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December 28, 2005

VIA HAND DELIVERY

Ms. Florene Davidson
Oil Conservation Division
1220 South St. Francis Drive
Santa Fe, NM 87505

2005 DEC 28 PM 3 18

Re: Case 13586: Application of the New Mexico Oil Conservation Division for Adoption of New Rules Governing Surface Waste Management.

CRI's Recommended Modifications.

Dear Ms. Davidson:

Pursuant to Division Rules 1203 and 1204 and the Division's December 1, 2005 Notice Announcement rescheduling hearing and other deadlines, Controlled Recovery Inc. ("CRI") hereby submits its recommended modifications in Case 13586 regarding the proposed Rules Governing Surface Waste Management. For the convenience of the Commission, this submission reiterates CRI's December 1, 2005 submission, and includes new and additional recommendations as well, based in part on issues raised at the stakeholders meeting on December 8, 2005. CRI may submit additional comments, pre-hearing statements or recommended modifications, including exhibits, before the January 12, 2006 hearing.

A. Proposed Rule 19.15.1.7(O)(3) and Rule 53(E)(5)(c): Definition of "oilfield wastes" and repeal of authority to take "non-hazardous, non-oilfield wastes."

Rule 19.15.9.711(C)(4)(c) currently provides that non-oilfield wastes generated by oilfield facilities may be deposited at surface waste management facilities under certain conditions and with prior approval of the OCD:

> (c) Non-oilfield Wastes: Non-hazardous, non-oilfield wastes may be accepted in an emergency if ordered by the Department of Public Safety. Prior to acceptance, a "Request To Accept Solid Waste", OCD Form C-138 accompanied by the Department of Public Safety order will be submitted to the appropriate district office and the division's Santa Fe office. *With prior approval from the division, other non-hazardous, non-oilfield waste may be accepted into a permitted surface waste management facility if the waste is similar in physical and chemical composition to the oilfield wastes authorized for disposal at that facility and is either: (1) exempt from the "hazardous waste" provisions*

of Subtitle C of the federal Resource Conservation and Recovery Act; or (2) has tested non-hazardous and is not listed as hazardous. Prior to acceptance, a "Request for Approval to Accept Solid Waste," OCD Form C-138, accompanied by acceptable documentation to characterize the waste shall be submitted to and approved by the division's Santa Fe office. [emphasis added]

Surface waste management facilities have been authorized on occasion under this provision to enter into business arrangements with oilfield facilities to accept general types of wastes. Affording refineries, processing plants, and similar oilfield facilities the ability to use a single disposal site for most of its wastes offers important economic and practical benefits to the industry, without endangering the public health or the environment. Indeed, the benefits afforded by Rule 711(C)(4) are mirrored in Rule 19.15.9.712, which likewise allows NMED permitted landfills to take non-oilfield wastes under certain conditions.

Without input from or notice to the stakeholders, the November 14th draft, at 53(E)(5)(c), eliminates the italicized portion of the current Rule 711(C)(4)(c) thereby eliminating the approval authority provided by the second sentence of Rule 711(C)(4)(c) without any corresponding change to Rule 712. Indeed, if Rule 712 continues to allow oilfield waste disposal in NMED permitted landfills on a case by case basis, why shouldn't OCD permitted facilities continue to have the ability to accept oilfield wastes on a case by case basis?

More importantly, the Division has authorized CRI under the provisions of Rule 711(C)(4)(c) to enter into business arrangements to take pallets, pipes, tanks, office trash, concrete, and other ordinary refuse generated by oilfield facilities. Oilfield waste generators have exclusive disposal cells dedicated to their wastes at CRI's facility. These existing business arrangements provide generators with the important economic and environmental security associated with complete control over the wastes deposited into their cells.

Finally, CRI recently received a request from a New Mexico ethanol producer to dispose of mole sieve (a catalyst used in processing natural gas and in processing ethanol). The ethanol plant is not an oil and gas operation, however it is a refining operation and the waste streams are best suited for disposal in an OCD approved and permitted facility.

For the Division to now change this status quo raises due process concerns, regulatory takings issues, and other legal concerns without any apparent benefit to the public health or the environment. CRI suggests that the more reasoned approach is to address any concerns the Division may have with the acceptance of non-hazardous, non-oilfield wastes on a case by case basis, as is the present situation under Rule 711, rather than suddenly prohibiting this practice.

CRI therefore suggests that the Commission reject the proposed modifications to the definition of "oilfield wastes" in 19.15.1.7(O)(3); and retain in proposed Rule 53(E)(5)(c) the above italicized language from Rule 711(C)(4)(c).

