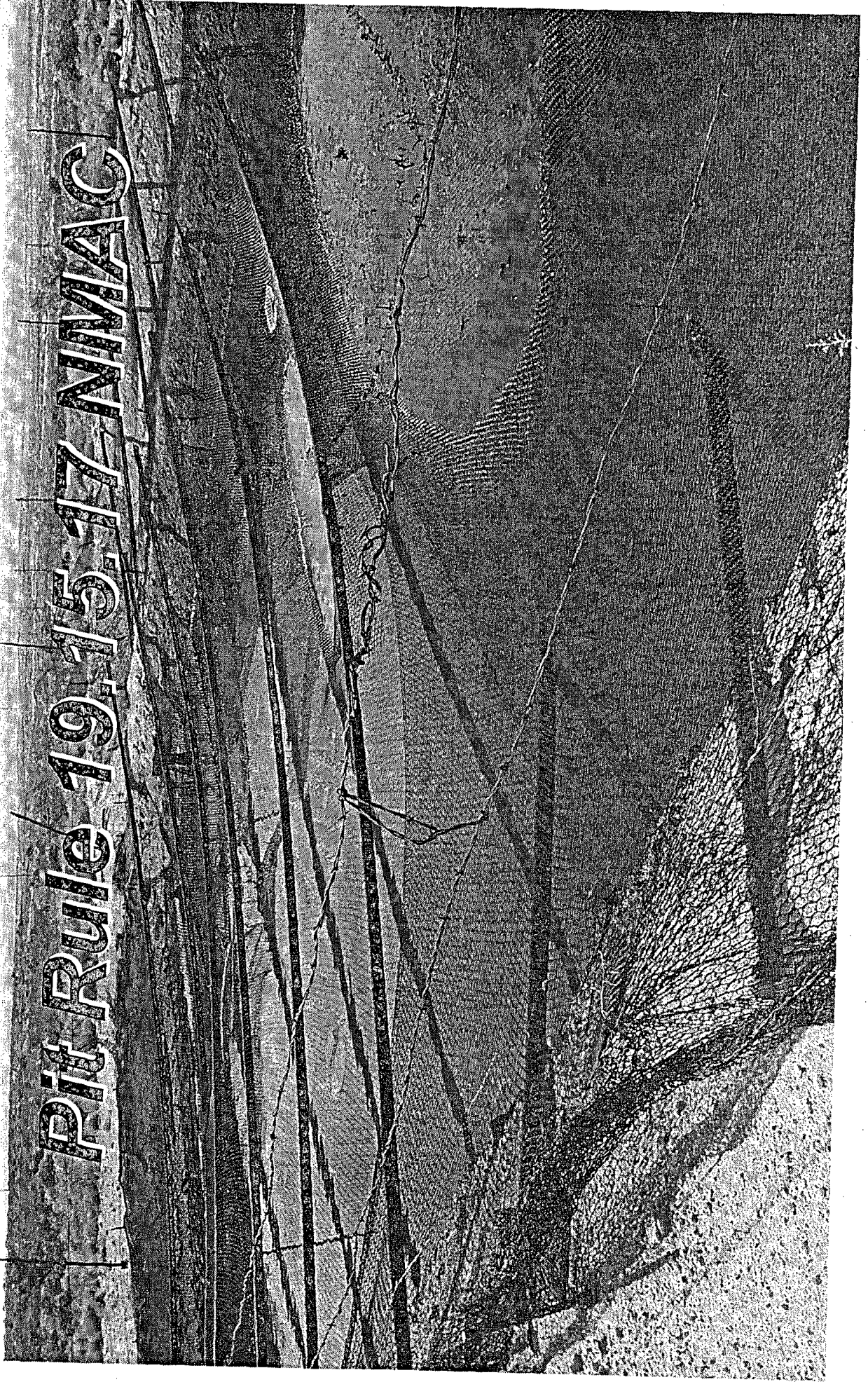


Overview of New Proposed

Pit Rule 19, 15, 17 NMIA C



Revamp the current pit rule!

WHY ?

- **Governor's Environmental Justice Mandate!**
- **Performance based standards are not working!**
- **Documented vadose zone and groundwater contamination cases!**

The Process

- Conducted Public Outreach meetings
++ Hobbs, Farmington, Artesia and Santa Fe
- Formed a Task Force Group with affected Stakeholders
- Task Force input incorporated in Draft Rule
- OCD files application with OCC and conducts public hearing for adoption of new rule

Public Outreach Meeting

New Mexico Oil Conservation Division

January 10, 2007 - Santa Fe, NM

Oilfield Pits

- Reese Fullerton- EMNRD Deputy Secretary
- Daniel Sanchez - Compliance and Enforcement Manager
- Wayne Price - Environmental Bureau Chief
- Glenn von Gonten - Senior Hydrologist
- Ed Hansen - Hydrologist

Permits...

