

GW – 384

**PERMITS,
RENEWALS,
& MODS
Application**

ACKNOWLEDGEMENT OF RECEIPT
OF CHECK/CASH

I hereby acknowledge receipt of check No _____ dated 9/8/09

or cash received on _____ in the amount of \$ 1700⁰⁰

from Captain Chemical LLC

for GW-384

Submitted by: Lawrence Parro Date: 9/10/09

Submitted to ASD by: Lawrence Parro Date: 9/10/09

Received in ASD by: _____ Date: _____

Filing Fee _____ New Facility _____ Renewal _____

Modification _____ Other _____

Organization Code 521.07 Applicable FY 2004

To be deposited in the Water Quality Management Fund.

Full Payment _____ or Annual Increment _____

RECEIVED
2009 SEP 18 PM 2:04

ATTACHMENT
DISCHARGE PERMIT
APPROVAL CONDITIONS

- 1. Payment of Discharge Plan Fees:** All discharge permits are subject to WQCC Regulations. Every billable facility that submits a discharge permit application will be assessed a filing fee of \$100.00, plus a flat fee (*see* WQCC Regulation 20.6.2.3114 NMAC). The Oil Conservation Division ("OCD") has received the required \$100.00 filing fee. The flat fee for an oil and gas service company is \$1700.00. Please submit this amount along with the signed certification item 23. Checks should be made out to the New Mexico Water Quality Management Fund.
- 2. Permit Expiration, Renewal Conditions and Penalties:** Pursuant to WQCC Regulation 20.6.2.3109.H.4 NMAC, this permit is valid for a period of five years. **The permit will expire on August 6, 2014** and an application for renewal should be submitted no later than 120 days before that expiration date. Pursuant to WQCC Regulation 20.6.2.3106.F NMAC, if a discharger submits a discharge permit renewal application at least 120 days before the discharge permit expires and is in compliance with the approved permit, then the existing discharge permit will not expire until the application for renewal has been approved or disapproved. ***Expired permits are a violation of the Water Quality Act {Chapter 74, Article 6, NMSA 1978} and civil penalties may be assessed accordingly.***
- 3. Permit Terms and Conditions:** Pursuant to WQCC Regulation 20.6.2.3104 NMAC, when a permit has been issued, the owner/operator must ensure that all discharges shall be consistent with the terms and conditions of the permit. In addition, all facilities shall abide by the applicable rules and regulations administered by the OCD pursuant to the Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38.
- 4. Owner/Operator Commitments:** The owner/operator shall abide by all commitments submitted in its July 2008 discharge plan application, including attachments and subsequent amendments and these conditions for approval. Permit applications that reference previously approved plans on file with the division shall be incorporated in this permit and the owner/operator shall abide by all previous commitments of such plans and these conditions for approval.
- 5. Modifications:** WQCC Regulation 20.6.2.3107.C and 20.6.2.3109 NMAC addresses possible future modifications of a permit. The owner/operator (discharger) shall notify the OCD of any facility expansion, production increase or process modification that would result in any significant modification in the discharge of water contaminants. The Division Director may require a permit modification if any water quality standard specified at 20.6.2.3103 NMAC is being or will be exceeded, or if a toxic pollutant as defined in WQCC Regulation 20.6.2.7 NMAC is present in ground water at any place of withdrawal for present or reasonably foreseeable future use, or that the Water Quality Standards for Interstate and Intrastate streams as specified in 20.6.4 NMAC are being or may be violated in surface water in New Mexico.
- 6. Waste Disposal and Storage:** The owner/operator shall dispose of all wastes at an OCD-approved facility. Only oil field RCRA-exempt wastes may be disposed of by injection in a Class II well. RCRA non-hazardous, non-exempt oil field wastes may be disposed of at an OCD-

approved facility upon proper waste determination pursuant to 40 CFR Part 261. Any waste stream that is not listed in the discharge permit application must be approved by the OCD on a case-by-case basis.

A. Part 35 Waste: Pursuant to OCD Part 35 (19.15.35.8 NMAC) disposal of certain non-domestic waste without notification to the OCD is allowed at NMED permitted solid waste facilities if the waste stream has been identified in the discharge permit and existing process knowledge of the waste stream does not change.

B. Waste Storage: The owner/operator shall store all waste in an impermeable bermed area, except waste generated during emergency response operations for up to 72 hours. All waste storage areas shall be identified in the discharge permit application. Any waste storage area not identified in the permit shall be approved on a case-by-case basis only. The owner/operator shall not store oil field waste on-site for more than 180 days unless approved by the OCD.

7. Drum Storage: The owner/operator must store all drums, including empty drums, containing materials other than fresh water on an impermeable pad with curbing. The owner/operator must store empty drums on their sides with the bungs in place and lined up on a horizontal plane. The owner/operator must store chemicals in other containers, such as tote tanks, sacks, or buckets on an impermeable pad with curbing.

8. Process, Maintenance and Yard Areas: The owner/operator shall either pave and curb or have some type of spill collection device incorporated into the design at all process, maintenance, and yard areas which show evidence that water contaminants from releases, leaks and spills have reached the ground surface.

9. Above Ground Tanks: The owner/operator shall ensure that all aboveground tanks have impermeable secondary containment (e.g., liners and berms), which will contain a volume of at least one-third greater than the total volume of the largest tank or all interconnected tanks. The owner/operator shall retrofit all existing tanks before discharge permit renewal. Tanks that contain fresh water or fluids that are gases at atmospheric temperature and pressure are exempt from this condition.

10. Labeling: The owner/operator shall clearly label all tanks, drums, and containers to identify their contents and other emergency notification information. The owner/operator may use a tank code numbering system, which is incorporated into their emergency response plans.

11. Below-Grade Tanks/Sumps and Pits/Ponds.

A. All below-grade tanks and sumps must be approved by the OCD prior to installation and must incorporate secondary containment with leak detection into the design. The owner/operator shall retrofit all existing systems without secondary containment and leak detection before discharge permit renewal. All existing below-grade tanks and sumps without secondary containment and leak detection must be tested annually or as specified herein. Systems that have secondary containment with leak detection shall have a monthly inspection of the leak detection system to determine if the primary containment is leaking. Small sumps or depressions in

secondary containment systems used to facilitate fluid removal are exempt from these requirements if fluids are removed within 72 hours.

B. All pits and ponds, including modifications and retrofits, shall be designed by a certified registered professional engineer and approved by the OCD prior to installation. In general, all pits or ponds shall have approved hydrologic and geologic reports, location, foundation, liners, and secondary containment with leak detection, monitoring and closure plans. All pits or ponds shall be designed, constructed and operated so as to contain liquids and solids in a manner that will protect fresh water, public health, safety and the environment for the foreseeable future. The owner/operator shall retrofit all existing systems without secondary containment and leak detection before discharge permit renewal.

C. The owner/operator shall ensure that all exposed pits, including lined pits and open top tanks (8 feet in diameter or larger) shall be fenced, screened, netted, or otherwise rendered non-hazardous to wildlife, including migratory birds.

D. The owner/operator shall maintain the results of tests and inspections at the facility covered by this discharge permit and available for OCD inspection. The owner/operator shall report the discovery of any system which is found to be leaking or has lost integrity to the OCD within 15 days. The owner/operator may propose various methods for testing such as pressure testing to 3 pounds per square inch greater than normal operating pressure and/or visual inspection of cleaned tanks and/or sumps, or other OCD-approved methods. The owner/operator shall notify the OCD at least 72 hours prior to all testing.

12. Underground Process/Wastewater Lines:

A. The owner/operator shall test all underground process/wastewater pipelines at least once every five (5) years to demonstrate their mechanical integrity, except lines containing fresh water or fluids that are gases at atmospheric temperature and pressure. Pressure rated pipe shall be tested by pressuring up to one and one-half times the normal operating pressure, if possible, or for atmospheric drain systems, to 3 pounds per square inch greater than normal operating pressure, and pressure held for a minimum of 30 minutes with no more than a 1% loss/gain in pressure. The owner/operator may use other methods for testing if approved by the OCD.

B. The owner/operator shall maintain underground process and wastewater pipeline schematic diagrams or plans showing all drains, vents, risers, valves, underground piping, pipe type, rating, size, and approximate location. All new underground piping must be approved by the OCD prior to installation. The owner/operator shall report any leaks or loss of integrity to the OCD within 15 days of discovery. The owner/operator shall maintain the results of all tests at the facility covered by this discharge permit and they shall be available for OCD inspection. The owner/operator shall notify the OCD at least 72 hours prior to all testing.

13. Class V Wells: The owner/operator shall close all Class V wells (e.g., septic systems, leach fields, dry wells, etc.) that inject non-hazardous industrial wastes or a mixture of industrial wastes and domestic wastes unless it can be demonstrated that ground water will not be impacted in the reasonably foreseeable future. Leach fields and other wastewater disposal systems at OCD-regulated facilities that inject non-hazardous fluid into or above an underground source of drinking

water are considered Class V injection wells under the EPA UIC program. Class V wells that inject domestic waste only, must be permitted by the New Mexico Environment Department (NMED).

14. Housekeeping: The owner/operator shall inspect all systems designed for spill collection/prevention and leak detection at least monthly to ensure proper operation and to prevent over topping or system failure. All spill collection and/or secondary containment devices shall be emptied of fluids within 72 hours of discovery. The owner/operator shall maintain all records at the facility and available for OCD inspection.

15. Spill Reporting: The owner/operator shall report all unauthorized discharges, spills, leaks and releases and conduct corrective action pursuant to WQCC Regulation 20.6.2.1203 NMAC and OCD Part 19 (19.15.29 NMAC). The owner/operator shall notify both the OCD District Office and the Santa Fe Office within 24 hours and file a written report within 15 days. The OCD does not consider covering contaminated areas a remediation of the spill/release.

16. OCD Inspections: The OCD performed an inspection of this facility on May 15, 2008. Mr. Joe Hughes witnessed the inspection. All photographs referenced below are located in the attachment of this permit. As a result of this, OCD inspection concluded the following:

1. Several barrels/containers were not properly stored onsite. See Condition 7 & 9 for details.
2. Containers/barrels were not properly labeled. See Condition 10 for details.
3. Soil staining was witnessed at the facility yard. Owner/operator shall cease all discharges on to the ground immediately and shall clean up the contaminated soil.
4. Bags of chemicals were not properly maintained. Owner/operator shall ensure that all chemicals are properly maintained.

OCD requires that the owner/operator to analyze composite soil samples collected within its yard. Samples shall be tested for TPH, Chlorides and WQCC NMAC 20.6.2.3103, A., **Except** for Fluoride (F), Nitrates (NO₃ as N) Uranium and (U) Radioactivity: combined Radium – 226 & Radium – 228. Contact Mr. Larry Johnson or Mr. Geoffrey Leking 575-393-6161 prior to sampling. Soils shall be sampled, tested, and submitted to the OCD by **September 15, 2009**.

17. Storm Water: The owner/operator shall implement and maintain run-on and runoff plans and controls. The owner/operator shall not discharge any water contaminant that exceeds the WQCC standards specified in 20.6.2.3101 NMAC or 20.6.4 NMAC (Water Quality Standards for Interstate and Intrastate Streams) including any oil sheen in any stormwater run-off. The owner/operator shall notify the OCD within 24 hours of discovery of any releases and shall take immediate corrective action(s) to stop the discharge.

