

**NM1 - 54**

**TENATIVE  
DECISION**

**Sept. 9, 2013**

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## 1. Article Addressed to:

Mr. Zachary Davis  
R360 Permian Basin LLC  
4507 W. Carlsbad Hwy  
Hobbs, NM 88240

## 2. Article Number

(Transfer from service label)

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Zachary Davis R360 Permian Basin LLC

Street, Apt. No.,  
or PO Box No.

4507 W. Carlsbad Hwy

City, State, ZIP+4

Hobbs, NM 88240

PS Form 3800, August 2006

See Reverse for Instructions

7009 1680 0002 3341 9034

State of New Mexico  
Energy, Minerals and Natural Resources Department

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**Susana Martinez**  
Governor

**David Martin**  
Cabinet Secretary-Designate

**Brett F. Woods, Ph.D.**  
Deputy Cabinet Secretary

**Jami Bailey, Division Director**  
Oil Conservation Division



**CERTIFIED MAIL RECEIPT # 7009 1680 0002 3341 9034**

September 9, 2013

Zachary Davis  
R360 Permian Basin LLC  
4507 W. Carlsbad Hwy  
Hobbs, New Mexico 88240

**RE: Tentative Decision**  
**R360 Permian Basin LLC – Avalon Transfer Station**  
**Location: W/2 of NE/4 and E/2 of NW/4 of Section 36, Township 26 South, Range 31 East, NMPM, Eddy County, New Mexico**

Dear Mr. Davis:

Pursuant to 19.15.36.9D NMAC, the Oil Conservation Division (OCD) has completed the technical review of R360 Permian Basin L.L.C.'s (R360) application, dated April 19, 2013 and received by OCD on April 22, 2013, for a commercial surface waste facility permit for the Avalon Transfer Station Facility. On May 22, 2013, OCD deemed R360's application to be administratively complete.

OCD has determined that R360's permit application is adequate and hereby recommends approval with conditions. OCD's reasons for conditions are enclosed. These conditions must be corrected, completed, and approved by OCD prior to development and beginning operations at the facility. OCD's tentative decision has also been posted on the OCD's webpage at <http://www.emnrd.state.nm.us/OCD/env-draftpublicetc.html>.

Given OCD's tentative decision, R360 is now required to issue notice of the tentative decision in accordance with 19.15.36.9E NMAC. This must include, but not limited to, notice by first class mail or email to the OCD's list of interested parties (found at <http://www.emnrd.state.nm.us/OCD/env-draftpublicetc.html>) and by first class mail to the following person(s) that contacted the OCD regarding the application:

\*No person(s) contacted OCD.

In addition, R360 must notice by first class mail or email the governmental agencies listed in the application as noticed for the application. R360 may also pursue the additional option of requesting a hearing in accordance with 19.15.36.10A NMAC.

R360 Permian Basin, LLC  
Avalon Transfer Station Facility  
September 9, 2013  
Page 2 of 8

All OCD rules and regulations must be complied with in development, operation, maintenance, and closure of this facility.

If you have any questions, please feel free to me at [scott.dawson@state.nm.us](mailto:scott.dawson@state.nm.us) or (505) 476-3480.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Dawson", with a long horizontal flourish extending to the right.

Scott Dawson  
Deputy Director

SD/sd

Cc: OCD District II Office, Artesia  
Grant A. Jackson, Naismith Engineering Inc., 4501 Gollihar Road, Corpus Christi, TX  
78411

**Conditions of Approval**  
**R360 Permian Basin LLC - Avalon Transfer Station Facility**  
**Commercial Surface Waste Management Facility**  
**September 9, 2013**

**Attachment 10, Surface Waste Management Facility Description:**

**Page 2, Section 1.4.2, Support Operations:**

The third bullet indicates that “Equipment support activities, including maintenance and repair...” are proposed within the facility. Beyond this statement, OCD was unable to locate any additional information regarding the proposed activities or to locate a drawing or map indicating where within the proposed facility that such activities will occur. Please provide the location and details of the proposed operational activities that will result in the on-site generation and management of self-generated waste stream.

**Page 4, Section 2.7, Groundwater:**

Please identify the source, by reference, of the “literature review” which supports the information provided in the second paragraph.

**Page 5, Section 3.4, Removal, Storage, and Transfer of Contact Storm Water:**

The waste containers in Sections 3.1 through 3.2 are described as “enclosed.” Please clarify if the containers are open-top roll-off containers or covered-roll-containers. Also, please clarify if the “enclosed piping” used to transfer stormwater to the Recovered Liquid Storage Tanks is incorporated into the stormwater collection pond designs. Please provide and/or reference the location of the detailed construction/installation diagrams for the proposed berms for the stormwater collection/detention ponds or features as required by Paragraph (4) of 19.15.36.8C NMAC.