- Permits required for the following categories:
 - + Permanent Pits... *
 - + Temporary Pits... i.e. drilling and workover...
 - + Closed Loop systems...
 - + Below-Grade Tanks...
 - + Closure plans ...
 - + Sumps and emergency pits are exempt....

**Unlined pits banned no exceptions or size limit!*

Applications

- C-144 form for all permits...
- Prescriptive requirements...
- Closure plans filed upfront...
- Permanent Pits filed at Santa Fe Office...
- All others categories filed in District Office...

Statewide ban on unlined permanent pits...

- Eliminates unlined permanent pits regardless of location, size, ground water, or previous orders...

Why?

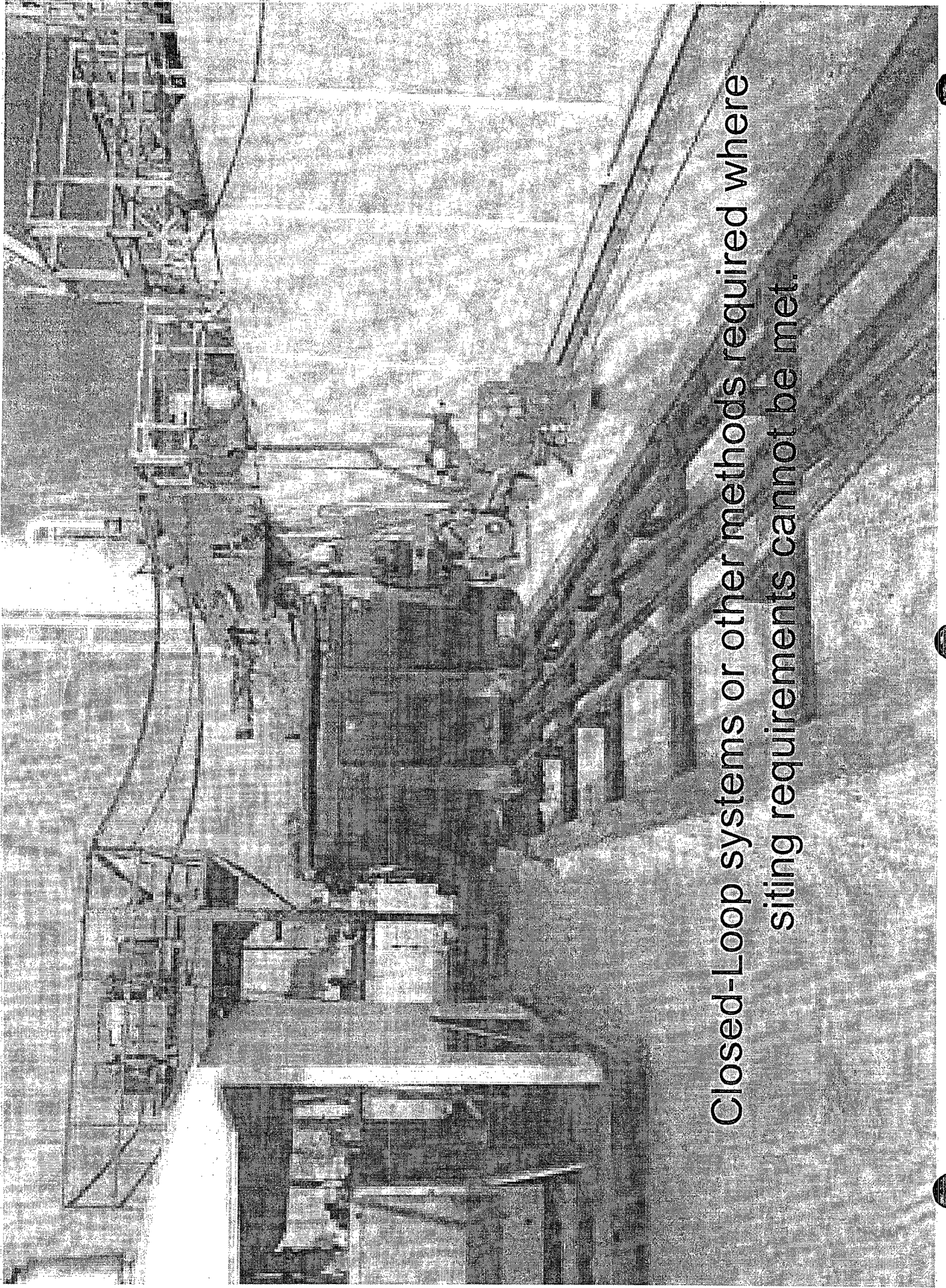
- +RCRA classifies them as open dumps...
- +Not sensible or proper waste management...
- +Liability is transferred to the People of New Mexico...

