NM2 - ___24____

PERMIT APPLICATION

Dated

Dec. 21, 2012

REVIEW CORRESPONDENCE

HOLLAND&HART LLP

Adam G. Rankin
Phone 505-988-4421
Fax 505-983-6043
agrankin@hollandhart.com

July 19, 2012

VIA HAND DELIVERY

Jami Bailey, Director
Oil Conservation Division
New Mexico Department of Energy
Minerals and Natural Resources
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

Re: Black Hills Gas Resources Request for Hearing on its Form C-137 Permit Application for its Proposed East Blanco Produced Water Reuse Facility, Rio Arriba County, New Mexico.

Dear Ms. Bailey:

Pursuant to 19.15.36.10.A NMAC, Black Hills Gas Resources, Inc. ("Black Hills"), through its attorneys Holland and Hart LLP, hereby requests that a hearing be set before a Division hearing examiner on the above-referenced permit application filed with the Oil Conservation Division on December 26, 2012.

The Division issued a Tentative Decision letter on May 22, 2013, proposing to deny the permit application. Black Hills has provided timely notice of the Tentative Decision and has otherwise complied with the provisions of 19.15.36.9 NMAC. Accordingly, Black Hills requests that this matter be set for hearing before an Examiner of the Division on October 3, 2013, and that, after notice and hearing as required by law, the Division enter its order approving Black Hills' permit application.

Please contact me should you have any questions or concerns.

Sincerely,

Adam G. Rankin
ATTORNEY FOR BLACK HILLS GAS RESOURCES, INC.

cc: Scott Dawson, OCD
Brad Jones, OCD

6298289_1

Black Hills Gas Resources, Inc.
A Black Hills Corporation Enterprise

1515 Wynkoop Street, Suite 500 Denver, CO 80202

John H. Benton
Vice President and General Manager

Bus: (303) 566-3391
Fax: (303) 566-3345
E-mail: john.benton@blackhillscorp.com

June 20, 2013

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

TO INTERESTED PARTIES

Re: Permit application of Black Hills Gas Resources, Inc. to construct and operate a centralized Surface Waste Management Facility in Section 13, Township 30 North, Range 4 West, approximately 11.6 miles southwest of the town of Dulce, Rio Arriba County, New Mexico.

Ladies and Gentlemen:

This letter is to advise you that the New Mexico Oil Conservation Division ("Division") has issued a tentative decision in the above-referenced application on May 22, 2013. Pursuant to Rule19.15.36.9.F(5) NMAC, the Division's tentative decision is available for public review on its Web site at http://www.emnrd.state.nm.us/OCD/env-draftpublicetc.html, or upon request from the Division clerk, Florene Davidson, at 1220 S. Saint Francis Drive, Santa Fe, New Mexico, 87505, or by calling (505) 476-3458. Enclosed with this letter is a copy of the Division-approved legal advertisement giving notice of the Division's tentative decision.

Black Hills Gas Resources, Inc. (3200 N. 1st Street, Bloomfield, New Mexico 87413) filed an application with the Division seeking approval to construct and operate a centralized Surface Waste Management Facility ("Facility") in Section 13, Township 30 North, Range 4 West, approximately 11.6 miles southwest of the town of Dulce, Rio Arriba County, New Mexico. The property is located in Espinosa Canyon, which is accessed by traveling west on US Highway 64 to mile marker 115 ¼ and turning north onto J10 road approximately 4 miles north.

The proposed Facility will consist of approximately 12 permitted acres and will accept and remediate non-hazardous, produced water that is exempt from the federal Resource Conservation and Recovery Act and derived from oil and gas exploration and production activities. The produced water is to be stored in three ponds for reuse in drilling and completion operations. The depth to the shallowest aquifer beneath the area to be permitted is approximately 77.7 feet. The groundwater in the aquifer has a concentration of total dissolved solids ranging from 290 to 760 parts per million.

Pursuant to Division Rules, the Division Director shall allow a period of at least thirty days after the date of publication of this notice, during which time interested persons may submit comments or request that the Division hold a public hearing. Any interested person may file comments or request a hearing on the application with the Division clerk within 30 days after the date of this notice. Requests for a public hearing shall be in writing and set forth the reasons why a hearing should be held. A hearing will be held if (1) the Division has proposed to deny the application or grant it subject to conditions not expressly required by rule, and Black Hills Gas Resources, Inc. requests a hearing; (2) the Director determines that there is significant public interest; (3) the Director determines that comments have raised objections that have probable technical merit; or, (4) determination of the application requires the Division, pursuant to Paragraph (3) of Subsection F of 19.15.2.7 NMAC, to determine whether a water source has a present or reasonably foreseeable beneficial use that contamination would impair.

The Division may issue a permit for the proposed Facility upon finding that the conditions of 19.15.36.9 and 11 NMAC have been met and that the Facility can be constructed and operated in compliance with applicable statutes and rules, and without endangering fresh water, public health, safety or the environment. Should the application proceed to hearing, parties wishing to present testimony or evidence are required by Division Rule 19.15.4.13.B NMAC to file a pre-hearing statement and serve copies on other parties or, for parties that are represented, their attorneys no later than 5 p.m. on the Thursday preceding the scheduled hearing date at the Division's Santa Fe office at the above-specified address. Pre-hearing statements should include the following information: (1) the names of the parties and their attorneys; (2) a concise statement of the case; (3) the names of all witnesses the party will call to testify at the hearing; (4) the approximate time the party will need to present its case; and (5) identification of any procedural matters that are to be resolved prior to the hearing. Hearings are conducted before Division Hearing Examiners, and persons testifying are required to do so under oath and on the record.

Sincerely,

John H. Benton,
Vice President and General Manager

JHB/ejb

Enclosure

NOTICE OF PUBLICATION

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

Notice is hereby given that the Oil Conservation Division ("Division") has issued its tentative decision pursuant to Surface Waste Management Facilities Regulations (Subsection D of 19.15.36.9 NMAC), regarding the following Surface Waste Management Facility permit application, which was submitted to the Division at 1220 South Saint Francis Drive, Santa Fe, New Mexico, 87505, (505) 476-3440:

Black Hills Gas Resources, Inc., 3200 N. 1st Street, Bloomfield, New Mexico, 87413, has submitted an application to the Division to construct and operate a centralized Surface Waste Management Facility ("Facility"). The proposed Facility is located in Section 13, Township 30 North, Range 4 West, approximately 11.6 miles southwest of the town of Dulce, Rio Arriba County, New Mexico. The property is located in Espinosa Canyon, which is accessed by traveling west on US Highway 64 to mile marker 115 ¼ and turning north onto J-10 Road approximately 4 miles north. The proposed Facility will consist of approximately 12 permitted acres and will accept and remediate non-hazardous, produced water that is exempt from the federal Resource Conservation and Recovery Act and derived from oil and gas exploration and production activities. The produced water is to be stored in three ponds for re-use in drilling and completion operations. The depth to the shallowest aquifer beneath the area to be permitted is approximately 77.7 feet. The groundwater in the aquifer has a concentration of total dissolved solids ranging from 290 to 760 parts per million. Pursuant to Rule19.15.36.9.F(5) NMAC, the Division's tentative decision is available on its Web site at http://www.emnrd.state.nm.us/OCD/env-draftpublicetc.html, or upon request from the Division clerk, Florene Davidson, at 1220 S. Saint Francis Drive, Santa Fe, New Mexico, 87505, or by calling (505) 476-3458. Pursuant to Division Rules, the Director shall allow a period of at least thirty days after the date of publication of this notice, during which time interested persons may submit comments or request that the Division hold a public hearing. **Any interested person may file comments or request a hearing** on the application with the Division clerk within 30 days after the date of this notice. Requests for a public hearing shall set forth the reasons why a hearing should be held. A hearing will be held if (1) the Division has proposed to deny the application or grant it subject to conditions not expressly required by rule, and Black Hills Gas Resources, Inc. **requests a hearing; (2) the Director determines that there is significant** public interest; (3) the Director determines that comments have raised objections that have probable technical merit; or, (4) determination of the application requires the Division, pursuant to Paragraph (3) of Subsection F of 19.15.2.7 NMAC, to determine whether a water source **has a present or reasonably foreseeable beneficial use that contamination** would impair. The Division may issue a permit for a proposed facility **upon finding that the conditions of 19.15.36.9 and 11 NMAC have been** met and that the surface waste management facility can be constructed and operated in compliance with applicable statutes and rules and without endangering fresh water, public health, safety or the environment. Should the application proceed to hearing, parties wishing to present testimony **or evidence are required by Division Rule 19.15.4.13.B NMAC to file** a pre-hearing statement and serve copies on other parties or, for parties that are represented, their attorneys no later than 5 p.m. on the Thursday **preceding the scheduled hearing date at the Division's Santa Fe office at the above-specified address. Pre-hearing statements should include the** following information: (1) the names of the parties and their attorneys; (2) a concise statement of the case; (3) the names of all witnesses the party will call to testify at the hearing; (4) the approximate time the party will **need to present its case; and (5) identification of any procedural matters** that are to be resolved prior to the hearing. Hearings are conducted before Division Hearing Examiners, and persons testifying are required to do so under oath and on the record.

