

**NM1-61**

**Tentative  
Decision**

**10/13/16**

State of New Mexico  
Energy, Minerals and Natural Resources Department

---

**Susana Martinez**  
Governor

**Tony Delfin**  
Acting Cabinet Secretary

**David Catanach**  
Director, Oil Conservation Division



October 13, 2016

Bryce Karger  
CK Disposal, LLC  
5909 86<sup>th</sup> Street  
Lubbock, Texas 79424

CERTIFIED MAIL RECEIPT #7009 1680 0002 3341 8938

**RE: Tentative Decision Regarding Commercial Surface Waste Management Facility Permit NM1-61. North ½ of Section 5, Township 22 South, Range 38 East NMPM, Lea County, New Mexico**

Mr. Karger,

Pursuant to applicable parts of the Oil Conservation Commission regulations 19.15.36 NMAC, the Oil Conservation Division (OCD) has completed its technical review of your application for a commercial waste management facility at the location described above. OCD has tentatively decided on permit approval with conditions. Attached is a draft permit with general and specific conditions. OCD will be posting this decision along with the draft permit on our website.

Given OCD's tentative decision, you are now required to issue notice of this decision in accordance with applicable regulations. Within 30 days of receipt of this letter, you must provide notice by:

- (1) publishing a display ad in English and Spanish, in a form approved by the division, in a newspaper of general circulation in New Mexico as well as in a newspaper of general circulation in Lea County. The display ad must be at least three inches by four inches in size and not published in the legal nor classified sections. As soon as possible, please provide OCD with the form of notice for our approval.
- (2) first class mail or email to persons identified by OCD who have requested notification including Lea County, the City of Eunice, and the Bureau of Land Management. A list of individuals and entities is attached.

This notice must include your firm's name and mailing address, the proposed facility's location, a description of the facility, the depth to shallowest groundwater beneath the facility, the concentration of total dissolved solids in that groundwater, a statement that this decision is available on OCD's website or upon written request to Florene Davidson of the OCD at the address below, a description of any and all alternatives, exceptions, or waivers requested as part of your application, a statement as to the comment period and of the procedures for requesting a hearing on your application, along with a statement of the procedures the OCD will follow in making a final decision.

If you have any questions, please contact me at (505) 476-3465 or by email at [jim.griswold@state.nm.us](mailto:jim.griswold@state.nm.us). On behalf of the Oil Conservation Division, I wish to thank you and your staff for your cooperation during this permit review.

Respectfully,

**Jim Griswold**  
Environmental Bureau Chief

Attachments – Draft NM1-61 Permit and facility specific mailing list

State of New Mexico  
Energy, Minerals and Natural Resources Department

---

**Susana Martinez**  
Governor

**Tony Delfin**  
Acting Cabinet Secretary

**David Catanach**  
Director, Oil Conservation Division



October 13, 2016

Bryce Karger  
CK Disposal, LLC  
5909 86<sup>th</sup> Street  
Lubbock, Texas 79424

**RE: Commercial Surface Waste Management Facility Permit NM1-61. North ½ of Section 5, Township 22 South, Range 38 East NMPM, Lea County, New Mexico**

Mr. Karger,

Pursuant to applicable parts of the Oil Conservation Commission regulations 19.15.36 NMAC, the Oil Conservation Division (OCD) has completed its review of your application for a commercial waste management facility at the location described above. OCD hereby approves permit NM1-61 with conditions. Attached are the general and specific conditions.

If you have any questions, please contact Jim Griswold of my staff at (505) 476-3465 or by email at [jim.griswold@state.nm.us](mailto:jim.griswold@state.nm.us). On behalf of the Oil Conservation Division, I wish to thank you and your staff for your cooperation during this permit review.

