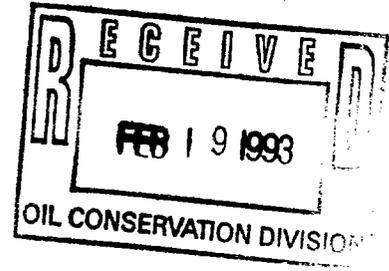


**STATE OF NEW MEXICO  
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION COMMISSION**

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

APPLICATION OF C & C LANDFARM  
INC. FOR A COMMERCIAL SURFACE WASTE  
DISPOSAL FACILITY,  
LEA COUNTY, NEW MEXICO.

CASE NO. 10507 (De Novo)



**PRE-HEARING STATEMENT**

This prehearing statement is submitted by William F. Carr, as required by the Oil Conservation Division.

**APPEARANCES OF PARTIES**

**APPLICANT**

C & C Landfarm Inc. \_\_\_\_\_  
c/o Michael L. Pierce \_\_\_\_\_  
Post Office Box 636 \_\_\_\_\_  
Hobbs, New Mexico 88240 \_\_\_\_\_

(505) 392-1915 \_\_\_\_\_

name, address, phone and  
contact person

**OPPOSITION OR OTHER PARTY**

Elsie M. Reeves \_\_\_\_\_  
C-W Cattle Co. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

name, address, phone and  
contact person

**ATTORNEY**

William F. Carr \_\_\_\_\_  
Campbell, Carr, Berge & Sheridan \_\_\_\_\_  
Post Office Box 2208 \_\_\_\_\_  
Santa Fe, New Mexico 87504 \_\_\_\_\_

(505) 988-4421 \_\_\_\_\_

**ATTORNEY**

W. Thomas Kellahin \_\_\_\_\_  
Post Office Box 2265 \_\_\_\_\_  
Santa Fe, New Mexico 87504 \_\_\_\_\_  
(505) 982-4285 \_\_\_\_\_

**STATEMENT OF CASE**

APPLICANT

C & C Landfarm Inc., applicant in the above-styled cause, seeks authorization to construct and operate a commercial landfarm facility for remediation of non-hazardous hydrocarbon-contaminated soils using an enhanced biodegradation process. Said area is to be located in the SW/4 NE/4 (Unit G) of Section 3, Township 20 South, Range 37 East, which is approximately 2 miles southeast of Monument, New Mexico. This application has been administratively determined to be approvable, and this hearing is scheduled to allow parties the opportunity to present technical evidence why the application should not be approved pursuant to the rules of the Division. In the absence of objection, this application will be taken under advisement.

OPPOSITION OR OTHER PARTY

(Please make a concise statement of the basis for opposing this application or otherwise state the position of the party filing this statement.)

**PROPOSED EVIDENCE**

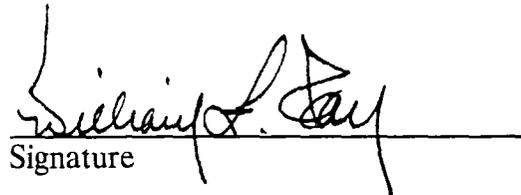
APPLICANT

WITNESSES	EST. TIME	EXHIBITS
Michael L. Pierce	20 Minutes	Approximately 5

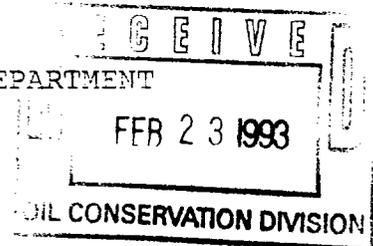
OPPOSITION

WITNESSES (Name and expertise)	EST. TIME	EXHIBITS
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**PROCEDURAL MATTERS**

  
Signature

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



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

CASE NO. 10507 (DeNovo)

APPLICATION OF C & C LANDFARM INC.  
FOR A COMMERCIAL SURFACE WASTE  
DISPOSAL FACILITY, LEA COUNTY,  
NEW MEXICO

**PRE-HEARING STATEMENT**

This pre-hearing statement is submitted by W. Thomas Kellahin, Esq. and C. Gene Samberson, Esq. on behalf of W. T. (Trent) Stradley and S-W Cattle Co. and by W. Thomas Kellahin on behalf of Elsie M. Reeves as required by the Oil Conservation Division.

**APPEARANCE OF PARTIES**

APPLICANT

C & C Landfarm, Inc.  
P.O. Box 55  
Monument, N.M. 88265

ATTORNEY

William F. Carr  
Campbell, Carr, Berge &  
Sheridan  
P.O. Box 2208  
Santa Fe, NM 87504  
(505) 988-4421

OPPOSITION PARTIES

W. T. Stradley  
& S-W Cattle Co.  
Elsie M. Reeves

ATTORNEY

W. Thomas Kellahin  
KELLAHIN AND KELLAHIN  
P.O. Box 3265  
Santa Fe, NM 87504  
(505) 982-4285

W. T. Stradley  
& S-W Cattle Co.

C. Gene Samberson  
P.O. Box 1599  
Lovington, NM 88260  
(505) 396-5303

**STATEMENT OF CASE**

APPLICANT

SEE APPLICANT FILING

OPPOSITION OR OTHER PARTY

As her statement of the case, Elsie M. Reeves ("Reeves") adopts her "Statement of Objections" filed on June 5, 1992 in the record of this matter.

As its statement of the case, S-W Cattle Co. ("S-W Cattle") adopts its objection letter dated May 13, 1992 and filed on May 15, 1992 in the record of this matter.