**Page 5, Section 4, Facility Design and Construction:**

Pursuant to Paragraph (4) of 19.15.36.8C NMAC, the application shall include “a description of the surface waste management facility with a diagram indicating the location of fences and cattle guards, and detailed construction/installation diagrams of pits, liners, dikes, piping, sprayers, tanks, roads, fences, gates, berms, pipelines crossing the surface waste management facility, buildings and chemical storage areas.” Please provide and/or reference the location of the detailed construction/installation diagrams for the features underlined above.

**Page 6, Section 4.4, Access Control:**

Please provide and/or reference the location of the detailed construction/installation diagrams for the proposed fencing and gates, as required by Paragraph (4) of 19.15.36.8C NMAC.

**Attachment 11, Engineering Design Information:**

The “containment areas,” as identified on Page 5, Section 3.4, Removal, Storage, and Transfer of Contact Storm Water of Attachment 10, are proposed for the collection of contaminated “contact” stormwater that will be managed as waste at the facility. Please include the engineering designs drawings for the stormwater impoundments proposed for the collection

of contaminated stormwater and the technical data on the geomembrane liner material that will be used for the design for the management of waste.

**Sheet 1, Containment Volume Calculations, Liquid Recovery Tank, Given Information:**

Please provide and/or reference the location of the detailed construction/installation diagrams for the proposed Liquid Recovery Tank area berms, piping, and tanks, as required by Paragraph (4) of 19.15.36.8C NMAC.

**Sheet 2, Containment Volume Calculations, Waste Container Storage Area, Given Information:**

Please provide and/or reference the location of the detailed construction/installation diagrams for the proposed Waste Container Storage area berms, ramps, piping, and waste containers, as required by Paragraph (4) of 19.15.36.8C NMAC.

**Sheet 1, Storm Water Calculations, Background Information, Approach:**

The second and third bullets indicate that the calculations are based upon “the first half-inch of rainfall runoff.” Pursuant to Paragraph (11) of 19.15.36.8C NMAC, the application shall include “a contingency plan that complies with the requirements of 19.15.36.13N NMAC and with NMSA 1978, Sections 12-12-1 through 12-12-30, as amended.” Pursuant to Paragraph (1) of 19.15.36.13M NMAC, “Each operator shall have a plan to control run-on water onto the site and run-off water from the site, such that the run-on and run-off control system shall prevent flow onto the surface waste management facility’s active portion during the peak discharge from a 25-year storm.” The Liquid Recovery Tank area and Waste Container Storage Area were appropriately calculated using 4.5 inches, which is identified in the Common Information as the representative precipitation for a 25-year storm event. Please demonstrate compliance to Paragraph (1) of 19.15.36.13M NMAC based upon the standards specified within the provision.

**Sheet 1, Storm Water Calculations, Background Information, Assumptions:**

The first bullet recognizes that the “first one-half (1/2) inch of runoff is based on surface area only and is independent of the site surface characteristics.” The calculations should be based upon a 25-year storm event and the surface topography (for calculating sheet flow). Not considering the “site surface characteristics” means that State Line Road is not raised and has no ditches for drainage. Water will flow off of the 21.7 acres (as identified under Contributing Drainage Areas) north of the transfer station, across the road, and directly onto the facility. If site specific conditions are considered, then the estimated contributing off-site stormwater run-on may be a much smaller volume.

The second bullet indicates that “The components dimensions and capacities are accurate as reflected on the facility record drawing.” OCD was unable to locate a design drawing. Attachment 10-2, Facility Site Map, does not illustrate the written description of the designs for the on-site stormwater features provided on Sheet 2 under the heading Capture Volume. Please provide and/or reference the location of the detailed construction/installation diagrams for the proposed on-site stormwater impoundments and their associated berms, as required by Paragraph (4) of 19.15.36.8C NMAC.

**Sheet 1, Storm Water Calculations, Calculations, Contributing Drainage Areas:**

The information provided in this section (especially the first sentence and regards to the north portion) will have to be reconsidered based upon the review comments provided above for Assumptions. Please modify appropriately.

**Sheet 2, Storm Water Calculations, Calculations, Required Runoff Volume:**

Please see the review comments above for Approach and Assumptions and recalculate the volume.

**Sheet 2, Storm Water Calculations, Calculations, Capture Volume:**

The first sentence for both the North Pond and South Pond refer to Attachment 17-2, On-Site Storm Water Features, as a potential source for the design drawings of the proposed ponds. OCD was unable to locate Attachment 17-2 in the permit application. Please provide and/or reference the location of the detailed construction/installation diagrams for the proposed on-site stormwater impoundments and their associated berms, as required by Paragraph (4) of 19.15.36.8C NMAC. Please update the design drawings appropriately, based upon the comments above.