At the December 8, 2005 stakeholders meeting the Division expressed concern about the statutory authority of OCD to authorize someone to dispose of non-exempt waste. We believe ample statutory authority exists for the Division to continue the existing practice of accepting

non-hazardous, non-oilfield waste at surface waste facilities if it is similar in physical and chemical composition to the oilfield wastes generated by oilfield facilities.

The statutory authority for these rules, Sections 70-2-1 through 70-2-38 NMSA 1978, has been interpreted since at least 1996 to include the "disposition of wastes resulting from oil and gas operations." The current statement is found in Rule 711(C)(4)(c). The statement is not limited to exempt wastes.

Among the enumerated powers of the Division, established by statute, is the power to "make rules, regulations and orders . . . . to regulate the disposition of nondomestic wastes resulting from the exploration, development, production or storage of crude oil or natural gas, [and] . . . the oil field service industry." NMSA (1978) §§70-2-12.B(21) and (22).[1] The reference to "nondomestic wastes" is not limited, and therefore includes "non-hazardous wastes" generated by oilfield facilities.

Accordingly, we believe the Division's concern is unwarranted, and CRI reiterates its suggestion that the Commission reject the proposed modifications to the definition of "oilfield wastes" in 19.15.1.7(O)(3); and retain in proposed Rule 53(E)(5)(c) the current, entire language from Rule 711(C)(4)(c), so that those provisions read as follows:

19.15.1.7(O)(3): "Oil field wastes shall mean those wastes produced in conjunction with the exploration, production, refining, processing and transportation of crude oil and/or natural gas and commonly collected at field storage, processing, disposal, or service facilities, and waste collected at gas processing plants, refineries and other processing or transportation facilities."

19.15.2.53(E)(5)(c): "Non-oilfield Wastes: Non-hazardous, non-oilfield wastes may be accepted in an emergency if ordered by the Department of Public Safety. Prior to acceptance, a 'Request To Accept Solid Waste', OCD Form C-138 accompanied by the Department of Public Safety order will be submitted to the appropriate district office and the division's Santa Fe office. With prior approval from the division, other non-hazardous, non-oilfield waste may be accepted into a permitted surface waste management facility if the waste is similar in physical and chemical composition to the oilfield wastes authorized for disposal at that facility and is either: (1) exempt from the 'hazardous waste' provisions of Subtitle C of the federal Resource Conservation and Recovery Act; or (2) has tested non-hazardous and is not listed as hazardous. Prior to acceptance, a 'Request For Approval to Accept Solid Waste,' OCD Form C-138, accompanied by acceptable documentation to characterize the waste, shall be submitted to and approved by the division's Santa Fe office."

B. **Proposed Rule 53(E)(5)(a):** Exempt oilfield wastes.

CRI questions the need for the language "and not mixed with non-exempt waste" in 53(E)(5)(a) due to the problems it creates for waste haulers and generators. CRI understands the

[1] Domestic waste is defined elsewhere in NMAC as waste discharged from a sewer system, and treated in a wastewater treatment plant. 20.6.2.3105.B. and 20.7.3.7.D.(6) NMAC. CRI has not accepted, and does not seek authority to accept, this kind of waste.

Division is going to examine whether this language is necessary to maintain the RCRA exemption for oilfield wastes.

The Division has eliminated the "forms of its choice" language in existing Rule 19.15.9.711(C)(4)(a), instead mandating the use of Form C-138. CRI believes the existing "forms of its choice" language is sufficient and has worked well for the Division and operators. Indeed, many operators have load tickets that meet this classification requirement.

At the stakeholders meeting on December 8 Mr. Ken Marsh of CRI referred to a copy of the form CRI uses that it believes would be sufficient to fulfill the intent of the proposed Rule. A copy of that CRI form is appended hereto as Exhibit A, for the record.

At the December 8 stakeholders meeting the proposed Rule 53(E)(5)(a) requirement that both generators and operators indefinitely maintain copies of Form C-138 was discussed. The Division advanced as justification that the requirement would facilitate "more robust waste tracking" and "enforcement." Generators and operators expressed concern with the indefinite retention requirement as burdensome.

CRI believes this requirement should be deleted from the proposed Rule. If the Division does propose to institute a more robust waste tracking system in the future, the issue of generators and operators maintaining copies of forms generated as part of the system should be postponed for consideration at that time, and as part of a comprehensive waste tracking system. Imposing a piecemeal requirement at this time and in this proposed Rule is premature.