Highlights of Siting Requirements...

- +Additional protection for municipal and domestic water wells
- +Prevents pits in proximity to public areas
- +New setbacks required near watercourse and wetlands

Siting requirement details

- +No Pits located where groundwater is less than 50 feet...
- +300 feet from a river or stream
- +200 feet from a watercourse, playa lake, etc
- +300 (1000') feet from residence, school, etc.
- +500 feet from a domestic well
- +1000 feet from a public water supply
- +Municipal boundary or well field
- +500 feet from a wetland
- +Overlying mine or unstable area
- +100 year floodplain

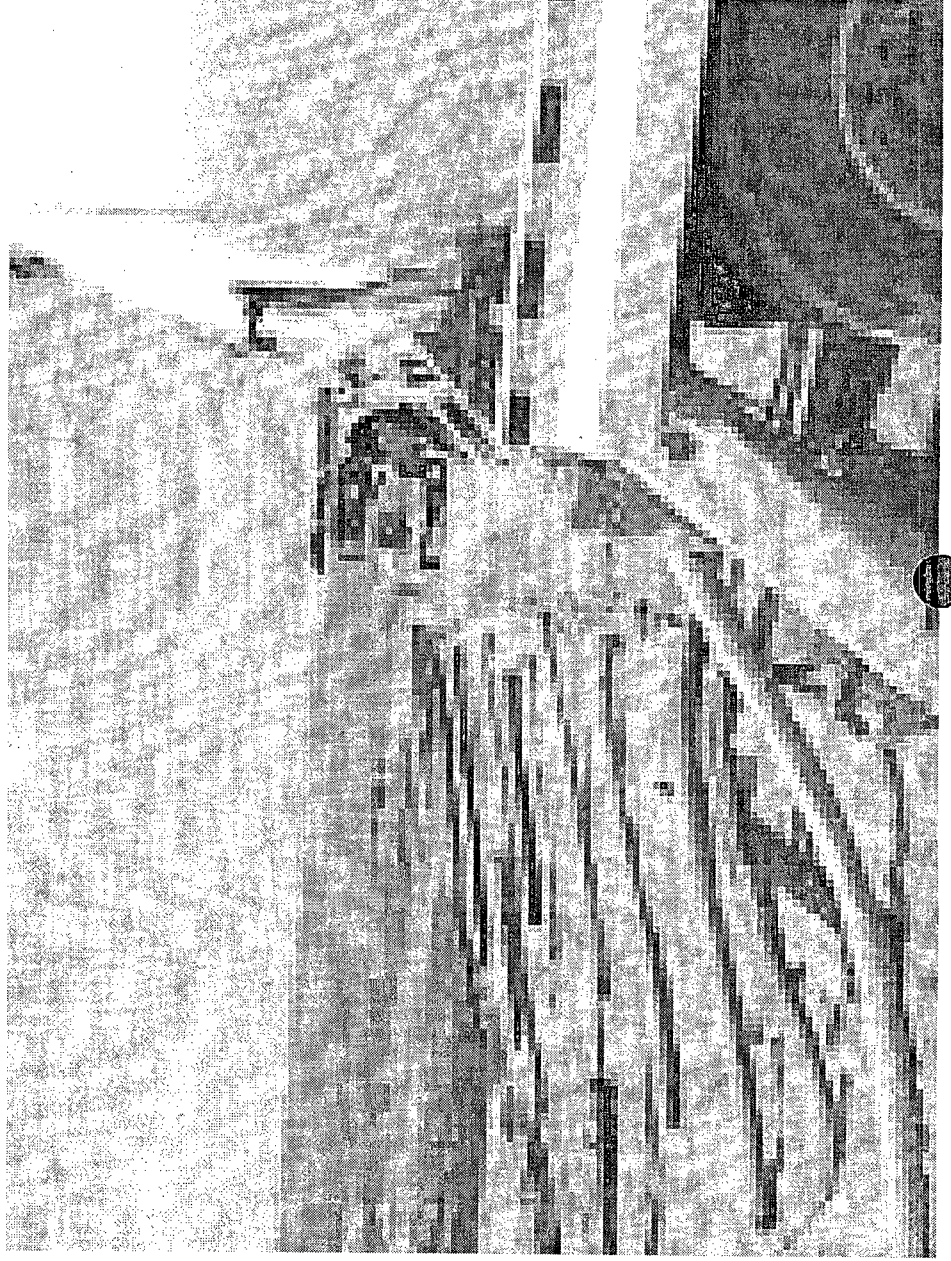


Closed-Loop systems or other methods required where
siting requirements cannot be met.

