

From: [Hamlet, Robert, EMNRD](#)
To: ["Debbie Moughon"](#)
Cc: [Bratcher, Mike, EMNRD](#); [Venegas, Victoria, EMNRD](#); [Eads, Cristina, EMNRD](#); spills@slo.state.nm.us
Subject: Deferral Denied - Advance Energy - AO 6 #501H - (Incident #NCH1903862333) (1RP-5350)
Date: Wednesday, September 23, 2020 11:47:00 AM
Attachments: [Deferral Denied - Advance Energy - AO 6 #501H.pdf](#)

Debbie,

We have received your deferral request and C-141 for **Incident #NCH1903862333 AO 6 #501H**, thank you. This closure is denied.

- The OCD appreciates the potentiometric maps outlining the major Artesian Strata in the general area of the release. Although, depth to groundwater has not been sufficiently answered. Potentiometric maps don't outline potential water trapped in shallow clay layers or other protectable shallow waters in the immediate area of the release.
- When nearby wells are used to determine depth to groundwater, the wells should be no further than ½ mile away from the site, and data should be no more than 25 years old, and well construction information should be provided. If evidence of depth to ground water within a ½ mile radius of the site cannot be provided, impacted soils will need to meet Table 1 Closure Criteria for ground water at a depth of 50 feet or less.
- If you feel the depth to groundwater is >100', a shallow borehole can be drilled to 101' allowing for verification of the depth. If water is not visible after reaching bottom-hole and waiting 72 hours, the OCD will accept this as evidence. We would just need a copy of the driller's log.
- The OCD cannot accept field screening results from Petro FLAG Analyzer Systems, PID Meters, and Ground Conductivity Meters for sampling determination. Horizontal delineation shouldn't be determined from "wet soil" from the release. Horizontal and vertical delineation should "only" be determined through actual laboratory analyzed samples.
- Please continue to **horizontally delineate** spill to 600 mg/kg for chlorides on the outer edges/periphery and include sample points in deferral request after closure criteria limits have been met. While vertical definition of contamination that may be acceptable is almost exclusively driven by depth to water, as determined, and as driven by Table I in rule, horizontal definition is different. The edges (horizontal definition) of a liquid release must be determined as well. The only value for determination of horizontal impact are derived by either "background" value as determined appropriate to Rule 29, or, for chloride, 600 mg/Kg in soils. This 600 mg/Kg value is discussed in detail in 19.15.29.13 D. (1). **Therefore, horizontal soils delineation for chloride should be 600 mg/KG (again, or background) for all liquid releases, either on or off production pad.** It is conceivable that a liquid release may occur with, for example, a surface soil chloride of 19,000 mg/Kg, and if it is reliably determined that groundwater is over 101 feet below ground surface, then that value may stand as a vertical definition, but nonetheless, the horizontal value(s) for lateral extent of liquid release would still, of Rule 29 necessity, be 600 mg/Kg chloride or less. **This would be inclusive of both "on-pad" of "off-pad" release area.** The above if laboratory data driven, not just reported visual extent of a liquid release or calculated and reported release volumes. As indicated in above portions, a scaled map with horizontal and vertical definition of actual laboratory values is required. Generally, the top one foot sample suffices for immediate horizontal evaluation and deeper contamination would likely be identified during actual remediation.
- All sample points, except the requested sample points for deferral, must have contaminated soil removed before a deferral request is uploaded to the payment portal. The only remediation that should remain are the sample points that are being requested for deferral. Also, specify exactly which sample points you are asking for a deferral on and the reason the contaminants can't be removed.

Please let me know if you have any further questions.

Regards,

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OCD approval does not relieve the operator of liability should their operations fail to adequately investigate and remediate contamination that may pose a threat to groundwater, surface water, human health or the environment. In addition, OCD approval does not relieve the operator of responsibility for compliance with any other federal, state, or local laws and/or regulations.