The enforcement concerns expressed at the stakeholders meeting were leaking produced water tankers and illegal dumping. CRI does not believe its maintenance of copies of Form C-138, with whatever information it might contain, would further either enforcement goal. Having a copy of a form would do nothing to detect or record any leaking, and illegal dumping would not be reflected or detected in copies of forms for waste that reached an operator's facility.

CRI suggests proposed Rule 19.15.2.53(E)(5)(a) be modified to read as follows: "Exempt oil field wastes. A generator, or his authorized agent, shall provide a certification that represents and warrants that the wastes are generated from oil and gas exploration and production operations; and exempt from RCRA subtitle C regulations. The operator shall have the option to accept such certifications, on Form C-138 or on forms of its choice, approved by the Division, on a monthly, weekly, or per load basis."

C. **Proposed Rules 53(B)(1) and 53(G)(1):** The proper waste streams for landfarms to ensure remediation and re-vegetation.

In March of 2005, Division Director Mark Fesmire issued the following directive to all landfarms in the State:

> Effective immediately, the NMOCD permitted landfarm identified above is prohibited from accepting oilfield waste contaminated with salts.

See Attached letter dated 3/4/05. The Division's action was prompted by the fact that "salts could compromise the biodegradation capacity of the landfarm" and "because salts leach more easily than hydrocarbons, the landfarm may pose a greater threat to groundwater." *Id.* Accordingly the Division mandated that, before any permitted landfarm could accept oilfield wastes contaminated with salts, the landfarm was required to seek a modification to its permit from the Division.

In addition to the concerns raised by the Division in its March 2005 letter, the public notices provided for landfarm applications have historically stated that these facilities are for "remediation of non-hazardous hydrocarbon contaminated soils." *See* Attached Notices of Publication. Landfarms were not noticed to the public nor expected to accept other types of oilfield wastes that cannot be remediated in a landfarm environment. Indeed, as evident from these historical public notices and the closure provisions in proposed Rule 53(I)(3)(d), landfarms are NOT intended to be permanent disposal sites for non-remediable materials. To the contrary, they are declared to be facilities that promote the bioremediation of hydrocarbon contaminated soils such that they can eventually be "re-vegetated." See proposed Rules 53(I)(3)(d)(ii) and (iii).

CRI believes several parts of the proposed Rule depart from these established principles and present a potential to impede the twin goals of remediation and re-vegetation, and risk harm to wildlife and groundwater.

The first clause of proposed Rule 53(B)(1) - "for the remediation of hydrocarbon contaminated soils" - reflects the historical purpose of landfarms. But the second clause - "soil like materials such as drill cuttings or tanks bottoms" – does not. Indeed, drill cuttings and tank bottoms contain contaminants that are (1) concentrated by evaporation and/or sedimentation, (2) that are not remediable by biodegradation, and (3) that will not support or sustain re-vegetation or plant growth. Because these contaminants are neither biodegradable nor consistent with re-vegetation and sustained plant growth, and because they are a potential risk to wildlife and to groundwater, they should not be layered in unlimited quantities over facilities that could be as large as 500 acres. *See* Rule 53(E)(3)(500 acre facilities).

If the goal of the Division is to permit landfarms that will not end up as barren waste sites, then CRI suggests that proposed Rule 19.15.2.53(B)(1) be revised to read: "A landfarm is a discrete area of land designed and used for the remediation of non-hazardous hydrocarbon contaminated soils that do not exceed the chloride standard contained in Paragraph (1) of Subsection G of 19.15.2.53 NMAC."

Proposed Rule 19.2.53(G)(1) should be modified to read: "Only soils that do not have a chloride concentration exceeding 250 mg/kg shall be placed in a landfarm. The person tendering waste for treatment at a landfarm shall certify that representative samples of the waste have been tested for chloride content and found to conform to this requirement, and the landfarm's operator shall not accept waste for landfarm treatment unless accompanied by such certification."

D. **Proposed Rule 53(E)(1):** Allowable groundwater depth for all facilities.

The New Mexico Environment Department prohibits landfills in areas where the depth to groundwater is less than 100 feet. 20.9.1.300(1)(b)NMAC. The potential for and avoidance of groundwater contamination should be a major concern in the drafting of these rules. According to the Division's recently published Generalized Record of Ground Water Impact Sites, approximately 28% of the groundwater contamination events recorded by the oil and gas industry occur at depths between 50 and 100 feet below ground surface.[2]

CRI suggests the Division restate proposed Rule 19.15.2.53(E)(1) to read: "No surface waste management facility shall be located where ground water is less than 100 feet below the surface."

