

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

**IN THE MATTER OF THE APPLICATION OF THE OIL  
CONSERVATION DIVISION TO EXTEND THE EFFECTIVE  
DURATION OF AN EMERGENCY ORDER TO OPERATE  
ISSUED TO GANDY MARLEY, INC.**

**CASE NO. 13454**

**CRI's PRE-HEARING STATEMENT**

This pre-hearing statement is submitted by Holland & Hart LLP on behalf of Controlled Recovery Inc. ("CRI").

**APPEARANCES**

**INTERESTED PARTY**

Controlled Recovery Inc.  
Post Office Box 388  
Hobbs, New Mexico 88241-0388

**ATTORNEY**

Michael H. Feldewert, Esq.  
Holland & Hart LLP  
P.O. Box 2208  
Santa Fe, NM 87504  
505-988-4421

2005 MAR 23 PM 1 32

50/52/3  
CARI

**CRI's STATEMENT OF THE CASE**

On March 11, 2005, the Division issued Emergency Order R-12306 authorizing the Gandy Marley, Inc. landfarm to accept salt-contaminated oilfield waste. Emergency Order R-12306 was issued on the basis of the allegations contained in Gandy Marley's "Request for temporary emergency order allowing a landfarm to accept salt-contaminated oilfield waste." To CRI's knowledge, no evidence was presented or testimony taken in support of this request for "emergency" relief. The allegations contained in Gandy Marley's request are not sufficient to establish an emergency. CRI and other properly permitted facilities are available in southeast New Mexico to accept salt contaminated oilfield wastes. Accordingly, no imminent threat to the public health and environment exists to support an emergency order, and the corresponding

infringement on the due process rights of these properly permitted facilities. Moreover, Emergency Order No. R-12306 contains the following findings:

- (11) The records of the Oil Conservation Division confirm Operator's description of conditions at the site of the landfarm.
- (12) Conditions at the site of the landfarm are such that the landfarm may accept salt-contaminated oilfields wastes without posing a hazard to groundwater.

To CRI's knowledge, no testimony or evidence was presented to support these "findings" and the public has not been afforded proper notice and an opportunity to be heard on these issues. Accordingly, Emergency Order No. R-12306 should be rescinded in its entirety and Gandy Marley's pending request to accept salt contaminated oilfield waste should proceed under the normal course of events for permit applications.

#### **CRI's PROPOSED EVIDENCE**

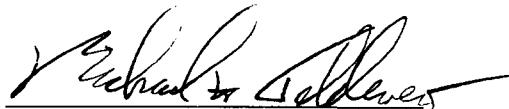
WITNESSES	ESTIMATED TIME	EXHIBITS
Ken Marsh, President of CRI	Approx. 20 Minutes	Approx. 4

#### **PROCEDURAL MATTERS**

Please see CRI's statement of the case.

Respectfully submitted,

Holland & Hart LLP



Michael H. Feldewert  
Post Office Box 2208  
Santa Fe, New Mexico 87504-2208  
(505) 988.4421

**Attorneys for Controlled Recovery Inc.**

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that on March 23, 2005, a copy of this Pre-Hearing Statement was served to the following by:

**Via Hand Delivery to:**

Gail MacQuesten  
State of New Mexico  
Energy, Minerals, Natural Resources Department  
Oil Conservation Division  
1200 South St. Francis Drive  
Santa Fe, New Mexico 87505

**Via U.S. Mail & Facsimile to:**

Peter V. Domenici, Jr.  
Dolan & Domenici, PC  
6100 Seagull Street NE, Suite 205  
Albuquerque, New Mexico 7109-2500  
(505) 884-3424 facsimile

  
Michael H. Feldewert