Additional construction design and operational requirements...

- Proper base for liner installation...
- Minimum of 20 mil thickness liner and seaming requirements...
- Signs, fencing, netting, water loss detection, oil removal, retain top soil, routine inspections, berms, etc...

- Task force topic: removing liquids in a timely fashion
- Equates to: **no groundwater contamination**



New Closure Standards.....

- +Dig & Haul Disposal inc.
- +On-site deep trench burial options...
- +Other methods allowed thru exceptions...
- +Pits required to be closed in a timely fashion...
- +Chemical testing required under all pits...
- +Prescriptive treatment closure standards...
- +On-site burial requires landowner approval...

+On-site deep... ...exceptions...

+Other methods and... is a timely fashion...

+Pits required to

+Chemical testing

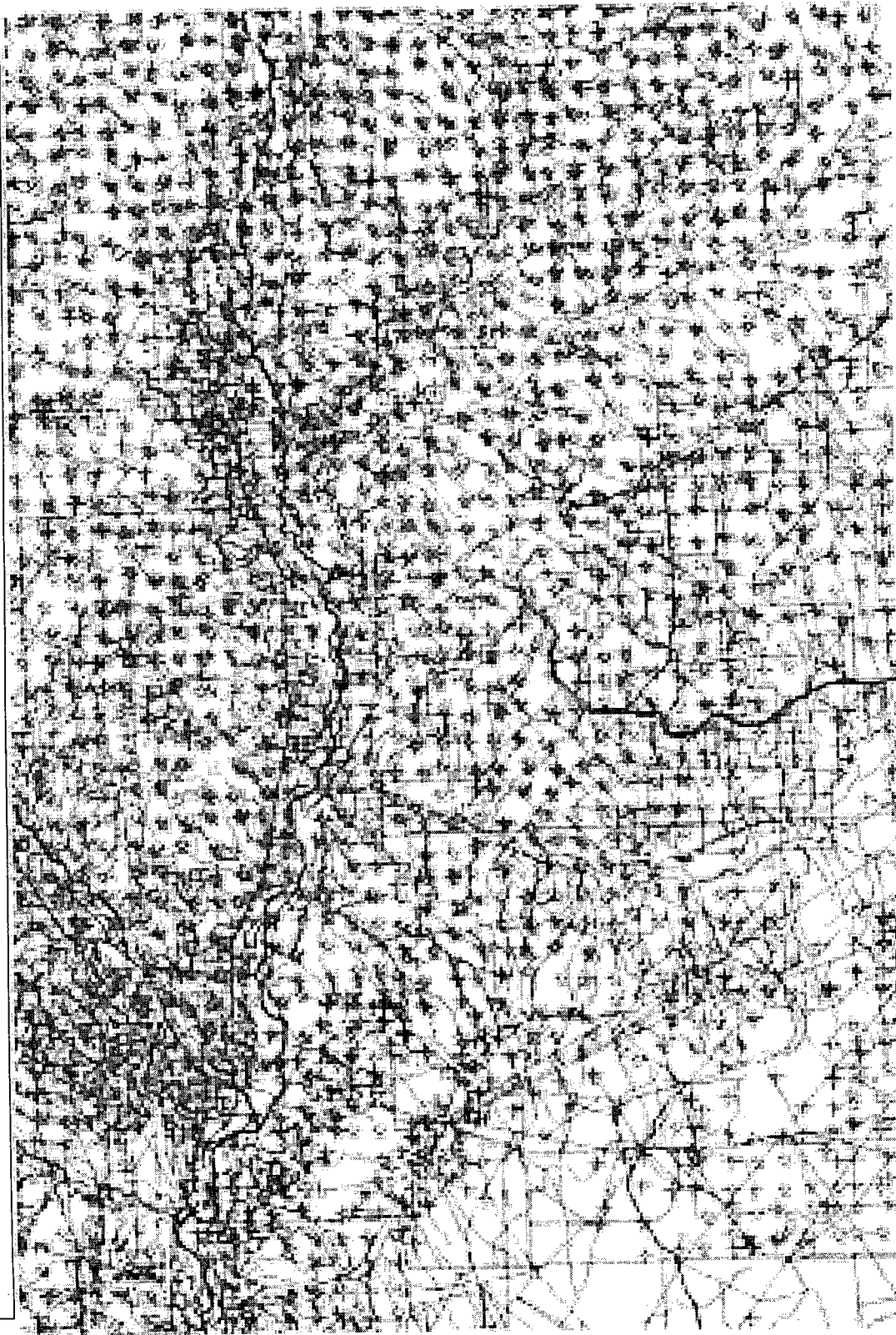
+Prescriptive treatment

+On-site burial requires:

