

NM1 - 42

**PERMITS,
RENEWALS, &
MODS**



NEW MEXICO ENERGY, MINERALS and NATURAL RESOURCES DEPARTMENT

BILL RICHARDSON

Governor

Joanna Prusop

Cabinet Secretary

Mark E. Fennire, P.E.

Director

Oil Conservation Division

December 2004

Mr. Mark Goss
Commercial Exchange, Inc.
6906 Gary Avenue
Lubbock, TX 79413

RE: OCD Rule 711 Permit Approval NM-01-0042
Commercial Exchange Blackwater Landfarm
S/2 SE/4 NW/4 Section 1, Township 25 South, Range 37 East, NMPM
Lea County, New Mexico

Dear Mr. Goss:

The permit application for the Commercial Exchange, Inc. commercial surface waste management facility located in the S/2 SE/4 NW/4 of Section 1, Township 25 South, Range 37 East, NMPM, Lea County, New Mexico, is hereby approved in accordance with New Mexico Oil Conservation Division (OCD) Rule 711 under the conditions contained in the enclosed attachment. This permit approval is conditional upon the receipt and approval by the Director of financial assurance in the amount of \$25,000. According to the schedule outlined in the financial assurance section of the enclosed attachment, \$6,250 is required within thirty (30) days of the date of this permit approval letter. The application consists of the permit application Form C-137 dated July 22, 2004 and the public notice dated August 29, 2004.

The operation, monitoring and reporting shall be as specified in the enclosed attachment. All modifications and alternatives to the approved landfarming methods must receive prior OCD approval. Commercial Exchange, Inc. is required to notify the Director of any facility expansion or process modification and to file the appropriate materials with the Division. **Please Note:** **acceptance of oilfield waste contaminated with salts is prohibited without a modification to this permit. File such an application for modification before accepting any such wastes.**

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

Please be advised that all tanks exceeding 16 feet in diameter and exposed pits, ponds or lagoons must be screened, netted or otherwise rendered non-hazardous to migratory birds. In addition,

OCD Rule 310 prohibits oil from being stored or retained in earthen reservoirs or open receptacles.

The facility is subject to periodic inspections by the OCD. The conditions of this permit will be reviewed by the OCD no later than five (5) years from the date of this approval and the facility will be inspected at least once a year. In addition, the closure cost estimate will be reviewed according to prices and remedial work estimates at the time of the five (5) year review. The financial assurance may be adjusted to incorporate any closure cost changes.

Enclosed are two copies of the conditions of approval. **Please sign and return one copy to the OCD Santa Fe Office within five working days of receipt of this letter.**

If you have any questions please do not hesitate to contact Ed Martin at (505) 476-3492.

Sincerely,



Roger C. Anderson
Environmental Bureau Chief

RC:weem

cc: Hobbs OCD Office

711 PERMIT CONDITIONS
PERMIT NM-01-0042
Commercial Exchange, Inc. Blackwater Landfarm
S/2 SE/4 NW/4 Section 1, Township 25 South, Range 37 East, NMPM
Lea County, New Mexico
(December 1, 2004)

LANDFARM CONSTRUCTION

1. Construction must commence on the landfarm area within one (1) year of the permit approval date. If construction does not commence within one (1) year of the permit approval date, this permit will be of no effect.
2. The facility must be fenced and have a sign at the entrance. The sign must be legible from at least 50 feet and contain the following information: a) name of the facility; b) OCD permit number; c) location by section, township and range; and d) emergency phone number.
3. Contaminated soils may not be placed within 100 feet of the boundary of the facility.
4. Contaminated soils may not be placed within 20 feet of any pipeline crossing the landfarm. In addition, no equipment will be operated within 10 feet of a pipeline. All pipelines crossing the facility must have surface markers identifying the location of the pipelines.
5. The portion of the facility containing contaminated soils must be bermed to prevent run-off and run-on. A perimeter berm no less than two (2) feet above grade with a base of at least three (3) feet must be constructed and maintained such that it is capable of containing precipitation from a one-hundred year flood for the specific region. Individual cells must be contained with a berm no less than two (2) feet above grade with a base of at least three (3) feet.
6. All above-ground tanks, saddle tanks or drums located at the facility and containing materials other than fresh water must be placed on an impermeable pad with curb containment. The pad and curb containment must be able to hold one and one-third the volume of the largest tank or all interconnected tanks. The tanks and containers must be labeled as to contents and hazards.

LANDFARM OPERATION

1. Disposal may occur only when an attendant is on duty. The facility must be secured when no attendant is present.
2. All contaminated soils received at the facility must be spread and disked within 72 hours of receipt.