In addition, S-W Cattle states it has fresh water in the immediate vicinity of the subject project which it currently uses and which is at risk of contamination if this project is approved as outlined by the "OCD Conditions of Approval" notice dated May 20, 1992 or as outlined in "OCD Recommendations" dated January 6, 1993.

The NMOCD "Conditions of Approval" notice dated May 20, 1992 and "OCD Recommendations" dated January 6, 1993 contain substantial errors and fail to protect ground water, human health and the environment.

The subject facility is being designed by the OCD and not the Applicant and is being permitted without any science or experience to know that it will work and prior to the OCD adopting guidelines for such a facility.

As to the OCD Order R-9769, the Opponents to this application will present T.E. (Tim) Kelly, a geohydrologist, as a qualified expert witness to present evidence that the granting of the application by the OCD failed to protect human health and the environment and constitutes a risk of contamination of ground water, including the following:

(a) The Applicant's proposed plan will place at risk shallow water wells located down-dip from the proposed landfarm which will be subject to contamination from seepage of leachate contaminants.

(b) The Applicant's plans to prevent migration of contaminants down gradient along the redbed surface is inadequate.

(c) The proposed monitor wells are improperly located and will not afford adequate assurance of detection of contaminants.

(d) The proposed dike identified in OCD Condition (10) in said Order is insufficient and conditions on compaction

and verification are inadequate to stop the mobility of the leachate contaminants.

(e) The composition of the berm is not environmentally safe.

(f) Additional soil tests should be performed on the redbed soil including:

- (1) Falling head permeability tests,
- (2) Soil property tests,
- (3) Cation Exchange Capacity tests,

(g) Applicant needs to perform liquid and plastic tests on the redbeds.

(h) The Applicant's proposed barrier is inadequate for its proposed landfarm.

(i) Applicant's geology is inadequate and fails to include an east-west cross section.

The OCD-Environmental Bureau's (OCD-EB) January 6, 1993 Recommendations assume that the contaminated soils will be kept from any shallow fresh water because of about 10 feet of native soil being used as a "treatment zone."

There is no characterization of the "redbeds." In this area there are the Triassic deposits, probably the Chinle shale, and referred to as the "redbeds." The integrity of

this landfarm system is dependent upon the impermeability of the redbeds, but the Applicant has presented no data about the physical characteristics of these deposits, such as cation exchange rates, in-situ permeability, remolded permeability at specified compaction ratios, swelling characteristics, etc. All of these are critical factors that ensure that there would be no migration of leachate along the top of or through the redbeds.

There are inadequate horizontal and vertical buffer zones surrounding this proposed facility.

The configuration of the upper surface of the redbeds in the 40-acre tract has not been defined.

The Application is flawed and should be denied.

#### **PROPOSED EVIDENCE**

##### APPLICANT

WITNESSES

EST. TIME

EXHIBITS

SEE APPLICANT FILING

**PROPOSED EVIDENCE**

**OPPOSITION**

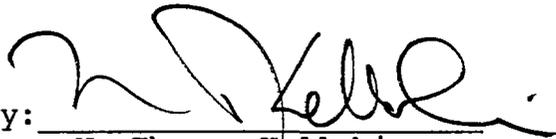
WITNESSES	EST. TIME	EXHIBITS
W. T. Stradley	20 Minutes	Approx. 4
Elsie Reeves	10 Minutes	Approx. 1
T.E. Kelly Geohydrologist	60 Minutes	Approx. 4

**PROCEDURAL MATTERS**

- 1) Applicant is wrong in its attempt to shift the burden of proof to either the OCD or the opponents.
- 2) The OCD DeNovo Hearing Procedures mandate that the Applicant should go forward and attempt to sustain its burden of proof by substantial evidence.
- 3) The Application should be dismissed as premature until such time as the OCD adopts guidelines for landfarms.

Respectfully submitted,

KELLAHIN AND KELLAHIN,

By: 

W. Thomas Kellahin  
P.O. Box 2265  
Santa Fe, New Mexico 87504  
(505) 982-4285  
ATTORNEYS FOR OPPOSITION-  
W.T. STRADLEY/S-W CATTLE CO.  
AND ELSIE M. REEVES

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

RECEIVED

JUL 17 1997

OIL CONSERVATION DIVISION

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

CASE NO. 10507

APPLICATION OF C & C LANDFARM INC.  
FOR A COMMERCIAL SURFACE WASTE  
DISPOSAL FACILITY, LEA COUNTY  
NEW MEXICO.

PRE-HEARING STATEMENT

This pre-hearing statement is submitted by W. Thomas Kellahin, Esq. and C. Gene Samberson, Esq. on behalf of S-W Cattle Co. as required by the Oil Conservation Division.

**APPEARANCE OF PARTIES**

APPLICANT

C & C LANDFARM INC.  
P. O. Box 55  
Monument, N.M. 88265

ATTORNEY

William F. Carr, Esq.  
Box 2208  
Santa Fe, New Mexico  
(505) 988-4421

Pre-Hearing Statement  
Case No. 10507  
Page 2

OPPOSITION PARTY

S-W Cattle Co.  
P. O. Box 1799  
Hobbs, N.M. 88241

ATTORNEY

W. Thomas Kellahin  
P. O. Box 2265  
Santa Fe, New Mexico 87501  
(505) 982-4285

C. Gene Samberson  
P. O. Drawer 1599  
Lovington, N.M. 88260  
(505) 396-5303

STATEMENT OF CASE

OPPOSITION PARTY

As its statement of the case, S-W Cattle Co. adopts its objection letter dated May 13, 1992 and filed on May 15, 1992, 1992 in this case and attached hereto.

