

From: [Patterson, Heather, EMNRD](#)
To: ["Kerry Egan"](#)
Cc: [Bratcher, Mike, EMNRD](#); [Weaver, Crystal, EMNRD](#)
Subject: RE: Catclaw battery Closure Request 2RP-3975-0
Date: Tuesday, December 13, 2016 10:18:00 AM

RE: Agave Energy * Catclaw Battery * fAB1630845765 * 2RP-3975

Kerry,

Your request for closure is approved.

OCD approval does not relieve the operator of liability should their operations fail to adequately investigate and remediate contamination that may pose a threat to ground water, surface water, human health or the environment. In addition, OCD approval does not relieve the operator of responsibility for compliance with any other federal, state, local laws and/or regulations.

If you have any questions or concerns, and for notification, please contact me.

Heather Patterson
Environmental Specialist
NMOCD District II
Office (575)748-1283 ext.101
Cell (575)703-0228

From: Kerry Egan [mailto:KEgan@agaveenergy.com]
Sent: Tuesday, December 6, 2016 10:55 AM
To: Patterson, Heather, EMNRD <Heather.Patterson@state.nm.us>
Subject: Catclaw battery Closure Request 2RP-3975-0

Heather,

After our phone call on Friday morning I wanted to provide you with the additional information requested. If you recall, the question was raised why we didn't take vertical delineation sample below the surface of the affected area. The primary purpose I didn't collect deeper samples was the fact that our response was immediate and we believe we were able to prevent any contamination from migrating deeper into the soil profile. Secondly, there had been a prior release on this location from what was at the time Yates Petroleum Corporation that we didn't want to get into while sampling or cleaning up. This release was reported to the NMOCD in June 2014 and issued the remediation permit **2RP-2364**. In the remediation work plan submitted by YPC for 2RP-2364, their sample results showed chloride levels within the affected area of the bermed location to be in excess of 1800 ppm (as high as 7000 ppm). There were no closure samples that I could find in NMOCD's imaged documents on the website, showing that chlorides had been remediated or delineated to below 1000 ppm. For that reason I proceeded with removing the surface contamination that was clearly associated with our spill and sampled at the surface once the excavating was completed. Our samples show that we have remediated the affected area to meet the Recommended Remediation Action Levels (RRALs). As such Agave is submitting the attached final C141 form and requesting approval for closure. If granted Agave will cover the excavation with

clean fill material.

Please review the attached documentation and let me know if you have any questions.

Thanks,
Kerry Egan
EH&S Department



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kegan@agaveenergy.com | www.agaveenergy.com

From: Kerry Egan
Sent: Monday, November 28, 2016 2:08 PM
To: 'Patterson, Heather, EMNRD' <Heather.Patterson@state.nm.us>
Subject: RE: COA's for C-141

Heather,

I wanted to touch base with you briefly about the Conditions for Approval of the C-141 and documentation that I submitted earlier this month for **2RP-3975**.

As I stated in the initial notification documentation the release occurred inside of the caliche berm at EOG's Catclaw battery. Agave had personnel in the immediate vicinity and were aware of the release as soon as it began and were able to take measures to stop it. They were also able to have a vacuum truck on site very quickly to recover liquids. The release was completely isolated within the northeast corner, and only to the top few inches of the caliche. This saturated caliche was then excavated by hand, and samples collected. The questions that I have are regarding two statements in the COA's that you provided me:

- "Soil Sampling must be both within the impacted area and beyond." (found at the end of Paragraph 5)
- "At least ten vertical feet of soils with contaminant concentrations at or below these values must be demonstrated as existing above the water table." (found at the end of Paragraph 6)

In regards to the first statement, knowing the definite horizontal extents of the release, being contained within the berm, is it required that we sample outside of the impacted area? I understand the necessity of this in instances where the contamination was not contained, and we're trying to find the extent of horizontal migration, but I'm not sure I see the benefit in sampling outside of the berm in this situation. I'm aware that the COA document is a standard document attached to all

spills, so I wanted to check with you and see if you are alright with Agave sampling only the affected area. I've attached a sampling diagram and summary for the location for you to review.

As far as the second statement, having been able to recover the free standing liquid and excavate the contaminated soil expediently we know that the contamination did not migrate very far vertically into the soil. So far I have excavated the top 3"-6" of caliche from within the berm. The samples I collected were from this new surface level. The area at its largest extent was approximately 40' x 20', and I collected samples from five locations spaced 10' laterally. The initial samples showed contamination levels at points #2-#4 to exceed the Recommended Remediation Action Levels (RRAL), and we proceeded to excavate these areas to 6" in depth. I collected additional samples at points #2-#4 to confirm that we would now meet the RRALs for this location. Please review the attached sampling documents, if you think everything is acceptable I'll submit the final C-141 form and request closure on this release.

Please let me know if you have any questions.

Thanks,
Kerry Egan
EH&S Department



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From: Patterson, Heather, EMNRD [<mailto:Heather.Patterson@state.nm.us>]
Sent: Thursday, November 10, 2016 7:01 AM
To: Kerry Egan <KEgan@agaveenergy.com>
Cc: Bratcher, Mike, EMNRD <mike.bratcher@state.nm.us>; Weaver, Crystal, EMNRD <Crystal.Weaver@state.nm.us>; agroves@slo.state.nm.us
Subject: COA's for C-141

RE: Agave Energy * Catclaw Battery * fAB1630845765 * 2RP-3975 * DOR: 10/28/2016

Kerry,

Attached are the Conditions of Approval for your recently submitted C-141.

Thank you,

Heather Patterson
Environmental Specialist
NMOCD District II
Office (575)748-1283 ext.101
Cell (575)703-0228

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