E. **Proposed Rule 53(F):** Landfill operating sizes, active cover requirements, and active cell limitations.

The revised draft of proposed Rule 53 imposes several operational requirements on Division approved landfills that have not been discussed with the stakeholders, and which were not contained in prior drafts of the rule. The Division has not provided any reason or rationale for these revisions. There are a number of concerns with these new provisions.

1. Landfill cell requirements are site specific. Cell sizes should be addressed in the operational requirements of the landfill permit, not in a statewide rule.

Accordingly CRI suggests that proposed Rule 19.15.2.53(F)(1)("The open and exposed portion of a landfill cell shall not exceed five acres in size") be deleted.

2. Proposed Rule 53(F)(8) and (9) places daily and intermediate cover requirements on all active landfill cells regardless of the types of waste being accepted. The purpose for requiring landfill cells to cover the active face is to prevent trash from blowing away or being transported by other vectors. This need for cover is not present where a landfill cell does not accept wastes capable of movement by wind or other means, and imposing a cover requirement in that circumstance places an unnecessary operational and economic burden on that facility and will increase the cost to the generator.

CRI suggests the following modified language to replace the language in proposed Rule 19.15.2.53(F)(8) and (9) with the following: "Any landfill cell accepting wastes capable of blowing away or being transported by other vectors must be covered."

3. Proposed Rule 53(F)(10) limits surface waste management facilities to two active landfill cells. This proposal is not practical. CRI has active waste cells that are dedicated to specific customers, thereby providing them with the economic and environmental security associated with complete control over the wastes deposited in their dedicated cells. This benefit to the industry will be lost under this proposed provision. In addition, CRI has active cells dedicated to particular types of oilfield wastes. CRI believes segregation of certain types of

[2] Approximately 63% occur at depths of less than 50 feet, and approximately 8% at depths of greater than 100 feet.

oilfield waste is important to the proper management of wastes and their long-term disposal. It is therefore necessary to have a sufficient number of active cells in an oilfield surface waste management facility to properly and safely manage the oilfield wastes. Limiting surface waste management facilities to only two active cells is not practical and would needlessly and adversely affect the efficiency of waste management facilities. Restricting segregation of wastes in multiple cells could pose a threat to the public health and the environment.

CRI therefore suggests that the sentence "No more than two landfill cells may be opened at a facility at the same time" be deleted from the proposed rule, so that proposed Rule 19.15.2.53(F)(10) reads: "Once a landfill cell has been filled it shall be closed pursuant to the conditions contained in the surface waste management facility closure plan. The operator shall notify the division's environmental bureau 72 hours prior to closure of a landfill cell."

F. Proposed Rule 53(I)(3)(a)(i): Equipment removal at oil treating plants.

In its present form, the proposed Rule requires removal of tanks and equipment as part of the closure process. CRI believes there will be circumstances where tanks or equipment formerly used for oil treatment could be used in subsequent operations or activities on the property. A blanket prohibition on subsequent use, if that is the intent of this part of the proposed Rule, would increase the cost of disposal without providing any benefit to the environment. This would not be in the best interests of the oil and gas industry.

Accordingly, CRI suggests adding the following language to proposed Rule 19.15.2.53(I)(3)(a)(i) to allow the equipment to remain, so long as it is properly cleaned: "All tanks and equipment used for oil treatment are cleaned or removed from the site and recycled or properly disposed of in accordance with division rules;"

G. Proposed Rules 53(G)(8) and 53(I)(3)(d)(iii): Disposal of contaminated soils after removal from landfarms.

The proposed Rules do not provide for the proper disposal of contaminated soils that are removed from a landfarm. If the last sentence of proposed Rule 53(G)(8) operates to require removal of soil that has not been remediated to the standard in the second sentence of 53(G)(8), then contaminated soils will be "removed" from an active landfarm. Under proposed Rule 53(I)(3)(d)(iii), at the time of closure of a landfarm, soils that have not been or cannot be remediated must be "removed." Neither provision, nor any other part of the proposed Rules, makes clear how these contaminated soils are to be disposed of.

CRI suggests proposed Rule 19.15.2.53(G)(8) be modified as follows: "Contaminated soils that are to be land-spread shall be spread on the surface in six-inch, or less, lifts. The TPH concentration of each lift shall be reduced to 100 mg/kg prior to adding an additional lift. The maximum thickness of land-spread soils in any cell shall not exceed two feet, at which time the soils shall be removed prior to adding additional lifts. If any of the removed soils exceeds the TPH concentration limit, those soils will be removed to a Division approved disposal site."