In addition, S-W Cattle Co. states its has fresh water in the immediate vicinity of the subject project which it currently uses and which is at risk of contamination if this project is approved as outlined by the "OCD Conditions of Approval" notice dated May 20, 1992.

The NMOCD "Conditions of Approval" notice dated May 20, 1992 contains substantial errors and fails to protect ground water, human health and the environment.

Pre-Hearing Statement  
Case No. 10507  
Page 3

**PROPOSED EVIDENCE**

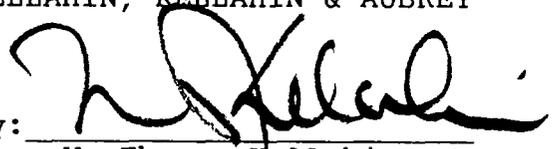
OPPOSITION

WITNESSES	EST. TIME	EXHIBITS
W. Trent Stradley	20 Min.	approx 4
James R. Woods, geologist	60 min.	approx 20

**PROCEDURAL MATTERS**

pending.

KELLAHIN, KELLAHIN & AUBREY

By: 

W. Thomas Kellahin

P.O. Box 2265  
Santa Fe, New Mexico 87504  
(505) 982-4285

OIL CONSERVATION DIVISION  
RECEIVED HEIDEL, SAMBERSON & NEWELL

LAW OFFICES

C. GENE SAMBERSON  
MICHAEL T. NEWELL  
LEWIS C. COX, III

311 NORTH FIRST STREET  
POST OFFICE DRAWER 1589  
ALBUQUERQUE, NEW MEXICO 88260  
TELEPHONE (505) 396-5303  
FAX (505) 396-5305

F.L. HEIDEL  
(1913-1986)

'92 MAY 15 AM 8 45

May 13, 1992

Mr. Roger Anderson  
State of New Mexico  
OIL CONSERVATION DIVISION  
Post Office Box 2088  
Santa Fe, New Mexico 87504-2088

Re: C & C Landfarms, Inc. Application

Dear Mr. Anderson:

On behalf of S-W Cattle Co., I submit the following objections to the above captioned Application for a commercial remedial surface disposal facility, to-wit:

- (1) Based upon the information on file in your Office in connection with the above Application, I am not aware of any written notice having been given to the Bureau of Land Management, who is an owner of surface lands within a 1/2 mile of the location of the proposed disposal facility. It is our understanding that the Applicant has applied for a permit on the Southwest Quarter of the Northeast Quarter (SW/4NE/4) of Section 3, Township 20 South, Range 37 East, N.M.P.M., Lea County, New Mexico, and it is our further understanding that the Bureau of Land Management owns at least a 40 acre tract (NE/4SW/4 of said Section 3) which is located in the immediate vicinity of the location Applicant seeks to permit. If our information is correct, we believe that under the Rules of the Oil Conservation Division written notice is required to be given to the Bureau of Land Management. Further, based on the information available to us, we do not find any written notice of the above captioned Application having been given to the Board of Commissioners for the County of Lea, State of New Mexico, which we believe is necessary in order to permit the County of Lea to determine whether the public interests requires action on its part with respect to areas not regulated by the OCD and EPA, examples of which areas being land use, zoning, subdivision regulations and other similar matters.
- (2) Applicant has requested that the entire 40 acre tract be permitted for land farming, notwithstanding that the existing pit presently occupies approximately 2 acres. The information on file in connection with the Application indicates that the proposed solution to how Applicant plans to prevent the migration of contaminants down gradient along the red bed surface is the construction of a dike consisting of a trench 2' to 3' wide, with the trench being dug deep enough to penetrate the red bed interval to a depth of approximately 2', but the information does not clearly show whether such dike (trench) will be located immediately adjacent to the existing 2 acre pit or is to be constructed and

located around the North, West and South perimeters of the 40 acre tract. Similar questions exist with respect to the five (5) monitor wells proposed by Applicant and additional questions exist whether five (5) monitor wells are sufficient if the area requested to be permitted is actually 40 acres, rather than the existing 2 acres occupied by an existing pit. The Application for permitting 40 acres is inconsistent with the description of the facility and diagram which appears to be applicable to 2 acres, rather than 40 acres. Applicant has not met the requirements of OCD's Rules for commercial surface waste disposal facilities.

- (3) Applicant's plan of constructing a dike (trench) to prevent the migration of contaminants down gradient along the red bed surface depends on backfilling and compacting the trench with red bed material, yet Applicant makes no showing that such compacted red bed material will be sufficiently impenetrable to prevent the migration of contaminants down gradient through the overburden above the red bed surface. S-W Cattle Co. believes that if the facility is to be approved a more appropriate approach to the construction and operation of such facility would be to require Applicant to construct its proposed facility by digging into the red bed to a sufficient depth so that all of its operations will be conducted below the overburden and therefore any contaminants would remain confined within the red bed and thus prevent migration of contaminants down gradient from the site, either along the red bed surface or through the undisturbed red bed walls of the pit.
- (4) Based upon the information of which we are aware that is on file in connection with Applicant's Application, there does not appear to have been any bond required, either in the form of a surety bond or cash bond, as required by OCD's Rules.
- (5) Applicant's proposed closure plan appears to be merely when the area, whether the present 2 acre pit or the requested 40 acre tract, has been filled and tested to within 1' of the surface elevation that area will be backfilled with top soil, mound over and compacted. S-W Cattle Co. objects to the closure plan on the basis that same is inadequate in view of its concerns stated above with respect to the proposed facility and size of same.
- (6) S-W Cattle Co. submits that a complete and proper Application has not been filed with the OCD and further that the Rules of the OCD have not been complied with by Applicant.

