

Wednesday, December 28, 2005

Re: Comments of Energen Resources on the Oil Conservation Division's Proposed Surface Waste Management Rules December 12, 2005

Oil Conservation Division  
1220 South St. Francis Drive  
Santa Fe, NM 87505

To Whom It May Concern,

The following comments are provided on behalf of the Energen Resources Corporation regarding the draft of the Oil Conservation Division's Surface Waste Management Rules that will be considered at the January 12<sup>th</sup>, 2006 Oil Conservation Commission meeting. We are concerned that the proposed rules may unnecessarily limit disposal options and will encourage unethical operators to dispose of wastes in ways that will violate the Oil Conservation Division's rules and orders. In addition, we also believe that certain provisions in the proposed Surface Waste Management Rules overlap with the provisions of the pending pit rules and that these provisions should be incorporated into and reviewed in the meetings and hearings on those rules.

Energen Resources Corporation support rules and regulations that protect the water resources of this state and encourage the development of our resources in a way that protects human health and the environment. However, the current version of the surface waste management rule is burdensome and offers little for the prevention or deterrence of illegal dumping. In addition to Energen Resources submitted comments, we support the New Mexico Oil and Gas Association's comments.

RULE 51 (19.15.2.51 NMAC): TRANSPORTATION OF PRODUCED WATER, DRILLING FLUIDS AND OTHER OILFIELD WASTE:

Proposed Rule 51.A

This rule provides that any transporters (both operators and non-operators) shall obtain a C-133 to be authorized to move all oil field waste.

ENERGEN RESOURCES objects to expanded language that includes all oil field wastes as requiring C-133 authorization rather than the current rule, which only requires a C-133 authorization of produced water. ENERGEN RESOURCES can see no benefit to the environment or public health because of adopting these proposed surface management rule changes. Neither NMOCD nor Energen has the resources to be present as each waste load leaves a location to police the integrity of the tanks and valve seals. The NM Department of Transportation has jurisdiction over all transportation of hazardous materials, including solid and liquid wastes, and the proper authority to enforce this issue is already vested in their rules. During this same public meeting, the discussion also raised the issue of illegal dumping. ENERGEN RESOURCES is in full support of reasonable measures that will prevent this practice but we do not believe that requiring this additional licensing will be effective. From our perspective, the most effective measure would be to catch such illegal activity followed by the NMOCD taking civil and criminal action against these offenders. The key is to catch this illegal activity and to take appropriate action as noted above.

The requirement for a C-133 to haul impacted soils from cleanups has the potential affect of delaying clean up actions. Although most cleanup actions can utilize a single contractor to complete the excavation and hauling of impacted soils, some projects result in much larger quantities than originally anticipated and the use of independent trucking outfits, under the direction of the primary contractor, makes both economic and environmental sense to cleanup the site in a timely fashion.

ENERGEN RESOURCES recommended Language

19.15.2.51 TRANSPORTATION OF PRODUCED WATER

A. No person shall transport any produced water, except for small samples removed for analysis, by motor vehicle from any lease, central tank battery, or central facility without an approved form C-133. The transporter shall maintain a photocopy of the approved C-133 in any transporting vehicle.

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RULE 52 (19.15.2.52 NMAC): DISPOSITION OF PRODUCED WATER AND OTHER OIL FIELD WASTES:

Proposed Rule 52.A (1)

ENERGEN RESOURCES would recommend adding clarifying language that prohibited dispositions include any discharge that is not authorized by the operator and that authorized dispositions must obtain the prior authorization of the operator. This is important to preclude illegal dumping activity.