18. Unauthorized Discharges: The owner/operator shall not allow or cause water pollution, discharge or release of any water contaminant that exceeds the WQCC standards listed in 20.6.2.3101 NMAC or 20.6.4 NMAC (Water Quality Standards for Interstate and Intrastate Streams) unless specifically listed in the permit application and approved herein. **An unauthorized discharge is a violation of this permit.**

19. Vadose Zone and Water Pollution: The owner/operator shall address any contamination through the discharge permit process or pursuant to WQCC 20.6.2.4000-.4116 NMAC (Prevention and Abatement of Water Pollution). The OCD may require the owner/operator to modify its permit for investigation, remediation, abatement, and monitoring requirements for any vadose zone or water pollution. Failure to perform any required investigation, remediation, abatement and submit subsequent reports will be a violation of the permit.

20. Additional Site Specific Conditions: Newly Permitted Facility:

- A. A copy of the discharge permit, GW-384, shall be kept on site at all times.
- B. Owner/Operator management shall present the discharge permit conditions to all its employees. Employees shall be made aware of possible discharges at the facility and made aware of the permit location on site.
- C. The OCD has a Hobbs office. Larry Johnson is the Environmental Engineer at this location and he can be reached at 575-393-6161 ext. 111. Any spills shall be reported to Mr. Johnson.
- D. The Santa Fe OCD Environmental Bureau processes all discharge plan permits, refer all questions to the Santa Fe office.

21. Transfer of Discharge Permit (WQCC 20.6.2.3111) Prior to any transfer of ownership, control, or possession (whether by lease, conveyance or otherwise) of a facility with a discharge permit, the transferor shall notify the transferee in writing of the existence of the discharge permit, and shall deliver or send by certified mail to the department a copy of such written notification, together with a certification or other proof that such notification has in fact been received by the transferee.

Upon receipt of such notification, the transferee shall have the duty to inquire into all of the provisions and requirements contained in such discharge permit, and the transferee shall be charged with notice of all such provisions and requirements as they appear of record in the department's file or files concerning such discharge permit. The transferee (new owner/operator) shall sign and return an original copy of these permit conditions and provide a written commitment to comply with the terms and conditions of the previously approved discharge permit.

22. Closure Plan and Financial Assurance: Pursuant to 20.6.2.3107 NMAC an owner/operator shall notify the OCD when any operations of the facility are to be discontinued for a period in excess of six months. Prior to closure, or as a condition of this permit, or request from the OCD, the operator will submit an approved closure plan, modified plan, and/or provide adequate financial assurance.

23. Certification: (Owner/Operator), by the officer whose signature appears below, accepts this permit and agrees to comply with all submitted commitments, including these terms and conditions contained here. **Owner/Operator** further acknowledges that the OCD may, for good cause shown, as necessary to protect fresh water, public health, safety, and the environment, change the conditions and requirements of this permit administratively

Conditions accepted by: "I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment."

Capitan Chemical, LLC
Company Name-print name above

Joe F. Hughes
Company Representative- print name

Joe Hughes
Company Representative- Signature

Title Managing Member

Date: 9.8.09

OCD Inspection: Capitan Chemical, LLC, GW - 384

Inspector(s): Leonard Lowe

Company Rep: Mr. Joe F. Hughes

Date: 05.15.08

Time: 15:30 – 16:30

Page 1



Photo 1: Unidentified barrels.



Photo 2: Barrels located on ground.

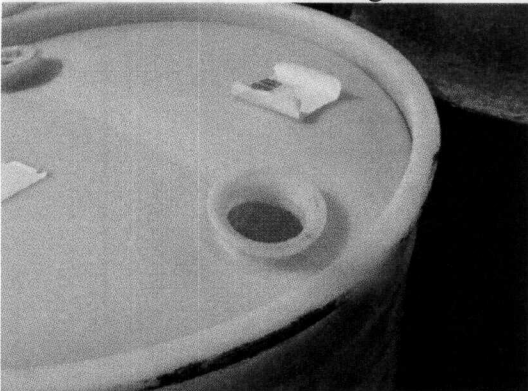


Photo 3: Barrel with missing bung.

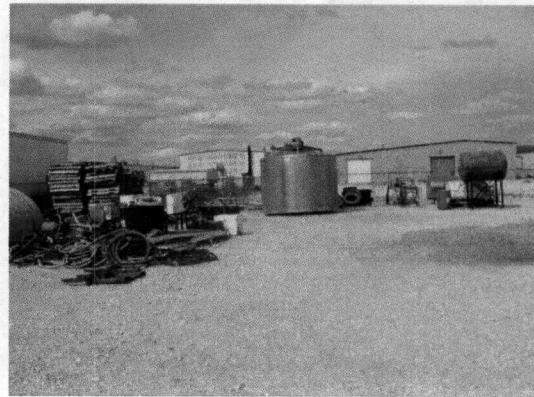


Photo 4: View of yard with soil staining.



Photo 5: Truck wash remnants.



Photo 6: Unidentified barrel.

OCD Inspection: Capitan Chemical, LLC, GW - 384

Inspector(s): Leonard Lowe

Company Rep: Mr. Joe F. Hughes

Time: 15:30 – 16:30

Date: 05.15.08

Page 2



Photo 7: Empty barrels located on ground.



Photo 8: Barrels with unidentified contents.



Photo 9: Saddle tanks within eroded bermed area.



Photo 10: Totes located on ground.



Photo 11: Totes with catch containments.

OCD Inspection: Capitan Chemical, LLC, GW - 384

Inspector(s): Leonard Lowe

Company Rep: Mr. Joe F. Hughes

Date: 05.15.08

Time: 15:30 – 16:30

Page 3



Photo 12: Tote tanks near facility boundaries.



Photo 13: Unidentified fluids



Photo 14: Barrels on ground.

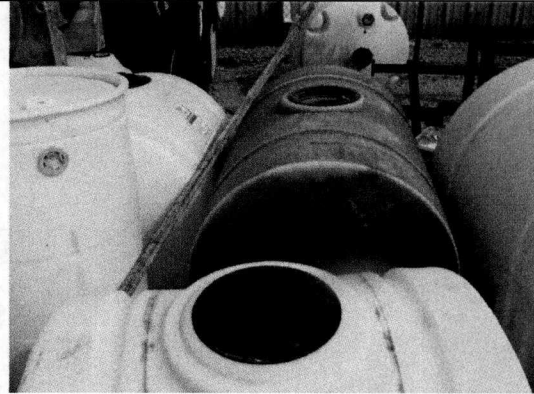



Photo 15: Empty barrels on ground.
Cover not in place on one.



Photo 16: Barrels.



Photo 17: Bagged chemicals on pallets.



New Mexico Energy, Minerals and Natural Resources Department

Mr. Joe Hughes
GW-384, Capitan Chemical, LLC Service Company
August 6, 2009
Page 7

23. Certification: (Owner/Operator), by the officer whose signature appears below, accepts this permit and agrees to comply with all submitted commitments, including these terms and conditions contained here. **Owner/Operator** further acknowledges that the OCD may, for good cause shown, as necessary to protect fresh water, public health, safety, and the environment, change the conditions and requirements of this permit administratively

Conditions accepted by: "I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment."


Capitan Chemical, LLC
Company Name-print name above

Joe F. Hughes
Company Representative- print name

Joe Hughes
Company Representative- Signature

Title Managing Member

Date: 9.8.09



New Mexico Energy, Minerals and Natural Resources Department

Bill Richardson

Governor
Joanna Prukop
Cabinet Secretary
Vacant
Deputy Cabinet Secretary

Mark Fesmire
Division Director
Oil Conservation Division



August 6, 2009

Mr. Joe Hughes, Managing Member
Capitan Chemical, LLC
3206 N. Enterprise Dr.
P.O. Box 1200, Hobbs NM 88241

Re: New Discharge Permit, GW-384
Capitan Chemical LLC, Oil and Gas Service Company
Unit Letter L Section 21, Township 18 South, Range 38 East, NMPM,
Lea County, New Mexico

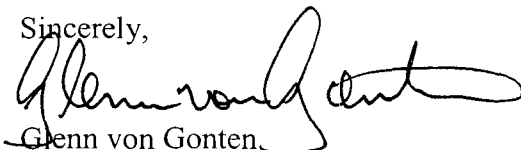
Dear Mr. Hughes:

Pursuant to Water Quality Control Commission (WQCC) Regulations 20.6.2.3104 - 20.6.2.3114 NMAC, the Oil Conservation Division (OCD) hereby approves **Capitan Chemical, LLC's** discharge permit for the above referenced site contingent upon the conditions specified in the enclosed **Attachment to the Discharge Permit**. Enclosed are two copies of the conditions of approval. **Please sign and return one copy to the New Mexico Oil Conservation Division (OCD) Santa Fe Office within 30 days of receipt of this letter including permit fees.**

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

If you have any questions, please contact Leonard Lowe of my staff at (505-476-3492) or E-mail leonard.lowe@state.nm.us. On behalf of the staff of the OCD, I wish to thank you and your staff for your cooperation during this discharge permit review.

Sincerely,



Glenn von Gonten
Acting Environmental Bureau Chief

Attachments-1

xc: OCD District Office



ATTACHMENT
DISCHARGE PERMIT
APPROVAL CONDITIONS

- 1. Payment of Discharge Plan Fees:** All discharge permits are subject to WQCC Regulations. Every billable facility that submits a discharge permit application will be assessed a filing fee of \$100.00, plus a flat fee (*see* WQCC Regulation 20.6.2.3114 NMAC). The Oil Conservation Division ("OCD") has received the required \$100.00 filing fee. The flat fee for an oil and gas service company is \$1700.00. Please submit this amount along with the signed certification item 23. Checks should be made out to the New Mexico Water Quality Management Fund.
- 2. Permit Expiration, Renewal Conditions and Penalties:** Pursuant to WQCC Regulation 20.6.2.3109.H.4 NMAC, this permit is valid for a period of five years. **The permit will expire on August 6, 2014** and an application for renewal should be submitted no later than 120 days before that expiration date. Pursuant to WQCC Regulation 20.6.2.3106.F NMAC, if a discharger submits a discharge permit renewal application at least 120 days before the discharge permit expires and is in compliance with the approved permit, then the existing discharge permit will not expire until the application for renewal has been approved or disapproved. *Expired permits are a violation of the Water Quality Act {Chapter 74, Article 6, NMSA 1978} and civil penalties may be assessed accordingly.*
- 3. Permit Terms and Conditions:** Pursuant to WQCC Regulation 20.6.2.3104 NMAC, when a permit has been issued, the owner/operator must ensure that all discharges shall be consistent with the terms and conditions of the permit. In addition, all facilities shall abide by the applicable rules and regulations administered by the OCD pursuant to the Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38.
- 4. Owner/Operator Commitments:** The owner/operator shall abide by all commitments submitted in its July 2008 discharge plan application, including attachments and subsequent amendments and these conditions for approval. Permit applications that reference previously approved plans on file with the division shall be incorporated in this permit and the owner/operator shall abide by all previous commitments of such plans and these conditions for approval.
- 5. Modifications:** WQCC Regulation 20.6.2.3107.C and 20.6.2.3109 NMAC addresses possible future modifications of a permit. The owner/operator (discharger) shall notify the OCD of any facility expansion, production increase or process modification that would result in any significant modification in the discharge of water contaminants. The Division Director may require a permit modification if any water quality standard specified at 20.6.2.3103 NMAC is being or will be exceeded, or if a toxic pollutant as defined in WQCC Regulation 20.6.2.7 NMAC is present in ground water at any place of withdrawal for present or reasonably foreseeable future use, or that the Water Quality Standards for Interstate and Intrastate streams as specified in 20.6.4 NMAC are being or may be violated in surface water in New Mexico.
- 6. Waste Disposal and Storage:** The owner/operator shall dispose of all wastes at an OCD-approved facility. Only oil field RCRA-exempt wastes may be disposed of by injection in a Class II well. RCRA non-hazardous, non-exempt oil field wastes may be disposed of at an OCD-

approved facility upon proper waste determination pursuant to 40 CFR Part 261. Any waste stream that is not listed in the discharge permit application must be approved by the OCD on a case-by-case basis.