AVISO DE PUBLICACIÓN

ESTADO DE NUEVO MÉXICO
ENERGÍA, DEPARTAMENTO DE RECURSOS NATURALES Y MINERALES
DIVISIÓN DE CONSERVACIÓN DEL ACEITE

Aviso es por este medio ya que la división de conservación del aceite ("división") ha emitido su decisión provisional en virtud de los **reglamentos de instalaciones de gestión de residuos de superficie (inciso** D de 19.15.36.9 NMAC), en relación con el centro de gestión de residuos **de superficie siguiente solicitud de permiso, que fue presentado a la** división en 1220 South San Francisco en coche, Santa Fe, nuevo México, 87505, (505) 476-3440:

Black Hills Gas Resources, Inc., 3200 N. 1st Street, Bloomfield, New México, 87413, ha presentado una solicitud a la División para construir **y operar un centro de gestión de residuos superficie centralizado** ("instalación"). La instalación propuesta se encuentra en la sección 13, municipio de 30 norte, gama 4 West, aproximadamente 11.6 kilómetros al sumeste de la ciudad de Dulce, Condado de Río Arriba. El establecimiento está situado en el cañón de Espinosa, que se accede por viajando oeste en nosotros Highway 64 a marcador de millas 115 ¼ y convirtiendo el norte en la carretera J-10 aproximadamente 4 km norte. La instalación propuesta consiste de aproximadamente 12 permitido acres y acepte y remediar agua non-hazardous, producido exentos de la ley de recuperación y conservación de los recursos federales y derivado de actividades de exploración y producción de petróleo y gas. El agua producida debe ser almacenado en tres estanques para su reutilización en las operaciones de perforación y terminación. La profundidad del acuífero **superficial debajo de la zona deben ser permitidos es aproximadamente de** 77,7 pies. Las aguas subterráneas en el acuífero tiene una concentración de sólidos totales disueltos, que van desde 290 hasta 760 partes por millón. En virtud de Rule19.15.36.9.F(5) NMAC, decisión provisional de la división está disponible en su sitio Web en http://www.emnrd.state.nm.us/OCD/env-draftpublicetc.html, o a petición de la Secretaria de la división, Florene Davidson, en 1220 S. San Francisco en coche, Santa Fe, nuevo México, 87505, o llamando al (505) 476-3458. Conformidad con las reglas de la división, el Director deberá permitir un período de al menos treinta días después de la fecha de publicación del presente anuncio, tiempo durante el cual las personas interesadas pueden enviar comentarios o solicitar que la división de realizar una audiencia pública. Cualquier persona interesada puede presentar comentarios o solicitar una audiencia en la aplicación con el Secretario de la división dentro de 30 días después de la fecha de este aviso. Las solicitudes para una audiencia pública harán constar las razones de por qué se debe celebrar una audiencia. Se celebrará una audiencia si (1) la división ha propuesto a denegar la solicitud o concederla condiciones no expresamente exigida por la regla, y Black Hills Gas Resources, Inc. solicita una audiencia; (2) el Director determina que existe gran interés del público; (3) el Director determina que los comentarios han planteado objeciones que tienen mérito técnico probable; o (4) determinación de la aplicación requiere la división, de conformidad con el párrafo (3) del inciso F del 19.15.2.7 **NMAC, para determinar si una fuente de agua tiene un uso beneficioso** presente o razonablemente previsible que deterioraría la contaminación. La división puede emitir un permiso para una instalación propuesta al encontrar que se havan cumplido las condiciones de 19.15.36.9 y **11 NMAC y que la superficie residuos utilidad de gestión pueden ser** construido y operado conforme a las reglas y estatutos aplicables y sin poner en peligro el agua potable, salud pública, seguridad o el medio ambiente. La aplicación procederá a la audiencia, las partes que deseen presentar testimonio o evidencia está obligado por la regla de la división 19.15.4.13.B NMAC para presentar una declaración previa y servir copias en otras partes o, para los partidos que están representados, a **más tardar el 17 el jueves anterior a la fecha de la audiencia fijada en la oficina de Santa Fe de la división en la dirección especificada por encima** de sus abogados. Pre-Hearing declaraciones debe incluir la siguiente información: (1) los nombres de las partes y sus abogados; (2) un resumen sucinto de la caja; (3) los nombres de todos los testigos el partido llamará **a testificar en la audiencia; (4) el tiempo aproximado que el partido tendrá que presentar su caso; y (5) identificación de los Asuntos procesales que** deben resolverse antes de la audiencia. Las audiencias se llevan a cabo antes de la división de examinadores de audiencia, y las personas que deben hacerlo bajo juramento y en el registro.

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Daniel Manus
Black Hills Gas Resources
3200 N. 1st Street
Bloomfield, NM 87413

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☑ Agent
☐ Addressee

B. Received by *(Printed Name)* Cindy Sim

C. Date of Delivery 5/23/13

D. Is delivery address different from item 1? ☒ Yes
If YES, enter delivery address below: ☐ No

PO Box 249
Bloomfield NM 87413 220

3. Service Type
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- ☐ Registered
- ■ Return Receipt for Merchandise
- ☐ Insured Mail
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4. Restricted Delivery? *(Extra Fee)* ☐ Yes

2. Article Number
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OIL CONSERVATION DIVISION
1220 SO. ST. FRANCIS
SANTA FE, NM 87505

B. Jones

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Daniel Manus Black Hills Gas Resouces

Street, Apt. No., or PO Box No. 3200 N. 1st Street

City, State, ZIP+4 Bloomfield, NM 87413

PS Form 3800, August 2006 See Reverse for Instructions

State of New Mexico
Energy, Minerals and Natural Resources Department

Susana Martinez
Governor

David Martin
Cabinet Secretary-Designate

Brett F. Woods, Ph.D.
Deputy Cabinet Secretary

Jami Bailey
Division Director
Oil Conservation Division

CERTIFIED MAIL RECEIPT # 7009 1680 0002 3341 9010

May 22, 2013

Daniel Manus
Black Hills Gas Resources
3200 N. 1st Street
Bloomfield, New Mexico 87413

RE: Tentative Decision
Black Hills Gas Resources - East Blanco Produced Water Reuse Facility
Location: SE/4 NW/4 of Section 13, Township 30 North, Range 4 West, NMPM
Rio Arriba County, New Mexico

Dear Mr. Manus:

Pursuant to 19.15.36.9(D) NMAC, the Oil Conservation Division (OCD) has completed the technical review of Black Hills Gas Resources' (Black Hills) revised application, dated December 21, 2012 and received by OCD on December 26, 2012, for a centralized surface waste facility permit for the East Blanco Produced Water Reuse Facility. On January 24, 2013, OCD deemed Black Hill's revised application to be administratively complete.

OCD has determined that Black Hills' revised permit application is deficient and hereby recommends disapproval. OCD's reasons for disapproval are enclosed. OCD's tentative decision has also been posted on the OCD's webpage at http://www.emnrd.state.nm.us/OCD/env-draftpublicetc.html.

Given OCD's tentative decision, Black Hills is now required to issue notice of the tentative decision in accordance with 19.15.36.9(E) NMAC. This must include, but not limited to, notice by first class mail or email to the OCD's list of interested parties (found at http://www.emnrd.state.nm.us/OCD/env-draftpublicetc.html) and by first class mail to the following person(s) that contacted the OCD regarding the application:

*No person(s) contacted OCD.

In addition, Black Hills must notice by first class mail or email the governmental agencies listed in the application as noticed for the application. Black Hills may also pursue the additional option of requesting a hearing in accordance with 19.15.36.10(A) NMAC.

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

Sincerely,

Scott Dawson
Deputy Director

SD/baj

Attachments: Review Comments

Cc: OCD District III Office, Aztec w/ attach
WWC Engineering, 1275 Maple Street, Suite F, Helena, MT 59601 w/ attach

Review Comments
Black Hills Gas Resources - East Blanco Produced Water Reuse Facility
Centralized Surface Waste Management Facility
May 22, 2013

Page 1, Demonstration of Compliance, Item 4:

Please clarify the corporate status (Inc. LLC, Corporation, Partnership, LP, etc...) of Black Hills Gas Resources and provide the complete name for the operating company. OCD has determined that there is a Black Hills Gas Resources, Inc. and a Black Hills Exploration and Production, Inc. registered to operate in New Mexico with the Corporation Division of the New Mexico Public Regulation Commission. Please clarify if one of these parties is the party seeking the Part 36 permit.

Page 2, Demonstration of Compliance, Item 7:

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." OCD has determined that there is a Black Hills Gas Resources, Inc. and a Black Hills Exploration and Production, Inc. registered to operate in New Mexico with the Corporation Division of the New Mexico Public Regulation Commission (PRC). Mr. John Benton is not identified as an officer or Vice President for Black Hills Exploration and Production, Inc., but is identified as such for Black Hills Gas Resources, Inc. The PRC also identifies an additional 12 Officers and 3 Directors for Black Hills Gas Resources, Inc. Please provide the required information.