Respectfully,

**David Catanach**  
*Director*

DC/jg

Attachment – NM1-61 Permit Conditions

**SURFACE WASTE MANAGEMENT FACILITY PERMIT CONDITIONS**  
**NM1-61**  
**CK Disposal , LLC**  
**North ½ of Section 5, Township 22 South, Range 38 East NMPM**

**October 13, 2016**

Upon confirmation CK Disposal, LLC of 5909 86<sup>th</sup> Street, Lubbock, Texas 79424 (the owner/operator) has provided financial assurance required under Section 1.H of this permit, the owner/operator is permitted to construct and operate a surface waste management facility as described in the Application filed by the owner/operator and in accordance with (a) the terms of this Permit, (b) the rules governing solid waste management facilities 19.15.36 NMAC, and (c) all other applicable provisions of the Oil and Gas Act and the rules promulgated under the Act. The owner/operator is responsible for insuring any oil and gas operations located within the overall facility area do not interfere with the proper operation of the facility as described in the Application and authorized by this Permit. Any change to the operations proposed or any change to the area covered will require a modification to the Permit including any necessary changes to the amount of financial assurance. The Oil Conservation Division (OCD) of the Energy, Minerals, and Natural Resources Department will determine if any Permit changes constitute a "major modification" under 19.15.36 NMAC.

**1. GENERAL PROVISIONS**

**A. Permittee and Permitted Facility.** OCD issues surface oil field waste management permit NM1-61 to CK Disposal, LLC (owner/operator), 5909 86<sup>th</sup> Street, Lubbock, Texas 79424 for the construction, operation, and eventual closure of a facility to be located upon a 316.97 acre tract in an unincorporated portion of Lea County, New Mexico.

The waste management facility is intended for the permanent disposal of exempt and non-exempt/non-hazardous oil field waste and will include a liquid waste processing area on 51.75 acres, a possible deep well water injection unit on 5.1 acres, and a landfill on 141.5 acres. The remaining 118.62 acres incorporates buffer areas, site structures, and access roads. The landfill will have a waste capacity of approximately 24.6 million cubic yards.

**B. Scope of Permit.** OCD regulates the disposition of water produced or used in connection with the exploration and production of oil and gas and to direct disposal of that water in a manner which will afford reasonable protection against contamination of fresh water supplies pursuant to authority granted in the Oil & Gas Act (Chapter 70, Article 2 NMSA 1978). Under that Act, OCD also regulates the disposition of nondomestic wastes resulting from exploration, production, or storage of crude oil and natural gas to protect public health and the environment. Similarly, OCD regulates the disposition of nondomestic wastes resulting from the oil field service industry, the transportation of crude oil and natural gas, the treatment of natural gas, and the refinement of crude oil to protect public health and the environment pursuant to jurisdiction and authority granted by the same Act.

This permit does not convey any property rights of any sort or any exclusive privilege to the owner/operator and does not authorize any injury to property or persons, any invasion of other private rights, or any infringement of state, federal, or local laws, rules, or regulations.

**C. Owner/Operator Commitments.** The owner/operator must ensure all operations are consistent with the terms and conditions of this permit and in conformance with all pertinent rules and regulations under the Oil & Gas Act. Furthermore, the owner/operator shall abide by the approval conditions contained herein, along with all commitments submitted in its permit application dated May 1, 2016 including any attachments and/or amendments all of which are incorporated into this Permit by reference.

**D. Modifications.** The owner/operator must notify the OCD in advance of any increase in the land area the facility occupies, any change in the design capacity, any change in the nature of the waste streams, or any change in process. As a result, the OCD Director may require a modification in the permit conditions.

**E. Definitions.** Terms not specifically defined in the permit shall have the same meanings as those in the Oil & Gas Act or the rules adopted pursuant to the Act, as the context requires.

**F. General Performance Standards.** The owner/operator must operate in accordance with the permit conditions, comply with the Oil & Gas Act and rules issued pursuant to the Act, protect public health and the environment, prevent the waste of oil and gas, and prevent the contamination of fresh waters.

**G. Effective Date, Expiration, Renewal, and Penalties for Operating Without a Permit.** This permit is effective once OCD receives adequate financial assurance [see Section 1.H below] and will expire ten years thereafter. If it so desires, the owner/operator may submit an application for renewal to OCD no later than 120 calendar days before the expiration date. If the owner/operator submits such a renewal application before the required date and is in compliance with the existing permit, then that existing permit will not expire until the OCD approves or denies the renewal application. Operating with an expired permit will subject the owner/operator to civil and/or criminal penalties (see Section 70-2-31 NMSA 1978).