A. Part 35 Waste: Pursuant to OCD Part 35 (19.15.35.8 NMAC) disposal of certain non-domestic waste without notification to the OCD is allowed at NMED permitted solid waste facilities if the waste stream has been identified in the discharge permit and existing process knowledge of the waste stream does not change.

B. Waste Storage: The owner/operator shall store all waste in an impermeable bermed area, except waste generated during emergency response operations for up to 72 hours. All waste storage areas shall be identified in the discharge permit application. Any waste storage area not identified in the permit shall be approved on a case-by-case basis only. The owner/operator shall not store oil field waste on-site for more than 180 days unless approved by the OCD.

7. Drum Storage: The owner/operator must store all drums, including empty drums, containing materials other than fresh water on an impermeable pad with curbing. The owner/operator must store empty drums on their sides with the bungs in place and lined up on a horizontal plane. The owner/operator must store chemicals in other containers, such as tote tanks, sacks, or buckets on an impermeable pad with curbing.

8. Process, Maintenance and Yard Areas: The owner/operator shall either pave and curb or have some type of spill collection device incorporated into the design at all process, maintenance, and yard areas which show evidence that water contaminants from releases, leaks and spills have reached the ground surface.

9. Above Ground Tanks: The owner/operator shall ensure that all aboveground tanks have impermeable secondary containment (e.g., liners and berms), which will contain a volume of at least one-third greater than the total volume of the largest tank or all interconnected tanks. The owner/operator shall retrofit all existing tanks before discharge permit renewal. Tanks that contain fresh water or fluids that are gases at atmospheric temperature and pressure are exempt from this condition.

10. Labeling: The owner/operator shall clearly label all tanks, drums, and containers to identify their contents and other emergency notification information. The owner/operator may use a tank code numbering system, which is incorporated into their emergency response plans.

11. Below-Grade Tanks/Sumps and Pits/Ponds.

A. All below-grade tanks and sumps must be approved by the OCD prior to installation and must incorporate secondary containment with leak detection into the design. The owner/operator shall retrofit all existing systems without secondary containment and leak detection before discharge permit renewal. All existing below-grade tanks and sumps without secondary containment and leak detection must be tested annually or as specified herein. Systems that have secondary containment with leak detection shall have a monthly inspection of the leak detection system to determine if the primary containment is leaking. Small sumps or depressions in

secondary containment systems used to facilitate fluid removal are exempt from these requirements if fluids are removed within 72 hours.

B. All pits and ponds, including modifications and retrofits, shall be designed by a certified registered professional engineer and approved by the OCD prior to installation. In general, all pits or ponds shall have approved hydrologic and geologic reports, location, foundation, liners, and secondary containment with leak detection, monitoring and closure plans. All pits or ponds shall be designed, constructed and operated so as to contain liquids and solids in a manner that will protect fresh water, public health, safety and the environment for the foreseeable future. The owner/operator shall retrofit all existing systems without secondary containment and leak detection before discharge permit renewal.

C. The owner/operator shall ensure that all exposed pits, including lined pits and open top tanks (8 feet in diameter or larger) shall be fenced, screened, netted, or otherwise rendered non-hazardous to wildlife, including migratory birds.

D. The owner/operator shall maintain the results of tests and inspections at the facility covered by this discharge permit and available for OCD inspection. The owner/operator shall report the discovery of any system which is found to be leaking or has lost integrity to the OCD within 15 days. The owner/operator may propose various methods for testing such as pressure testing to 3 pounds per square inch greater than normal operating pressure and/or visual inspection of cleaned tanks and/or sumps, or other OCD-approved methods. The owner/operator shall notify the OCD at least 72 hours prior to all testing.

12. Underground Process/Wastewater Lines:

A. The owner/operator shall test all underground process/wastewater pipelines at least once every five (5) years to demonstrate their mechanical integrity, except lines containing fresh water or fluids that are gases at atmospheric temperature and pressure. Pressure rated pipe shall be tested by pressuring up to one and one-half times the normal operating pressure, if possible, or for atmospheric drain systems, to 3 pounds per square inch greater than normal operating pressure, and pressure held for a minimum of 30 minutes with no more than a 1% loss/gain in pressure. The owner/operator may use other methods for testing if approved by the OCD.

B. The owner/operator shall maintain underground process and wastewater pipeline schematic diagrams or plans showing all drains, vents, risers, valves, underground piping, pipe type, rating, size, and approximate location. All new underground piping must be approved by the OCD prior to installation. The owner/operator shall report any leaks or loss of integrity to the OCD within 15 days of discovery. The owner/operator shall maintain the results of all tests at the facility covered by this discharge permit and they shall be available for OCD inspection. The owner/operator shall notify the OCD at least 72 hours prior to all testing.

13. Class V Wells: The owner/operator shall close all Class V wells (e.g., septic systems, leach fields, dry wells, etc.) that inject non-hazardous industrial wastes or a mixture of industrial wastes and domestic wastes unless it can be demonstrated that ground water will not be impacted in the reasonably foreseeable future. Leach fields and other wastewater disposal systems at OCD-regulated facilities that inject non-hazardous fluid into or above an underground source of drinking

water are considered Class V injection wells under the EPA UIC program. Class V wells that inject domestic waste only, must be permitted by the New Mexico Environment Department (NMED).

14. Housekeeping: The owner/operator shall inspect all systems designed for spill collection/prevention and leak detection at least monthly to ensure proper operation and to prevent over topping or system failure. All spill collection and/or secondary containment devices shall be emptied of fluids within 72 hours of discovery. The owner/operator shall maintain all records at the facility and available for OCD inspection.

15. Spill Reporting: The owner/operator shall report all unauthorized discharges, spills, leaks and releases and conduct corrective action pursuant to WQCC Regulation 20.6.2.1203 NMAC and OCD Part 19 (19.15.29 NMAC). The owner/operator shall notify both the OCD District Office and the Santa Fe Office within 24 hours and file a written report within 15 days. The OCD does not consider covering contaminated areas a remediation of the spill/release.

16. OCD Inspections: The OCD performed an inspection of this facility on May 15, 2008. Mr. Joe Hughes witnessed the inspection. All photographs referenced below are located in the attachment of this permit. As a result of this, OCD inspection concluded the following:

1. Several barrels/containers were not properly stored onsite. See Condition 7 & 9 for details.
2. Containers/barrels were not properly labeled. See Condition 10 for details.
3. Soil staining was witnessed at the facility yard. Owner/operator shall cease all discharges on to the ground immediately and shall clean up the contaminated soil.
4. Bags of chemicals were not properly maintained. Owner/operator shall ensure that all chemicals are properly maintained.

OCD requires that the owner/operator to analyze composite soil samples collected within its yard. Samples shall be tested for TPH, Chlorides and WQCC NMAC 20.6.2.3103, A., **Except** for Fluoride (F), Nitrates (NO₃ as N) Uranium and (U) Radioactivity: combined Radium – 226 & Radium – 228. Contact Mr. Larry Johnson or Mr. Geoffrey Leking 575-393-6161 prior to sampling. Soils shall be sampled, tested, and submitted to the OCD by **September 15, 2009**.

17. Storm Water: The owner/operator shall implement and maintain run-on and runoff plans and controls. The owner/operator shall not discharge any water contaminant that exceeds the WQCC standards specified in 20.6.2.3101 NMAC or 20.6.4 NMAC (Water Quality Standards for Interstate and Intrastate Streams) including any oil sheen in any stormwater run-off. The owner/operator shall notify the OCD within 24 hours of discovery of any releases and shall take immediate corrective action(s) to stop the discharge.

18. Unauthorized Discharges: The owner/operator shall not allow or cause water pollution, discharge or release of any water contaminant that exceeds the WQCC standards listed in 20.6.2.3101 NMAC or 20.6.4 NMAC (Water Quality Standards for Interstate and Intrastate Streams) unless specifically listed in the permit application and approved herein. **An unauthorized discharge is a violation of this permit.**

19. Vadose Zone and Water Pollution: The owner/operator shall address any contamination through the discharge permit process or pursuant to WQCC 20.6.2.4000-.4116 NMAC (Prevention and Abatement of Water Pollution). The OCD may require the owner/operator to modify its permit for investigation, remediation, abatement, and monitoring requirements for any vadose zone or water pollution. Failure to perform any required investigation, remediation, abatement and submit subsequent reports will be a violation of the permit.

20. Additional Site Specific Conditions: Newly Permitted Facility:

- A. A copy of the discharge permit, GW-384, shall be kept on site at all times.
- B. Owner/Operator management shall present the discharge permit conditions to all its employees. Employees shall be made aware of possible discharges at the facility and made aware of the permit location on site.
- C. The OCD has a Hobbs office. Larry Johnson is the Environmental Engineer at this location and he can be reached at 575-393-6161 ext. 111. Any spills shall be reported to Mr. Johnson.
- D. The Santa Fe OCD Environmental Bureau processes all discharge plan permits, refer all questions to the Santa Fe office.

21. Transfer of Discharge Permit (WQCC 20.6.2.3111) Prior to any transfer of ownership, control, or possession (whether by lease, conveyance or otherwise) of a facility with a discharge permit, the transferor shall notify the transferee in writing of the existence of the discharge permit, and shall deliver or send by certified mail to the department a copy of such written notification, together with a certification or other proof that such notification has in fact been received by the transferee.

Upon receipt of such notification, the transferee shall have the duty to inquire into all of the provisions and requirements contained in such discharge permit, and the transferee shall be charged with notice of all such provisions and requirements as they appear of record in the department's file or files concerning such discharge permit. The transferee (new owner/operator) shall sign and return an original copy of these permit conditions and provide a written commitment to comply with the terms and conditions of the previously approved discharge permit.

22. Closure Plan and Financial Assurance: Pursuant to 20.6.2.3107 NMAC an owner/operator shall notify the OCD when any operations of the facility are to be discontinued for a period in excess of six months. Prior to closure, or as a condition of this permit, or request from the OCD, the operator will submit an approved closure plan, modified plan, and/or provide adequate financial assurance.