3. Soils must be spread on the surface in lifts of six inches or less.
4. Soils must be disked a minimum of one time every two weeks (biweekly) to enhance biodegradation of contaminants.
5. Exempt contaminated soils must be placed in the landfarm so that they are physically separate (i.e., bermed) from non-exempt contaminated soils. There may be no mixing of exempt and non-exempt soils.
6. Successive lifts of contaminated soils may not be spread until a laboratory measurement of total petroleum hydrocarbons (TPH) in the previous lift is less than 100 parts per million (ppm), the sum of all aromatic hydrocarbons (BTEX) is less than 50 ppm, and benzene is less than 10 ppm. Comprehensive records of the laboratory analyses and the sampling locations must be maintained at the facility. Authorization from the OCD must be obtained prior to application of successive lifts and/or removal of the remediated soils.
7. Moisture may be added as necessary to enhance bioremediation and to control blowing dust. No ponding, pooling or run-off of water is allowed. Any ponding of precipitation must be removed within 24 hours of discovery.
8. Enhanced bioremediation through the application of microbes (bugs) and/or fertilizers requires prior approval from the OCD. Requests for application of microbes or fertilizers must include the location of the area designated for the program, the composition of additives, and the method, amount and frequency of application.
9. Landfarm inspection and maintenance must be conducted at least biweekly and immediately following each consequential rainstorm or windstorm. If any defect is noted, repairs must be made as soon as possible. If the defect will jeopardize the integrity of the landfarm the OCD Santa Fe and Hobbs offices must be notified within 24 hours and additional wastes may not be placed in the landfarm until repairs have been completed. Records of such biweekly inspections must be maintained at the facility for OCD inspection if required.
10. Within 24 hours of receiving notification from the OCD that an objectionable odor has been detected or reported, the facility must implement the following response procedure:
 - a. Log date and approximate time of notice that an odor exists;
 - b. Log investigative steps taken, including date and time, and conclusions reached; and
 - c. Log actions taken to alleviate the odor, which may include adjusting chemical treatment, air sparging, solidification, landfarming, or other similar responses.

A copy of the log, signed and dated by the facility manager, must be maintained for OCD review.

WASTE ACCEPTANCE CRITERIA

1. The facility is authorized to accept only:
 - a. Oilfield wastes that are exempt from RCRA Subtitle C regulations and that do not contain naturally occurring radioactive material (NORM) regulated pursuant to 20.3.14 NMAC. A "Generator Certificate of Waste Status" signed by the generator shall accompany all loads of these wastes received at the facility.
 - b. Non-hazardous, non-exempt oilfield wastes that do not contain NORM. These wastes may be accepted on a case-by-case basis after a hazardous waste determination is made. Samples, if required, must be obtained from the wastes prior to removal from the generator's facility and without dilution in accordance with EPA SW-846 sampling procedures. All non-hazardous, non-exempt wastes received at the facility must be accompanied by:
 - i. An approved OCD Form C-138 "Request For Approval To Accept Solid Waste."
 - ii. A "Generator Certificate of Waste Status" signed by the generator.
 - iii. A verification of waste status issued by the appropriate agency for wastes generated outside OCD jurisdiction. The agency verification is based on specific information on the subject waste submitted by the generator and demonstrating the non-hazardous classification of the waste.
 - c. Non-oilfield wastes that are non-hazardous if ordered by the Department of Public Safety in a public health emergency. OCD approval must be obtained prior to accepting the wastes.
2. At no time may any OCD-permitted surface waste management facility accept wastes that are hazardous by either listing or characteristic testing.
3. No free liquids or soils with free liquids may be accepted at the facility.
4. Materials that may be accepted into the facility must pass a paint filter test by EPA Method 9095A prior to acceptance.
5. Exempt oilfield wastes contaminated with salts may not be accepted until a modification request to this permit is submitted to the Santa Fe NMOCD office for approval.

TREATMENT ZONE MONITORING

1. Prior to waste acceptance, one (1) background soil sample must be taken from the center portion of the landfarm two (2) feet below the native ground surface. The sample must be analyzed for total petroleum hydrocarbons (TPH), volatile aromatic organics (BTEX), major cations/anions and Water Quality Control Commission (WQCC) metals.
2. A treatment zone, not to exceed three (3) feet beneath the landfarm native ground surface, must be monitored. A minimum of one random soil sample must be taken from each individual cell, with no cell being larger than five (5) acres, six (6) months after the first contaminated soils are received in the cell and then quarterly thereafter. The sample must be taken at two (2) to three (3) feet below the native ground surface.
3. The soil samples must be analyzed using EPA-approved methods for total petroleum hydrocarbons (TPH) and volatile aromatic organics (BTEX) quarterly and for major cations/anions and Water Quality Control Commission (WQCC) metals annually.
4. After soil samples are obtained, the boreholes must be filled with an impermeable material such as cement or bentonite.

