

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

2006 SEP 7 PM 12 58

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

**IN THE MATTER OF THE APPLICATION OF THE  
NEW MEXICO OIL CONSERVATION DIVISION FOR  
REPEAL OF EXISTING RULES 709, 710, 711  
CONCERNING SURFACE WASTE MANAGEMENT  
AND ADOPTION OF NEW RULES GOVERNING SURFACE  
WASTE MANAGEMENT**

**No. 13586**

**COMMENT ON PROPOSED SURFACE  
WASTE MANAGEMENT RULES**

Gandy Marley, Inc., by and through undersigned counsel of record, hereby submits the following comments on OCD's Proposed Rules for Surface Waste Management Facilities.

1) 19.15.2.53.G(6)(e).

Section G(6) Treatment Zone Closure Performance Standards, requires the operator to "demonstrate compliance with the closure performance standards by collecting and analyzing" soil samples for specific constituents identified in paragraphs (a) through (e). Paragraph (e) identifies OCD constituent levels for constituents listed in Subsections A and B of 20.6.2.3103 NMAC, which are the "Standards for Groundwater of 10,000 mg/l TDS Concentration or Less." Section G(6)(e) sets forth closure concentration levels for thirty-nine identified constituents.

Gandy Marley opposes the inclusion of Section G(6)(e) as it is now drafted. GMI agrees with the comment made by the Stakeholder Task Force in the September 1, 2006 Memorandum, filed in this matter by Daniel Sanchez, Stakeholders Task Force Facilitator. In many cases, the constituent levels in Section G(6)(e) are not achievable. Many of the inorganics identified in

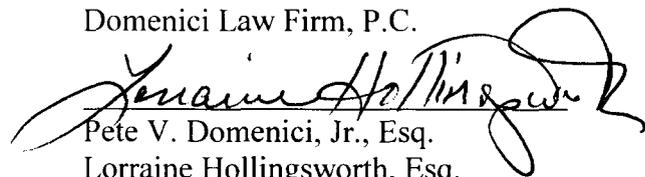
Section G(6)(e) cannot be remediated and remediation for the organics would be very difficult to achieve. Any soils that contained constituents above the levels identified in Section G(6)(e) would likely have to be removed from the landfarm, despite the fact that the waste containing the constituent was not prohibited by the operator's permit. The constituent levels in Section G(6)(e) levels appear to be based on groundwater levels and are much lower than necessary to protect human health and the environment.

2) 19.15.2.53.L(1), (2) and (3).

Gandy Marley supports the changes to 19.15.2.53.L., Transitional Provisions, proposed by the Stakeholder Task Force in the September 1, 2006 Memorandum.

Respectfully submitted,

Domenici Law Firm, P.C.



Pete V. Domenici, Jr., Esq.  
Lorraine Hollingsworth, Esq.  
Attorney for Southwest Landfill, LLC  
320 Gold Ave. SW, Suite 1000  
Albuquerque, New Mexico 87102  
505-883-6250

## CERTIFICATE OF SERVICE

I hereby certify that on this 2<sup>nd</sup> day of January, 2006, a copy of the foregoing Entry of Appearance in the above-captioned matter was served by mail on the following:

David K. Brooks, Esq.  
Oil Conservation Division  
1229 S. St. Francis Dr.  
Santa Fe, New Mexico 87505

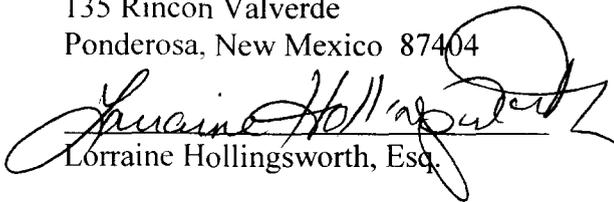
William F. Carr, Esq.  
Holland & Hart, LLP  
P.O. Box 2208  
Santa Fe, New Mexico 87504-2208

Controlled Recovery, Inc.  
C/o Gregory Huffaker, Jr., Esq.  
Huffaker & Moffett, LLC  
P.O. Box 1868  
Santa Fe, New Mexico 87504-1868

Alletta Belin, Esq.  
Belin & Sugarman  
618 Paseo de Peralta  
Santa Fe, New Mexico 87501

Oil & Gas Accountability Project  
C/o Carolyn Lamb  
P.O. Box 1102  
Durango, Colorado 81302

Rebecca G. Percy-Pipin  
135 Rincon Valverde  
Ponderosa, New Mexico 87404

  
Lorraine Hollingsworth, Esq.