23. Certification: (Owner/Operator), by the officer whose signature appears below, accepts this permit and agrees to comply with all submitted commitments, including these terms and conditions contained here. **Owner/Operator** further acknowledges that the OCD may, for good cause shown, as necessary to protect fresh water, public health, safety, and the environment, change the conditions and requirements of this permit administratively

Conditions accepted by: "I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment."

Company Name-print name above

Company Representative- print name

Company Representative- Signature

Title _____

Date: _____



Photo 1: Unidentified barrels.

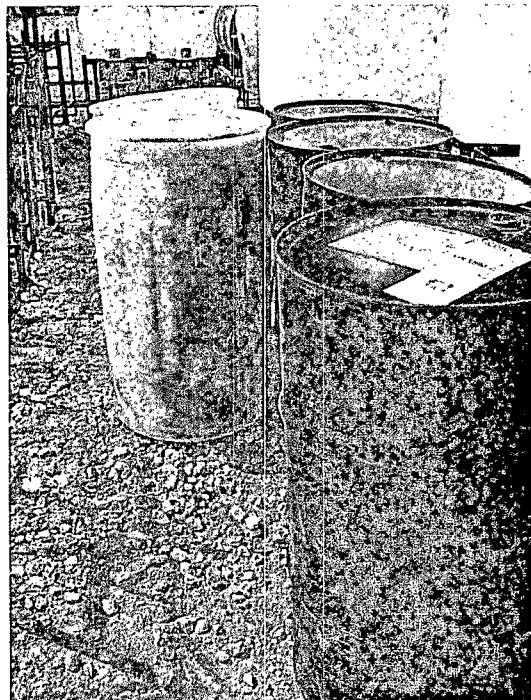


Photo 2: Barrels located on ground.

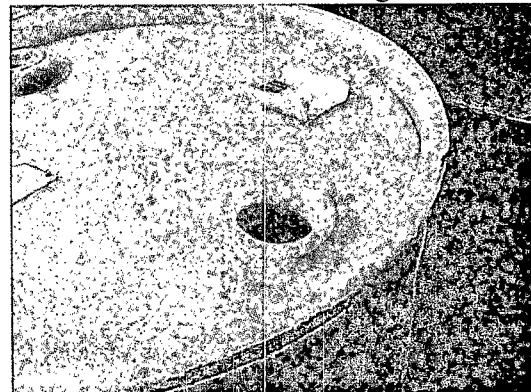


Photo 3: Barrel with missing bung.

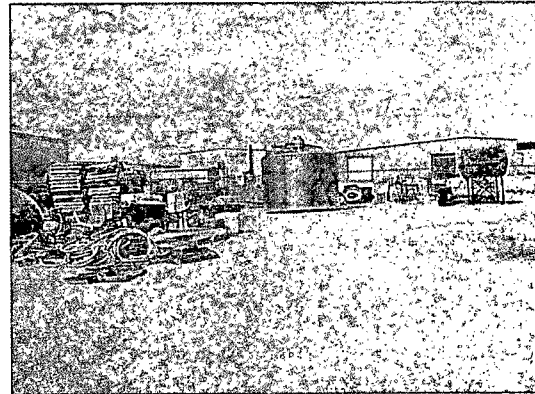


Photo 4: View of yard with soil staining.

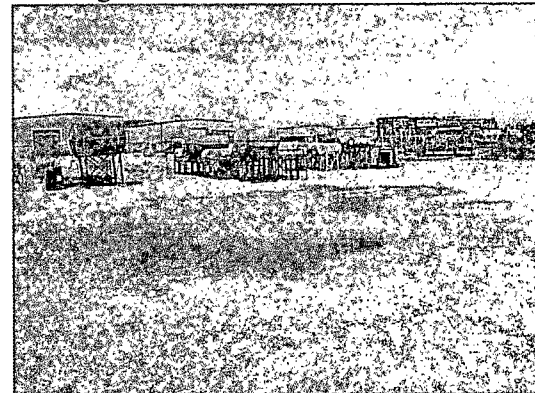


Photo 5: Truck wash remnants.



Photo 6: Unidentified barrel.

OCD Inspection: Capitan Chemical, LLC, GW - 384

Inspector(s): Leonard Lowe

Company Rep: Mr. Joe F. Hughes

Time: 15:30 – 16:30

Date: 05.15.08

Page 2

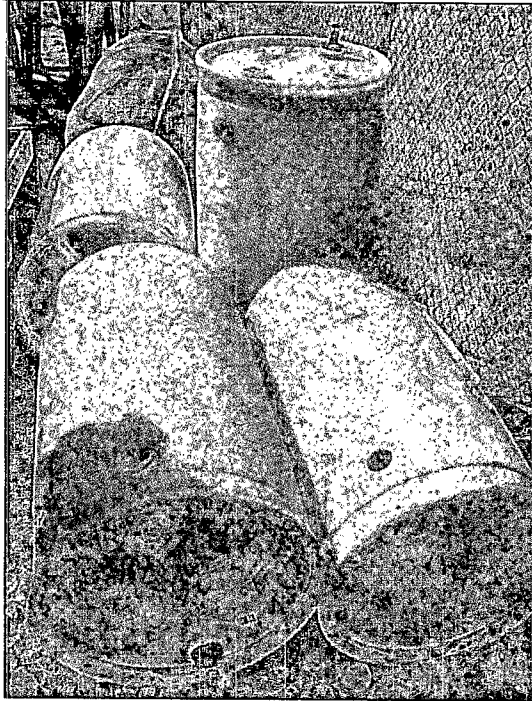


Photo 7: Empty barrels located on ground.

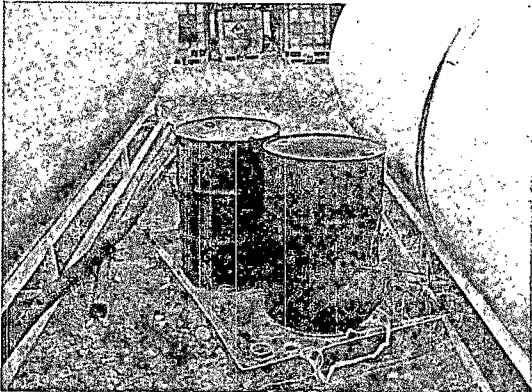


Photo 8: Barrels with unidentified contents.

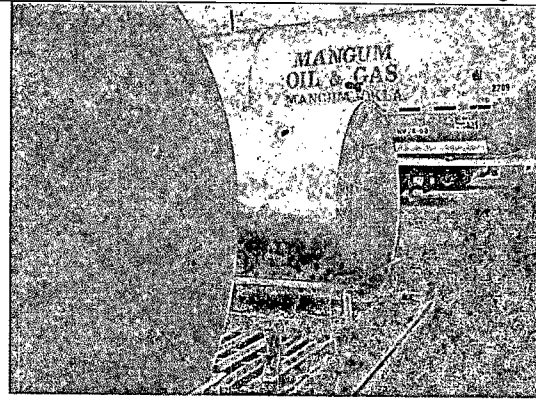


Photo 9: Saddle tanks within eroded bermed area.

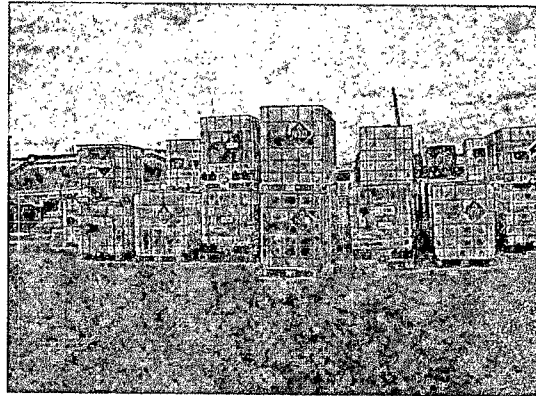


Photo 10: Totes located on ground.

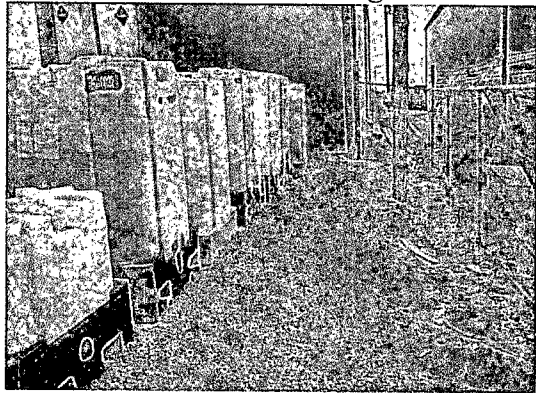


Photo 11: Totes with catch containments.

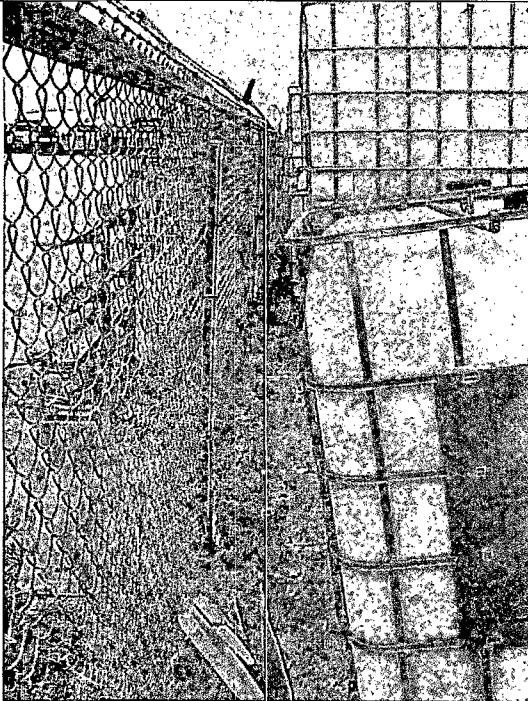


Photo 12: Tote tanks near facility boundaries.

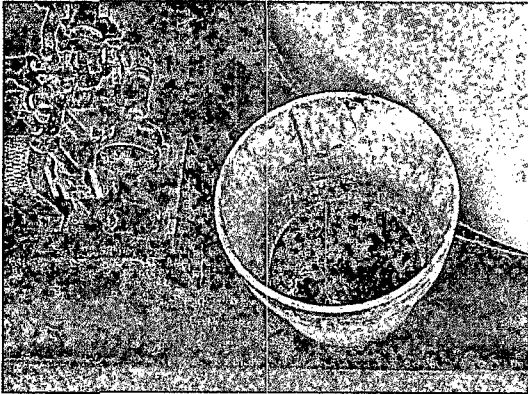


Photo 13: Unidentified fluids

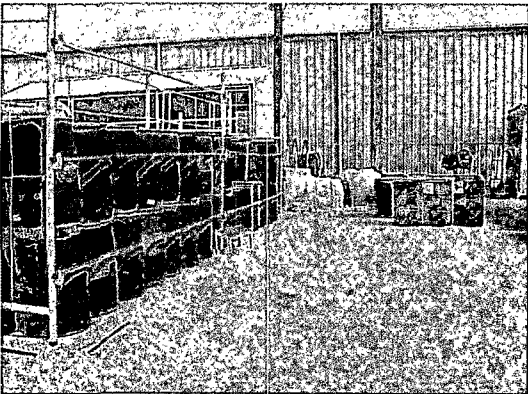


Photo 14: Barrels on ground.