Page 3, Demonstration of Compliance, Item 9:

Exhibit 6 only identifies the addresses of private surface owners. Please provide the addresses of all surface owners within one mile of the proposed site's perimeter.

Page 3, Demonstration of Compliance, Item 10:

In the first paragraph, please provide a statement that identifies the size (acreage) of the area within the proposed facility boundary in which Black Hills is seeking to permit.

In the third paragraph, please identify and clarify the proposed "use" or "reuse" of the produced water.

Page 4, Demonstration of Compliance, Item 10:

In the third paragraph, the first sentence states that "the earthwork and grading design of the facility has been performed..." Perhaps, Black Hills intended to say that the "design of the facility has been complete. If not, please clarify."

Page 5, Demonstration of Compliance, Item 10:

In the second complete paragraph, please provide and/or identify the location of the detailed construction/installation diagrams for the proposed fences (Sheet D-9, Appendix A), and gates.

Page 11, Demonstration of Compliance, Item 12, *Section 19.15.36.17.B.6*:

Please identify the proposed method of protection for the liner from excessive hydrostatic forces from discharges onto the top edge of the interior slope of each pond from the 6 inch HDPE inlet/supply line, as illustrated on Sheet D-1, Sheet D-3, and Sheet D-5 of Appendix A.

Page 14, Demonstration of Compliance, Item 12, *Section 19.15.36.17.C.1*:

The first sentence at the top of the page states "Oil will be removed from the water surface via vacuum trucks and disposed of at an approved disposal facility." OCD recommends proposing a method that would allow the reintroduction of the removed oil back into the adjacent tank battery (produced water source) for further processing and separation and/or injection into the SWD well associated with the tank battery.

Page 14, Demonstration of Compliance, Item 13:

The fourth sentence states "Any fluids present in the leak detection system will be sampled and sent to OCD." OCD recommends analyzing the samples and comparing the results of the fluids in the pond to the results of the fluids discovered in the leak detection system to determine if the primary liner is leaking or the fluids are condensation or from another source. Only a summary of the results (including the laboratory analytical) of the comparison should be provided to OCD, not the samples. Please modify. Also, please link the discussion regarding ground water quality of samples analyzed for Borehole B-4 to the inspection and monitoring requirements of Paragraph (2) of 19.15.36.13.L NMAC.

Page 20, Demonstration of Compliance, Item 21, *Section 19.15.36.13.B.1*:

The first complete sentence at the top of the page identifies the nearest "continuously flowing watercourse." A "continuously flowing watercourse" is a siting criteria considered for permits issued under 19.15.17 NMAC (Part 17). Part 36 considers a watercourse as defined in Paragraph (4) of 19.15.2.7.W NMAC.

Page 22, Demonstration of Compliance, Item 22:

The last sentence of the second paragraph suggests that the "reason for the drastic change in ground water elevation between the two boreholes is that the bedrock shelf and corresponding ground water elevation dive deeply from B-1 to B-4." This is not supported by the boring logs and geologic cross-sections provided in Appendix K. Figure 2, Geologic Cross Section 1, of Appendix K illustrates that top of the shale formation in which ground water was encountered above in Borehole B-1 has a mean sea level (msl) elevation of approximately 6943.5 feet. The top of the shale at Borehole B-4 was encountered at approximately 6949 feet and for Borehole WB4 #2 at approximately 6961 feet, demonstrating that the shale bedrock rises toward the surface rather than diving deeply as proposed. Please modify the statement to correspond to the data provided in Hydrogeologic Investigation Report of Appendix K.

Page 22, Demonstration of Compliance, Item 22a:

The response references Exhibit 5 as the demonstration, but does not mention or discuss the results or an assessment for water wells. Please complete the assessment and/or reference the location of the demonstration of water wells within one mile of the site.

Page 23, Demonstration of Compliance, Item 22c:

The ground water assessment suggests that "If it is assumed that the groundwater encountered at Borehole B-1 was a perched aquifer located above the confining shale layer

shown on the attached geologic cross sections, it is expected that this perched aquifer would also be encountered above the shale at Borehole B-4." This conclusion is not supported by the data provided in the permit application. Ground water was discovered in Borehole B-1at an elevation of 6947.3 feet msl. The top of the shale in Borehole B-4 was encountered at approximately 6949 feet msl, approximately 1.7 feet above the ground water discovered in Borehole B-1. Ground water would be expected to be encountered in Borehole B-4 above the shale, only if it was encountered in Borehole B-1 above an elevation of 6949 feet msl.

The ground water assessment further suggests that "The change in groundwater elevation between both locations occurs because the shale layer is most likely a fractured bedrock layer and does not act as a continuous confining layer." This conclusion is not supported by the data provided in the permit application. The boring logs provided in Attachment 1 of Appendix K do not identify that the cores obtained while drilling through the shale were observed as being fractured.

Please review the comments for Appendix K when revising the discussion regarding the topic addressed under Item 22.

Page 24, Demonstration of Compliance, Item 22f:

Please review the comments for Appendix K when revising the discussion regarding the topic addressed under Item 22f.

Exhibit 6, Property Ownership Map:

Exhibit 6 only identifies the addresses of private surface owners. Please provide the addresses of all surface owners within one mile of the proposed site's perimeter.

Appendix A, Engineering Drawings:

Sheet XS-2, Drainage Ditch Cross Sections:

Please modify the title of the sheet to correctly represent the information illustrated. The illustrations provided on the sheet are design drawings and cross-sections of proposed roads. Each illustration is titled "road section."

Sheet D-3, Pipe & Riprap Detail:

The Profile View – Manhole Detail 6/D-1 illustrates the 6 inch HDPE inlet/supply line transition to a 12 inch pipe. This drawing is inconsistent with the Plan View – Pipe Main To Pumping Station Detail 1/P-2 illustration on Sheet D-1 and the illustrations of the pump house on Sheet D-5 of Appendix A, which do not illustrate the transition. Please modify to illustrate the proposed design.

Appendix B, Technical Specifications:

Page 5 of 12, Section 01000, Administrative Instructions, Part 3 Execution, Subpart 3.04 Water:

The response provided for B of Subpart 3.04 states that the engineer should be notified prior to applying water "to verify the water meets or exceeds the background water quality of the existing groundwater at the site." If water proposed for embankment compaction and dust control exceeds the background water quality of the existing ground water at the site, then a

separate permit issued under the Water Quality Control Commission by OCD is required. Please verify the written response to ensure that it is stating the action or conditions correctly.

Page 9 of 12, Section 01000, Administrative Instructions, Part 3 Execution, Subpart 3.09 Submittals:

The responses provided for C and D of Subpart 3.09 discuss the construction and materials for a shop. This is the first time a shop has been discussed in the permit application. Please address all the applicable requirements of Part 36 for the permit application in regards to the proposed shop or please clarify.

Page 1 of 4, Section 02200, Topsoil Removal and Replacement, Part 1 General, Subpart 1.01 Description:

The response provided for A.1.c of Subpart 1.01 states that topsoil may be removed from "areas used for field offices." This is the first time a field office has been discussed in the permit application. The response provided for B.1.a of Subpart 1.01 also discusses replacing topsoil in the field office areas. Please address all the applicable requirements of Part 36 for the permit application in regards to the proposed field office area(s) or please clarify.

Page 2 of 10, Section 02201 Earthwork, Part 2 Products, Subpart 2.02:

The response provided for C of Subpart 2.02 indicates that the "maximum rock size" is "5 inches in any direction" for suitable cut material that is proposed for "compacted fill" in the construction of the ponds. This does not satisfy the requirements for subgrade soils as stated in Paragraph (5) of 19.15.36.17.B NMAC. The subgrade soils should be *free of rocks*. Please modify the response.

Page 7 of 17, Section 02206 Geomembranes, Part 2 Products, Subparts 2.01 Geomembrane Properties:

The response provided for E of Subpart 2.01 indicates that Table 2.01E is information for a "smooth surfaced" geomembrane. Table 2.01E data sheet represents the proposed "textured surfaced" geomembrane, as indicated in the second column of the "Typical Roll Dimension" rows. The "smooth surfaced" geomembrane information is provided in Table 2.01D on page 6 of 17. Please modify and properly identify the information.

Page 5 of 6, Section 02210 Geonets, Part 3 Execution, Subparts 3.02 Material Placement:

The response provided for F of Subpart 3.02 states "The cover soil shall be placed in the geonet in a manner that prevents damage to the geonet." Based upon the written response provided for *Section 19.15.36.17.B.9* on page 12 of the permit application, the geonet is proposed as the replacement equivalent to the specified "two feet of compacted soil with a saturated hydraulic conductivity of 1 x 10^{-5} cm/sec" which will be installed between the primary and secondary liners. The design proposed on page 12 of the permit application is supported by the engineering drawings on Sheet D-2 of Appendix A which do not illustrate soil being placed in the geonet. Please clarify the response and/or modify to accurately reflect the proposed design and installation.