By reason of the foregoing, S-W Cattle Co. objects to the Director of the Oil Conservation Division administratively approving and issuing a Permit in connection with the above described Application.

Very truly yours,

**HEIDEL, SAMBERSON & NEWELL**

By *(Gene) Samberson*

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

IN THE MATTER OF THE HEARING  
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CONSIDERING:

CASE NO. 10507

APPLICATION OF C & C LANDFARM  
INC. FOR A COMMERCIAL SURFACE WASTE  
DISPOSAL FACILITY,  
LEA COUNTY, NEW MEXICO.

RECEIVED

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OIL CONSERVATION DIVISION

PRE-HEARING STATEMENT

This prehearing statement is submitted by William F. Carr, as required by the Oil Conservation Division.

APPEARANCES OF PARTIES

APPLICANT

C & C Landfarm Inc. \_\_\_\_\_  
c/o Michael L. Pierce \_\_\_\_\_  
Post Office Box 636 \_\_\_\_\_  
Hobbs, New Mexico 88240 \_\_\_\_\_  
  
(505) 392-1915 \_\_\_\_\_

name, address, phone and  
contact person

OPPOSITION OR OTHER PARTY

Elsie M. Reeves \_\_\_\_\_  
C-W Cattle Co. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

name, address, phone and  
contact person

ATTORNEY

William F. Carr \_\_\_\_\_  
Campbell, Carr, Berge & Sheridan \_\_\_\_\_  
Post Office Box 2208 \_\_\_\_\_  
Santa Fe, New Mexico 87504 \_\_\_\_\_  
  
(505) 988-4421 \_\_\_\_\_

ATTORNEY

W. Thomas Kellahin \_\_\_\_\_  
Post Office Box 2265 \_\_\_\_\_  
Santa Fe, New Mexico 87504 \_\_\_\_\_  
(505) 982-4285 \_\_\_\_\_  
  
( ) \_\_\_\_\_

**STATEMENT OF CASE**

**APPLICANT**

**C & C Landfarm Inc., applicant in the above-styled cause, seeks authorization to construct and operate a commercial landfarm facility for remediation of non-hazardous hydrocarbon-contaminated soils using an enhanced biodegradation process. Said area is to be located in the SW/4 NE/4 (Unit G) of Section 3, Township 20 South, Range 37 East, which is approximately 2 miles southeast of Monument, New Mexico. This application has been administratively determined to be approvable, and this hearing is scheduled to allow parties the opportunity to present technical evidence why the application should not be approved pursuant to the rules of the Division. In the absence of objection, this application will be taken under advisement.**

**OPPOSITION OR OTHER PARTY**

**(Please make a concise statement of the basis for opposing this application or otherwise state the position of the party filing this statement.)**

**PROPOSED EVIDENCE**

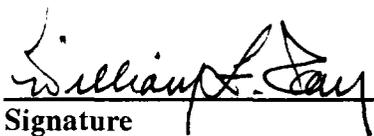
**APPLICANT**

<b>WITNESSES</b>	<b>EST. TIME</b>	<b>EXHIBITS</b>
Michael L. Pierce	20 Minutes	Approximately 5
Eddy Seay	15 Minutes	Approximately 5

**OPPOSITION**

<b>WITNESSES (Name and expertise)</b>	<b>EST. TIME</b>	<b>EXHIBITS</b>
-------------------------------------------	------------------	-----------------

**PROCEDURAL MATTERS**

  
Signature

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

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c/o Michael L. Pierce \_\_\_\_\_  
Post Office Box 636 \_\_\_\_\_  
Hobbs, New Mexico 88240 \_\_\_\_\_  
  
(505) 392-1915 \_\_\_\_\_

name, address, phone and  
contact person

OPPOSITION OR OTHER PARTY

Elsie M. Reeves \_\_\_\_\_  
C-W Cattle Co. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

name, address, phone and  
contact person

ATTORNEY

William F. Carr \_\_\_\_\_  
Campbell, Carr, Berge & Sheridan \_\_\_\_\_  
Post Office Box 2208 \_\_\_\_\_  
Santa Fe, New Mexico 87504 \_\_\_\_\_  
  
(505) 988-4421 \_\_\_\_\_

ATTORNEY

W. Thomas Kellahin \_\_\_\_\_  
Post Office Box 2265 \_\_\_\_\_  
Santa Fe, New Mexico 87504 \_\_\_\_\_  
(505) 982-4285 \_\_\_\_\_  
  
( ) \_\_\_\_\_

STATEMENT OF CASE

APPLICANT

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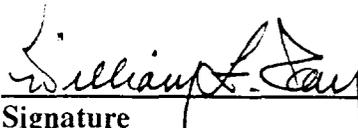
**APPLICANT**

<b>WITNESSES</b>	<b>EST. TIME</b>	<b>EXHIBITS</b>
Michael L. Pierce	20 Minutes	Approximately 5
Eddy Seay	15 Minutes	Approximately 5

**OPPOSITION**

<b>WITNESSES (Name and expertise)</b>	<b>EST. TIME</b>	<b>EXHIBITS</b>
-------------------------------------------	------------------	-----------------