Proposed Rule 19.15.2.53(I)(3)(d)(iii) should be modified to read: "landfarmed soils that

have not been or cannot be remediated to the above standards are removed to a Division approved disposal site, and the cell filled in with native soil and re-vegetated;"

H. **Proposed Rule 53(I)(3)(e):** Landfarm post closure to ensure re-vegetation.

One of the goals of the proposed Rules is to provide for re-vegetation of landfarms as part of their operational goals and closure requirements. 53(I)(3)(d)(ii) and (iii); see 53 (I)(1). But the post closure section of the proposed Rule on landfarms does not include any monitoring to ensure re-vegetation is occurring and maintained.

Accordingly, CRI suggests the following addition to proposed Rule 19.15.2.53(I)(3)(e): "Landfarm post closure. The post-closure care period for a landfarm shall be five years. The operator or other responsible entity shall ensure that:

(i) ground water monitoring, if required because of ground water contamination, is maintained to detect possible migration of contaminants; and

(ii) any cover material is inspected and maintained;

(iii) re-vegetation is maintained by sustained plant growth."

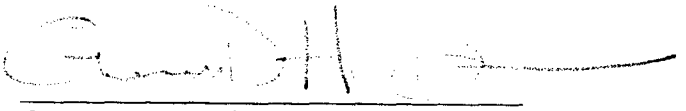
I. **Proposed Rule 53(I)(4):** Alternatives to re-vegetation.

As written the proposed Rule allows a landfarm operator to merely "contemplate" some use inconsistent with re-vegetation in order to avoid closure obligations. The rules should not be an exercise in meditation. Operators should supply some specifics. Before an operator is relieved of his post closure obligations he/she should submit a plan for the "inconsistent" use, prove that the "inconsistent" use is a viable use and a superior use to re-vegetation, that it will not endanger wildlife and groundwater, and back up the plan with a financial guarantee.

CRI proposes the following modification to proposed Rule 19.15.2.53(I)(4): "Alternatives to re-vegetation. If the operator or owner of the land proposes a plan for use of the land where a cell or facility is located for purposes inconsistent with re-vegetation, and that will protect wildlife and groundwater, the operator may, with division approval, implement an alternative surface treatment appropriate for the proposed use, provided that the alternative treatment will effectively prevent erosion, and provided that adequate financial assurance to ensure the proposed use is included as a post closure cost under 19.15.2.53(C)(5)(b)."

Respectfully submitted,

Huffaker & Moffett LLC



Gregory D. Huffaker, Jr.
Attorneys for Controlled Recovery, Inc.

CONTROLLED RECOVERY, INC.

P.O. Box 388 • Hobbs, New Mexico 88241-0388
(505) 393-1079
www.crihobbs.com

Bill to _____

Address _____

_____

Company/Generator _____

Lease Name _____

Trucking Company	Vehicle Number	Driver (Print)
Date	Time	a.m. / p.m.

Type of Material

❑ Exempt ❑ Tank Bottoms ❑ Fluids

❑ Non-Exempt C117_____ ❑ Other Material

C138 _____ ❑ Soils List Description Below

DESCRIPTION

Volume of Material ❑ Bbls. _____ ❑ Yard _____ ❑ Gallons _____

❑ Wash Out ❑ Call Out ❑ After Hours ❑ Debris Charge

This statement applicable to exempt waste only.
I represent and warrant that the wastes are: generated from oil and gas exploration and production operations; exempt from Resource Conservation and Recover Act (RCRA) Subtitle C Regulations; and not mixed with non-exempt wastes.

Agent _____
(Signature)

CRI Representative _____
(Signature)

TANK BOTTOMS

	Feet	Inches				
1st Gauge			BBLS Received		BS&W	%
2nd Gauge			Free Water			
Received			Total Received			

№ 77107

White - CRI Canary - CRI Accounting Pink - CRI Plant Gold - Transporter

Exhibit A to Controlled Recovery, Inc. letter of 12/28/05

NEW MEXICO ENERGY, MINERALS and NATURAL RESOURCES DEPARTMENT

BILL RICHARDSON
Governor
Joanna Prukop
Cabinet Secretary

7001 1940 0004 7920 7645

March 4, 2005

Mark E. Fesmire, P.E.
Director
Oil Conservation Division

Mr. Ken Marsh
Controlled Recovery, Inc.
P.O. Box 388
Hobbs, NM 88241-0388

Permit Number: NM-1-006

Re: Administrative Modification of Landfarm Permits

The Oil Conservation Division (OCD) issued the landfarm permit identified above under OCD Rule 711. As explained in the public notice given prior to the issuance of the permit, the permit was for landfarming to remediate hydrocarbon-contaminated soils. The language of the permit, however, is broader, allowing the facility to accept oilfield contaminated solids which are either exempt from the Federal RCRA Subtitle C (hazardous waste) regulations or are "nonhazardous" by characteristic testing. If this language were interpreted to allow the landfarm to accept oilfield waste contaminated with salts, the salts could compromise the biodegradation capacity of the landfarm. And because salts leach more easily than hydrocarbons, the landfarm may pose a greater threat to groundwater.