Dig and Haul 100 mile radius rule requires disposal to an OCD approved facility



Oil and Gas Wells in San Juan County



Oil and Gas

Wells

San Juan County

Oil and Gas Wells



Cumulative Effects



EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
WASHINGTON, D.C. 20503

June 24, 2005

MEMORANDUM

FROM: JAMES L. CONNALL GHTON *JLC*
CHAIRMAN

TO: HEADS OF FEDERAL AGENCIES

RE: GUIDANCE ON THE CONSIDERATION OF PAST
ACTIONS IN CUMULATIVE EFFECTS ANALYSIS

I. Introduction

In this Memorandum, the Council on Environmental Quality (CEQ) provides guidance on the extent to which agencies of the Federal government are required to analyze the environmental effects of past actions when they describe the cumulative environmental effect of a proposed action in accordance with Section 102 of the National Environmental Policy Act (NEPA), 42 U.S.C. § 4332, and the CEQ Regulations for implementing the Procedural Provisions of NEPA, 40 C.F.R. parts 1500-1508. CEQ's interpretation of NEPA is entitled to deference. *Andrus v. Sierra Club*, 442 U.S. 347, 358 (1979).

II. Guidance

The environmental analysis required under NEPA is forward-looking, in that it focuses on the potential impacts of the proposed action that an agency is considering. Thus, review of past actions is required to the extent that this review informs agency decisionmaking regarding the proposed action. This can occur in two ways:

First, the effects of past actions may warrant consideration in the analysis of the cumulative effects of a proposal for agency action. CEQ interprets NEPA and CEQ's NEPA regulations on cumulative effects as requiring analysis and a concise description of the identifiable present effects of past actions to the extent that they are relevant and useful in analyzing whether the reasonably foreseeable effects of the agency proposal for action and its alternatives may have a continuing, additive and significant relationship to these effects. In determining what information is necessary for a cumulative effects analysis, agencies should use scoping to focus on the extent to which information is "relevant to reasonably foreseeable significant adverse impacts" is "essential to a reasoned choice among alternatives," and can be obtained without exorbitant cost. 40 CFR 1500.22. Based on scoping, agencies have discretion to determine whether, and to what extent, information about the specific nature, design, or present effects of a past action is useful for the agency's analysis of the effects of a proposal for agency action and its reasonable alternatives.

Cumulative Effect Guidance:

Agencies are required to analyze the environmental effects of past actions when implementing new regulations.

First:

- Requires analysis and a concise description of the identifiable present effects of past actions. (*show me the data*)
- May conduct an adequate cumulative effects analysis by focusing on the current aggregate effects of past actions without delving into the historical details of individual past actions. (*recent drilling pit liner failures*)

Second:

- Experience with and information about past direct and indirect effects of individual past actions may also be useful in illuminating or predicting the direct and indirect effects of a proposed action. (*400-500 groundwater contamination cases*)
- Agencies should clearly distinguish analysis of direct and indirect effects based on information about past actions. *Other words must be linked!*

Re-vegetation is required



Exceptions

- *Allows promotion of new technology, and tiered approaches for wildcat explorations...*
- *Approval only by Santa Fe Environmental Bureau*
- *Not Allowed for the following:*
 - ++Unlined Permanent Pits...*
 - ++Permits and modifications...*
 - ++Exceptions...*
 - ++Landowner approval...*

Public Involvement and Landowner Approval for:

- *Any on-site burial or major exceptions...*
-

- *Requires landowner approval...*
- *Public Notice is required...*
- *Hearings may be required...*

Transitional Provisions

Existing Systems

- Below-grade tanks (BGT):

+5 years to close or retrofit with secondary containment...

- Unlined Permanent Pits:

+2 years to close existing permitted or registered pits...

+60 days to close existing pits not permitted or registered...

- All BGTs and pits must eventually conform to:

+permitting, siting, design, operational and closure requirements..

End