<u>Appendix F, Operation, Maintenance, and Inspection Plan</u>:

Page 4, Monitoring and Inspection, Leak Detection System:

If moisture and/or fluids are discovered in the leak detection system, samples should be obtained from the leak detection system and of the pond contents in order to compare the analytical results to determine if the leak source is the pond. The written response does not propose a comparison to the water quality and chemistry to the water in the pond. Please modify the response to include the comparison and assessment of the two samples.

Page 4, Monitoring and Inspection, Equipment:

The last sentence of the paragraph states "The water surface in each pond will be inspected weekly for the presence of oil and wildlife fatalities." On page 5 of this Appendix, under the heading *Pond Surfaces*, the proposed frequency of inspection for oil on the ponds surface is daily. Please omit the last sentence of the paragraph and address the proposed inspection frequency under the appropriate heading of *Pond Surfaces*, on page 5 of Appendix F.

Page 5, Monitoring and Inspection, Groundwater Monitoring Wells:

The first sentence states "In the event groundwater is encountered and monitoring wells are installed, the groundwater shall be sampled to establish the background quality at the facility's location." The issue with this discussion is that ground water was encountered at the proposed facility and background samples have been obtained and the analytical results are provided in the permit application. Please modify the response to reflect the work that has been completed and to reflect the information already provided in the application. This would include the proposal to install a permanent monitoring well in the location of Borehole B-4 after the construction of the facility is completed, as discussed throughout the permit application.

Page 5, Monitoring and Inspection, Record Keeping:

The first sentence states "The offices of Black Hills Resources will handle record keeping for the facility." The Operation, Maintenance, and Inspection Plan of Appendix F identify two offices for Black Hills Resources: Denver, Colorado and Bloomfield, New Mexico. Several of the record keeping provisions of Part 36 require the operator to maintain records in a form readily accessible for division inspection. Please modify the response to specify that Black Hills will maintain its records in Bloomfield, New Mexico.

Page 6, Unauthorized Operations:

The last sentence proposes that "Water and associated constituents that are generated from any source other than a properly permitted oil and gas well shall not be accepted unless special approval is obtained from the New Mexico Oil Conservation Division or the New Mexico Environment Department." OCD was unable to locate any protocols on how this waste stream will be managed, from waste acceptance, manifesting, off-loading, and storage. If the waste is managed in the proposed ponds, based upon protocols presented in the application such activities could result in the improper disposal of non-oil field waste into the UIC Class II Salt Water Disposal injection well. OCD is unaware of a regulatory provision or statute that allows OCD the authority to grant "special approval" to accept non-oil field waste at a Part 36 permitted facility. OCD is also unaware of a regulatory provision or statute that allows the New Mexico Environment Department the authority to grant "special approval" for OCD permitted Part 36 facilities to accept non- oil field waste. Please omit the proposal or reference the regulatory provisions which support the proposal.

Appendix G, Hydrogen Sulfide Prevention and Contingency Plan:

Page 2, Immediate Action Plan, Level 1 Response:

The introductory paragraph instructs personnel to "move away from the release and evacuate to a designated assembly area determined by the Incident Commander (IC)." Please clarify how personnel will know they are moving away from the release. Can the flagging station be used as a wind direction indicator? Please identify the protocol that the IC will implement to ensure that personnel evacuate to assembly areas upwind or cross-wind from the release while limiting their exposure in attempting the reach the designated assembly areas. Also, please identify the "emergency instructions" that will be provided at the flagging station to persons attempting to enter the area.

The second sentence of Step 1 indicates that the facility operator will account for on-site personnel once at a designated assembly area. Since there are four assembly areas, please clarify how the facility operator will contact the other designated assembly areas to account for on-site personnel.

The last sentence of Step 1 suggests that the assembly areas will be monitored with a personal hydrogen sulfide detector. Please identify the concentration in which personnel will be monitoring the assembly areas. Also, please identify what actions will be taken if the action limit (concentration) is detected.

Page 3, Immediate Action Plan, Level 1 Response:

In Step 6, please identify the hydrogen sulfide concentration which Black Hills assumes will be safe for personnel to re-enter the facility and return to normal operations. Also, please modify the response to include notice to OCD pursuant to 19.15.11.16 NMAC since activation of the hydrogen sulfide contingency plan initiates at the detection of 4 ppm.

Page 3, Immediate Action Plan, Level 2 Response:

In the introductory paragraph, please identify how the audible alarm and flashing light from the hydrogen sulfide sensor differs at the detection of 10 ppm from the detection of a concentration of 4 ppm. Please clarify how personnel will know they are moving away from the release. Can the flagging station be used as a wind direction indicator? Please identify the protocol that the IC will implement to ensure that personnel evacuate to assembly areas upwind from the release while limiting their exposure in attempting the reach the designated assembly areas. Also, please identify the "emergency instructions" that will be provided at the flagging station to person attempting to enter the area.

In Step 3, please identify the method that will be utilized to notify persons within the 100 ppm radius of exposure.

Page 4, Immediate Action Plan, Level 2 Response:

In Step 9, please identify the hydrogen sulfide concentration at which Black Hills assumes to be safe for personnel to re-enter the facility and return to normal operations.

The sentence/paragraph at the bottom of the page seems to be a Level 3 response, since it addresses the scenario: if efforts to resolve the hydrogen sulfide release cannot be accomplished. Please properly identify the scenario and protocols as a Level 3 Response, since Level 1 and 2 both end with a resolution for the release, verification for a safe re-entry to the facility, and the return to normal operations.

Page 6, Safety Equipment and Supplies Available:

Pursuant to Subparagraph (a) of 19.15.11.9.B.(2) NMAC, "The plan shall include information on the availability and location of necessary safety equipment and supplies." The location descriptions provided for the listed equipment are not within the facility boundary in which Black Hills is seeking a permit. Please provide facility maps of the Espinosa Plant and tank battery facility that illustrate the locations within each facility where each piece of equipment is stored. The maps should also indicate the number of units that are available in order to prevent personnel from attempting to place themselves at risk during a real emergency when a limited number of units are available. Also, please identify the equipment and its location that will be utilized to establish the four proposed roadblocks.

In Item 2, the discussion regarding the flagging area, please clarify if the flags will also be used as wind direction indicators in order to comply with the requirements of Subsection C of 19.15.11.12 NMAC.

Pages 7 and 8, Characteristics of Hydrogen Sulfide and Sulfur Dioxide:

Please verify the information provided in the Tables for Hydrogen Sulfide and Sulfur Dioxide with the NIOSH Pocket Guide to Chemical Hazards at the Center of Disease Control and Prevention website. The source references for the information currently provided are from outdated tables within the February 15, 1995 API RP-55 document. Also, please identify the exposure limits for the Time Weighted Average (TWA), Short Term Exposure Limit (STEL), and the Immediate Danger to Life and Health Limit (IDLH).

Page 10, Training and Drills, Briefing of Public Officials on Evacuation Plan:

Please modify the response to include "briefing of public officials on issues such as *evacuation* or *shelter-in-place plans*" as required of Subparagraph (d) of 19.15.11.9.B.(2) NMAC.

Page 10, Coordination with State Emergency Plan, Oil Conservation Division:

Please clarify in the first sentence that the hydrogen sulfide contingency plan activation initiates at the first detection of hydrogen sulfide at 4 ppm, as described on page 2 of the proposed plan under *Level 1 Response*.

Page 10, Coordination with State Emergency Plan, NM State Police/NM Hazardous Materials Emergency Response Plan:

The second sentence states that "An emergency response officer will serve as Incident Commander (IC) and establish the National Interagency Incident Management System (NIIMS) Incident Command System (ICS)." On Page 1 of the contingency plan, it is stated that the "facility supervisor will serve as the incident commander (IC) of the facility." The NIIMS Incident Command System requires the first person on-site during an emergency to become the IC until relieved. As proposed in the response, the ICS could not be initiated until the emergency response officer (IC) arrived on-site. Please modify the response to demonstrate compliance with the established protocols of the NIIMS Incident Command System.

Figure 3, Evacuation Routes:

The proposed assembly area locations should be initially positioned upwind from the prevailing wind direction for the proposed facility site. The prevailing wind direction was not mentioned in the proposed plan. Please modify, if required.

Appendix H, Closure Plan:

Pursuant to Paragraph (9) of 19.15.36.8.C NMAC, the "application shall include a closure and post closure plan..." Please modify the title pages to reflect that the post closure plan is included in Appendix H.

Page 1, Closure, Protocols and Procedures:

The last sentence of the first paragraph suggests that the operator may proceed with the closure activities after the 60 day notice period without any additional considerations. Please identify the additional considerations of Paragraphs (2) and (4) of 19.15.36.18.A NMAC that may require the operator to postpone the implementation of the closure plan until OCD's requested modifications have been approved and/or a decision from a hearing is issued.