**PROCEDURAL MATTERS**

  
Signature

STATE OF NEW MEXICO  
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PRE-HEARING STATEMENT

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Post Office Box 636 \_\_\_\_\_  
Hobbs, New Mexico 88240 \_\_\_\_\_

(505) 392-1915 \_\_\_\_\_

name, address, phone and  
contact person

OPPOSITION OR OTHER PARTY

Elsie M. Reeves \_\_\_\_\_  
C-W Cattle Co. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

name, address, phone and  
contact person

ATTORNEY

William F. Carr \_\_\_\_\_  
Campbell, Carr, Berge & Sheridan \_\_\_\_\_  
Post Office Box 2208 \_\_\_\_\_  
Santa Fe, New Mexico 87504 \_\_\_\_\_

(505) 988-4421 \_\_\_\_\_

ATTORNEY

W. Thomas Kellahin \_\_\_\_\_  
Post Office Box 2265 \_\_\_\_\_  
Santa Fe, New Mexico 87504 \_\_\_\_\_  
(505) 982-4285 \_\_\_\_\_

( ) \_\_\_\_\_

STATEMENT OF CASE

APPLICANT

C & C Landfarm Inc., applicant in the above-styled cause, seeks authorization to construct and operate a commercial landfarm facility for remediation of non-hazardous hydrocarbon-contaminated soils using an enhanced biodegradation process. Said area is to be located in the SW/4 NE/4 (Unit G) of Section 3, Township 20 South, Range 37 East, which is approximately 2 miles southeast of Monument, New Mexico. This application has been administratively determined to be approvable, and this hearing is scheduled to allow parties the opportunity to present technical evidence why the application should not be approved pursuant to the rules of the Division. In the absence of objection, this application will be taken under advisement.

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(Please make a concise statement of the basis for opposing this application or otherwise state the position of the party filing this statement.)

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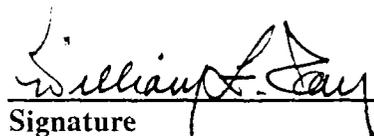
**APPLICANT**

<b>WITNESSES</b>	<b>EST. TIME</b>	<b>EXHIBITS</b>
Michael L. Pierce	20 Minutes	Approximately 5
Eddy Seay	15 Minutes	Approximately 5

**OPPOSITION**

<b>WITNESSES</b> (Name and expertise)	<b>EST. TIME</b>	<b>EXHIBITS</b>
------------------------------------------	------------------	-----------------

**PROCEDURAL MATTERS**

  
Signature

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

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IN THE MATTER OF THE HEARING  
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JUL 17 1992

OIL CONSERVATION DIVISION

CASE NO. 10507

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NEW MEXICO.

PRE-HEARING STATEMENT

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APPEARANCE OF PARTIES

APPLICANT

C & C LANDFARM INC.  
P. O. Box 55  
Monument, N.M. 88265

ATTORNEY

William F. Carr, Esq.  
Box 2208  
Santa Fe, New Mexico  
(505) 988-4421

Pre-Hearing Statement  
Case No. 10507  
Page 2

OPPOSITION PARTY

S-W Cattle Co.  
P. O. Box 1799  
Hobbs, N.M. 88241

ATTORNEY

W. Thomas Kellahin  
P. O. Box 2265  
Santa Fe, New Mexico 87501  
(505) 982-4285

C. Gene Samberson  
P. O. Drawer 1599  
Lovington, N.M. 88260  
(505) 396-5303

**STATEMENT OF CASE**

OPPOSITION PARTY

As its statement of the case, S-W Cattle Co. adopts its objection letter dated May 13, 1992 and filed on May 15, 1992, 1992 in this case and attached hereto.

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The NMOCD "Conditions of Approval" notice dated May 20, 1992 contains substantial errors and fails to protect ground water, human health and the environment.

Pre-Hearing Statement  
Case No. 10507  
Page 3

**PROPOSED EVIDENCE**

OPPOSITION

WITNESSES	EST. TIME	EXHIBITS
W. Trent Stradley	20 Min.	approx 4
James R. Woods, geologist	60 min.	approx 20

**PROCEDURAL MATTERS**

pending.

KELLAHIN, KELLAHIN & AUBREY

By: 

W. Thomas Kellahin

P.O. Box 2265

Santa Fe, New Mexico 87504

(505) 982-4285

OIL CONSERVATION DIVISION  
RECEIVED HEIDEL, SAMBERSON & NEWELL

LAW OFFICES

C. GENE SAMBERSON  
MICHAEL T. NEWELL  
LEWIS C. COX, III

'92 MAY 15 AM 8 45

311 NORTH FIRST STREET  
POST OFFICE DRAWER 1699  
LOVINGTON, NEW MEXICO 88260  
TELEPHONE (505) 396-5303  
FAX (505) 396-5305

F.L. HEIDEL  
(1913-1985)

May 13, 1992

Mr. Roger Anderson  
State of New Mexico  
OIL CONSERVATION DIVISION  
Post Office Box 2088  
Santa Fe, New Mexico 87504-2088

Re: C & C Landfarms, Inc. Application

Dear Mr. Anderson:

On behalf of S-W Cattle Co., I submit the following objections to the above captioned Application for a commercial remedial surface disposal facility, to-wit:

