires, explosions or an unplanned sudden or non-sudden release of contaminants or oil field waste to air, soil, surface water or ground water."

In the last paragraph, please clarify that copies of the plan will be maintained at the SWMF and "provided to", not maintained by, the local law enforcement and emergency response departments for use during an emergency. Also, pursuant to Section N of 19.15.36.13 NMAC the "operator shall provide the division's environmental bureau with a copy of an amendment to the contingency plan, including amendments required by Paragraph (8) of Subsection N of 19.15.36.13 NMAC; and promptly notify the division's environmental bureau of changes in the emergency coordinator or in the emergency coordinator's contact information." Please provide language that expresses the responsibility of the operator to OCD.

Page 10.3

Section II: General Facility Information

Items a through h in this section each identify the subject matter of the information that is provided after it. Please identify the subject matter for item a.

Section III: Description of Business

The second sentence in this section states that the facility accepts non-hazardous RCRA exempt waste(s). This statement conflicts with the first sentence in the first paragraph of Section IV and the non-exempt waste identified on page 10.4 of the contingency plan. Please modify the statement to coincide with information provided in the application.

Page 10.4

Waste Characterization:

Pursuant to Paragraph (3) of 19.15.36.7.A NMAC ""Landfarm" means a discrete area of land designated and used for the remediation of petroleum hydrocarbon-contaminated soils and drill cuttings." Pursuant to Subsection A of 19.15.36.15 NMAC, "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." The information provided in this section identifies four "category groups that are related to the physical form of" exempt waste. The second "category group" includes "tank cleaning residue." Please compare this interpretation to the definition of "tank bottoms" provided in Paragraph (1) of 19.15.2.7.T NMAC. Also, "tank sludge and tank bottom" waste may be classified as RCRA

non-exempt depending on product or material stored within the tank. The third "category group" is "drilling fluids." The definition of "landfarm" provided in Paragraph (3) of 19.15.36.7.A NMAC and the landfarm waste acceptance criteria of Subsection A of 19.15.36.15 NMAC clearly identifies the acceptance of *drill cuttings*, not "drilling fluids." The fourth "category group" is the "debris waste." The OCD is unfamiliar of this category of waste. Please provide examples and reference a provision within 19.15.36 NMAC that clearly states that such waste satisfy the waste acceptance criteria for landfarms. Please verify the proposed exempt waste streams in order to determine if they comply with the waste acceptance provisions of 19.15.36 NMAC regarding landfarms.

Exempt Waste(s):

Please defer to the comments provided for the *Waste Characterization* section for page 10.4. Please verify the proposed exempt waste streams to determine if they comply with the waste acceptance provisions of 19.15.36 NMAC regarding landfarms.

The following wastes: "drilling fluids; well completion, treatment, and stimulation fluids; gas plant dehydration wastes; cooling tower blowdown; gas plant sweetening waste, produced water; and spent filters, filter media, and backwash" do not comply with the waste acceptance provisions of 19.15.36 NMAC regarding landfarms. Such wastes as, "accumulated materials such as hydrocarbons, solids, sands, and emulsion; and workover wastes" are not clearly defined enough to determine if the wastes comply with the waste acceptance provisions of 19.15.36 NMAC regarding landfarms. Please list examples of proposed "workover wastes" and reference a provision within 19.15.36 NMAC that clearly states that such waste satisfy the waste acceptance criteria for landfarms. As for "accumulated materials such as hydrocarbons, solids, sands, and emulsion," such waste may be classified as RCRA non-exempt depending on how it is generated. Also, such waste materials as "solids" and "sands" may not be appropriate for acceptance at a landfarm if such waste is not "predominantly contaminated by petroleum hydrocarbons," pursuant to Subsection A of 19.15.36.15 NMAC and the waste are not conducive to remediation pursuant to Paragraph (3) of 19.15.36.7.A NMAC. Please clarify.

Non-Exempt:

The four proposed RCRA non-exempt waste do not satisfy or comply with the waste acceptance provisions of 19.15.36 NMAC regarding landfarms. Please defer to the comments provided for the *Waste Characterization* section and the *Exempt Waste(s) section* of page 10.4 for suggestions regarding potential RCRA non-exempt waste. Please modify.

