

**NM1-57**

**Tentative  
Decision**

**9/4/14**



# New Mexico Energy, Minerals and Natural Resources Department

**Susana Martinez**

Governor

**David Martin**

Cabinet Secretary

**Brett F. Woods, Ph.D.**

Deputy Cabinet Secretary

**Jami Bailey**

Division Director

Oil Conservation Division



September 4, 2014

Adrian Holman and Bryce Karger

DNCS Properties, LLC

2028 E. Hackberry Place

Chandler, Arizona 85286

CERTIFIED MAIL RECEIPT #7012 0470 0000 0882 3211

**RE: Tentative Decision Regarding Discharge Permit NM1-57 for Surface Waste Management Facility in South/2 of Section 31, Township 17 South, Range 33 East and North/2 of Section 6, Township 18 South, Range 33 East NMPM; Lea County, New Mexico**

Messrs. Holman and Karger,

Pursuant to applicable parts of the Oil Conservation Commission regulations 19.15.36 NMAC, the Oil Conservation Division (OCD) has completed its technical review of your revised application dated June 16, 2014 for a waste management facility at the proposed location described above. OCD has tentatively decided on permit approval with conditions. Attached is a draft permit with general and specific conditions. OCD will be posting this decision along with the draft permit on our website.

Given OCD's tentative decision, you are now required to issue notice of this decision in accordance with 19.15.36.9(E) and (F) NMAC. As soon as possible, please provide OCD with the form of such notice for our approval before publishing and mailing.

If you have any questions, please contact Jim Griswold of my staff at (505) 476-3465 or by email at [jim.griswold@state.nm.us](mailto:jim.griswold@state.nm.us). On behalf of the Oil Conservation Division, I wish to thank you and your staff for your cooperation during this permit review.

Respectfully,

Jami Bailey

Director

JB/jg

Attachment – Draft NM1-57 Permit





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September 3, 2014

Adrian Holman and Bryce Karger

DNCS Properties, LLC

2028 E. Hackberry Place

Chandler, Arizona 85286

**RE: Discharge Permit NM1-57 for Surface Waste Management Facility in South/2 of Section 31, Township 17 South, Range 33 East and North/2 of Section 6, Township 18 South, Range 33 East NMPM; Lea County, New Mexico**

Messrs. Holman and Karger,

Pursuant to all applicable parts of the Oil Conservation Commission regulations 19.15.36 NMAC, the Oil Conservation Division hereby approves the waste management permit and authorizes construction and operation of the DNCS Properties, LLC (owner/operator) facility at the location described above and under the conditions specified in the attached Permit Conditions.

Be advised that approval of this permit does not relieve the owner/operator of responsibility should operations result in pollution of surface water, groundwater, or the environment. Nor does this permit relieve the owner/operator of its responsibility to comply with any other applicable governmental rules or regulations.

If you have any questions, please contact Jim Griswold of my staff at (505) 476-3465 or by email at [jim.griswold@state.nm.us](mailto:jim.griswold@state.nm.us). On behalf of the Oil Conservation Division, I wish to thank you and your staff for your cooperation during this permit review.

Respectfully,

**Jami Bailey**

Director

JB/JG/jg

Attachment – Surface Waste Management Facility Permit Conditions

cc: OCD District I, Hobbs



**SURFACE WASTE MANAGEMENT FACILITY PERMIT CONDITIONS  
NM1-57**

**DNCS Properties, LLC—DNCS Environmental Solutions  
South ½ of Section 31, Township 17 South, Range 33 East  
and  
North ½ of Section 6, Township 18 South, Range 33 East NMPM**

**September 3, 2014**

**1. GENERAL PROVISIONS**

**A. Permittee and Permitted Facility.** The Oil Conservation Division (OCD) of the Energy, Minerals, and Natural Resources Department issues surface oil field waste management permit NM1-57 to DNCS Properties, LLC (owner/operator), 2028 East Hackberry Place, Chandler, Arizona 85286 for the construction, operation, and eventual closure of a facility to be located upon an approximate 562 acre tract as described above in an unincorporated portion of Lea County, New Mexico.