**Attachment 12, Plan for Management of Oil Field Wastes:**

**Page 3, Section 2.6.4.1, Offloading. Storage and Transfer of Off-Site Waste:**

The first sentence of the first paragraph states that wastes "from off-site will be managed in enclosed containers." Please provide and/or identify the location of a detailed diagram of the container that illustrates the features of the enclosed container in which waste has been proposed for storage at the proposed transfer station up to six months. Also, please demonstrate if "enclosed" means open or closed top.

**Page 3, Section 2.6.4.2, Removal, Storage and Transfer of Free Liquids:**

Please provide and/or identify the location of the engineering designs and technical data on the design elements of the proposed treatment methods of "gravitational separation, decanting, and pumping," as required by Paragraph (5) 19.15.36.8C NMAC. Also, please provide and/or identify the location of the detailed construction/installation diagrams of the proposed "enclosed piping to the Recovered Liquid Storage Tanks" and tanks, as required by Paragraph (4) 19.15.36.8C NMAC. Please identify the number of tanks and their associated volumes of the proposed Recovered Liquid Storage Tank battery in order to clarify their capacity for storage.

**Page 4, Section 2.6.4.2, Removal, Storage and Transfer of Free Liquids:**

Please identify the maximum on-site capacity for the free liquid storage.

**Page 4, Section 2.6.4.4, Removal, Storage and Transfer of Contact Storm Water:**

The first sentence of the first paragraph states "Contact storm water (storm water coming into contact with waste materials) will be collected and recovered from waste containers or containment areas." Please provide the details of the management of the contaminated storm water collected in the "containment areas." Please identify the type of stormwater containment feature(s) for the collection of the contaminated stormwater within the containment area. Please provide and/or identify the location of the detailed designs of the surface impoundment, as required by Paragraph (5) 19.15.36.8C NMAC, that will be needed to collect contaminated stormwater. Also, please identify how the waste stream will be removed, stored, and transferred.

**Page 5, Section 2.6.4.5, General Liquids Transfer Procedures:**

The last sentence of the second paragraph identifies the manual transfer of liquids for the first time in the application. Please identify the conditions and/or scenarios in which this method would be utilized and the details of how it will be performed.

**Page 6, Section 2.7, Recordkeeping:**

The last sentence of the second paragraph states “Since no disposal of waste is to take place at the Facility, the requirements to maintain documentation of the location and date of disposal within the Facility are not applicable.” The permit application identifies that up to 48 waste containers can be stored on-site awaiting transfer off-site to a permitted surface waste management facility for disposal. Each waste container should be properly manifested with a form C-138. In order to make sure that the form C-138 stays with the appropriate waste container (for at least up to six month, as proposed), documentation of the location of the container within the Waste Container Storage Area is required. The permit application also identifies that free liquids will be extracted from the waste containers and will be comingled and stored in the two Recovered Liquid Storage Tanks. This will become new waste generated by R360 and will require proper manifesting if taken off-site to a permitted surface waste management facility for disposal. This waste stream has also been identified for on-site disposal in a future SWD once it is permitted and installed. So the documentation of on-site disposal is applicable, based upon the proposed operations identified within the permit application. Please address.

**Appendix 12-1, Organizational Chart:**

The New Mexico Oil Conservation Division is identified as the lead or head party over R360 Permian Basin, LLC, including the Region Vice President and other R360 operations and personnel. OCD is not a party to this application and is not responsible for the operations of the proposed facility. Please omit OCD from the organizational chart.

**Attachment 13, Inspection and Maintenance Plan:**

**Page 2, Section 3.1, Routine Facility Maintenance:**

Please identify the source of the liquids proposed for dust control. Please be advised that OCD will not approve the use of raw “produced water,” as defined in Paragraph (4) of 19.15.2.7W NMAC, for dust control without a separate permit authorizing such use of produced water.

**Attachment 14, Hydrogen Sulfide Prevention and Contingency Plan:**

The December 15, 2003 Professional Opinion: Hydrogen Sulfide Monitoring Levels Controlled Recovery Inc. Disposal Facility report is based upon an independent assessment of the existing operations at the Controlled Recovery Inc., located at Halfway New Mexico, surface waste management facility specific permitted operations in 2003. The assessment was based upon the operations under OCD permit NM1-006/Order 9166 which includes landfilling, evaporation ponds, and a treatment plant and compliance with 19.15.3.118 NMAC and 19.15.9.711 NMAC. None of these operations are proposed under this permit application. A hydrogen sulfide contingency plan was not submitted in this section of the permit application. A partial attempt to comply with Part 11 was included in Attachment 16, the contingency plan. Pursuant to Paragraph (7) of 19.15.36.8C NMAC, please provide “a hydrogen sulfide prevention and contingency plan that complies with those provisions of 19.15.11 NMAC that apply to



surface waste management facilities.” Please keep the hydrogen sulfide contingency plan separate from the contingency plan, as required by 19.15.36.8C NMAC.