Page 10.6

Section VII: Response Procedures

Pursuant to Subsection N of 19.15.36.13 NMAC, the "contingency plan shall be designed to minimize hazards to fresh water, public health, safety or the environment from fires, explosions or an unplanned sudden or non-sudden release of contaminants or oil field waste to air, soil, surface water or ground water." Pursuant to Paragraph (1) of 19.15.36.13.N NMAC, the contingency plan shall "describe the actions surface waste management facility personnel shall take in response to fires, explosions or releases to air, soil, surface water or ground water of contaminants or oil field waste containing constituents that could threaten fresh water, public health, safety or the environment." The intent of the development of the contingency plan is to establish standard operating procedures and protocols to expeditiously respond to fires,

explosions or releases to air, soil, surface water or ground water of contaminants or oil field waste in order to minimize hazards to air, soil, surface water or ground water.

Response Classification:

The second paragraph of this section attempts to classify events and responses into two categories: incidental situations and major emergencies. The distinction is rather the response requires outside assistance or not. The regulation does not make a distinction between incidental or major emergencies, spills, and fires. Please "describe the actions surface waste management facility personnel shall take in response to fires, explosions or releases to air, soil, surface water or ground water of contaminants or oil field waste containing constituents that could threaten fresh water, public health, safety or the environment" in order to "minimize hazards to fresh water, public health, safety or the environment from fires, explosions or an unplanned sudden or non-sudden release of contaminants or oil field waste to air, soil, surface water or ground water," as required by Subsection N of 19.15.36.13 NMAC.

Page 10.7

Incidental Event:

Please defer to the comments provided for the *Response Classification* section for page 10.6 regarding incidental situations and major emergencies. Please "describe the actions surface waste management facility personnel shall take in response to fires, explosions or releases to air, soil, surface water or ground water of contaminants or oil field waste containing constituents that could threaten fresh water, public health, safety or the environment" in order to "minimize hazards to fresh water, public health, safety or the environment from fires, explosions or an unplanned sudden or non-sudden release of contaminants or oil field waste to air, soil, surface water or ground water," as required by Subsection N of 19.15.36.13 NMAC.

Major Emergency:

Please defer to the comments provided for the *Response Classification* section for page 10.6 regarding incidental situations and major emergencies.

The title of Section VII, in which the heading "Major Emergency" is listed under is *Response Procedures*. The section fails to provide or identify any response procedures. Please "describe the actions surface waste management facility personnel shall take in response to fires, explosions or releases to air, soil, surface water or ground water of contaminants or oil field waste containing constituents that could threaten fresh water, public health, safety or the environment" in order to "minimize hazards to fresh water, public health, safety or the environment from fires, explosions or an unplanned sudden or non-sudden release of contaminants or oil field waste to air, soil, surface water or ground water," as required by Subsection N of 19.15.36.13 NMAC.

Spill Reporting:

The proposed language restrict spill reporting to only releases "from a tank system" and only to releases of "petroleum or any other hazardous substances." This proposal contradicts the requirements Subsection K of 19.15.36.13 NMAC. Pursuant to Subsection K of 19.15.36.13 NMAC, the operator "shall comply with the spill reporting and corrective action provisions of 19.15.30 NMAC or 19.15.29 NMAC." Releases can occur from vehicles delivering waste, on-site fixed equipment, and on-site mobile equipment such as frontend loaders, trucks, track

loaders, backhoe loaders, and tractors. Please review the requirements of 19.15.29 NMAC or 19.15.30 NMAC and provide an appropriate response.

Section VIII: Identification of Waste(s)

Pursuant to Paragraph (6) of 19.15.36.13.N NMAC, the contingency plan shall "include an evaluation of expected contaminants, expected media contaminated and procedures for investigation, containment and correction or remediation." The information provided in this section of the contingency plan addresses how known sources are identified but does not include "procedures for investigation, containment and correction or remediation." Please provide all of the required information.

Section IX: Assessment

Pursuant to Paragraph (10) of 19.15.36.13.N NMAC, the contingency plan shall "describe how the emergency coordinator, whenever there is a release, fire or explosion, will immediately identify the character, exact source, amount and extent of released materials." The information provided in Section VIII, *Identification of Waste(s)*, of the contingency plan addresses how known sources are identified. Please explain how the emergency coordinator will "identify the character, exact source, amount and extent" of released materials from unknown sources whenever there is a release, fire or explosion. Each scenario is different and may require different procedures.