ENERGEN RESOURCES recommended comments

DISPOSITION OF PRODUCED WATER AND OTHER OIL FIELD WASTES [19.15.2.52]

- A. Prohibited dispositions. Except as authorized by 19.15.2.50 NMAC or 19.15.2.53 NMAC, no person, including any transporter, shall dispose of produced water or other oil field wastes:
  - (1) on the surface of the ground, in any pit *not authorized by the operator*, or in any pond, lake, depression or watercourse; or
  - (2) in any other place or in any manner that may constitute a hazard to fresh water, public health, or the environment.
- B. Authorized disposition of produced water. The following methods of disposition of produced water are authorized:
  - (1) delivery to a permitted salt water disposal well or facility, secondary recovery or pressure maintenance injection facility, surface waste management facility, or to a drill site for use in drilling fluid *that is authorized by the operator* in a manner that does not constitute a hazard to fresh water, public health or the environment; or
  - (2) use in accordance with any division-issued use permit.
- C. Authorized disposition of *recovered drilling fluids* and other oil field waste. Other oil field waste shall be disposed of by transfer to an appropriate surface waste management facility or injection facility *that is authorized by the operator* or as otherwise authorized by the division. Recovered drilling fluids may be transported to other drill sites *authorized by the operator* for reuse provided that such fluids are transported and stored in a manner that does not constitute a hazard to fresh water, public health, or the environment

Proposed Rule 53. (E)

This rule should be amended to require the listed Operational Requirements only **for Permitted Facilities** and not for temporary or exempted landfarms, which do not require a permit. ENERGEN RESOURCES believes temporary landfarms (i.e. remediation of spills) do not need to follow such stringent requirements.

Proposed Rule 53.(E)(5)

As indicated by David Brooks during the December 8, 2005 public meeting, NMOCD announced their intent to add language that would prohibit the disposal of regulated NORM wastes within either a landfill or a land farm cell. ENERGEN RESOURCES agrees that oil field waste that contains NORM above regulated limits should not be accepted but that oil field waste containing NORM below regulated limits is acceptable and should be allowed.

Proposed Rule 53. (E)(2) (Location of facilities in a watercourse or lakebed)

What is the OCD's authority for promulgating this rule? Although ENERGEN RESOURCES appreciates the improved language change in defining this term, we believe that it still allows the misinterpretation of some man-made and natural water conveyances as "watercourses". The terms "Watercourse" and "Storm Water Plan" should be defined in the rule.

Furthermore, existing facilities should be grandfathered under this rule unless a major modification has been made and it should be amended to provide that 'No **new** waste management facility shall be located in the areas stated (i.e., water course, lake bed, etc.).

ENERGEN RESOURCES supports NMOGA's Recommended Language

A watercourse is defined as "Watercourse shall mean any lake bed or gully, draw, stream bed, wash, arroyo or channel that is delineated on a USGS Quadrangle map having a scale factor of 1:24,000 or which clearly has a hydraulic connection to rivers, streams, or lakes. Watercourses under this definition do not include human-made channels, ephemeral washes, or arroyos which are not delineated on a USGS Quadrangle map having a scale factor of 1:24,000 or which clearly are not connected hydraulically to rivers, streams, or lakes." ..."

Proposed Rule 53.G(9)

This rule should be amended to require soils shall be disked quarterly, not "biweekly." Experience shows good results are obtained with quarterly disking. The rule should also authorize "other acceptable operational practices" approved by the division.

Proposed Rule 53.G(12)

This rule should be amended to provide that an operator must provide notification to the division prior to adding microbes instead of requiring the operator obtain "prior division approval."

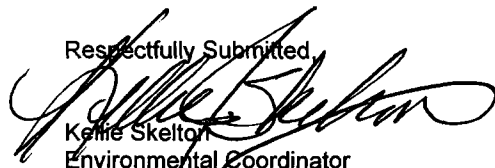
Proposed Rule 53.H

This rule establishes operational requirements for evaporation ponds. The provisions of this rule may conflict with the division's proposed Pit Rule. This provision should be eliminated from the Surface Waste Management Rules and replaced with a reference to Rule 50.

CONCLUSION

The Energen Resources Corporation appreciates this opportunity to comment on the Oil Conservation Division's proposed Surface Waste Management Rules. ENERGEN RESOURCES will provide additional comments on the rules once amended by the division and will participate in the January 12<sup>th</sup>, 2006 hearing on these proposals.

Respectfully Submitted,



Kellie Skelton  
Environmental Coordinator  
Energen Resources