Page 3, Closure, Disposal Facility Name and Permit Number:

Based upon the title of this section of the contingency plan, OCD was unable to locate any information or a discussion regarding disposal facility name and permit number. Please remove "Disposal Facility Name and Permit Number" from the title if the information will not be provided.

Figure 1, Closure Plan Sampling Grid:

The proposed grid far exceeds the proposed facility boundary. Please provide a sampling grid for the area in which Black Hills is seeking a permit to manage oil field waste. Please do not propose sampling areas outside of the requested facility boundary.

Appendix I, Contingency Plan for Emergencies:

OCD was unable to locate a demonstration of compliance to the following provisions during the review of the Contingency Plan for Emergencies. Please provide.

Pursuant to Paragraph (5) of 19.15.36.13.N NMAC, "The contingency plan for emergencies shall include an evacuation plan for surface waste management facility personnel that *describes signals to be used to begin evacuation,* evacuation routes and alternate evacuation routes in cases where fire or releases of wastes could block the primary routes." Please describe the signals to be used to begin evacuation.

Pursuant to Paragraph (8) of 19.15.36.13.N NMAC, "The contingency plan for emergencies shall indicate when the contingency plan will be amended..." Please identify the timeframe and conditions.

Pursuant to Paragraph (13) of 19.15.36.13.N NMAC, "The contingency plan for emergencies shall describe how the emergency coordinator will ensure that no oil field waste, which may be incompatible with the released material, is treated, stored or disposed of until cleanup procedures are complete. Please provide.

Page 1, Introduction and Scope:

The second sentence of the introductory paragraph states that the objective of the contingency plan "is to protect the public, first responders, and Black Hills personnel in the event of an emergency." This does not coincide with the regulatory language. Please modify response to reflect the intent of Subsection N of 19.15.36.13 NMAC, that 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.*"

Page 2, Emergency Procedures, Fire or Explosion:

The second sentence of introductory paragraph states that "Any notification of a fire or explosion will occur via visual inspection." Please explain how visual inspection by one person will serve as notice to other personnel and how this notification procedure will be implemented.

The second sentence of Step 1 indicates that the facility operator will account for on-site personnel once at a designated assembly area. Since there are four assembly areas, please clarify how the facility operator will contact the other designated assembly areas to account for on-site personnel.

Page 3, Emergency Procedures, Fire or Explosion:

In the last sentence of Step 6, please clarify that the contaminated materials will be disposed of off-site at a properly permitted disposal facility "pursuant to an OCD approved plan."

Page 4, Emergency Procedures, Surface Release:

The first sentence of Step 3 states that "The Incident Commander will assess possible hazards to fresh water, public health, safety, and the environment." Please describe how the Incident Commander will complete the assessment, as required of Paragraph (10) of 19.15.36.13.N NMAC.

In the last sentence of Step 7, please clarify that the contaminated materials will be disposed of off-site at a properly permitted disposal facility "pursuant to an OCD approved plan."

In the last sentence of Step 9, please clarify that ground water quality mitigation efforts will be examined and performed, if feasible, "pursuant to 19.15.30 NMAC."

Page 5, Emergency Procedures, Subsurface Release:

The only source for a subsurface release considered and discussed in this section is from water within the ponds' leak detection system. Please include in the discussion leaks from the inlet and outlet pipes that are proposed for burial seven feet beneath the ground surface for the transfer of produced water between the tank battery and the three ponds.

In the first sentence of Step 3, please describe how the Incident Commander will complete the assessment, as required of Paragraph (10) of 19.15.36.13.N NMAC.

Page 6, Emergency Procedures, Subsurface Release:

In the last sentence of Step 8, please clarify that ground water quality mitigation efforts will be examined and performed, if feasible, "pursuant to 19.15.30 NMAC."

Page 6, Emergency Procedures, Telephone Numbers and Communication Methods:

Based upon the title of this section of the contingency plan, OCD was unable to locate any information or a discussion regarding communication methods. Please remove "and Communication Methods" from the title if the information will not be provided.

In the second table, *Government Agencies*, the (575) 748-1283 telephone number provided for OCD belongs to OCD's District II Artesia office. Please provide the telephone number for the appropriate OCD district office - OCD's District III Aztec office.

Page 7, Notification:

Please provide an introductory sentence that plainly states that "The Incident Commander shall comply with the reporting requirements of 19.15.29 NMAC." The operator is required to follow all of the requirements of 19.15.29 NMAC for reporting a release, not the proposed summary of Part 29. Please provide the clarification statement.

Appendix J, Best Management Practice and Storm Water Management Plan:

Page 4, Stormwater Run-Off Control:

The second sentence in the introductory paragraph indicates that "each BMP selected for use within the project will be able to withstand and function properly during the 2-year 24-hour storm event." Pursuant to Paragraph (1) of 19.15.36.13.M NMAC, "the run-on and run-off control system shall prevent flow onto the surface waste management facility's active portion *during the peak discharge from a 25-year storm.*" Please provide the required information and/or clarify.

Page 9, Inspections:

The first sentence indicates that "all control measures, including off-channel ponds... will be inspected..." OCD was unable to locate any information or design drawings in the permit application regarding "off-channel ponds" proposed for stormwater management. Please provide, modify, and/or clarify. Also, the first sentence indicates that inspections will occur "within 24 hours of any storm event exceeding 0.5-inch of rain." The regulatory language does not recognize or define the amount of rain a storm event must generate in which an inspection is warranted. Paragraph (3) of 19.15.36.13.L NMAC requires an inspection of berms and pond levees, which have been identified as a storm water control feature in Appendix J, "after a major rainfall or windstorm..." Please modify the response to reflect the regulatory language.

Appendix K, Hydrogeologic Investigation Report:

Page 2, Discussion of Results, Water Quality Analysis:

Please provide a discussion of the water quality analysis results from the testing and comparison of ground water obtained from Borehole B-1 and B-4. Currently the response only indicates which wells were sampled, the laboratory analysis performed on the samples, and the location of the results within the permit application.

Page 2, Discussion of Results, Aquifer Description:

The second paragraph suggests that "groundwater encountered at Borehole B-1 and B-4 is most likely hydraulically connected." The basis of this conclusion is stated to be "similarities

in water chemistry" and the "close proximity between the two (borehole) locations," as well as the expectation of discovering the "perched" water in Borehole B-1 in Borehole B-4. OCD was unable to locate a discussion on the ground water analytical results. A comparison and summary of some of the water quality data for Borehole B-1 and B-4, Table 1 on Page 5 of Appendix K, demonstrates differences in the water quality rather than similarities. The data presented on Table 1 demonstrates that of the commonly detected constituents and parameters tested, the majority of the B-4 concentrations were mostly double of those detected in B-1. The "close proximity between the two (borehole) locations" is not explained and/or justified in the application. The drastic difference in ground water elevations (B-1 at 6947.3 ft. and B-4 at 6912.3 ft. - a difference of 35 vertical feet) and the discovery of water in different geologic formations which are separated shale by a layer that occurs within distance of approximately 85 horizontal feet supports the position that these are two separate water bearing zones. As for the expectation of discovering the "perched" water in Borehole B-1 in Borehole B-4, this conclusion is not supported by the data provided in the permit application. Ground water was discovered in Borehole B-1at an elevation of 6947.3 feet msl. The top of the shale in Borehole B-4 was encountered at approximately 6949 feet, approximately 1.7 feet above the ground water discovered in Borehole B-1. Ground water would be expected to be discovered in Borehole B-4 above the shale, only if it was encountered in Borehole B-1 above an elevation of 6949 feet msl.

Please review the comments for Pages 22 and 23, *Demonstration of Compliance, Item 22,* when revising the ground water discussion addressed under Appendix K.

Page 3, Potentiometric Map:

Please review the comments above for Appendix K, when revising the ground water discussion addressed under this section.

Page 5, Table 1, Results of ground water quality analysis from sample taken at Borehole B-1 and Borehole B-4 locations:

The Table indicates that Gasoline Range Organics (GRO) analysis was completed on samples obtained from each of the boreholes. The chain of custody for the Borehole B-4 sample does not support the table and demonstrates that the test method and analysis was not requested, therefore analytical results were not provided by Inter-Mountain Labs. The Diesel Range Organics (DRO) detected in the Borehole B-1 sample at 2.1 mg/L was not identified on the table. This is a good indicator constituent to use when attempting to determine if the ground water encountered at Borehole B-1 and B-4 is hydraulically connected or not.

Figure 4, Shallow Aquifer Potentiometric Surface Map:

Please review the comments above for Appendix K, when preparing a new potentiometric map.