Page 10.8

Section X: Notification

The first sentence at the top of the page states "if the event is classified as incidental, then it is handled by facility personnel," thus suggesting that no notice is required. This assumption is incorrect. Please defer to the comments provided for the *Response Classification* section for page 10.6 regarding incidental situations and major emergencies. Please modify this section appropriately.

Page 10.9

Section XI: Control Procedures

Pursuant to Paragraph (1) of 19.15.36.13.N NMAC, the contingency plan shall "describe the actions surface waste management facility personnel shall take in response to fires, explosions or releases to air, soil, surface water or ground water of contaminants or oil field waste containing constituents that could threaten fresh water, public health, safety or the environment." Please ensure that each of the underlined scenarios is addressed, as required by regulation. Also, the contingency plan should standardize operating procedures and protocols in order to expeditiously respond to fires, explosions or releases to air, soil, surface water or ground water of contaminants or oil field waste in order to minimize hazards to air, soil, surface water or ground water regardless if the event occurs within or spreads outside of the facility boundary.

Incidental Spills:

Please defer to the comments provided for the *Response Classification* section for page 10.6 regarding incidental situations and major emergencies. These comments also apply to incidental and major spills. In the first paragraph of this section, an attempt is made to define an "incidental spill." This is not a term that is recognized or defined in 19.15.36 NMAC. The regulation does distinguish between incidental and major spills. The information provided in this section indicates that only soils have the potential for contamination during incidental spills.

There are no procedures or protocols provided to address releases to air, surface water, and ground water as required by Subsection N of 19.15.36.13 NMAC. If soils are contaminated, then compliance with the corrective action provision Section 11 of 19.15.29 NMAC may be required. Please modify the contingency plan to address all of the types of releases identified in Paragraph (1) of 19.15.36.13.N NMAC and include protocols that identify the responsibilities of the operator/owner to comply with the applicable provisions of 19.15.29 NMAC and 19.15.30 NMAC regarding the submittal and approval of remediation plans and/or abatement plans.

Major Spills:

Please defer to the comments provided for the *Incidental Spills* section for page 10.9 regarding incidental spills. Please modify the contingency plan to provide and identify standardize operating procedures and protocols in order to expeditiously respond to fires, explosions or releases to air, soil, surface water or ground water of contaminants or oil field waste in order to minimize hazards to air, soil, surface water or ground water regardless if the event occurs within or spreads outside of the facility boundary. Pursuant to Paragraph (1) of 19.15.36.13.N NMAC, the contingency plan "shall describe the actions surface waste management facility personnel shall take..." Please described or recommend methods that may be utilized and implemented "to retain, contain, isolate, or slow the flow" of a release within the contingency plan. Please modify the contingency plan to address all of the types of releases identified in Paragraph (1) of 19.15.36.13.N NMAC and include protocols that identify the responsibilities of the operator/owner to comply with the applicable provisions of 19.15.29 NMAC and 19.15.30 NMAC regarding the submittal and approval of remediation plans and/or abatement plans.

Page 10.10

Fires and Explosions:

Pursuant to Paragraph (1) of 19.15.36.13.N NMAC, the contingency plan "shall describe the actions surface waste management facility personnel shall take..." Please described or recommend methods that may be utilized and implemented to contain and isolate a fire within the contingency plan. Is there heavy equipment that can be utilized to isolate a fire from the biopiles and/or to cover the fire with soils? If the use of water is required to extinguish a fire, what will be the source of the water, where will it be obtained, and how will it be contained during use?

Pursuant to Subparagraph (a) of Paragraph (2) of 19.15.29.2.A NMAC, the definition of a major release includes "an unauthorized release of a volume that results in a fire." Please modify the information provided in the sixth paragraph to reflect the operator's responsibility regarding proper notice. Also in the seventh paragraph, please identify the responsibilities of the operator/owner to comply with the applicable provisions of 19.15.29 NMAC and 19.15.30 NMAC regarding the submittal and approval of remediation plans and/or abatement plans.

Please address the emergency coordinator's responsibility in regards to a fire or explosion in accordance with the requirements of Paragraph (11) of 19.15.36.13.N NMAC.