**H. Financial Assurance.** The owner/operator must provide financial assurance in a form acceptable to OCD for the waste management facility's estimated closure and post-closure cost. The estimated amount currently required is \$2,311,912.00 which includes the cost of closure construction and post-closure operations for Phase I described in the application. On an annual basis, the owner/operator will update the closure/post-closure estimate and thus the amount of financial assurance.

## 2. GENERAL FACILITY OPERATIONS

**A. Labeling.** The owner/operator must clearly label all tanks, drums, and other containers to identify the contents along with other emergency notification information. The owner/operator may use a tank coding system if it is incorporated into their emergency response planning.

**B. Inspections and Maintenance of Secondary Containment Systems.** The owner/operator must inspect all secondary containment systems and sumps at least monthly to ensure proper operation and to prevent over filling or system failure. The owner/operator must empty all secondary containment systems of any fluids within 48 hours of discovery, notify the OCD, and initiate corrective actions. The owner/operator must keep written records of its inspections and of any fluid analyses. The owner/operator shall maintain and make the documentation available for OCD inspection.

**C. Release Reporting and Corrective Action for Releases.** The owner/operator must comply with the spill reporting and corrective action provisions of the Oil & Gas Regulations (19.15.29 and 19.15.30 NMAC) as may be amended from time to time.

**D. Annual Report.** The owner/operator must submit an annual report to the OCD by September 1<sup>st</sup> of each year providing the following information for the preceding year: 1) all inspection forms including those for leak detection systems along with analytical results, 2) hydrogen sulfide monitoring results, 3) process piping integrity test results, 4) training records, 5) complaint logs and resolutions, and 6) a summary of the nature and amount of any reportable releases.

## 3. MATERIAL STORAGE

**A. Process, Maintenance, and Material Storage Areas.** The owner/operator must pave and curb all process, maintenance, and material storage areas at the facility excluding evaporation ponds, below-

grade tanks, and sumps, or incorporate another appropriate spill collection device for these areas approved by the OCD.

**B. Above Ground Tanks.** The owner/operator must place above ground tanks on impermeable pads and surround the tanks with lined berms or other impermeable secondary containment system having a capacity of at least one and one-third times the capacity of the largest tank, or the combined volume of any interconnected tanks. This does not apply to tanks containing fresh water.

#### **4. WASTE MANAGEMENT**

**A. Waste Streams.** This permit authorizes the owner/operator to handle the RCRA exempt streams. OCD approval must be obtained to receive any waste stream not specified in its application prior to collection, storage, treatment, or disposal.

**B. Waste Storage.** The owner/operator must store wastes at the facility only in clearly marked storage areas that have been specified in the application except any waste that may be generated during emergency response operations. However, such emergency waste may be stored elsewhere for no more than 72 hours. OCD may approve additional storage on a case-by-case basis.

The owner/operator must not store non-oil field waste generated at the facility by the owner/operator for more than 180 calendar days from the date any container is filled without OCD approval.

**C. Class V Wells.** Leach fields and other wastewater disposal systems at OCD-regulated facilities which inject non-hazardous fluids into or above an underground source of drinking water are Underground Injection Control Class V wells pursuant to 20.6.2.5002 NMAC. This permit does not authorize the use of a Class V injection well for the disposal of industrial waste at the facility. Other Class V wells, including wells used only for the injection of domestic wastes, must be permitted by the New Mexico Environment Department.

#### **5. BELOW GRADE TANKS AND SUMPS**

Below grade tanks and sumps must have secondary containment systems with leak detection and meet construction and operating requirements of 19.15.17 NMAC.

#### **6. ADDITIONAL FACILITY-SPECIFIC CONDITIONS**

**A.** Prior to construction activities within the facility, the owner/operator shall determine that all abandoned oil wells within the area are properly plugged in accordance with OCD regulations. If any wells are found to be unplugged or improperly plugged, the owner/operator shall take the appropriate corrective actions.

**B.** Naturally Occurring Radioactive Material (NORM) waste cannot be accepted at the facility unless in compliance with 19.15.35 NMAC.

**C.** The owner/operator must consult with OCD concerning re-vegetation of intermediate cover during drought conditions and when natural vegetation does not re-establish after one month of the application of intermediate cover.

**D.** At least 30 days prior to the start of landfill or pond construction, the owner/operator shall furnish OCD with a major milestone schedule for construction and shall keep it updated throughout construction activities.