Duran-Saenz, Theresa, EMNRD

From: Duran-Saenz, Theresa, EMNRD
Sent: Friday, February 22, 2013 8:42 AM
To: (mpf@stateside.com); (lpena@riceswd.com); (kjones@riceswd.com); (hconder@riceswd.com); Balch (balch@prrc.nmt.edu); (ballen@sesi-nm.com); (charlie.perrin@state.nm.us); (cheryls@yatespetroleum.com); Chuck Creekmore (Chuck.Creekmore@conocophillips.com); (craig.shapard@state.nm.us); (dale@capstoneoil.com); (dboneau@pvtnetworks.net); Brooks, David K., EMNRD (david.brooks@state.nm.us); (dexterh@forl.com); Diane Ellenburg (Diane_Ellenburg@blm.gov); Don Neeper (dneeper@neeper.net); (dlehman@energen.com); Earl De Brine (edebrine@modrall.com); (ekendrick@montand.com); Gabrielle Gerholt (Gabrielle.Gerholt@state.nm.us); VonGonten, Glenn, EMNRD (Glenn.VonGonten@state.nm.us); (gbloom@slo.state.nm.us); (hdangler@slo.state.nm.us); J. Scott Hall (shall@montand.com); Jami Bailey (jamie.bailey@state.nm.us); (jan.wooldridge@dvn.com); (jtportwood@mindspring.com); Jimmy D. Carlile (jimmyc@forl.com); Julia Ruetten (Julia.ruetten@state.nm.us); Karin V. Foster (fosterassociates2005@yahoo.com); Kate McGraw (katiemac@cybermesa.com); Keith_Barton@oxy.com; (kmoss@slo.state.nm.us); Linda Fieseler (Lfieseler@nearburg.com); Lisa Curry Gray (lisa@lcgraylaw.com); Marita Blakeman; (markm@forl.com); Martin Joyce (mjoyce@pvtn.net); (nmwgi@nmagriculture.org); (rel@dfn.com); (paul.kautz@state.nm.us); Paul M. O'Sullivan (Paul.OSullivan@rlicorp.com); Rachel Jankowitz (rachel.jankowitz@state.nm.us); Dade, Randy, EMNRD (Randy.Dade@state.nm.us); Ray Powell (rpowell@slo.state.nm.us); (rtupman@hess.com); Richard Corcoran (Richard.Corcoran@conocophillips.com); (richard.ezeanyim@state.nm.us); (Rick_Foppiano@oxy.com); shane@spearbrothersgroup.com; (stan.phillips@apachecorp.com); Suzi Yahney (syahney@heycoenergy.com); Terry Warnell (twarnell@slo.state.nm.us); Tony Herrell (Tony_Herrell@blm.gov); Tyra Feil (Tyra.Feil@duganproduction.com); Jones, William V., EMNRD (William.V.Jones@state.nm.us); Hoppe, William, EMNRD (William.Hoppe@state.nm.us); 'Patricia Clugston'
Cc: Jones, Brad A., EMNRD
Subject: Black Hills Gas Resources - Notice of Administrative Completeness Determination
Attachments: 2013 1-24 Black Hills Gas Resources Notice of Administrative Completeness Determination.pdf

The attached Notice of Administrative Completeness Determination is provided pursuant to 19.15.36.9.B NMAC. Any questions may be directed to the Environmental Bureau of the Oil Conservation Division at (505) 476-3487.

Your message is ready to be sent with the following file or link attachments:

2013 1-24 Black Hills Gas Resources Notice of Administrative Completeness Determination.pdf

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

State of New Mexico
Energy, Minerals and Natural Resources Department

Susana Martinez
Governor

John Bemis
Cabinet Secretary

Brett F. Woods, Ph.D.
Deputy Cabinet Secretary

Jami Bailey
Division Director
Oil Conservation Division

January 24, 2013

Daniel Manus
Black Hills Gas Resources
3200 N. 1st Street
Bloomfield, New Mexico 87413

RE: **Notice of Administrative Completeness Determination**
Black Hills Gas Resources - East Blanco Produced Water Reuse Facility
Location: SE/4 NW/4 of Section 13, Township 30 North, Range 4 West, NMPM
Rio Arriba County, New Mexico

Dear Mr. Manus:

Pursuant to 19.15.36.8(E) NMAC, the Oil Conservation Division (OCD) has reviewed your Surface Waste Management Facility application and has found it to be administratively complete. Given the administrative completeness determination, you may now proceed to the notice as specified in 19.15.36.9(A) NMAC. As the applicant, you are required to furnish proof to OCD that required notices have been given. Please provide this proof to OCD as soon as possible. Proof of notice may begin the 30 day public comment period.

OCD will also provide notice of its administrative completeness determination within 30 days from the date of this letter per 19.15.36.9(B) NMAC. The public has 30 days to comment from the date of notice provided by the applicant or the date that OCD distributes notice, whichever is later. (See 19.15.36.9(C) NMAC)

The determination of administrative completeness does not mean that the application meets the technical requirements of 19.15.36 NMAC. OCD will now evaluate the technical merits of your application. Within 60 days after the end of the public comment period, OCD will issue its tentative decision regarding your application. (See 19.15.36.9(D) NMAC)

If you have any questions, please feel free to Brad Jones at brad.a.jones@state.nm.us or (505) 476-3487.

Sincerely,

Scott Dawson
Deputy Director

SD/baj

Cc: OCD District III Office, Aztec
WWC Engineering, 1275 Maple Street, Suite F, Helena, MT 59601

State of New Mexico
Energy, Minerals and Natural Resources Department

Susana Martinez
Governor

John Bemis
Cabinet Secretary

Brett F. Woods, Ph.D.
Deputy Cabinet Secretary

Jami Bailey
Division Director
Oil Conservation Division

January 24, 2013

Daniel Manus
Black Hills Gas Resources
3200 N. 1st Street
Bloomfield, New Mexico 87413

RE: **Notice of Administrative Completeness Determination**
Black Hills Gas Resources - East Blanco Produced Water Reuse Facility
Location: SE/4 NW/4 of Section 13, Township 30 North, Range 4 West, NMPM
Rio Arriba County, New Mexico

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OCD will also provide notice of its administrative completeness determination within 30 days from the date of this letter per 19.15.36.9(B) NMAC. The public has 30 days to comment from the date of notice provided by the applicant or the date that OCD distributes notice, whichever is later. (See 19.15.36.9(C) NMAC)

The determination of administrative completeness does not mean that the application meets the technical requirements of 19.15.36 NMAC. OCD will now evaluate the technical merits of your application. Within 60 days after the end of the public comment period, OCD will issue its tentative decision regarding your application. (See 19.15.36.9(D) NMAC)

If you have any questions, please feel free to Brad Jones at brad.a.jones@state.nm.us or (505) 476-3487.

Sincerely,

Scott Dawson
Deputy Director

SD/baj

Cc: OCD District III Office, Aztec
WWC Engineering, 1275 Maple Street, Suite F, Helena, MT 59601

PART 36 CHECKLIST FOR ADMINISTRATIVELY COMPLETENESS DETERMINATION

19.15.36.8 NMAC - SURFACE WASTE MANAGEMENT FACILITY PERMITS AND APPLICATION REQUIREMENTS:

19.15.36.8C NMAC Application requirements for new facilities, major modifications and permit renewals.

✓	**(1)** the names and addresses of the **applicant and principal officers and owners** of 25 percent or more of the applicant;
✓	(2) 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;
✓	**(3)** the names and addresses of the **surface owners** of the real property on which the surface waste management facility is sited and **surface owners** of the real property **within one mile** of the site's perimeter;
✓	**(4)** 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**;
✓	**(5) 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;**
✓	**(6)** a **plan for management** of approved oil field wastes that complies with the **applicable requirements** contained in 19.15.36.13 NMAC (**Siting and Operational Requirements**), 19.15.36.14 NMAC **(Landfills),** 19.15.36.15 NMAC **(Landfarms),** and 19.15.36.17 NMAC **(Ponds);**
✓	**(7)** an **inspection and maintenance plan** that complies with the requirements contained in **Subsection L of 19.15.36.13** NMAC;
✓	**(8)** a **hydrogen sulfide prevention and contingency plan** that complies with those provisions of **19.15.11** NMAC that apply to surface waste management facilities;
✓	**(9)** 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 closure and post closure plan shall comply with the requirements contained in **Subsection D of 19.15.36.18 NMAC);**
✓	**(10)** a **contingency plan** that complies with the requirements of **Subsection N of 19.15.36.13** NMAC and with **NMSA 1978, Sections 12-12-1 through 12-12-30, as amended**;
✓	**(11)** a **plan to control run-on water onto the site and run-off water** from the site that complies with the requirements of **Subsection M of 19.15.36.13** NMAC;
Landfill not proposed	**(12)** in the case of an application to permit a **new or expanded landfill**, a **leachate management plan** that describes the anticipated amount of leachate that will be generated and the leachate's handling, storage, treatment and disposal, including final post closure options;
Landfill not proposed	**(13)** in the case of an application to permit a new or **expanded landfill**, a **gas safety management plan** that complies with the requirements of **Subsection O of 19.15.36.13** NMAC;

✓	**(14)** a **best management practice plan** to ensure protection of fresh water, public health, safety and the environment;

✓	**(15) geological/hydrological data** including: (a) a map showing names and location of streams, springs or other watercourses, and water wells within one mile of the site; (b) 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; (c) depth to, formation name, type and thickness of the shallowest fresh water aquifer; (d) 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; (e) geologic cross-sections; (f) potentiometric maps for the shallowest fresh water aquifer; and (g) porosity, permeability, conductivity, compaction ratios and swelling characteristics for the sediments on which the contaminated soils will be placed;

✓	**(16) certification** by the applicant that information submitted in the application is true, accurate and complete to the best of the applicant's knowledge, after reasonable inquiry; and

✓	**(17) other information that the division may require** to demonstrate that the surface waste management facility's operation will not adversely impact fresh water, public health, safety or the environment and that the surface waste management facility will comply with division rules and orders.