Page 10.11

Section XII: Prevention of Recurrence or Spread

For this type of facility, the OCD requires the owner/operator to ensure that all aboveground tanks have impermeable secondary containment (e.g., liners and berms), which will

contain a volume of at least one-third greater than the total volume of the largest tank or all interconnected tanks, unless such aboveground tanks contain fresh water. Please modify the last paragraph of this section to properly address aboveground tanks.

Section XIV: Container Spills and Leakage

Please explain how "solid wastes" will be utilized to capture spilled residue liquids, as identified in the last sentence of the second paragraph.

Page 10.14

Section XVIII: Coordination Arrangements

Pursuant to Paragraph (2) of 19.15.36.13.N NMAC, the contingency plan shall "describe arrangements with local police departments, fire departments, hospitals, contractors and state and local emergency response teams to coordinate emergency services." Please describe and address the arrangements with "contractors and state and local emergency response teams to coordinate emergency services," as required by the regulations.

Section XIX: Evacuation Plan

Please provide a facility map that illustrates the proposed evacuation routes. The facility map should illustrate the proposed development of the facility and the proposed location of permitted activities.

Section XX: Reporting Requirements

Please defer to the comments provided for the *Response Classification* section for page 10.6 regarding incidental situations and major emergencies and the *Incidental Spills* section for page 10.9 regarding incidental spills. Please modify this section to reflect compliance with the reporting requirements of 19.15.29 NMAC. Also, please include and provide a copy of the appropriate form to report and file a written notification.

Page 10.15

Section XXII: Availability and Revision of the Contingency Plan

If revisions and modifications are made to the contingency plan, a copy should be provided to the OCD for regulatory compliance review. Please modify this section to ensure that OCD receives a copy of the contingency plan.

Page 11.1

Drainage Plan:

The second sentence of the second paragraph states "the drawings indicate the location of the berms, v-ditches, and dykes designed to protect the major waterways." Pursuant to Paragraph (4) of Subsection C of 19.15.36.8 NMAC, the application shall include "detailed construction/installation diagrams of pits, liners, dikes, piping, sprayers, tanks, roads, fences, gates, berms, pipelines crossing the surface waste management facility, buildings and chemical storage areas." Please provide "detailed construction/installation diagrams" of the storm water control features, as required by 19.15.36 NMAC.

The last paragraph states that "the Construction Storm Water Protection Plan" has been submitted "as part of this report and drawings. The OCD was unable to locate the "Construction Storm Water Protection Plan" in this section of the application. Please provide the document or reference the location or the correct title of the document.

Page 11.15
Waterways Map, Sheet 3 of 11:

Pursuant to Paragraph (2) of Subsection B of 19.15.36.13 NMAC, "no surface waste management facility shall be located within 200 feet of a watercourse." The Waterways Map illustrates three waterways within the facility boundary. Two of the three watercourses intersect the facility, splitting the proposed location into three separate sections or three separate surface waste management facilities. These three areas are better illustrated on the Drainage Map provided on page 11.16. Please address this issue.

Section 12

No information or pages were provided for Section 12 of the permit application.

Section 13

No information or pages were provided for Section 13 of the permit application.

Page 14.1
Best Management Practice Guideline:

Please provide the correct regulatory references in the title of this section. Please modify and reference 19.15.36.8.C(14) NMAC.

Page 14.5
Section 4, Roads and Yard Dust:

Please identify the source and quality of the "recycled water" that is proposed for spraying on unpaved roadways in the third bullet under this subject heading.

Section 4, Odor Control:

Please identify the "gases" in which incoming liquid waste will be screened, as proposed in the fourth bullet under this subject heading. Also, please identify the "unacceptable levels" in which waste will be rejected.

Section 5, Wastewater and Stormwater:

Please provide a best management practice for this section.

Section 6, Handling and Disposal of RCRA Exempt and Non-exempt, Non-Hazardous Wastes:

The first bullet states that "only RCRA exempt, Non-hazardous waste is accepted for disposal." This statement conflicts with the title of this section and other proposals throughout the permit application which state that RCRA non-exempt, non-hazardous waste streams will also be accepted for remediation. Please clarify or modify the response.

Page 14.7
Section 12, Wastewater:

Please identify the source of the "re-use wastewater" that is proposed for dust control and suppression, as proposed in the first bullet under this subject heading. Also, please identify the "acceptable reuse criteria."