According to the terms of the permit identified above, the OCD may change the permit conditions administratively for good cause shown as necessary to protect fresh water, human health and the environment. The OCD has determined that it is necessary to protect fresh water, human health and the environment to modify the permit as follows:

> **Effective immediately, the NMOCD permitted landfarm identified above is prohibited from accepting oilfield waste contaminated with salts.**

If the landfarm identified above wishes to accept oilfield waste contaminated with salts, you will need to file an application to modify the permit pursuant to OCD Rule 711.B(1) and follow the notice requirements of OCD Rule 711.B(2). If you have already filed a complete application for permit modification with this office and complied with the notice requirements, the OCD will process the application promptly.

Landfarms that wish to accept oilfield wastes contaminated with salts while their application for permit modification is pending may apply to the Division Director for an emergency order under OCD Rule 1202. Applications for emergency orders will be considered on a case-by-case basis.

This notice is being sent to all entities operating landfarm facilities in New Mexico permitted pursuant to OCD Rule 711, as shown on the attached list.

If you have any questions, please contact Ed Martin at (505) 476-3492 or emartin@state.nm.us.

Very truly yours,

Mark E. Fesmire, P.E

Attachment to
Controlled Recovery, Inc.
letter of 12/28/05

DISTRIBUTION LIST

DD Landfarm, Inc. NM-1-0034
317 W. Blanco
Hobbs, NM 88242

C & C Landfarm, Inc. NM-1-0012
P.O. Box 55
Monument, NM 88265

Doom Landfarm NM-1-0033
Box 168
Jal, NM 88252

South Monument Waste
Management Facility, LLC NM-1-0032
P.O. Box 18
Hobbs, NM 88241

Lazy Ace Landfarm, LLC NM 1-0041
P.O. Box 160
Eunice, NM 88231

Lea Land, Inc. NM-1-0035
5644 Westheimer, #153
Houston, TX 77056

Gandy Marley, Inc. NM-1-0019
P.O. Box 1658
Roswell, NM 88202

Saunders Landfarm, LLC NM-1-0038
394 State Highwy. 206
Lovington, NM 88260

Rhino Oilfield Disposal, Inc. NM-1-0021
c/o Diamondback Disposal Services, Inc.
P.O. Box 2491
Hobbs, NM 88241

J & L Landfarm, Inc. NM-1-0023
P.O. Box 356
Hobbs, NM 88241-0356

Artesia Aeration, LLC NM-1-0030
P.O. Box 310
Hobbs, NM 88240

Sid Richardson Energy Services Co.; NM-2-0019
610 Commerce
Jal, NM 88252

Attachment to
Controlled Recovery, Inc.
letter of 12/28/05

ChevronTexaco Exploration & Production, Inc.; NM-2-0013
15 Smith Rd.
Midland, TX 79705

John H. Hendrix Corp.; NM-2-0021
P.O. Box 3040
Midland, TX 79702-3040

Pitchfork Landfarm, LLC; NM-1-0039
524 Antelope Ridge
Jal, NM 88252

Commercial Exchange, Inc.; NM-1-0042
6906 Gary Ave.
Lubbock, TX 79413

Envirotech, Inc.; NM-1-0011
5796 U.S. Highway 64
Farmington, NM 87401

T-N-T Environmental, Inc.; NM-1-0008
HCR 74 P.O. Box 115
Lindrith, NM 87029

Giant Exploration & Production Co.; NM-2-0010
23733 North Scottsdale Rd.
Scottsdale, AZ 85255

Controlled Recovery, Inc. NM-1-006
P.O. Box 388
Hobbs, NM 88241-0388

Affidavit of Publication

STATE OF NEW MEXICO)
) ss.
COUNTY OF LEA)

Joyce Clemens being first duly sworn on oath deposes and says that he is Adv. Director of THE LOVINGTON DAILY LEADER, a daily newspaper of general paid circulation published in the English language at Lovington, Lea County, New Mexico; that said newspaper has been so published in such county continuously and uninterruptedly for a period in excess of Twenty-six (26) consecutive weeks next prior to the first publication of the notice hereto attached as hereinafter shown; and that said newspaper is in all things duly qualified to publish legal notices within the meaning of Chapter 167 of the 1937 Session Laws of the State of New Mexico.