REPORTING

1. Background sample analytical results must be submitted to the OCD Santa Fe office within 30 days of receipt from the laboratory.
2. Analytical results from the treatment zone monitoring must be submitted to the OCD Santa Fe office within 30 days of receipt from the laboratory.
3. Records of landfarm inspections and maintenance must be kept and maintained for OCD review.
4. Commercial Exchange, Inc. must notify the OCD Santa Fe and Hobbs offices within 24 hours of any fire, break, leak, spill, blowout or any other circumstance that could constitute a hazard or contamination in accordance with OCD Rule 116.
5. Comprehensive records of all material disposed of at the facility must be maintained at the facility. The records for each load must include: 1) generator; 2) origin; 3) date received; 4) quantity; 5) certification of waste status as exempt or non-exempt with any necessary supporting documentation to certify non-hazardous status for non-exempt waste; 6) NORM status declaration; 7) transporter; 8) exact cell location; and 9) any addition of microbes, moisture, fertilizers, etc.
6. Analytical results regarding remediated soil must be submitted to the OCD Santa Fe

office, with a copy to the Hobbs District office, along with any request to close the cell, apply successive lifts or remove the remediated material.

7. The OCD must be notified prior to any design changes to the landfarm facility. The facility must submit for approval any design changes to the facility to the OCD Santa Fe office and Hobbs District office.
8. The OCD must be notified prior to the installation of any pipelines or wells or other construction within the boundaries of the facility.

FINANCIAL ASSURANCE

1. Financial assurance in the amount of \$25,000 in the form of a surety or cash bond or a letter of credit, which is approved by the Division, is required from Commercial Exchange, Inc. for the commercial surface waste management facility according to the following schedule:

By January 1, 2005, or when the facility is filled to 25% of the permitted capacity, whichever comes first, Commercial Exchange, Inc. must submit 25% of the financial assurance in the amount of \$6,250.

By January 1, 2006, or when the facility is filled to 50% of the permitted capacity, whichever comes first, Commercial Exchange, Inc. must increase its financial assurance to a total of \$12,500.

By January 1, 2007, or when the facility is filled to 75% of the permitted capacity, whichever comes first, Commercial Exchange, Inc. must increase its financial assurance to a total of \$18,750.

By January 1, 2008, or when the facility is filled to 100% of the permitted capacity, whichever comes first, Commercial Exchange, Inc. must increase its financial assurance to a total of \$25,000.

2. The facility is subject to periodic inspections by the OCD. The conditions of this permit and the facility will be reviewed no later than five (5) years from the date of this approval. In addition, the closure cost estimate will be reviewed according to prices and remedial work estimates at the time of review. The financial assurance may be adjusted to incorporate any closure cost changes.

CLOSURE

1. The OCD Santa Fe and Hobbs offices must be notified when operation of the facility is to be discontinued for a period in excess of six (6) months or when the facility is to be dismantled. Within six (6) months after discontinuing use, or within 30 days of deciding to dismantle the

facility, a closure plan must be submitted to the OCD Santa Fe office for approval. The operator must complete cleanup of constructed facilities and restoration of the facility site within six (6) months of receiving the closure plan approval, unless the Director grants an extension of time.

2. The closure plan to be submitted must include the following procedures:
- a. When the facility is to be closed, no new material may be accepted.
 - b. Existing landfarm soils must be remediated until they meet the OCD standards in effect at the time of closure.
 - c. The treatment zone soils within each five (5) acre cell must be sampled at two (2) to three (3) feet below the native ground surface and must be analyzed for total petroleum hydrocarbons (TPH), volatile aromatic organics (BTEX), major cations/anions and Water Quality Control Commission (WQCC) metals.
 - c. Contaminated soils exceeding OCD closure standards for the site must be removed or remediated.
 - e. The area must be contoured, seeded with native grasses, and allowed to return to its natural state. If the landowner desires to retain existing structures, berms, or fences for future alternative uses, the structures, berms, or fences may be left in place.
 - f. Closure must be pursuant to all OCD requirements in effect at the time of closure, and any other applicable local, state and/or federal regulations.

CERTIFICATION

Commercial Exchange, Inc., by the officer whose signature appears below, accepts this permit and agrees to comply with all terms and conditions contained herein. Commercial Exchange, Inc. further acknowledges that the Division for good cause shown as necessary to protect fresh water, public health and the environment, may change these conditions and requirements of this permit administratively.

Accepted:

Commercial Exchange, Inc.

Signature _____

Title _____

Date _____