The third bullet under this heading proposes the use or "reuse" of collected stormwater for "remediation and/or dust control." This is a new proposal that is not discussed in the rest of

the application, especially Section 6 of the permit application, the *Management Plan*. Please ensure that such proposals coincide with other proposals in the *Management Plan* when addressing the appropriate operational requirements. Also, please identify the "acceptable reuse criteria."

Page 14.9

Stormwater Pollution Prevention Plan Map, Sheet 10 of 11:

Pursuant to Paragraph (4) of Subsection C of 19.15.36.8 NMAC, the application shall include "a description of the surface waste management facility with a diagram indicating the location of fences and cattle guards, and detailed construction/installation diagrams of pits, liners, dikes, piping, sprayers, tanks, roads, fences, gates, berms, pipelines crossing the surface waste management facility, buildings and chemical storage areas." Pursuant to Paragraph (4) of Subsection C of 19.15.36.8 NMAC, the application shall include "engineering designs, certified by a registered professional engineer, including technical data on the design elements of each applicable treatment, remediation and disposal method and detailed designs of surface impoundments." There are items identified and discussed within the "Keyed Notes" of the *Stormwater Pollution Prevention Plan Map* in which "detailed construction/installation diagrams" and/or "engineering designs" are not provided in the permit application. Please provide all of the required "detailed construction/installation diagrams" and/or "engineering designs."

Pursuant to Paragraph (1) of Subsection C of 19.15.36.15 NMAC, the operator "shall berm each landfarm cell to prevent rainwater run-on and run-off." The proposed locations of the berms of the *Stormwater Pollution Prevention Plan Map* do not demonstrate compliance to the above referenced provision. Please provide a map that demonstrates compliance regarding the placement and installation of berms.

Section 15, Pages 1-48, Geological Data

Pursuant to Subparagraph (a) of Paragraph (15) of Subsection C of 19.15.36.8 NMAC, the application shall include "geological/hydrological data" including "a map showing names and location of streams, springs or other watercourses, and water wells within one mile of the site." The OCD was unable to find such a map within this section and the permit application. Please provide the required map.

Pursuant to Subparagraph (b) of Paragraph (15) of Subsection C of 19.15.36.8 NMAC, the application shall include "geological/hydrological data" including "laboratory analyses, performed by an independent commercial laboratory, for major cations and anions; BTEX; RCRA metals; and TDS of ground water samples of the shallowest fresh water aquifer beneath the proposed site." The first sentence of the first paragraph on page 35, titled Water Quality, of this section, indicates that a water sample was obtained and analyzed from a water well (SJ 03185) located within the southeast portion of the proposed facility boundary. The OCD was unable to find the required laboratory analyses within this section and the permit application. Please provide the required laboratory analyses. The chain of custody document should be included when submitting laboratory results.

Pursuant to Subparagraph (c) of Paragraph (15) of Subsection C of 19.15.36.8 NMAC, the application shall include "geological/hydrological data" including "depth to, formation name, type and thickness of the shallowest fresh water aquifer." Based upon the information provided

throughout the permit application and in this section, water well SJ-02883 has been improperly located within Section 16, Township 29 North, Range 9 West, NMPM. The first sentence of the third paragraph on page 32 states "another water well, SJ-02883, north of U.S. Highway 64 and the project area, probably at the site of a roadside business, now removed, was drilled in 1998." Figure 13, page 34 of this section, illustrates water well SJ-02883 in the NW/4 of the NW/4 of the NW/4 of Section 16, Township 29 North, Range 9 West, NMPM. The record search results of the Office of the State Engineer database, on page 46 of this section, places water well SJ-02883 in the SW/4 of the SW/4 of the NE/4 of Section 16, Township 29 North, Range 9 West, NMPM, which is near the center of Section 16 and abutting the eastern side of the proposed facility. On the top of the front page of the C-137 application form, there is a note that instructs the applicant of the following: *A meeting should be scheduled with the Division's Santa Fe office Environmental Bureau prior to pursuing an application for a surface waste management facility in order to determine if the proposed location is capable of satisfying the siting requirements of Subsections A and B of 19.15.36.13 NMAC for consideration of an application submittal.* Since depth to ground water is the siting criterion identified in Subsection A of 19.15.36.13 NMAC, the OCD recommends that such a meeting be scheduled prior to making revisions to the application to ensure that a proper site assessment is performed for the proposed facility. During the meeting, we will discuss the submittal of a boring plan to the OCD for consideration of approval. Information obtained from the implementation of the approved boring plan will allow for this provision to be properly addressed.