That the notice which is hereto attached, entitled Notice Of Publication

and xxxxxxxxxx Court of Lea was published in a regular and entire issue of THE LOVINGTON DAILY LEADER and not in any supplement thereof, one (1) day for one consecutive week, beginning with the issue of June 24 19 92 and ending with the issue of June 24 19 92

And that the cost of publishing said notice is the sum of $ 70.74 which sum has been (Paid) (Assessed) as Court Costs

Joyce Clemens

Subscribed and sworn to before me this 25th day of June 19 92

Notary Public, Lea County, New Mexico

My Commission Expires Sept. 23 19 94

LEGAL NOTICE
NOTICE OF PUBLICATION
STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION DIVISION
SANTA FE, NEW MEXICO

The State of New Mexico by its Oil Conservation Division hereby gives notice pursuant to law and Rules and Regulations of said Division promulgated thereunder of the following public hearing to be held at 8:15 A.M. on July 9, 1992, at the Oil Conservation Division Conference Room, State Land Office Building, Santa Fe, New Mexico, before Michael E. Stogner, Examiner or David R. Catanach, Alternate Examiner, duly appointed for said hearing as provided by law.

STATE OF NEW MEXICO TO:
All named parties and persons having any right, title, interest or claim in the following cases and notice to the public.

(NOTE: All land descriptions herein refer to the New Mexico Principal Meridian whether or not so stated.)

CASE 10499:
Application of Mitchell Energy Corporation for a unit agreement, Lea County, New Mexico.

Applicant, in the above-styled cause, seeks approval of the Comanche State Unit Agreement for an area comprising 2556.56 acres, more or less, of State lands in all or portions of Sections 3, 4, 9, and 10 of Township 21 South, Range 33 East, which is centered approximately 1.5 miles south of State Highway No. 176 at mile marker 19.

CASE 10497: (Readvertised)
Application of Mewbourne Oil Company for two secondary recovery pilot projects, Lea County, New Mexico.

Applicant, in the above-styled cause, seeks authorization to institute two secondary recovery pilot projects in the Quercho Plains-Upper Bone Spring Pool within Township 18 South, Range 32 East, on its Government "K" Lease by the injection of water from approximately 8454 feet to 8515 feet in Well No. 2 located 1950 feet from the South line and 1980 feet from the West line (Unit K) of Section 23 and on its Federal "E" Lease by the injection of water into the perforated interval from approximately 8501 feet to 8530 feet in Well No. 10 located 2310 feet from the North and East lines (Unit G) and from approximately 8360 feet to 8486 feet in Well No. 11 located 660 feet from the North line and 530 feet from the East line (Unit A) both in Section 27. Said pool is centered approximately 9 New Mexico.

CASE 10502:
Application of Meridian Oil Inc. for compulsory pooling, Lea County, New Mexico.

Applicant, in the above-styled cause, seeks an order pooling all mineral interests from the surface to the base of the Delaware formation or to a depth of 8700 feet, whichever is deeper, underlying the NW/4 NW/4 (Unit D) of Section 23, Township 22 South, Range 33 East, forming a standard 40-acre oil spacing and proration unit within said vertical extent. Said unit is to be dedicated to a well to be drilled at a standard location thereon. Also to be considered will be the cost of drilling and completing said well and the allocation of the cost thereof as well as actual operating costs and charges for supervision, designation of applicant as the operator of the well and a charge for risk involved in drilling said well. Said unit is located approximately 6.25 miles north-northwest of the junction of State Highway No. 128 and the Delaware Basin Road.

CASE 10503:
Application of Meridian Oil Inc. for compulsory pooling, Lea County, New Mexico.

Applicant, in the above-styled cause, seeks an order pooling all mineral interests from the surface to the base of the Delaware formation or to a depth of 8700 feet, whichever is deeper, underlying the SW/4 NW/4 (Unit E) of Section 23, Township 22 South, Range 33 East, forming a standard 40-acre oil spacing and proration unit within said vertical extent. Said unit is to be dedicated to a well to be drilled at a standard location thereon. Also to be considered will be the cost of drilling and completing said well and the allocation of the cost thereof as well as actual operating costs and charges for supervision, designation of applicant as the operator of the well and a charge for risk involved in drilling said well. Said unit is located approximately 6 miles north-northwest of the junction of State Highway No. 128 and the Delaware Basin Road.

CASE 10504:
Application of Meridian Oil Inc. for compulsory pooling, Lea County, New Mexico.