The waste management facility is intended for the permanent disposal of exempt and non-hazardous waste and will comprise approximately 495 acres of the larger tract, including a liquid waste processing area on ±177 acres and a landfill on the remaining ±318 acres. Once fully completed, the liquid processing area will consist of an estimated nine produced water loadout points, twelve produced water receiving tanks, 48 produced water settling tanks, twelve evaporation ponds, five crude oil recovery tanks, five crude oil sales tanks, a stabilization and solidification area, and a customer truck wash with six bays. The landfill footprint will be 234 acres with a waste capacity of approximately 33.7 million cubic yards. In addition, there will be support facilities including a gatehouse, scalehouse, waste acceptance and security features, roadways, emergency shower and eyewash station, and stormwater detention ponds.

**B. Scope of Permit.** OCD regulates the disposition of water produced or used in connection with the exploration and production of oil and gas and to direct disposal of that water in a manner which will afford reasonable protection against contamination of fresh water supplies pursuant to authority granted in the Oil & Gas Act (Chapter 70, Article 2 NMSA 1978). Under that Act, OCD also regulates the disposition of nondomestic wastes resulting from exploration, production, or storage of crude oil and natural gas to protect public health and the environment. Similarly, OCD regulates the disposition of nondomestic wastes resulting from the oil field service industry, the transportation of crude oil and natural gas, the treatment of natural gas, and the refinement of crude oil to protect public health and the environment pursuant to jurisdiction and authority granted by the same Act.

This permit does not convey any property rights of any sort or any exclusive privilege to the owner/operator and does not authorize any injury to property or persons, any invasion of other private rights, or any infringement of state, federal, or local laws, rules, or regulations.

**C. Owner/Operator Commitments.** The owner/operator must ensure all operations are consistent with the terms and conditions of this permit and in conformance with all pertinent rules and regulations under the Oil & Gas Act. Furthermore, the owner/operator shall abide by the approval conditions contained herein along with all commitments submitted in its permit application dated June 16, 2014 including any attachments and/or amendments all of which are incorporated into this permit by reference.

**D. Modifications.** The owner/operator must notify the OCD in advance of any increase in the land area the facility occupies, any change in the design capacity, any change in the nature of the waste streams, or any change in process. As a result, the OCD Director may require a modification in the permit conditions.

**E. Definitions.** Terms not specifically defined in the permit shall have the same meanings as those in the Oil & Gas Act or the rules adopted pursuant to the Act, as the context requires.

**F. General Performance Standards.** The owner/operator must operate in accordance with the permit conditions, comply with the Oil & Gas Act and rules issued pursuant to the Act, protect public health and the environment, prevent the waste of oil and gas, prevent the contamination of fresh waters.

**G. Effective Date, Expiration, Renewal, and Penalties for Operating Without a Permit.** This permit is effective once OCD receives adequate financial assurance [see Section 1.H below] and will expire ten years thereafter. If it so desires, the owner/operator may submit an application for renewal to OCD no later than 120 calendar days before the expiration date. If the owner/operator submits such a renewal application before the required date and is in compliance with the existing permit, then that existing permit will not expire until the OCD approves or denies the renewal application. Operating with an expired permit will subject the owner/operator to civil and/or criminal penalties (see Section 70-2-31 NMSA 1978).

**H. Financial Assurance.** The owner/operator must provide financial assurance in a form acceptable to OCD for the waste management facility's estimated closure and post-closure cost. The estimated amount currently required is \$1,866,631.00 which includes the cost of the prescriptive synthetic final cap crown for Unit 1 described in the application. On an annual basis, the owner/operator will update the closure/post-closure estimate and thus the amount of financial assurance based on the Consumer Price Index. Should the owner/operator activate the Stabilization and Solidification Area described in their application during "Phase 1" the closure and post-closure cost estimate must be revised.

## 2. GENERAL FACILITY OPERATIONS

**A. Labeling.** The owner/operator must clearly label all tanks, drums, and other containers to identify their contents along with other emergency notification information. The owner/operator may use a tank coding system if it is incorporated into their emergency response planning.

**B. Inspections and Maintenance of Secondary Containment Systems.** The owner/operator must inspect all secondary containment systems and sumps at least monthly to ensure proper operation and to prevent over filling or system failure. The owner/operator must empty all secondary containment systems of any fluids within 48 hours of discovery, notify the OCD, and initiate corrective actions. The owner/operator must keep written records of its inspections and of any fluid analyses.

**C. Release Reporting and Corrective Action for Releases.** The owner/operator must comply with the spill reporting and corrective action provisions of the Oil & Gas Regulations (19.15.29 and 19.15.30 NMAC).