Pursuant to Subparagraph (d) of Paragraph (15) of Subsection C of 19.15.36.8 NMAC, the application shall include "geological/hydrological data" including "soil types beneath the proposed surface waste management facility, including a lithologic description of soil and rock members from ground surface down to the top of the shallowest fresh water aquifer." The OCD was unable to locate the site specific information require above within this section and the permit application. The information provided in the application is based on regional assessments of the San Juan Basin area. The OCD recommends that a meeting be scheduled prior to making revisions to the application to ensure that a proper site assessment is performed for the proposed facility. During the meeting, we will discuss the submittal of a boring plan to the OCD for consideration of approval. Information obtained from the implementation of the approved boring plan will allow for this provision to be properly addressed.

Pursuant to Subparagraph (e) of Paragraph (15) of Subsection C of 19.15.36.8 NMAC, the application shall include "geological/hydrological data" including "geologic cross-sections." The OCD was unable to locate the site specific information require above within this section and the permit application. The information provided in the application is based on regional assessments of the San Juan Basin area. The OCD recommends that a meeting be scheduled prior to making revisions to the application to ensure that a proper site assessment is performed for the proposed facility. During the meeting, we will discuss the submittal of a boring plan to the OCD for consideration of approval. Information obtained from the implementation of the approved boring plan will allow for this provision to be properly addressed.

Pursuant to Subparagraph (f) of Paragraph (15) of Subsection C of 19.15.36.8 NMAC, the application shall include "geological/hydrological data" including "potentiometric maps for the shallowest fresh water aquifer." The OCD was unable to locate the site specific information require above within this section and the permit application. The information provided in the application is based on regional assessments of the San Juan Basin area. The OCD recommends

that a meeting be scheduled prior to making revisions to the application to ensure that a proper site assessment is performed for the proposed facility. During the meeting, we will discuss the submittal of a boring plan to the OCD for consideration of approval. Information obtained from the implementation of the approved boring plan will allow for this provision to be properly addressed.

Section 15, Pages 49-92

Background Sampling:

There is no discussion provided in the permit application regarding background sampling. The map provided on page 49 illustrates twelve sampling points, but no information is provided on the sampling protocol which was implemented. Please provide a copy of the sampling plan that was utilized during the background sampling event. The laboratory analytical results, pages 51-92, did not include any quality control/ quality assurance results nor did it include the chain of custody. Please provide the missing documents. In regards to background sampling, pursuant to Subsection B of 19.15.36.15 NMAC the operator "shall analyze the background soil samples for TPH, as determined by EPA method 418.1 or other EPA method approved by the division; BTEX, as determined by EPA SW-846 method 8021B or 8260B; chlorides; and other constituents listed in Subsections A and B of 20.6.2.3103 NMAC, using approved EPA methods." OCD's review of the laboratory analytical resulted in the discovery that TPH was not determined by EPA method 418.1, as required by the regulation, but instead by EPA method 8015M. Also, the samples were not tested for vinyl chloride, a constituents listed in Subsection A of 20.6.2.3103 NMAC. The sampling results remain incomplete. Please resolve and provide the laboratory analytical results required by the regulations.

Jones, Brad A., EMNRD

From: Marcella Marquez <marcella@industrialecosystems.com>
Sent: Tuesday, April 13, 2010 10:20 AM
To: Jones, Brad A., EMNRD
Cc: terry@industrialecosystems.com
Subject: RE: SWMF Permit Application

Importance: High

Brad:

Your email dated 03/04/10 stated that the permit application was being reviewed and that a "request for additional information" was in the process of being generated and that it would take several weeks. It has now been over a month and without wanting to offend you, as I realize that your agency is busy, would like to respectfully request a status update of our permit application.

My supervisor has asked that we schedule a meeting to discuss the permit application.