**E.** The operations plan provided in the application includes a narrative description of the water treatment and reuse unit processes, but not detailed calculations or design information. As this unit will be phased in over time, design documentation for liquid processing operations must be provided by the owner/operator to the OCD for approval before coming on-line.

**F.** The owner/operator must submit to the OCD for approval a detailed erosion control plan for the final cover addressing a scenario wherein vegetation cannot be established in a timely and sustainable manner.

**G.** If disposal wells are to be incorporated into facility operations, those wells must be separately permitted under provisions of the New Mexico Underground Injection Control program.

**H.** The vadose zone monitoring plan includes a network of eleven proposed wells to be located south and west of the proposed landfill units. The owner/operator must install a group of three additional monitoring wells of similar construction to be located south of the proposed ponds in the southeast portion of the facility. These additional wells must be included in the regular monitoring, sampling, and analysis program. All groundwater samples must also be analyzed by EPA Method 8260 (full list) for volatile organic compounds in addition to those parameters outlined in the application.

**I.** Based upon the nature of the waste material and the lack of internal moisture, the owner/operator in its application has stated the production of landfill gas should be negligible and thus no gas control system should be required. However, portable and continuous methane monitoring is required within all structures and hydrogen sulfide monitors will be located across the facility. If OCD determines landfill gases are unreasonably problematic, a gas control system/plan will have to be implemented with OCD approval.

**J.** The owner/operator in its application requested an exception to 19.15.36.13.I NMAC with respect to the protection of migratory birds. That exception is hereby granted. Rather than installing netting over the evaporation ponds, the owner/operator shall remove all oil from the water prior to discharge to the ponds and undertake daily inspections of the ponds for the presence of either oil or birds. Any oil found on the ponds will be removed immediately. If a consistent bird presence is noted, the owner/operator will be required to implement more aggressive protective actions which may include the use of netting or screens.

## **Facility Specific Mailing List**

### **CK Disposal application for surface waste management facility**

**Cassandra Morrison**

11024 Montgomery Blvd. NE #155  
Albuquerque, NM 87111  
305.902.3037  
cass@pinnacleic.net

**Elicia Sanchez**

Senior Vice President and General Manager  
Waste Control Specialists LLC  
PO Box 1129  
Andrews, TX 79714  
888.789.2783

**Courtney J. Riley**

Executive Vice President of Legal Services & Environmental Affairs  
Waste Control Specialists LLC  
5430 LBJ Freeway, Suite 1700  
Dallas, TX 75240  
972.448.1466  
criley@valhi.net

**David E. Sexton**

President and Chief Executive Officer  
URENCO USA  
PO Box 1789  
Eunice, NM 88231  
575.394.4646  
dave.sexton@urencocom

**Steve Huddleson**

New Mexico Environment Department/Groundwater Quality Bureau  
1190 South St. Francis Drive  
Santa Fe, NM 87505  
505.827.2936  
steven.huddleson@state.nm.us

**Catherine T. Goldberg, Henry M. Bohnhoff, and Mark Adams**

Rodey, Dickason, Sloan, Akin & Robb, PA  
201 3<sup>rd</sup> St. NW, Suite 2200  
Albuquerque, NM 87102  
505.768.7318  
cgoldberg@rodey.com  
hbohnhoff@rodey.com  
madams@rodey.com

**Robert Ray Wallach**

Manager  
Walco Ranch, LLC  
PO Box 1289  
Hobbs, NM 88241-1289



represented by: Kathleen Moran and James Maddox  
Maddox, Holloman & Moran, PC  
PO Box 2508  
Hobbs, NM 88241-2508  
575.393.0505  
kmoran@hobbsnmlaw.com

**Senator Stuart Ingle**  
**Senator Carrol H. Leavell**  
**Senator Gay G. Kernan**  
**Representative Bob Wooley**  
**Representative David Gallegos**  
**Representative Larry Scott**  
c/o Legislative Council Service  
411 State Capitol  
490 Old Santa Fe Trail  
Santa Fe, NM 87501  
505.986.4600

**Marla Shoates and Dan Weak**  
Shoates & Weaks  
9631 4<sup>th</sup> Street NW  
Albuquerque, NM 87114  
505.890.0306  
marlashoates@comcast.net