**D. Annual Report.** The owner/operator must submit an annual report to the OCD by September 1<sup>st</sup> of each year providing the following information for the preceding year: 1) all inspection forms including those for leak detection systems along with analytical results, 2) hydrogen sulfide monitoring results, 3) process piping integrity test results, 4) training records, 5) form C-138s for waste accepted by the owner/operator, 6) complaint logs and resolutions, and 7) a summary of the nature and amount of any reportable releases.

## 3. MATERIAL STORAGE

**A. Process, Maintenance, and Material Storage Areas.** The owner/operator must pave and curb all process, maintenance, and material storage areas at the facility excluding evaporation ponds, below-grade tanks, and sumps, or incorporate another appropriate spill collection device for these areas.

**B. Above Ground Tanks.** The owner/operator must place above ground tanks on impermeable pads and surround the tanks with lined berms or other impermeable secondary containment system having a capacity of at least one and one-third times the capacity of the largest tank, or the combined volume of any interconnected tanks. This does not apply to tanks containing fresh water.

#### **4. WASTE MANAGEMENT**

**A. Waste Streams.** This permit authorizes the owner/operator to handle the RCRA exempt streams. OCD approval must be obtained to receive any waste stream not specified in its application prior to collection, storage, treatment, or disposal.

**B. Waste Storage.** The owner/operator must store wastes at the facility only in clearly marked storage areas that have been specified in the application except any waste that may be generated during emergency response operations. However, such emergency waste may be stored elsewhere for no more than 72 hours. OCD may approve additional storage on a case-by-case basis.

The owner/operator must not store non-oil field waste generated at the facility by the owner/operator for more than 180 calendar days from the date any container is filled without OCD approval.

**C. Class V Wells.** Leach fields and other wastewater disposal systems at OCD-regulated facilities which inject non-hazardous fluids into or above an underground source of drinking water are Underground Injection Control Class V wells pursuant to 20.6.2.5002 NMAC. This permit does not authorize the use of a Class V injection well for the disposal of industrial waste at the facility. Other Class V wells, including wells used only for the injection of domestic wastes, must be permitted by the New Mexico Environment Department.

#### **5. BELOW GRADE TANKS AND SUMPS**

Below grade tanks and sumps must have secondary containment systems with leak detection and meet construction and operating requirements of 19.15.17 NMAC.

#### **6. ADDITIONAL FACILITY-SPECIFIC CONDITIONS**

**A.** Prior to construction activities in the Landfill disposal area, the owner/operator shall determine that all abandoned oil wells within the area are properly plugged in accordance with OCD regulations. If any wells are found to be unplugged or improperly plugged, the owner/operator shall take the appropriate corrective actions.

**B.** Prior to operation of the Stabilization and Solidification area, a detailed operations and management plan must be submitted by the owner/operator for OCD approval. Included in this submittal, but not limited to, will be the methodology to protect the underlying liner during normal operations.

**C.** Prior to operation of the Processing area, a detailed operations and management plan must be submitted for OCD approval. Included in this submittal, but not limited to, will be a description of how the owner/operator is to clearly mark the required 3-foot freeboard line in each pond prior to use. In addition, the operations and management plan shall be revised to include an inspection of the pond for windblown spray outside the lined area during normal operations and high wind events.

**D.** Naturally Occurring Radioactive Material (NORM) waste cannot be accepted at the facility unless in compliance with 19.15.35 NMAC.

**E.** Prior to facility construction, the owner/operator must consult with the Surface Water Quality Bureau of the New Mexico Environment Department concerning the applicability of a Storm Water Pollution Prevention Plan for the facility. After such consultation and within 72 hours of receiving a determination of applicability, the owner/operator must notify OCD.

**F.** Prior to beginning operations, the owner/operator must provide a visual schematic to OCD indicating the locations of communications, first aid, and personal protective equipment locations.

**G.** The owner/operator must consult with OCD concerning re-vegetation of intermediate cover during drought conditions and when natural vegetation does not re-establish after one month of the application of intermediate cover.

**H.** Prior to the construction of any liner system, the owner/operator must provide calculations to OCD demonstrating that the puncture resistance of the liners will not be exceeded by any equipment anticipated for use during construction or normal operation.

**I.** At least 30 days prior to the start of landfill or pond construction, the owner/operator shall furnish OCD with a major milestone schedule for construction and shall keep it updated throughout construction activities.