- (1) Based upon the information on file in your Office in connection with the above Application, I am not aware of any written notice having been given to the Bureau of Land Management, who is an owner of surface lands within a 1/2 mile of the location of the proposed disposal facility. It is our understanding that the Applicant has applied for a permit on the Southwest Quarter of the Northeast Quarter (SW/4NE/4) of Section 3, Township 20 South, Range 37 East, N.M.P.M., Lea County, New Mexico, and it is our further understanding that the Bureau of Land Management owns at least a 40 acre tract (NE/4SW/4 of said Section 3) which is located in the immediate vicinity of the location Applicant seeks to permit. If our information is correct, we believe that under the Rules of the Oil Conservation Division written notice is required to be given to the Bureau of Land Management. Further, based on the information available to us, we do not find any written notice of the above captioned Application having been given to the Board of Commissioners for the County of Lea, State of New Mexico, which we believe is necessary in order to permit the County of Lea to determine whether the public interests requires action on its part with respect to areas not regulated by the OCD and EPA, examples of which areas being land use, zoning, subdivision regulations and other similar matters.
- (2) Applicant has requested that the entire 40 acre tract be permitted for land farming, notwithstanding that the existing pit presently occupies approximately 2 acres. The information on file in connection with the Application indicates that the proposed solution to how Applicant plans to prevent the migration of contaminants down gradient along the red bed surface is the construction of a dike consisting of a trench 2' to 3' wide, with the trench being dug deep enough to penetrate the red bed interval to a depth of approximately 2', but the information does not clearly show whether such dike (trench) will be located immediately adjacent to the existing 2 acre pit or is to be constructed and

located around the North, West and South perimeters of the 40 acre tract. Similar questions exist with respect to the five (5) monitor wells proposed by Applicant and additional questions exist whether five (5) monitor wells are sufficient if the area requested to be permitted is actually 40 acres, rather than the existing 2 acres occupied by an existing pit. The Application for permitting 40 acres is inconsistent with the description of the facility and diagram which appears to be applicable to 2 acres, rather than 40 acres. Applicant has not met the requirements of OCD's Rules for commercial surface waste disposal facilities.

- (3) Applicant's plan of constructing a dike (trench) to prevent the migration of contaminants down gradient along the red bed surface depends on backfilling and compacting the trench with red bed material, yet Applicant makes no showing that such compacted red bed material will be sufficiently impenetrable to prevent the migration of contaminants down gradient through the overburden above the red bed surface. S-W Cattle Co. believes that if the facility is to be approved a more appropriate approach to the construction and operation of such facility would be to require Applicant to construct its proposed facility by digging into the red bed to a sufficient depth so that all of its operations will be conducted below the overburden and therefore any contaminants would remain confined within the red bed and thus prevent migration of contaminants down gradient from the site, either along the red bed surface or through the undisturbed red bed walls of the pit.
- (4) Based upon the information of which we are aware that is on file in connection with Applicant's Application, there does not appear to have been any bond required, either in the form of a surety bond or cash bond, as required by OCD's Rules.
- (5) Applicant's proposed closure plan appears to be merely when the area, whether the present 2 acre pit or the requested 40 acre tract, has been filled and tested to within 1' of the surface elevation that area will be backfilled with top soil, mound over and compacted. S-W Cattle Co. objects to the closure plan on the basis that same is inadequate in view of its concerns stated above with respect to the proposed facility and size of same.
- (6) S-W Cattle Co. submits that a complete and proper Application has not been filed with the OCD and further that the Rules of the OCD have not been complied with by Applicant.

By reason of the foregoing, S-W Cattle Co. objects to the Director of the Oil Conservation Division administratively approving and issuing a Permit in connection with the above described Application.

Very truly yours,

HEIDEL, SAMBERSON & NEWELL

By *(A. Gene) Samberson*

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

RECEIVED

JUL 17 1992

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

OIL CONSERVATION DIVISION

CASE NO. 10507

APPLICATION OF C & C LANDFARM INC.  
FOR A COMMERCIAL SURFACE WASTE  
DISPOSAL FACILITY, LEA COUNTY  
NEW MEXICO.

PRE-HEARING STATEMENT

This pre-hearing statement is submitted by W. Thomas Kellahin, Esq. and C. Gene Samberson, Esq. on behalf of S-W Cattle Co. as required by the Oil Conservation Division.

**APPEARANCE OF PARTIES**

APPLICANT

C & C LANDFARM INC.  
P. O. Box 55  
Monument, N.M. 88265

ATTORNEY

William F. Carr, Esq.  
Box 2208  
Santa Fe, New Mexico  
(505) 988-4421

Pre-Hearing Statement  
Case No. 10507  
Page 2

OPPOSITION PARTY

S-W Cattle Co.  
P. O. Box 1799  
Hobbs, N.M. 88241

ATTORNEY

W. Thomas Kellahin  
P. O. Box 2265  
Santa Fe, New Mexico 87501  
(505) 982-4285

C. Gene Samberson  
P. O. Drawer 1599  
Lovington, N.M. 88260  
(505) 396-5303

**STATEMENT OF CASE**

OPPOSITION PARTY

As its statement of the case, S-W Cattle Co. adopts its objection letter dated May 13, 1992 and filed on May 15, 1992, 1992 in this case and attached hereto.

In addition, S-W Cattle Co. states its has fresh water in the immediate vicinity of the subject project which it currently uses and which is at risk of contamination if this project is approved as outlined by the "OCD Conditions of Approval" notice dated May 20, 1992.

The NMOCD "Conditions of Approval" notice dated May 20, 1992 contains substantial errors and fails to protect ground water, human health and the environment.

