

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

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

CASE NO. 13586

In the matter of the Application of the New Mexico Oil Conservation Division for Repeal of Existing Rules 709, 710 and 711 Concerning Surface Waste Management and Adoption of New Rules Governing Surface Waste Management.

PRE-HEARING STATEMENT OF THE NEW MEXICO CITIZENS FOR CLEAN AIR &
WATER

Pursuant to Rule 19.15.14.1204(B) governing these proceedings, The New Mexico Citizens for Clean Air & Water, Inc. (hereafter "NMCCAW") states that it intends to offer technical testimony and to cross-examine witnesses at the April 20, 2006 hearing in this matter.

Mr. Steven Sugarman, Esq., and Dr. Donald Neeper, Ph.D., will present the testimony and conduct the cross-examination on behalf of NMCCAW. Mr. Sugarman's participation in this matter will be limited to non-technical issues. NMCCAW's technical witness and cross-examiner will be Dr. Donald Neeper, whose pertinent information is as follows:

2006 APR 13
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WITNESS FOR
THIS HEARING:

Donald A. Neeper
2708 B. Walnut St.
Los Alamos, NM 87544-2050
505-662-4592
fax by voice appointment only
email: dneeper@earthlink.net

TECHNICAL WITNESS:

Donald A. Neeper, Ph.D.

QUALIFICATIONS:

- Ph.D., thermal physics, University of Wisconsin, 1964.
- 25 years experience in thermal engineering at Los Alamos National Laboratory, including supervision of RCRA Facility Investigation of four surface waste disposal sites containing hazardous and radioactive wastes.
- 5 years part-time experience consulting on contaminant investigations, and extraction of volatile compounds.
- Continuing research on vapor transport in soils and passive vapor extraction; authored four publications since 2001.
- Three years' service on the governing board of STRONGER, Inc..

TIME REQUIRED: 2.5 hours.

EXHIBITS: 24 exhibits comprising 26 pages.

SYNOPSIS OF TESTIMONY:

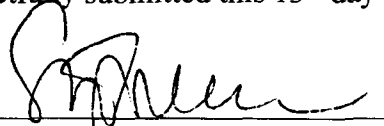
The witness will speak generally in favor of adoption of the proposed rules, with particular modifications.

Testimony will review scientific literature regarding the impact of sodium and chloride on the environment, including biota. Testimony will offer evidence that Electrical Conductivity and Sodium Absorption Ratio provide better measurements of salt impactation than chloride content alone. Testimony will include results of a survey of salt-impacted soils. Testimony will support the conclusion that, if limits are expressed as chloride content, the closure chloride limit for landfarms and the surface of other facilities should be no larger than 500 mg/kg.

Testimony will review scientific literature regarding the impact of hydrocarbons on soil structure and biota in soils, and the beneficial results of bioremediation. Testimony will support conclusions that the results of bioremediation are uncertain, but sufficiently promising, that regulation according to a bioremediation endpoint can be tried--but only under strict limits regarding moisture, water availability, final hydrocarbon content, revegetation, and bonding sufficient to enable disposal should the remediation fail.

Testimony will recommend that the landfarm closure standard for lead be revised downward to be consistent with the EPA ecological screening level for mammalian wildlife. Testimony will recommend that the maximum slope of the ground surface of a landfill cap be less than 8%.

Respectfully submitted this 13th day of April 2006,



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