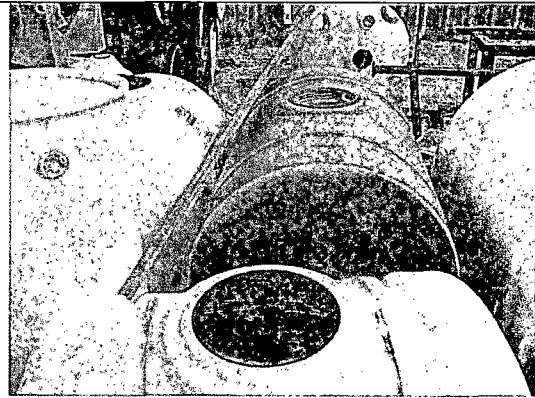


Photo 15: Empty barrels on ground.
Cover not in place on one.

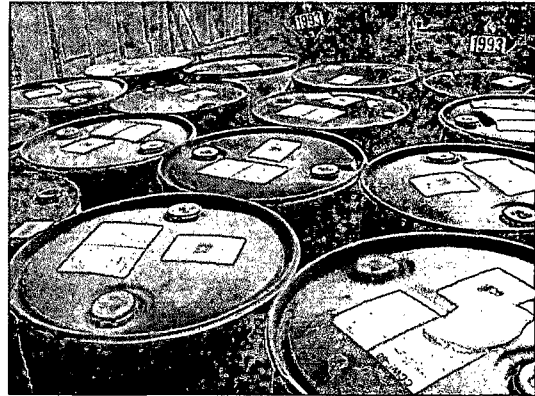


Photo 16: Barrels.



Photo 17: Bagged chemicals on pallets.

Lowe, Leonard, EMNRD

From: Lowe, Leonard, EMNRD
Sent: Thursday, September 04, 2008 2:57 PM
To: 'Joe Hughes'
Cc: 'Erin Smith'; Johnson, Larry, EMNRD
Subject: GW-384, Administratively Complete
Attachments: GW-384, Admin Complete Letter.pdf; GW-384, Draft Permit.pdf; GW-384 OCD PN.pdf

Mr. Joe Hughes,

The submitted discharge plan application has been determined to be Administratively Complete.

Attached are the **Admin Complete Letter**, **DRAFT permit** and the **OCD version of the public notice** for your records.

Please submit to the OCD the applicant version of the public notice so that the OCD can review. Along with the notice submit the name of the newspaper you intend to publish your notice in, the location of your signs and conspicuous area location for review as well.

****NOTE: THE APPLICANT PUBLIC NOTICE NEEDS TO BE APPROVED BY THE OCD PRIOR TO PUBLISHING. THIS WOULD ENSURE A CORRECT NOTICE IS BEEN PUBLISHED, IF NOT THEN THE OCD WILL REQUIRE THE APPLICANT TO RE-PUBLISH, THUS INCURRING ADDITIONAL COST TO THE APPLICANT****

If you have any questions please call me.

llowe

Leonard Lowe

Environmental Engineer
Oil Conservation Division/EMNRD
1220 S. St. Francis Drive
Santa Fe, N.M. 87505
Office: 505-476-3492
Fax: 505-476-3462
E-mail: leonard.lowe@state.nm.us
Website: <http://www.emnrd.state.nm.us/ocd/>



New Mexico Energy, Minerals and Natural Resources Department

Bill Richardson

Governor
Joanna Prukop
Cabinet Secretary
Reese Fullerton
Deputy Cabinet Secretary

Mark Fesmire
Division Director
Oil Conservation Division



September 4, 2008

Mr. Joe Hughes, Managing Member
Capitan Chemical, LLC
3206 N. Enterprise Dr.
P.O. Box 1200, Hobbs NM 88241

**Ré: New discharge plan permit, GW-384
Capitan Chemical, Oil and Gas Service Company
Lea County, New Mexico**

Dear Mr. Hughes:

The New Mexico Oil Conservation Division (NMOCD) has received Capitan Chemical LLC's application and initial fee, dated July, 2 2008 for a new discharge permit for their Oil and Gas Service Company located in unit letter L in Section 21, Township 18 South, Range 38 East, NMPM, Lea County, New Mexico. The Oil Conservation Division has identified this facility as GW - 384 for their discharge permit, please reference all future submitted documentation with this number. The initial submittal has provided the required information in order to deem the application "administratively" complete.

Therefore, the New Mexico Water Quality Control Commission regulations (WQCC) notice requirements of 20.6.2.3108 NMAC for a new discharge plan must be satisfied and demonstrated to the NMOCD. Each public notice must be approved by the OCD prior to the applicant posting them to the public. NMOCD will provide public notice pursuant to the WQCC notice requirements of 20.6.2.3108 NMAC to determine if there is any public interest.

If there are any questions regarding this matter, please do not hesitate to contact me at (505) 476-3492 or leonard.lowe@state.nm.us. On behalf of the staff of the NMOCD, I wish to thank you and your staff for your cooperation during this discharge permit review.

Sincerely,

Leonard R. Lowe
Environmental Engineer


xc: OCD District I Office, Hobbs

Oil Conservation Division * 1220 South St. Francis Drive

* Santa Fe, New Mexico 87505

* Phone: (505) 476-3440 * Fax (505) 476-3462* <http://www.emnrd.state.nm.us>





New Mexico Energy, Minerals and Natural Resources Department

Bill Richardson
Governor
Joanna Prukop
Cabinet Secretary
Reese Fullerton
Deputy Cabinet Secretary

Mark Fesmire
Division Director
Oil Conservation Division



September 4, 2008

Mr. Joe Hughes, Managing Member
Capitan Chemical, LLC
3206 N. Enterprise Dr.
P.O. Box 1200, Hobbs NM 88241

Re: DRAFT New Discharge Permit
Capitan Chemical LLC, Oil and Gas Service Company, **GW-384**
Unit Letter L Section 21, Township 18 South, Range 38 East, NMPM,
Lea County, New Mexico

Dear Mr. Hughes:

Pursuant to Water Quality Control Commission (WQCC) Regulations 20.6.2.3104 - 20.6.2.3114 NMAC, the Oil Conservation Division (OCD) hereby approves the discharge permit for the **Capitan Chemical, LLC.,** (owner/operator) for the above referenced site contingent upon the conditions specified in the enclosed **Attachment to the Discharge Permit.** Enclosed are two copies of the conditions of approval. **Please sign and return one copy to the New Mexico Oil Conservation Division (OCD) Santa Fe Office within 45 days of receipt of this letter including permit fees.**

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

The final permit should be issued in approximately 45 days. If you have any questions, please contact Leonard Lowe of my staff at (505-476-3492) or E-mail leonard.lowe@state.nm.us. On behalf of the staff of the OCD, I wish to thank you and your staff for your cooperation during this discharge permit review.

Sincerely,

Wayne Price
Environmental Bureau Chief

Attachments-1
xc: OCD District Office



ATTACHMENT- DISCHARGE PERMIT APPROVAL CONDITIONS

1. **Payment of Discharge Plan Fees:** All discharge permits are subject to WQCC Regulations. Every billable facility that submits a discharge permit application will be assessed a filing fee of \$100.00, plus a flat fee (*see* WQCC Regulation 20.6.2.3114 NMAC). The Oil Conservation Division ("OCD") has received the required \$100.00 filing fee. The flat fee for an oil and gas service company is \$1700.00. Please submit this amount along with the signed certification item 23. Checks should be made out to the New Mexico Water Quality Management Fund.
2. **Permit Expiration, Renewal Conditions and Penalties:** Pursuant to WQCC Regulation 20.6.2.3109.H.4 NMAC, this permit is valid for a period of one years. The permit **will expire on Month, Day, 2013** and an application for renewal should be submitted no later than 120 days before that expiration date. Pursuant to WQCC Regulation 20.6.2.3106.F NMAC, if a discharger submits a discharge permit renewal application at least 120 days before the discharge permit expires and is in compliance with the approved permit, then the existing discharge permit will not expire until the application for renewal has been approved or disapproved. *Expired permits are a violation of the Water Quality Act {Chapter 74, Article 6, NMSA 1978} and civil penalties may be assessed accordingly.*
3. **Permit Terms and Conditions:** Pursuant to WQCC Regulation 20.6.2.3104 NMAC, when a permit has been issued, the owner/operator must ensure that all discharges shall be consistent with the terms and conditions of the permit. In addition, all facilities shall abide by the applicable rules and regulations administered by the OCD pursuant to the Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38.
4. **Owner/Operator Commitments:** The owner/operator shall abide by all commitments submitted in its July 2008 discharge plan application, including attachments and subsequent amendments and these conditions for approval. Permit applications that reference previously approved plans on file with the division shall be incorporated in this permit and the owner/operator shall abide by all previous commitments of such plans and these conditions for approval.
5. **Modifications:** WQCC Regulation 20.6.2.3107.C and 20.6.2.3109 NMAC addresses possible future modifications of a permit. The owner/operator (discharger) shall notify the OCD of any facility expansion, production increase or process modification that would result in any significant modification in the discharge of water contaminants. The Division Director may require a permit modification if any water quality standard specified at 20.6.2.3103 NMAC is being or will be exceeded, or if a toxic pollutant as defined in WQCC Regulation 20.6.2.7 NMAC is present in ground water at any place of withdrawal for present or reasonably foreseeable future use, or that the Water Quality Standards for Interstate and Intrastate streams as specified in 20.6.4 NMAC are being or may be violated in surface water in New Mexico.
6. **Waste Disposal and Storage:** The owner/operator shall dispose of all wastes at an OCD-approved facility. Only oil field RCRA-exempt wastes may be disposed of by injection in a Class II well. RCRA non-hazardous, non-exempt oil field wastes may be disposed of at an OCD-approved facility upon proper waste determination pursuant to 40 CFR Part 261. Any waste

stream that is not listed in the discharge permit application must be approved by the OCD on a case-by-case basis.

A. OCD Rule 712 Waste: Pursuant to OCD Rule 712 (19.15.9.712 NMAC) disposal of certain non-domestic waste without notification to the OCD is allowed at NMED permitted solid waste facilities if the waste stream has been identified in the discharge permit and existing process knowledge of the waste stream does not change.

B. Waste Storage: The owner/operator shall store all waste in an impermeable bermed area, except waste generated during emergency response operations for up to 72 hours. All waste storage areas shall be identified in the discharge permit application. Any waste storage area not identified in the permit shall be approved on a case-by-case basis only. The owner/operator shall not store oil field waste on-site for more than 180 days unless approved by the OCD.

7. Drum Storage: The owner/operator must store all drums, including empty drums, containing materials other than fresh water on an impermeable pad with curbing. The owner/operator must store empty drums on their sides with the heads in place and lined up on a horizontal plane. The owner/operator must store chemicals in other containers, such as tote tanks, sacks, or buckets on an impermeable pad with curbing.