36.8.D Application requirements for minor modifications.

Not a modification	An existing surface waste management facility applying for a minor modification **shall file a form C-137** with the environmental bureau in the division's Santa Fe office **describing the proposed change and identifying information that has changed from its last C-137 filing.**

APPLICANT: Black Hill Gas Resources

FACILITY: East Blanco Produced Water Reuse Facility

REVIEWER: Brad A. Jones - Environmental Engineer

WWC ENGINEERING
1275 Maple Street, Suite F - Helena, MT 59601 - (406) 443-3962
Fax (406) 449-0056 - Email: infohln@wwcengineering.com

February 27, 2013

Mr. Brad Jones
New Mexico Energy, Minerals and Natural Resources Department
Oil Conservation Division
1220 South St. Francis Drive
Santa Fe, NM 87505

RE: East Blanco Field Produced Water Reuse Facility Permit Application Public Notice Information

Dear Mr. Jones:

Black Hills Gas Resources has provided written notice that the C-137 application for the East Blanco Produced Water Reuse Facility has been determined to be administratively complete. Written notice has been sent to all surface owners of record within one-half mile of the facility per 19.15.36.9 NMAC. Additionally, written notice has also been provided to the Rio Arriba County Commission, Carson National Forest Office, and the Environmental Protection Office of the Jicarilla Apache Nation. A half-mile setback line from the proposed facility boundary along with all surface owners of record within that setback line are shown on the attached Figure 1. The certified mail return receipts are also included with this letter. Please do not hesitate to contact us should you have any further questions or require additional information.

Sincerely,

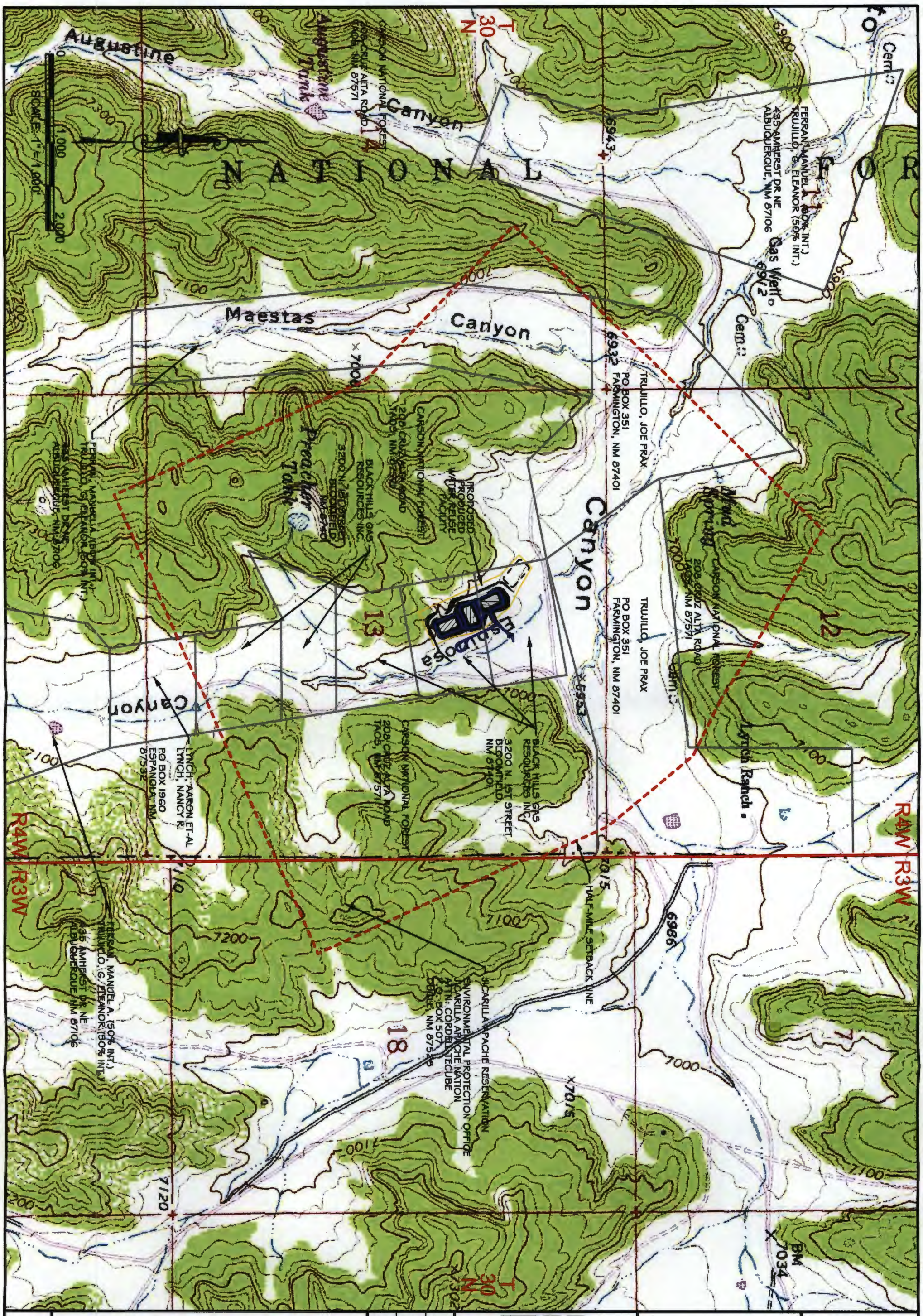
Shawn Higley, P.E.
Helena Branch Manager

cc: Black Hills Gas Resources

Enc.: Land Ownership Figure, certified mail return receipts

SH/mh

K:\BLACK HILLS\11063 - E. BLANCO FIELD\CORRE\02-27-13 Public Notice Receipts Letter.doc



EAST BLANCO PRODUCED WATER REUSE FACILITY

PROPERTY OWNERSHIP MAP

FIGURE 1

DSGN	DATE	CKD
MRS	6/12	STH
REV	DATE	CKD

JOB # 2011-063

Black Hills Gas Resources
3200 N 1st Street
Bloomfield, NM 87413
(505) 634-5104

WWC ENGINEERING
1275 MAPLE STREET, SUITE F
HELENA, MT 59601
(406) 443-3962

PEN TABLE PATH: K:\BLACK HILLS\11063 - E. BLANCO FIELD\FOP\EAST BLANCO PERMITS COLOR.tbl
2/27/2013 FILE PATH: K:\BLACK HILLS\11063 - E. BLANCO FIELD\DGN\East Blanco Field - Permit Exhibits 1.dgn

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Aaron Lynch & Nancy Lynch
PO Box 1960
Espanola, NM 87532

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X Nancy Tom Lynch ☐ Agent ☐ Addressee

B. Received by (Printed Name) Nancy Tom Lynch C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service label) 7011 3500 0003 4729 7430

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Rio Arriba County Commission
State Rd. 162 #149
Tierra Amarilla, NM 87575

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X Vanessa Martinez ☐ Agent ☐ Addressee

B. Received by (Printed Name) Vanessa Martinez C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service label) 7011 3500 0003 4729 7447

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Manuel A. Ferran & G. Eleanor Trujillo
435 Amherst Dr. NE
Albuquerque, NM 87106

COMPLETE THIS SECTION ON DELIVERY

A. Signature
Manuel Ferran ☐ Agent ☐ Addressee

B. Received by (Printed Name) MANUEL FERRAN C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

FEB 12 2013

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service label) 7011 3500 0003 4729 7454

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Carson National Forest
208 Cruz Alta Road
Taos, NM 87571

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X [signature] ☐ Agent ☐ Addressee

B. Received by (Printed Name) Marissa Vigil C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☑ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service label) 7011 3500 0003 4729 7461

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Environmental Protection Office
Jicarilla Apache Nation
Attn: Cordell Tecube
P.O. Box 507
Dulce. NM 87528

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X [signature] ☐ Agent ☐ Addressee

B. Received by (Printed Name) Jennifer Callado C. Date of Delivery 2/12/13

D. Is delivery address different from item 1? ☑ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☑ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service label) 7011 3500 0003 4729 7478

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Joe Prax Trujillo
PO Box 351
Farmington, NM 87401

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X [signature] ☑ Agent ☐ Addressee