Pre-Hearing Statement  
Case No. 10507  
Page 3

**PROPOSED EVIDENCE**

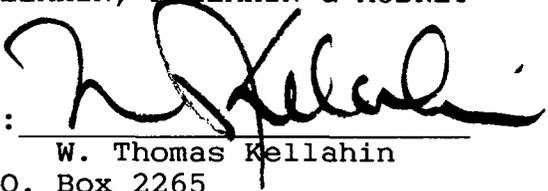
OPPOSITION

WITNESSES	EST. TIME	EXHIBITS
W. Trent Stradley	20 Min.	approx 4
James R. Woods, geologist	60 min.	approx 20

**PROCEDURAL MATTERS**

pending.

KELLAHIN, KELLAHIN & AUBREY

By: 

W. Thomas Kellahin

P.O. Box 2265

Santa Fe, New Mexico 87504

(505) 982-4285

OIL CONSERVATION DIVISION  
RECEIVED  
LAW OFFICES  
**HEIDEL, SAMBERSON & NEWELL**

C. GENE SAMBERSON  
MICHAEL T. NEWELL  
LEWIS C. COX, III

311 NORTH FIRST STREET  
POST OFFICE DRAWER 1688  
LOVINGTON, NEW MEXICO 88260  
TELEPHONE (505) 396-5303  
FAX (505) 396-5305

F.L. HEIDEL  
(1813-1885)

'92 MAY 15 AM 8 45

May 13, 1992

Mr. Roger Anderson  
State of New Mexico  
**OIL CONSERVATION DIVISION**  
Post Office Box 2088  
Santa Fe, New Mexico 87504-2088

Re: C & C Landfarms, Inc. Application

Dear Mr. Anderson:

On behalf of S-W Cattle Co., I submit the following objections to the above captioned Application for a commercial remedial surface disposal facility, to-wit:

- (1) Based upon the information on file in your Office in connection with the above Application, I am not aware of any written notice having been given to the Bureau of Land Management, who is an owner of surface lands within a 1/2 mile of the location of the proposed disposal facility. It is our understanding that the Applicant has applied for a permit on the Southwest Quarter of the Northeast Quarter (SW/4NE/4) of Section 3, Township 20 South, Range 37 East, N.M.P.M., Lea County, New Mexico, and it is our further understanding that the Bureau of Land Management owns at least a 40 acre tract (NE/4SW/4 of said Section 3) which is located in the immediate vicinity of the location Applicant seeks to permit. If our information is correct, we believe that under the Rules of the Oil Conservation Division written notice is required to be given to the Bureau of Land Management. Further, based on the information available to us, we do not find any written notice of the above captioned Application having been given to the Board of Commissioners for the County of Lea, State of New Mexico, which we believe is necessary in order to permit the County of Lea to determine whether the public interests requires action on its part with respect to areas not regulated by the OCD and EPA, examples of which areas being land use, zoning, subdivision regulations and other similar matters.
- (2) Applicant has requested that the entire 40 acre tract be permitted for land farming, notwithstanding that the existing pit presently occupies approximately 2 acres. The information on file in connection with the Application indicates that the proposed solution to how Applicant plans to prevent the migration of contaminants down gradient along the red bed surface is the construction of a dike consisting of a trench 2' to 3' wide, with the trench being dug deep enough to penetrate the red bed interval to a depth of approximately 2', but the information does not clearly show whether such dike (trench) will be located immediately adjacent to the existing 2 acre pit or is to be constructed and

located around the North, West and South perimeters of the 40 acre tract. Similar questions exist with respect to the five (5) monitor wells proposed by Applicant and additional questions exist whether five (5) monitor wells are sufficient if the area requested to be permitted is actually 40 acres, rather than the existing 2 acres occupied by an existing pit. The Application for permitting 40 acres is inconsistent with the description of the facility and diagram which appears to be applicable to 2 acres, rather than 40 acres. Applicant has not met the requirements of OCD's Rules for commercial surface waste disposal facilities.

- (3) Applicant's plan of constructing a dike (trench) to prevent the migration of contaminants down gradient along the red bed surface depends on backfilling and compacting the trench with red bed material, yet Applicant makes no showing that such compacted red bed material will be sufficiently impenetrable to prevent the migration of contaminants down gradient through the overburden above the red bed surface. S-W Cattle Co. believes that if the facility is to be approved a more appropriate approach to the construction and operation of such facility would be to require Applicant to construct its proposed facility by digging into the red bed to a sufficient depth so that all of its operations will be conducted below the overburden and therefore any contaminants would remain confined within the red bed and thus prevent migration of contaminants down gradient from the site, either along the red bed surface or through the undisturbed red bed walls of the pit.
- (4) Based upon the information of which we are aware that is on file in connection with Applicant's Application, there does not appear to have been any bond required, either in the form of a surety bond or cash bond, as required by OCD's Rules.
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By reason of the foregoing, S-W Cattle Co. objects to the Director of the Oil Conservation Division administratively approving and issuing a Permit in connection with the above described Application.

Very truly yours,

**HEIDEL, SAMBERSON & NEWELL**

By 

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

RECEIVED

IN THE MATTER OF THE HEARING  
CALLED BY THE OIL CONSERVATION  
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CONSIDERING:

JUL 17 1992

OIL CONSERVATION DIVISION

CASE NO. 10507

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DISPOSAL FACILITY, LEA COUNTY  
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Monument, N.M. 88265

ATTORNEY

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Pre-Hearing Statement  
Case No. 10507  
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ATTORNEY

W. Thomas Kellahin  
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Santa Fe, New Mexico 87501  
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Case No. 10507  
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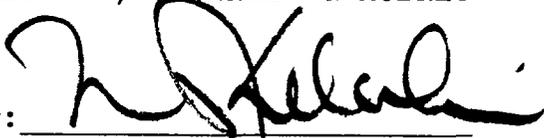
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pending.