8. Process, Maintenance and Yard Areas: The owner/operator shall either pave and curb or have some type of spill collection device incorporated into the design at all process, maintenance, and yard areas which show evidence that water contaminants from releases, leaks and spills have reached the ground surface.

9. Above Ground Tanks: The owner/operator shall ensure that all aboveground tanks have impermeable secondary containment (e.g. liners and berms), which will contain a volume of at least one-third greater than the total volume of the largest tank or all interconnected tanks. The owner/operator shall retrofit all existing tanks before discharge permit renewal. Tanks that contain fresh water or fluids that are gases at atmospheric temperature and pressure are exempt from this containment requirement.

10. Labeling: The owner/operator shall clearly label all tanks, drums, and containers to identify their contents and other emergency notification information. The owner/operator may use a tank code numbering system, which is incorporated into their emergency response plans.

11. Below-Grade Tanks/Sumps and Pits/Ponds.

A. All below-grade tanks and sumps must be approved by the OCD prior to installation and must incorporate secondary containment with leak detection into the design. The owner/operator shall retrofit all existing systems without secondary containment and leak detection before discharge permit renewal. All existing below-grade tanks and sumps without secondary containment and leak detection must be tested annually or as specified herein. Systems that have secondary containment with leak detection shall have a monthly inspection of the leak detection system to determine if the primary containment is leaking. Small sumps or depressions in secondary containment systems used to facilitate fluid removal are exempt from these requirements if fluids are removed within 72 hours.

B. All pits and ponds, including modifications and retrofits, shall be designed by a certified registered professional engineer and approved by the OCD prior to installation. In general, all pits or ponds shall have approved hydrologic and geologic reports, location, foundation, liners, and secondary containment with leak detection, monitoring and closure plans. All pits or ponds shall be designed, constructed and operated so as to contain liquids and solids in a manner that will protect fresh water, public health, safety and the environment for the foreseeable future. The owner/operator shall retrofit all existing systems without secondary containment and leak detection before discharge permit renewal.

C. The owner/operator shall ensure that all exposed pits, including lined pits and open top tanks (8 feet in diameter or larger) shall be fenced, screened, netted or otherwise rendered non-hazardous to wildlife, including migratory birds.

D. The owner/operator shall maintain the results of tests and inspections of the facility covered by this discharge permit and available for OCD inspection. The owner/operator shall report the discovery of any system which is found to be leaking or has lost integrity to the OCD within 15 days. The owner/operator may propose various methods for testing such as pressure testing to 3 pounds per square inch greater than normal operating pressure and/or visual inspection of cleaned tanks and/or sumps, or other OCD-approved methods. The owner/operator shall notify the OCD at least 72 hours prior to all testing.

12. Underground Process/Wastewater Lines

A. The owner/operator shall test all underground process and wastewater pipelines at least once every five (5) years to demonstrate their mechanical integrity, except lines containing fresh water or fluids that are gases at atmospheric temperature and pressure. Pressure rated pipe shall be tested by pressuring up to one and one-half times the normal operating pressure, if possible, or for atmospheric drain systems, test at one and one-half times greater than normal operating pressure, and pressure held for a minimum of 15 minutes with no more than a 1% loss/gain in pressure. The owner/operator may use other methods for testing if approved by the OCD.

B. The owner/operator shall maintain underground process and wastewater pipeline schematic diagrams or plans showing all drains, vents, risers, valves, underground piping, pipe type, rating, size, and approximate location. All new underground piping must be approved by the OCD prior to installation. The owner/operator shall report any leaks or loss of integrity to the OCD within 15 days of discovery. The owner/operator shall maintain the results of all tests at the facility covered by this discharge permit and they shall be available for OCD inspection. The owner/operator shall notify the OCD at least 72 hours prior to all testing.

13. Class V Wells: The owner/operator shall close all Class V wells (e.g., septic systems, leach fields, dry wells, etc.) that inject non-hazardous industrial wastes or a mixture of industrial wastes and domestic wastes unless it can be demonstrated that ground water will not be impacted in the reasonably foreseeable future. Leach fields and other wastewater disposal systems at OCD-regulated facilities that inject non-hazardous fluid into or above an underground source of drinking water are considered Class V injection wells under the EPA UIC program. Class V wells that inject domestic waste only, must be permitted by the New Mexico Environment Department (NMED).

14. Housekeeping: The owner/operator shall inspect all systems designed for spill collection/prevention and leak detection at least monthly to ensure proper operation and to prevent over topping or system failure. All spill collection and/or secondary containment devices shall be emptied of fluids within 72 hours of discovery. The owner/operator shall maintain all records at the facility and available for OCD inspection.

15. Spill Reporting: The owner/operator shall report all unauthorized discharges, spills, leaks and releases and conduct corrective action pursuant to WQCC Regulation 20.6.2.1203 NMAC and OCD Rule 116 (19.15.3.116 NMAC). The owner/operator shall notify both the OCD District Office and the Santa Fe Office within 24 hours and file a written report within 15 days.

16. OCD Inspections: The OCD may place additional requirements on the facility and modify the permit conditions based on OCD inspections. The OCD performed an inspection of this facility on May 15, 2008. Findings will be noted here when the final permit is issued.

17. Storm Water: The owner/operator shall implement and maintain run-on and runoff plans and controls. The owner/operator shall not discharge any water contaminant that exceeds the WQCC standards specified in 20.6.2.3101 NMAC or 20.6.4 NMAC (Water Quality Standards for Interstate and Intrastate Streams) including any oil sheen in any stormwater run-off. The owner/operator shall notify the OCD within 24 hours of discovery of any releases and shall take immediate corrective action(s) to stop the discharge.

18. Unauthorized Discharges: The owner/operator shall not allow or cause water pollution, discharge or release of any water contaminant that exceeds the WQCC standards listed in 20.6.2.3101 NMAC or 20.6.4 NMAC (Water Quality Standards for Interstate and Intrastate Streams) unless specifically listed in the permit application and approved herein. **An unauthorized discharge is a violation of this permit.**

19. Vadose Zone and Water Pollution: The owner/operator shall address any contamination through the discharge permit process or pursuant to WQCC 20.6.2.4000-.4116 NMAC (Prevention and Abatement of Water Pollution). The OCD may require the owner/operator to modify its permit for investigation, remediation, abatement, and monitoring requirements for any vadose zone or water pollution. Failure to perform any required investigation, remediation, abatement and submit subsequent reports will be a violation of the permit.

20. Additional Site Specific Conditions: N/A

21. Transfer of Discharge Permit (WQCC 20.6.2.3111) Prior to any transfer of ownership, control, or possession (whether by lease, conveyance or otherwise) of a facility with a discharge permit, the transferor shall notify the transferee in writing of the existence of the discharge permit, and shall deliver or send by certified mail to the department a copy of such written notification, together with a certification or other proof that such notification has in fact been received by the transferee.

Upon receipt of such notification, the transferee shall have the duty to inquire into all of the provisions and requirements contained in such discharge permit, and the transferee shall be

charged with notice of all such provisions and requirements as they appear of record in the department's file or files concerning such discharge permit. The transferee (new owner/operator) shall sign and return an original copy of these permit conditions and provide a written commitment to comply with the terms and conditions of the previously approved discharge permit.

22. Closure Plan and Financial Assurance: Pursuant to 20.6.2.3107 NMAC an owner/operator shall notify the OCD when any operations of the facility are to be discontinued for a period in excess of six months. Prior to closure, or as a condition of this permit, or request from the OCD, the operator will submit an approved closure plan, modification, and/or provide adequate financial assurance.

23. Certification: (Owner/Operator), by the officer whose signature appears below, accepts this permit and agrees to comply with all submitted commitments, including these terms and conditions contained here. **Owner/Operator** further acknowledges that the OCD may, for good cause shown, as necessary to protect fresh water, public health, safety, and the environment, change the conditions and requirements of this permit administratively.

Conditions accepted by: "I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment."

Company Name-print name above

Company Representative-print name

Company Representative- Signature

Title

Date:

NOTICE OF PUBLICATION

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

Notice is hereby given that pursuant to New Mexico Water Quality Control Commission Regulations (20.6.2.3106 NMAC), the following discharge permit application(s) has been submitted to the Director of the New Mexico Oil Conservation Division ("NMOCD"), 1220 S. Saint Francis Drive, Santa Fe, New Mexico 87505, Telephone (505) 476-3440:

(GW-384) Capitan Chemical LLC, 3206 N. Enterprise Drive, Hobbs N.M. 88241 has submitted an application for a new discharge plan for their Oil and Gas Service Company, located in unit letter L of Section 21, Township 18 South, Range 38 East, NMPM, Lea County, New Mexico. The facility blends proprietary formulations from various raw materials and intermediate products supplied by various sources for the oil and gas industry. The facility procures and maintains approximately 8–10 containers of acids and caustics, 700 gallons of detergents, 1600 gallons of solvents and 3500 gallons of paraffin/emulsion breakers. Liquids other than water shall be maintained in a status as to prevent contamination to surface and ground water quality, including vadose zones. Groundwater most likely to be affected by a spill, leak or accidental discharge is at a depth of approximately 100 feet, with a total dissolved solids concentration of approximately 60 mg/L. The discharge plan addresses how oilfield products and waste will be properly handled, stored, and disposed of, including how spills, leaks, and other accidental discharges to the surface will be managed in order to protect fresh water.

The NMOCD has determined that the application is administratively complete and has prepared a draft permit. The NMOCD will accept comments and statements of interest regarding this application and will create a facility-specific mailing list for persons who wish to receive future notices. Persons interested in obtaining further information, submitting comments or requesting to be on a facility-specific mailing list for future notices may contact the Environmental Bureau Chief of the Oil Conservation Division at the address given above. The administrative completeness determination and draft permit may be viewed at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, or may also be viewed at the NMOCD web site <http://www.emnrd.state.nm.us/ocd/>. Persons interested in obtaining a copy of the application and draft permit may contact the NMOCD at the address given above. Prior to ruling on any proposed discharge permit or major modification, the Director shall allow a period of at least thirty (30) days after the date of publication of this notice, during which interested persons may submit comments or request that NMOCD hold a public hearing. Requests for a public hearing shall set forth the reasons why a hearing should be held. A hearing will be held if the Director determines that there is significant public interest.

If no public hearing is held, the Director will approve or disapprove the proposed permit based on information available, including all comments received. If a public hearing is held, the director will approve or disapprove the proposed permit based on information in the permit application and information submitted at the hearing.

Para obtener más información sobre esta solicitud en español, sirvase comunicarse por favor: New Mexico Energy, Minerals and Natural Resources Department (Depto. Del Energia, Minerals y Recursos Naturales de Nuevo México), Oil Conservation Division (Depto. Conservación Del Petróleo), 1220 South St. Francis Drive, Santa Fe, New México (Contacto: Dorothy Phillips, 505-476-3461)

GIVEN under the Seal of New Mexico Oil Conservation Commission at Santa Fe, New Mexico, on this 4^h day of September, 2008.