Thanks,
Marcella Marquez, HSE Administrator
Industrial Ecosystems, Inc.
Phone: (505) 632-1782
Fax: (505) 632-1876 or (505) 334-1003

From: Jones, Brad A., EMNRD [mailto:brad.a.jones@state.nm.us]
Sent: Wednesday, March 24, 2010 7:29 AM
To: Marcella Marquez; VonGonten, Glenn, EMNRD
Cc: terry@industrialecosystems.com
Subject: RE: SWMF Permit Application

Marcella,

As stated in my March 4th email below…. The application is incomplete and deficient in many areas. It will take several weeks to generate a request for additional information that identifies proposals within the application that require corrections, additions, and modifications. The OCD will inform you when the initial review is completed.

Brad

Brad A. Jones
Environmental Engineer
Environmental Bureau
NM Oil Conservation Division
1220 S. St. Francis Drive
Santa Fe, New Mexico 87505
E-mail: brad.a.jones@state.nm.us
Office: (505) 476-3487
Fax: (505) 476-3462

From: Marcella Marquez [mailto:marcella@industrialecosystems.com]
Sent: Monday, March 22, 2010 10:08 AM
To: Jones, Brad A., EMNRD
Cc: terry@industrialecosystems.com
Subject: RE: SWMF Permit Application

Brad:

Could you please provide me a status update of the "request for information" that you indicated was in the process of being generated?

Thanks,
Marcella Marquez, HSE Administrator
Industrial Ecosystems, Inc.
Phone: (505) 632-1782
Fax: (505) 632-1876 or (505) 334-1003

From: Jones, Brad A., EMNRD [mailto:brad.a.jones@state.nm.us]
Sent: Thursday, March 04, 2010 1:05 PM
To: Marcella Marquez
Cc: terry@industrialecosystems.com; VonGonten, Glenn, EMNRD
Subject: RE: SWMF Permit Application

Marcella,

I initiated the review at the beginning of February. The application is incomplete and deficient in many areas. It will take several weeks to generate a request for additional information that identifies proposals within the application that require corrections, additions, and modifications. I recommend that once the request for additional information (RAI) is completed and that you and your other representatives have had a chance to review the RAI that a meeting be scheduled to discuss some of the outstanding issues prior to making any revisions to the original submittal. The OCD will inform you when the initial review is completed.

Brad

Brad A. Jones
Environmental Engineer
Environmental Bureau
NM Oil Conservation Division
1220 S. St. Francis Drive
Santa Fe, New Mexico 87505
E-mail: brad.a.jones@state.nm.us
Office: (505) 476-3487
Fax: (505) 476-3462

From: Marcella Marquez [mailto:marcella@industrialecosystems.com]
Sent: Thursday, March 04, 2010 11:15 AM
To: Jones, Brad A., EMNRD
Cc: terry@industrialecosystems.com
Subject: RE: SWMF Permit Application

Brad:

Now that the legislative session is over, can you please provide me with a timeframe as to when you will be reviewing our permit application?

Thanks,
Marcella Marquez, HSE Administrator
Industrial Ecosystems, Inc.
Phone: (505) 632-1782
Fax: (505) 632-1876 or (505) 334-1003

From: Jones, Brad A., EMNRD [mailto:brad.a.jones@state.nm.us]
Sent: Monday, February 01, 2010 10:05 AM
To: Marcella Marquez
Cc: VonGonten, Glenn, EMNRD
Subject: RE: SWMF Permit Application

Marcella,

The OCD is currently responding to requests from legislators and the Governor's office for the legislative session. The OCD is also providing bill analysis for such bills as HB 192 "Rescind the pit rules" that if passed will have a direct impact on your business interest. The legislative session is OCD's main priority at this time. The OCD will review of your permit as demands and time allows.

Brad

Brad A. Jones
Environmental Engineer
Environmental Bureau
NM Oil Conservation Division
1220 S. St. Francis Drive
Santa Fe, New Mexico 87505
E-mail: brad.a.jones@state.nm.us
Office: (505) 476-3487
Fax: (505) 476-3462

From: Marcella Marquez [mailto:marcella@industrialecosystems.com]
Sent: Friday, January 29, 2010 1:19 PM
To: Jones, Brad A., EMNRD
Subject: RE: SWMF Permit Application

Brad:
Could you please provide me with a status update on our application?