KELLAHIN, KELLAHIN & AUBREY

By: 

W. Thomas Kellahin

P.O. Box 2265

Santa Fe, New Mexico 87504

(505) 982-4285

OIL CONSERVATION DIVISION  
RECEIVED HEIDEL, SAMBERSON & NEWELL

LAW OFFICES

C. GENE SAMBERSON  
MICHAEL T. NEWELL  
LEWIS C. COX, III

311 NORTH FIRST STREET  
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F.L. HEIDEL  
(1913-1986)

'92 MAY 15 AM 8 45

May 13, 1992

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State of New Mexico  
OIL CONSERVATION DIVISION  
Post Office Box 2088  
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Very truly yours,

HEIDEL, SAMBERSON & NEWELL

By *C. Gene Samberson*

OIL CONSERVATION DIVISION

KELLAHIN AND KELLAHIN

ATTORNEYS AT LAW  
EL PATIO BUILDING

117 NORTH GUADALUPE

POST OFFICE BOX 2265

SANTA FE, NEW MEXICO 87504-2265

TELEPHONE (505) 982-4285

TELEFAX (505) 982-2047

W. THOMAS KELLAHIN\*

\*NEW MEXICO BOARD OF LEGAL SPECIALIZATION  
RECOGNIZED SPECIALIST IN THE AREA OF  
NATURAL RESOURCES-OIL AND GAS LAW

JASON KELLAHIN (RETIRED 1991)

RECEIVED  
92 DEC 8 PM 4 35

December 8, 1992

Mr. William J. LeMay  
Chairman  
Oil Conservation Commission  
310 Old Santa Fe Trail, Room 219  
Santa Fe, New Mexico 87501

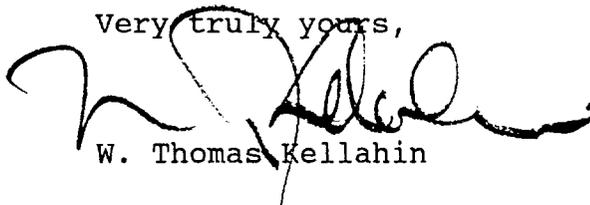
**HAND DELIVERED**

Re: REQUEST FOR HEARING DENOVO  
NMOCD CASE 10507  
Order No. R-9769  
Application of C & C Landfarm,  
Inc. for a Commercial Surface  
Waste Disposal Facility, Lea  
County, New Mexico

Dear Mr. LeMay:

On behalf of Elsie Reeves, S-W Cattle Company and W.  
T. (Trent) Stradley, please find enclosed our request for  
a Hearing DeNovo of the above-referenced case before the  
New Mexico Oil Conservation Commission.

Very truly yours,



W. Thomas Kellahin

WTK/jcl  
Enclosures

cc: With Enclosures  
Michael Stogner, OCD-Hearing Examiner  
Robert G. Stovall, Esq.  
William F. Carr, Esq.  
Elsie Reeves  
S-W Cattle Company (W. T. Stradley)  
Gene Samberson, Esq.

appt1119.647

OIL CONSERV. DIVISION  
RECEIVED

'92 DE 14 PM 4 35

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

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

CASE NO. 10507  
Order No. R-9769

APPLICATION OF C & C LANDFARM,  
INC. FOR A COMMERCIAL SURFACE  
WASTE DISPOSAL FACILITY, LEA  
COUNTY, NEW MEXICO

**ELSIE REEVES, S-W CATTLE COMPANY'S AND**  
**W. T. STRADLEY'S**  
**REQUEST FOR A DE NOVO HEARING**  
**BEFORE THE**  
**NEW MEXICO OIL CONSERVATION COMMISSION**

Comes now ELSIE REEVES, S-W CATTLE COMPANY AND W. T. STRADLEY, parties of record before the New Mexico Oil Conservation Division in Case 10507 and adversely affected by Division Order R-9769 entered November 16, 1992, by its attorneys Kellahin & Kellahin and pursuant to Section 70-2-13 NMSA-1978, hereby requests that the New Mexico Oil Conservation Commission hold a HEARING DENOVO in this matter.

NMOCD Case No. 10507  
Request for Hearing DeNovo  
Elsie Reeves and S-W Cattle Company  
Page 2

Respectfully Submitted:



W. Thomas Kellahin  
Kellahin & Kellahin  
P. O. Box 2265  
Santa Fe, New Mexico 87501  
(505) 982-4285  
ATTORNEYS FOR ELSIE REEVES,  
W. T. (TRENT) STRADLEY AND  
S-W CATTLE COMPANY

Gene Samberson, Esq.  
P. O. Drawer 1599  
Lovington, New Mexico 88260  
(505) 396-5303  
ATTORNEYS FOR W. T. (TRENT)  
STRADLEY AND S-W CATTLE COMPANY

**CERTIFICATE OF MAILING**

I, W. Thomas Kellahin, hereby certify that on this \_\_\_\_\_ day of December, 1992 I provided a copy of the foregoing pleading by US mail, postage pre-paid or hand delivery to all counsel and parties of record in this matter.



W. Thomas Kellahin