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

S E A L

Mark Fesmire, Director

ACKNOWLEDGEMENT OF RECEIPT
OF CHECK/CASH

I hereby acknowledge receipt of check No. _____ dated 7/3/08

or cash received on _____ in the amount of \$ 100⁰⁰

from Capitan Chemical LLC

for GW-384

Submitted by: Laurence Romero Date: 7/9/08

Submitted to ASD by: Laurence Romero Date: 7/9/08

Received in ASD by: _____ Date: _____

Filing Fee ☒ New Facility _____ Renewal _____

Modification _____ Other _____

Organization Code 521.07 Applicable FY 2004

To be deposited in the Water Quality Management Fund.

Full Payment _____ or Annual Increment _____

WATER QUALITY MANAGEMENT FUND				7/3/2008		
Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
7/3/2008	Bill		100.00	100.00		100.00
				Check Amount		100.00

First National Bank 100.00

WATER QUALITY MANAGEMENT FUND				7/3/2008		
Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
7/3/2008	Bill		100.00	100.00		100.00
				Check Amount		100.00

First National Bank 100.00

District I
1625 N. Branch Dr., Hobbs, NM 88240
District II
1301 W. Grand Avenue, Artesia, NM 88210
District III
1000 Rio Brazos Road, Aztec, NM 87410
District IV
1220 S. St. Francis Dr., Santa Fe, NM 87503

State of New Mexico
Energy Minerals and Natural Resources
Oil Conservation Division
1220 South St. Francis Dr.
Santa Fe, NM 87503

Revised June 10, 2003

RECEIVED
Submit Original
Plus 1 Copy
to Santa Fe
1 Copy to Appropriate
District Office

2008 JUL 8 PM 1:57

**DISCHARGE PLAN APPLICATION FOR SERVICE COMPANIES, GAS PLANTS,
REFINERIES, COMPRESSOR, GEOTHERMAL FACILITIES
AND CRUDE OIL PUMP STATIONS**

(Refer to the OCD Guidelines for assistance in completing the application)

☒ New ☐ Renewal ☐ Modification

1. Type: Oilfield service facility. Production chemical sales and services.
2. Operator: Capitan Chemical, LLC
Address: 3206 N. Enterprise Dr. P.O. Box 1200, Hobbs, NM 88241
Contact Person: Joe Hughes, Managing Member Phone: 575-392-3230
3. Location: 2300' FNL / 4 730' FWL / 4 Section Sec 21 Township 18 S Range R 38 E
Submit large scale topographic map showing exact location.
4. Attach the name, telephone number and address of the landowner of the facility site.
5. Attach the description of the facility with a diagram indicating location of fences, pits, dikes and tanks on the facility.
6. Attach a description of all materials stored or used at the facility.
7. Attach a description of present sources of effluent and waste solids. Average quality and daily volume of waste water must be included.
8. Attach a description of current liquid and solid waste collection/treatment/disposal procedures.
9. Attach a description of proposed modifications to existing collection/treatment/disposal systems.
10. Attach a routine inspection and maintenance plan to ensure permit compliance.
11. Attach a contingency plan for reporting and clean-up of spills or releases.
12. Attach geological/hydrological information for the facility. Depth to and quality of ground water must be included.
13. Attach a facility closure plan, and other information as is necessary to demonstrate compliance with any other OCD rules, regulations and/or orders.
14. CERTIFICATION: I hereby certify that the information submitted with this application is true and correct to the best of my knowledge and belief.

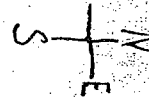
Name: _____

Title: _____

Signature: _____

Date: _____

E-mail Address: _____



← Parking → Locked Gate Main Gate ← Parking →
(DOT Security)

8' x 40'
Lab
Storage

42' x 30'
Office

Carport
42' x 15'

Hardware Storage

Raw Material
Drum (55 gal)
Storage

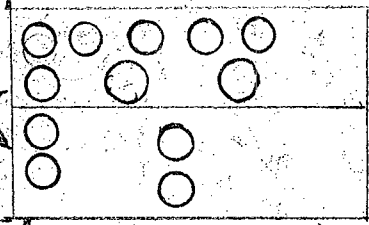
6" curb

Finished
Product Drum
& Tote Storage

6" curbing

Blending
AREA

Raw material
Bulk
STORAGE
TANKS



6" curbing

RE-USABLE
Tote Storage

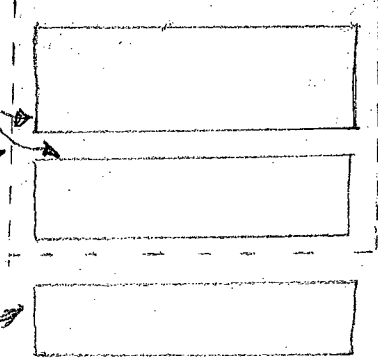
500'

8' x 40'
Dry
Storage

Finished
Product
Drum Storage
Fiberglass
& Poly spill
containment

Truck
Parking

Out of
Service
TANKS
BERMED
Area



Tank Trailer
Intermittent
Storage

Clean, Empty
Field Bulk Tank
Storage
New & Used

Fire
Exit
Grade

Fire
Exit
Grade

Clean,
Empty
Poly Tanks
for Disposal

Truck Parts,
Pumps,
Hoses, Fittings
Storage

Chain Link Fencing

← 185' →



Map Controls

Map Zoom Level



Map Size



Map Layer

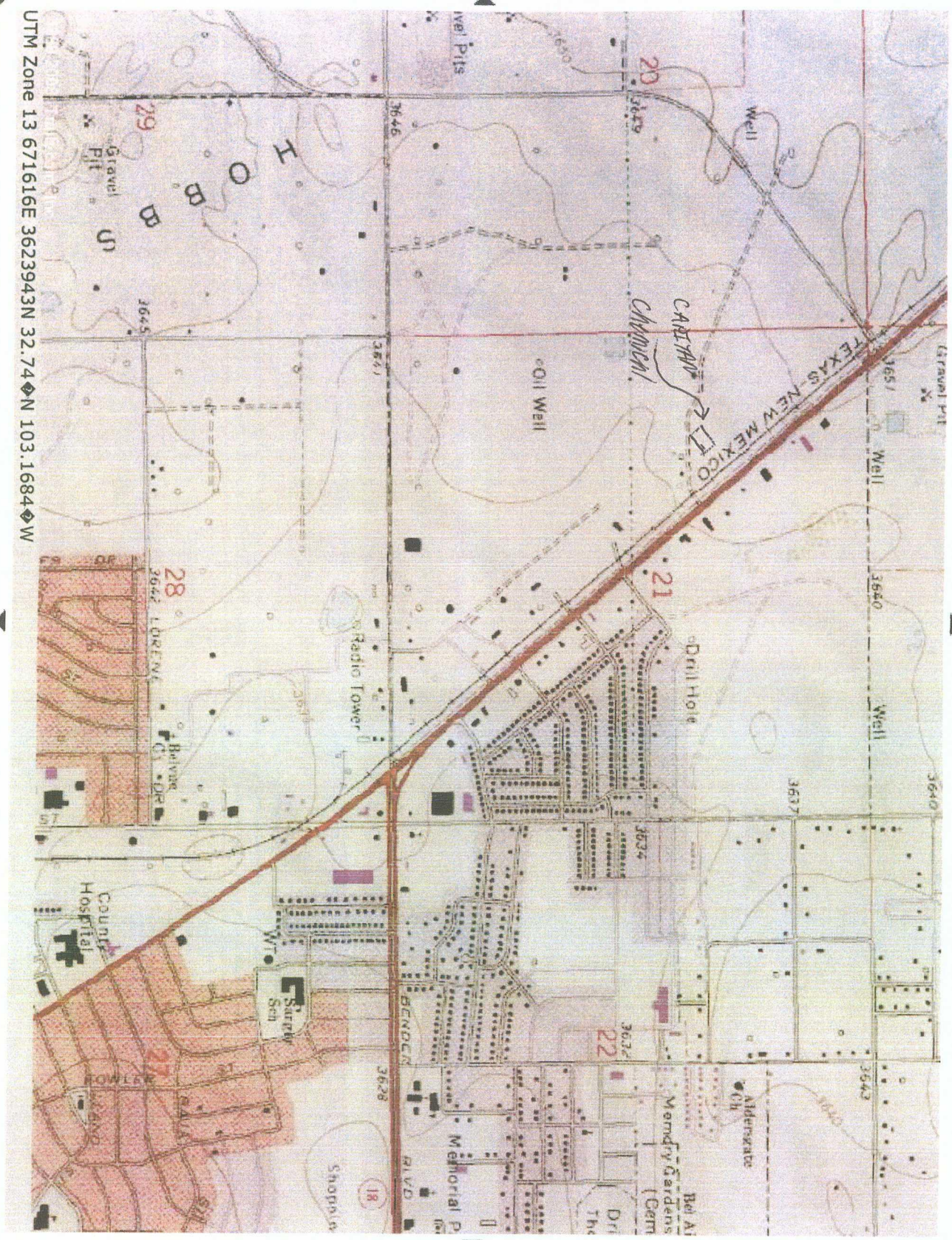
Topo (shaded)

Map Tools

- Save
- Email
- Print Portrait
- Print Landscape
- Download Map

GPS Controls (Show)

Topo Maps & Aerial Photos



UTM Zone 13 671616E 3623943N 32.74 N 103.1684 W

Map Control

Map Zoom Level

Map Size

Map Layer

Topo (shaded)

Map Tools

- Save
- Email
- Print Portrait
- Print Landscape
- Download Map

GPS Control

DISCHARGE PLAN APPLICATION FOR SERVICE COMPANIES, GAS PLANTS, REFINERIES,
COMPRESSOR, GEOTHERMAL FACILITIES AND CRUDE OIL PUMP STATIONS

X NEW

1. **Type:** Oil field service facility. Production chemical sales and services.

2. **Operator or Legally Responsible Party and Local Representatives:**

Capitan Chemical, LLC, 3206 Enterprise Drive, Hobbs N.M. 88240
Joe Hughes, Managing Member
Mail to: P.O. Box 1200 Hobbs, N.M. 88240
575 392 3230

3. **Location of Discharge Plan Facility:**

Sec 21, T 18 S, R 38 E, (2,300' FNL, 730' FWL) Lea County, N.M.

3206 Enterprise Dr. Hobbs, N. M.

4. **Landowners:**

Capitan Chemical, LLC, 3206 Enterprise Drive, P.O. Box 1200, Hobbs N.M. 88240

5. **Facility Description:**

The facility is a rectangle lot 185' wide by 500' deep located in an industrial area of North West Hobbs. The perimeter is 6 ft. chain link fencing with one remote controlled drive through gate, one walk through locked gate, access through main office, and two emergency walk through gates near the back of the property. The company blends proprietary formulations from various raw material and intermediate products supplied by numerous sources. End users of our products are primarily the oil and gas industry with some products going to other industrial segments and some to agriculture. Inventory volume and mix of both raw material and finished items fluctuates week to week and day to day.