**Attachment 15, Closure and Post-Closure Plan:**

**Page 3, Section 3, Facility Post-Closure Activities:**

The second sentence of the paragraph states “The Operator will have the closed area inspected by a New Mexico licensed professional engineer to assess the effectiveness of the vegetation establishment.” OCD wishes to clarify that Part 36 does not require a “New Mexico licensed professional engineer” for this task. The last sentence proposes to conduct the inspections “up to one (1) year, as required.” Pursuant to Paragraph (6) of 19.15.36.18A NMAC the vegetation cover must be maintained “through two successive growing seasons” which does not coincide with the proposed timeframe of “up to one (1) year, as required.” Please modify to demonstrate compliance.

**Attachment 17, Storm Water Runon and Runoff Control Plan:**

**Page 2, Section 2.3, Facility Access Roadways:**

The fifth sentence of the first paragraph states “these ponds have been designed to capture and contain the first one-half inch of runoff from the Facility and the contributing off-site areas.” Pursuant to Paragraph (1) of 19.15.36.13M NMAC, “Each operator shall have a plan to control run-on water onto the site and run-off water from the site, such that the run-on and run-off control system shall prevent flow onto the surface waste management facility’s active portion during the peak discharge from a 25-year storm.” The calculations should be based upon a 25-year storm event and the surface topography (for calculating sheet flow). Please provide the correct demonstration and adjust any design drawings appropriately.

Also, Attachment 10-2 also illustrates proposed drainage swales, identified by the symbol (– · –). OCD was unable to locate calculations and design drawings to demonstrate that the proposed drainage swales are designed to manage the anticipated flow during a 25-year storm event. Attachment 10-2 also depicts the swale along the east boundary crossing the proposed road. Please provide and/or reference the location of the calculations to demonstrate the proposed drainage swales are designed to manage the anticipated flow during a 25-year storm event. Also, please provide and/or reference the location of the detailed construction/installation diagrams for the proposed drainage swales, as required by Paragraph (4) of 19.15.36.8C NMAC.

**Attachment 21, Demonstration of Compliance With Siting Requirements:**

**Appendix 21-1, Excerpts from Flood Insurance Rate Map:**

Please provide FEMA’s definition for the identified zone designation.

**Attachment 22, Geological/Hydrogeological Data:**

**Page 1, Section 1.1, Purpose and Background:**

The boring plan discussed in the first paragraph was not submitted for a subsurface investigation for the proposed transfer station. Please provide the clarifying background information related to its submittal.

The fourth sentence of the first paragraph states “The lowest elevation of waste placement was determined by subtracting 100 feet from the lowest elevation of the property plus an additional depth for good cause.” The lowest elevation of waste placement is determined by the proposed operations and the anticipated design depth in which waste will be placed. This is demonstrated by the identified depths of greater than 160 feet in the last sentence. The August 28, 2012 OCD approved boring plan was based upon the consideration other than the 36 acre transfer station proposal. It was based upon a landfill proposal for a 267 acre facility. Please clarify and correct the statement. Also, the discussion of bottom hole elevations and drilling depths have no meaning unless linked to a surface elevation of the proposed site. Please modify appropriately.

**Page 3, Section 3.5, Permanent Residences:**

Pursuant to Paragraph (5) of 19.15.36.13B NMAC, “No surface waste management facility shall be located within 500 feet from the nearest permanent residence, school, hospital, institution or church in existence at the time of initial application.” Please complete the assessment and provide and identify the location of the demonstrations of compliance for the siting setbacks.

**Page 4, Section 3.7, Water Wells:**

Figure 5 is identified as the Geological Cross Section Map and does not have enough area illustrated on the drawing for a 1-mile assessment. Please provide a proper assessment and demonstration of compliance. Also, Table 1 provides information on nine (9) wells (including the windmill). Only four (4) wells are discussed and illustrated. Please clarify why the other five (5) wells are not mentioned or discussed within the permit application.

**Table 2, Organic and Inorganic Groundwater Analytical Data Summary:**

Pursuant to Subparagraph (b) of paragraph (15) 19.15.36.8C NMAC, the application shall include “geological/hydrological data including laboratory analyses, performed by an independent commercial laboratory, for major cations and anions; BTEX; RCRA metals; and TDS of ground water samples of the shallowest fresh water aquifer beneath the proposed site.” Table 2 and the chain-of-custody provided with the analytical results in Appendix E confirm that the laboratory analysis for the “major cations” was not completed or requested. Please provide the required laboratory analytical results.

**BH-2 Completion Log:**

Page 2 of 2 for BH-2 is mistitled *BH-8 Boring and Completion Log* in the lower left hand corner of the page. Please properly identify as BH-2.

**BH-3 Completion Log:**

Please provide a copy of Page 1 of 1 that identifies the surface elevation.