Applicant, in the above-styled cause, seeks an order pooling all mineral interests from the surface to the base of the Delaware formation or to a depth of 8700 feet, whichever is deeper, underlying the NW/4 SW/4 (Unit L) of Section 24, Township 22 South, Range 33 East, forming a standard 40-acre oil spacing and proration unit within said vertical extent. Said unit is to be dedicated to a well to be drilled at a standard location thereon. Also to be considered will be the cost of drilling and completing said well and the allocation of the cost

operating costs and charg for supervision, designatio applicant as the operator of well and a charge for r involved in drilling said w Said unit is located appro mately 5.5 miles northwe of the junction of State High No. 128 and the Delaware B Road.

CASE 10505:
Application of United C Search, Inc. for a credit enhanced oil recovery, County, New Mexico.

Applicant, in the abo styled cause, seeks a credi enhanced oil recovery pro the following leases: Gle Ryan (Leonard Federal) Le comprising all of Section 11 the S/2 of Section 14, Town 26 South, Range 37 East, a and except as to depths be 3600 feet subsurface in the SE/4 of said Section 11 an to depths between the surf and 3600 feet subsurface i SW/4 SW/4 of said Sectio Glenn-Ryan (Leonard Brot Lease comprising all of Sec 13 and the N/2 of Section Township 26 South, Rang East, save and except as t Queen formation in the S SW/4 of said Section 13; the Leonard Brothers "A" L comprising the N/2 N/2, S NW/4, and the SW/4 NE Section 23, Township 26 S Range 37 East, save and e as to the Queen formati the NE/4 NE/4 of said Sec 23. Said leases are loc approximately 5 miles s southeast of Bennett, Mexico.

CASE 10507:
Application of C & C Land Inc. for a commercial sur waste disposal facility, County, New Mexico.

Applicant, in the ab styled cause, seeks authoriz tion to construct and ope a commercial landfarm fa for remediation of non-haz ous hydrocarbon-contami soils using an enhan biodegradation process. area is to be located in the NE/4 (Unit G) of Sectio Township 20 South, Rang East, which is approxim 2 miles southeast of Monu New Mexico. This applic has been administrat determined to be approv and this hearing is schedu to allow parties the opport to present technical evid why the application shoul be approved pursuant t rules of the Division. In absence of objection, application will be taken u advisement.

Given under the Seal o State of New Mexico Conservation Commissi Santa Fe, New Mexico on 18th day of June, 1992.

STATE OF NEW MEX
OIL CONSERVAT
DIVIS

WILLIAM J. LEM
Dire

SEAL

RP 143

Published in the Lovington

Attachment to
Controlled Recovery, Inc.
letter of 12/28/05

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

Notice is hereby given that pursuant to the New Mexico Oil Conservation Division Regulations, the following application has been submitted to the Director of the Oil Conservation Division, 2040 S. Pacheco, Santa Fe, New Mexico 87505, Telephone (505) 827-7131:

J&L Landfarm, Judy L Robert, Landowner, 8301 Eunice Highway, Hobbs, New Mexico, 88240, has submitted for approval an application to construct and operate a Rule 711 commercial solids landfarm remediation facility located in the N/2 of N/2 of Section 9 and the N/2 of N/2 of Section 10, Township 20 South, Range 38 East, NMPM, Lea County, New Mexico. Hydrocarbon contaminated soils associated with oil and gas production will be remediated by spreading them on the ground surface in 6 inch lifts or less and periodically disking them to enhance biodegradation of contaminants. Ground water most likely to be affected by any accidental discharges at the surface is estimated to be at a depth of 42 to 69 feet with a total disolved solids concentration estimated to be at 1038 parts per million. The facility is underlain by the Triassic red beds. The permit application addresses the construction, operations, spill/leak prevention and monitoring procedures to be incorporated at the proposed site.

Any interested person may obtain further information from the Oil Conservation Division and may submit written comments to the Director of the Oil Conservation Division at the address given above. The application may be viewed at the above address between 8:00 a.m. and 4:00 p.m., Monday thru Friday. Prior to ruling on any proposed application, the Director of the Oil Conservation Division shall allow at least thirty (30) days after the date of publication of this notice during which comments may be submitted to her and public hearing may be requested by any interested person. Request for public hearing shall set forth the reasons why a hearing shall be held. A hearing will be held if the director determines that there is significant public interest.

If no hearing is held, the Director will approve or disapprove the application based on the information available. If a public hearing is held, the Director will approve the application based on the information in the application and information presented at the hearing.

GIVEN under the Seal of New Mexico Oil Conservation Commission at Santa Fe, New Mexico, on this 2nd day of November, 1998.

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

Roger A. Anderson

SEAL

for LORI WROTENBERY, Director

Attachment to
Controlled Recovery, Inc.
letter of 12/28/05