6. **Materials Stored or Used at the Facility:**

A. Drilling fluids: Does not apply.

B. Brines: Does not apply.

C. Acids/Caustics:

Acids: Hydrochloric acid, 20%	Liquid	Poly drums	1,000 lbs.	(2 drums)	drum storage
Citric acid	Liquid	Poly drums	1,100 lbs	(2 drums)	drum storage
Glacial acetic acid	Liquid	Poly drums	474 lbs	(1 drum)	drum storage
Caustics: Caustic soda 50%	Liquid	Poly drums	1,150 lbs	(2 drums)	drum storage
Potassium Hydroxide	Liquid	Poly drums	655 lbs	(1 drum)	drum storage

DISCHARGE PLAN APPLICATION FOR SERVICE COMPANIES, GAS PLANTS, REFINERIES, COMPRESSOR, GEOTHERMAL FACILITIES AND CRUDE OIL PUMP STATIONS

6. Materials Stored or Used at the Facility: (continued)

D. Detergents/soaps:

WT 5175 (Quaternary ammonium chloride)	Liquid	1,000 lbs.	(2 drums)	raw material bulk
FA 3550X (9 mol nonyl phenol)	Liquid	274 lbs.	(1 drum)	drum storage
Tomadol 900 (nonyl phenol)	Liquid	580 lbs.	(1 drum)	drum storage
CCWS 05 (Quaternary ammonium chloride)	Liquid	3,000 lbs.	(535 gallons)	bulk storage

E . Solvents and degreasers:

C-104 (Heavy aromatic naptha)	Liquid	6,554 lbs.	(900 gallons)	bulk storage
Toluene	Liquid	3,733 lbs	(500 gallons)	Tote storage
Xylene	Liquid	1,539 lbs	(200 gallons)	Tote storage

F. Paraffin Treatment/Emulsion breakers:

ParaStim (pentane based solvent)	Liquid	1,200 lbs	(200 gallons)	Tote storage
Paraffin solvents/dispersants)	Liquid	2,892 lbs	(380 gallons)	drum storage
Emulsion breakers	Liquid	23,197 lbs	(3,044)gallons	drum/bulk

G. Biocides

Carbamate	Granular	725 lbs	(725) lbs	drum storage
-----------	----------	---------	-----------	--------------

7. Sources and Quantities of Effluent and Waste Solids Generated at the Facility

- A. 1. Trucks use fresh water in the daily operations in the oilfield. They return empty, no waste.
2. Tank or drum washing does not occur on site. Trucks are externally washed off site at commercial facilities as needed. Drums are sent to a commercial drum re-cycle facility for cleaning and D. inspections.
3. Steam cleaning does not occur.
4. Solvents are used in formulary blends of finished products only. Not for cleaning on site.
5. No spent acids or caustics are generated. Completion fluids are not on site or used.
6. Waste slop oil is not generated.
7. All repairs and maintenance of equipment and vehicles is completed at commercial sites and service centers.
8. Oil filter waste is not generated on site.
9. Solids and sludges from tanks is non existent. The nature of the chemical compounds and solvent mixtures manufactured create cleaning and dispersant of solids.
10. Painting wastes do not occur. We have not had a need for any painting jobs on site as yet.

DISCHARGE PLAN APPLICATION FOR SERVICE COMPANIES, GAS PLANTS, REFINERIES,
COMPRESSOR, GEOTHERMAL FACILITIES AND CRUDE OIL PUMP STATIONS

7. Sources and Quantities of Effluent and Waste Solids Generated at the Facility (Continued)

A. 11. Sewage, no wastes are mixed or commingled with sewage.

12. Laboratory Wastes:

As a support service to our chemical sales, some analytical work is supplied to our customers. This work primarily consists of oilfield produced water analysis. The tests measure the dissolved solids content of the produced brine and potential for scaling or solids precipitation of the well fluids. These tests require from 100 ml to 200 ml of sample and the reagents in the complete test usually add another 100 ml of liquid creating 200 ml to 300 ml of waste liquid for disposal with each test completed.

We average approximately 250 of these tests per year or a generation of approximately 20 gallons per year laboratory waste. One of our raw material suppliers (Univar) also offers a lab waste disposal service. We collect and store this waste in a dedicated single poly 55 gallon sealed drum and dispose of it through this service annually or sooner if needed.

13. There are no other waste liquid sources.

14. Waste solids have not been generated.

B. 1. Not applicable

2. Not applicable.

3. Not applicable.

4. Not applicable.

5. Not applicable

6. Not applicable

C. 1. Not applicable.

2. Not applicable.

8. Description of current Liquid and Solid Waste Collection/Storage/Disposal Procedures

A. (ref. 7. A. 12 Laboratory Wastes.) Following lab procedures for produced water testing, complete samples are stored in a sealed poly drum in lab area, waiting for disposal when additional volumes have accumulated.

B. 1. Collection drum is sealed and stored in lab area.

2. One section of tank storage area is in need of raising concrete curb of containment wall height to meet 133% volume requirement

3. There is no buried piping on the facility.

C. 1. a. Not applicable.

b. Not applicable.

2. Not applicable

DISCHARGE PLAN APPLICATION FOR SERVICE COMPANIES, GAS PLANTS, REFINERIES,
COMPRESSOR, GEOTHERMAL FACILITIES AND CRUDE OIL PUMP STATIONS

9. Proposed Modifications

- A. Existing concrete spill containment was completed several years ago. The addition of tank volume has created the necessity for increasing the height of the curbing in one section of the tank storage to clearly meet the 133% volume requirement. Bids are being solicited for the modifications.
- B. Not applicable.

10. Inspection, Maintenance and Reporting

- A. There are no automatic leak detection devices presently. Tanks, drums and all piping is above ground and easily visible. A thorough inspection is made both in the morning and at the close of the business day. Any potential problem situations will be scheduled for repair or taken out of service.
- B. Not applicable.
- C. All products and containers are in spill containment. Either concrete with curbing or fiberglass/poly containment systems are in place. Rain water has been the only runoff water contained. Evaporation always handled this contained runoff without any spill or leakage to ground surface.

11. Spill / Leak Prevention and Reporting Procedures (Contingency Plan)

The warehouse/yard manager or his relief will inspect all piping, valves, storage tank surfaces, and spill containment and connections for drips, seeps and leaks each morning while unlocking all the tank and equipment valves. Any suspicious indications of problems will be focused on throughout the day and addressed accordingly. At the end of the day as the system is locked back the same inspection will be repeated.

When receiving or shipping product with outside trucks, the driver is briefed on the valve and plumbing configurations of the tank(s) he will be off loading to or picking up material from. All such deliveries supervised. We always review the tanks, valve and plumbing condition after deliveries or shipments.

Any leaks or drips of any size will be contained/cleaned with absorbent spill kits located throughout the warehouse. All poly tanks will be watched closely for signs of fatigue from elements of the weather such as cracks and hairline splits caused by sunlight. Any concerns will require isolating the tank and pumping material into holding vats in the warehouse till the problem can be fixed.

DISCHARGE PLAN APPLICATION FOR SERVICE COMPANIES, GAS PLANTS, REFINERIES,
COMPRESSOR, GEOTHERMAL FACILITIES AND CRUDE OIL PUMP STATIONS

Any leaks of a reportable quantity (RQ) will require calling the OCD within 24 hours.

All leaks or spills larger than a gallon will be kept in a log book to identify chronic problems or situations for future improvements to the system.

A monthly review will be performed and any required preventative maintenance on tanks, valves, plumbing, spill containment will be scheduled. A log of needs will be kept with a record of completion or follow-up.

All portable absorbent berms will be maintained and inspected monthly for availability and ease of deployment in an emergency spill or leak.

Lazy Ace Land Farm in Lea County is the choice for any offsite remediation that might be required in the future. Bullhorn Services is the back hoe and trucking company of choice for dirt work and transport of remedial soil if needed.

12. Site Characteristics

A. 1. No known bodies of water in 1 mile radius.

2. Water wells inside ¼ mile: Lynx Petroleum Consultants Domestic (business office)
Depth 160' 100' to water TDS >60 mg/l (Hobbs Water Dept.)

3. a. Caliche/Sand
b. Ogalla
c. Sandstone
d. Unknown

Lowe, Leonard, EMNRD

From: Lowe, Leonard, EMNRD
Sent: Friday, May 23, 2008 12:30 PM
To: 'jhughes1@valornet.com'
Cc: Price, Wayne, EMNRD
Subject: GW-384, Capitan Chemical Discharge Plan request
Attachments: GW-384, DP Request.pdf; GW-384, Insp.pdf; DP Application.pdf; DP Guide Oilfield.Service.pdf; New & Mod WQCC PN Rules.pdf; New & Mod PN Flow Chart.pdf

Mr. Joe F. Hughes,

Please review letter and attachments pertaining to the Capitan Chemical LLC oil and gas service facility.

If you have any questions please feel free to call me or e-mail me.

llowe

Leonard Lowe

Environmental Engineer
Oil Conservation Division/EMNRD
1220 S. St. Francis Drive
Santa Fe, N.M. 87505
Office: 505-476-3492
Fax: 505-476-3462
E-mail: leonard.lowe@state.nm.us
Website: <http://www.emnrd.state.nm.us/ocd/>



New Mexico Energy, Minerals and Natural Resources Department

Bill Richardson

Governor
Joanna Prukop
Cabinet Secretary
Reese Fullerton
Deputy Cabinet Secretary

Mark Fesmire
Division Director
Oil Conservation Division



May 23, 2008

Mr. Joe F. Hughes
P.O. Box 1200
Hobbs, New Mexico 88241

Re: Discharge Plan Submittal Request (Designated **GW-384**)
Capitan Chemical, LLC
3206 Enterprise Drive
Hobbs, New Mexico, Lea County 88241

Dear Mr. Hughes:

The New Mexico Oil Conservation Division (NMOCD) Environmental Bureau performed an inspection of the above stated facility on May 15, 2008. The inspection concluded several areas of concern: (1) improper storage of barrels/containers, (2) unidentified barrel/containers, (3) total chemical volume amount and (4) questionable discharge on facility grounds, washing of trucks. The inspection photos are attached to this letter. Upon these conclusions the OCD is requesting that Capitan Chemical LLC., submit a discharge plan for their oil and gas Service Company. The OCD identified a discharge plan number for this facility as GW-384; please annotate this in all documentation pertaining to this facilities discharge plan application.

The Discharge Plan Application for Service Companies, Gas Plants, Refineries, Compressor, Geothermal Facilities and Crude Oil Pump stations and Guidelines can be found on our website <http://www.emnrd.state.nm.us/ocd/EH-DischargePlanGuidlines.htm>, These have been attached to this letter for your convenience.

Processing a new discharge plan application requires the applicant to provide public notice. I have attached the WQCC rules and regulations to provide direction for this task. The notice procedures are done within stages of this entire process I have attached a flow chart of this process for clarification, please review.

The OCD Environmental Bureau is obligated by the New Mexico Water Quality Control Commission to protect the ground waters of the state of New Mexico. The NMOCD performs this task via a Discharge Plan Permit. Please submit the discharge plan application to the OCD office within **45 days** of receipt of this letter. Along with your application a \$100.00 filing fee shall be submitted and payable to the Water Quality Management Fund.

If you have any questions pertaining to this process please call me at (505) 476-3492 or e-mail me at leonard.lowe@state.nm.us.



January 26, 2009
Page 2

Sincerely,

A handwritten signature in cursive script, appearing to read "Leonard Lowe".

Leonard Lowe
Environmental Engineer

xc: Larry Johnson, Environmental Engineer OCD District I Office, Hobbs