Thanks,
Marcella Marquez, HSE Administrator
Industrial Ecosystems, Inc.
Phone: (505) 632-1782
Fax: (505) 632-1876 or (505) 334-1003

From: Jones, Brad A., EMNRD [mailto:brad.a.jones@state.nm.us]
Sent: Monday, December 28, 2009 9:07 AM
To: Marcella Marquez
Cc: VonGonten, Glenn, EMNRD
Subject: RE: SWMF Permit Application

Marcella,

Due to hiring freezes, budget cuts, increased workloads, and reduced staff, the OCD will not have the opportunity to review your submittal until next year.

Brad

Brad A. Jones
Environmental Engineer
Environmental Bureau
NM Oil Conservation Division
1220 S. St. Francis Drive
Santa Fe, New Mexico 87505
E-mail: brad.a.jones@state.nm.us
Office: (505) 476-3487
Fax: (505) 476-3462

From: Marcella Marquez [mailto:marcella@industrialecosystems.com]
Sent: Wednesday, December 23, 2009 8:59 AM
To: Jones, Brad A., EMNRD
Subject: SWMF Permit Application

Brad:

A new SWMF permit application was submitted by Crowe Blanco Properties, LLC (operated by Industrial Ecosystems, Inc.) to NMOCD and signed for by H. Miller on 11/18/09. As per the regulations, the division shall provide notice as to whether or not it is determined administratively complete within 30 days of receipt. As of today's date we have not received any correspondence from NMOCD regarding this matter. We would appreciate it if you could provide us with information pertaining to the status of this application.

Thanks,
Marcella Marquez, HSE Administrator
Industrial Ecosystems, Inc.
Phone: (505) 632-1782
Fax: (505) 632-1876 or (505) 334-1003

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Jones, Brad A., EMNRD

From: Jones, Brad A., EMNRD
Sent: Wednesday, March 24, 2010 7:29 AM
To: 'Marcella Marquez'; VonGonten, Glenn, EMNRD
Cc: terry@industrialecosystems.com
Subject: RE: SWMF Permit Application

Marcella,

As stated in my March 4th email below.... The application is incomplete and deficient in many areas. It will take several weeks to generate a request for additional information that identifies proposals within the application that require corrections, additions, and modifications. The OCD will inform you when the initial review is completed.

Brad

Brad A. Jones
Environmental Engineer
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1220 S. St. Francis Drive
Santa Fe, New Mexico 87505
E-mail: brad.a.jones@state.nm.us
Office: (505) 476-3487
Fax: (505) 476-3462

From: Marcella Marquez [mailto:marcella@industrialecosystems.com]
Sent: Monday, March 22, 2010 10:08 AM
To: Jones, Brad A., EMNRD
Cc: terry@industrialecosystems.com
Subject: RE: SWMF Permit Application

Brad:

Could you please provide me a status update of the "request for information" that you indicated was in the process of being generated?

Thanks,
Marcella Marquez, HSE Administrator
Industrial Ecosystems, Inc.
Phone: (505) 632-1782
Fax: (505) 632-1876 or (505) 334-1003

From: Jones, Brad A., EMNRD [mailto:brad.a.jones@state.nm.us]
Sent: Thursday, March 04, 2010 1:05 PM
To: Marcella Marquez

Cc: terry@industrialecosystems.com; VonGonten, Glenn, EMNRD
Subject: RE: SWMF Permit Application

Marcella,

I initiated the review at the beginning of February. The application is incomplete and deficient in many areas. It will take several weeks to generate a request for additional information that identifies proposals within the application that require corrections, additions, and modifications. I recommend that once the request for additional information (RAI) is completed and that you and your other representatives have had a chance to review the RAI that a meeting be scheduled to discuss some of the outstanding issues prior to making any revisions to the original submittal. The OCD will inform you when the initial review is completed.

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Now that the legislative session is over, can you please provide me with a timeframe as to when you will be reviewing our permit application?

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From: Jones, Brad A., EMNRD [mailto:brad.a.jones@state.nm.us]
Sent: Monday, February 01, 2010 10:05 AM
To: Marcella Marquez
Cc: VonGonten, Glenn, EMNRD
Subject: RE: SWMF Permit Application

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From: Marcella Marquez [mailto:marcella@industrialecosystems.com]
Sent: Friday, January 29, 2010 1:19 PM
To: Jones, Brad A., EMNRD
Subject: RE: SWMF Permit Application

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