B. Received by (Printed Name) Rose A Trujillo C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☑ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service label) 7011 3500 0003 4729 7485

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Brad Jones
NMOCD
1220 South St. Francis Drive
Sante Fe, NM 87505

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X [signature] ☐ Agent ☐ Addressee

B. Received by (Printed Name) Heather Miller C. Date of Delivery 2/11/2013

D. Is delivery address different from Item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

CORONADO SANTA FE, NM 87505 FEB 11 13

3. Service Type
☑ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service label) 7011 3500 0003 4729 7423

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

Black Hills Gas Resources

Jessica Donahue
Regulatory Technician
Jessicadonahue@blackhillscorp.com

1515 Wynkoop St., Suite 500
Denver, CO 80202
P: 720-210-1333
F: 303-566-3344

February 8, 2013

Brad Jones
New Mexico Energy, Minerals and Natural Resources Department
Oil Conservation Division
1220 South St. Francis Drive
Sante Fe, NM 87505

RE: Public Notice for Produced Water Recycling Facility

Dear Mr. Jones:

As per Title 19, Chapter 15, Part 36.9 of the New Mexico Administrative Code, please find enclosed copies of the public notice letters mailed out regarding the proposed produced water recycling facility being proposed in NE/4 NW/4, SE/4 NW/4, NW/4 NE/4, SW/4 NE/4 Section 13, Township 30 North, Range 4 West in Rio Arriba County. All letters were sent certified mail on February 8, 2013. The recipients and corresponding receipt numbers are listed below.

Aaron Lynch and Nancy Lynch	70113500000347297430
Manuel A. Ferran and G. Eleanor Trujillo	70113500000347297454
Carson National Forest	70113500000347297461
Environmental Protection Office	70113500000347297478
Joe Prax Trujillo	70113500000347297485
Rio Arriba County Commission	70113500000347297447

Please let me know if there is anything else you need. You can reach me at 720-210-1333.

Thank you,

J Donahue

Jessica Donahue

Encl.

Black Hills Gas Resources

Alan Vrooman
Sr. Permitting Coordinator
Alan.Vrooman@blackhillscorp.com

1515 Wynkoop St., Suite 500
Denver, CO 80202
P: 303-566-3356
F: 303-566-3344

February 7, 2013

Aaron Lynch & Nancy Lynch
PO Box 1960
Espanola, NM 87532

RE: Public Notice of Surface Waste Management Facility Application

To whom it may concern:

Notice is hereby given that Black Hills Gas Resources, 3200 North 1st Street, Bloomfield, NM 87413, has submitted to the New Mexico Oil Conservation Division (OCD) an application to construct a new surface waste management facility. OCD has determined that this application is administratively complete. The proposed facility is located in Espinosa Canyon, approximately 4 miles north of US Highway 64 and 11.6 miles southwest of Dulce, New Mexico. The facility is specifically located in the NE/4 NW/4, SE/4 NW/4, NW/4 NE/4, SW/4 NE/4 of Section 13, Township 30 North, Range 4 West, Rio Arriba County, New Mexico.

The surface waste management facility is located approximately 450 feet west of an existing tank battery facility owned by Black Hills Gas Resources and consists of three lined storage ponds. The facility will have a total capacity of 22.4 acre-feet of storage. Produced water from surrounding oil and gas operations will be the only waste accepted at the facility. The proposed water storage facility will be used to recycle produced water for future completions, thus reducing new water requirements as development occurs. A pipeline connected to the existing tank battery facility will transport the produced water to the ponds for storage. A dual layer liner and leak detection system will be installed within each pond to prevent leakage from occurring. The shallowest groundwater beneath the facility has a total dissolved solids (TDS) concentration of approximately 760 mg/L and is located approximately 77 feet below the ground surface. Additionally, a minimum of three feet of freeboard will be maintained within each pond at all times to prevent overtopping of the levees of each pond.

Any person wishing to comment on this application prior to the New Mexico Oil Conservation Division's preliminary consideration of the application may file comments with OCD at 1220 South St. Francis Drive, Sante Fe, NM 87505, or telephone (505) 476-3400 for a period of at least thirty (30) days after the date of publication of this notice.

Sincerely,

Alan Vrooman
Black Hills Gas Resources
Senior Permitting Coordinator

cc: Brad Jones, NM Oil Conservation Division

Black Hills Gas Resources

Alan Vrooman
Sr. Permitting Coordinator
Alan.Vrooman@blackhillscorp.com

1515 Wynkoop St., Suite 500
Denver, CO 80202
P: 303-566-3356
F: 303-566-3344

February 7, 2013

Carson National Forest
208 Cruz Alta Road
Taos, NM 87571

RE: Public Notice of Surface Waste Management Facility Application

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Notice is hereby given that Black Hills Gas Resources, 3200 North 1st Street, Bloomfield, NM 87413, has submitted to the New Mexico Oil Conservation Division (OCD) an application to construct a new surface waste management facility. OCD has determined that this application is administratively complete. The proposed facility is located in Espinosa Canyon, approximately 4 miles north of US Highway 64 and 11.6 miles southwest of Dulce, New Mexico. The facility is specifically located in the NE/4 NW/4, SE/4 NW/4, NW/4 NE/4, SW/4 NE/4 of Section 13, Township 30 North, Range 4 West, Rio Arriba County, New Mexico.

The surface waste management facility is located approximately 450 feet west of an existing tank battery facility owned by Black Hills Gas Resources and consists of three lined storage ponds. The facility will have a total capacity of 22.4 acre-feet of storage. Produced water from surrounding oil and gas operations will be the only waste accepted at the facility. The proposed water storage facility will be used to recycle produced water for future completions, thus reducing new water requirements as development occurs. A pipeline connected to the existing tank battery facility will transport the produced water to the ponds for storage. A dual layer liner and leak detection system will be installed within each pond to prevent leakage from occurring. The shallowest groundwater beneath the facility has a total dissolved solids (TDS) concentration of approximately 760 mg/L and is located approximately 77 feet below the ground surface. Additionally, a minimum of three feet of freeboard will be maintained within each pond at all times to prevent overtopping of the levees of each pond.

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Sincerely,

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Black Hills Gas Resources
Senior Permitting Coordinator

cc: Brad Jones, NM Oil Conservation Division

Black Hills Gas Resources

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Sr. Permitting Coordinator
Alan.Vrooman@blackhillscorp.com

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Denver, CO 80202
P: 303-566-3356
F: 303-566-3344

February 7, 2013

Environmental Protection Office
Jicarilla Apache Nation
Attn: Cordell Tecube
P.O. Box 507
Dulce, NM 87528

RE: Public Notice of Surface Waste Management Facility Application

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The surface waste management facility is located approximately 450 feet west of an existing tank battery facility owned by Black Hills Gas Resources and consists of three lined storage ponds. The facility will have a total capacity of 22.4 acre-fcct of storage. Produced water from surrounding oil and gas operations will be the only waste accepted at the facility. The proposed water storage facility will be used to recycle produced water for future completions, thus reducing new water requirements as development occurs. A pipeline connected to the existing tank battery facility will transport the produced water to thc ponds for storagc. A dual layer liner and leak detection system will be installed within each pond to prevent leakage from occurring. The shallowest groundwater beneath the facility has a total dissolved solids (TDS) concentration of approximately 760 mg/L and is located approximately 77 feet below the ground surface. Additionally, a minimum of three feet of freeboard will be maintained within each pond at all times to prcvent ovcrtopping of the levees of each pond.

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Black Hills Gas Resources
Senior Permitting Coordinator

cc: Brad Jones, NM Oil Conservation Division

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F: 303-566-3344

February 7, 2013

Joe Prax Trujillo
PO Box 351
Farmington, NM 87401

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The surface waste management facility is located approximately 450 feet west of an existing tank battery facility owned by Black Hills Gas Resources and consists of three lined storage ponds. The facility will have a total capacity of 22.4 acre-feet of storage. Produced water from surrounding oil and gas operations will be the only waste accepted at the facility. The proposed water storage facility will be used to recycle produced water for future completions, thus reducing new water requirements as development occurs. A pipeline connected to the existing tank battery facility will transport the produced water to the ponds for storage. A dual layer liner and leak detection system will be installed within each pond to prevent leakage from occurring. The shallowest groundwater beneath the facility has a total dissolved solids (TDS) concentration of approximately 760 mg/L and is located approximately 77 feet below the ground surface. Additionally, a minimum of three feet of freeboard will be maintained within each pond at all times to prevent overtopping of the levees of each pond.

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Black Hills Gas Resources
Senior Permitting Coordinator

cc: Brad Jones, NM Oil Conservation Division

Black Hills Gas Resources

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Alan.Vrooman@blackhillscorp.com

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Denver, CO 80202
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February 7, 2013

Rio Arriba County Commission
State Rd. 162 #149
Tierra Amarilla, NM 87575

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Black Hills Gas Resources
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cc: Brad Jones, NM Oil Conservation Division

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February 7, 2013

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Albuquerque, NM 87106

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