

AP - 37

**GENERAL  
CORRESPONDENCE**

**YEAR(S):**  
2003 - 2006

**Martin, Ed, EMNRD**

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**From:** Martin, Ed, EMNRD  
**Sent:** Thursday, April 06, 2006 3:50 PM  
**To:** 'Iain Olness'  
**Subject:** RE: Plains Pipeline Lovington Deep 6" (Ref. # 2002-10312)

Thank you for the report. Backfilling at this site may commence with the understanding that such backfilling will be done according to the procedures described in this email.

*Ed Martin*

New Mexico Oil Conservation Division  
Environmental Bureau  
1220 S. St. Francis  
Santa Fe, NM 87505  
Phone: 505-476-3492  
Fax: 505-476-3462  
email: [ed.martin@state.nm.us](mailto:ed.martin@state.nm.us)

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**From:** Iain Olness [<mailto:iolness@envplus.net>]  
**Sent:** Monday, April 03, 2006 9:22 AM  
**To:** Martin, Ed, EMNRD  
**Cc:** Camille Reynolds (Plains); Jeff Dann (Plains)  
**Subject:** FW: Plains Pipeline Lovington Deep 6" (Ref. # 2002-10312)

Dear Mr. Martin:

Per the requirements in the *Stage 1 and Stage 2 Abatement Plan-Revision #1 – Lovington Deep 6"*, the soil stockpiled on site was spread out in a 5.5 foot lift and sampled. To collect samples from each 1,000 cubic yards, the soil was divided into three sections and five test trenches were excavated in each section. Soil samples were collected at 1, 2, 3, 4 and 5 feet in each test trench and analyzed in the field utilizing the polyethylene bag headspace method (description attached) and a photoionization detector equipped with a 10.2 electron volt (eV) lamp.

Field analyses of the soil samples indicated organic vapor concentrations ranged from 0.0 to 36.7 parts per million (ppm). As all samples were below the 100 pm threshold as stipulated in the *Stage 1 and Stage 2 Abatement Plan-Revision #1 – Lovington Deep 6"*, no samples were collected for submission to an independent laboratory for quantification of total petroleum hydrocarbons (TPH) or benzene, toluene, ethylbenzene and total xylenes (BTEX).

Mr. Darr Angell approved the use of a synthetic liner to be placed in the floor of the excavation on March 30, 2006. Prior to installing the liner, six inches of sand will be placed on the excavation floor to prevent the liner from rupturing. After installing the liner, six inches of sand will be placed on top of the liner to prevent the liner from rupturing. Upon your approval, EPI on behalf of Plains Pipeline will initiate backfilling activities at the site.

Should you have any questions or concerns, please feel free to contact me at (505) 394-3481 or via e-mail at [iolness@envplus.net](mailto:iolness@envplus.net).

Sincerely,

ENVIRONMENTAL PLUS, INC.

Iain A. Olness, P.G.  
Technical Manager

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4/6/2006



# PLAINS ALL AMERICAN

March 3, 2006

Mr. Ed Martin  
New Mexico Oil Conservation Division  
Environmental Bureau  
1220 South St. Francis Drive  
Santa Fe, New Mexico 87505

Re: Plains All American – Annual Monitoring Report  
One Site in Lea County, New Mexico

1R-383

2006 MAR 13 PM 12:00

Dear Mr. Martin:

Plains All American is an operator of crude oil pipelines and terminal facilities in the state of New Mexico. Plains All American actively monitors certain historical release sites exhibiting groundwater impacts, consistent with assessments and work plans developed in consultation with the New Mexico Oil Conservation Division (NMOCD). In accordance with the rules and regulations of the NMOCD, Plains All American hereby submits the Annual Monitoring report for the following site:

Lovington Deep 6"

Section 6, Township 17 South, Range 36 East, Lea County

EPI prepared this document and has vouched for the accuracy and completeness. On behalf of Plains All American, I have personally reviewed the document and interviewed EPI in order to verify the accuracy and completeness of the document. It is based upon this inquiry and review that Plains All American submits the enclosed Annual Monitoring Report for the above-referenced facility.

If you have any questions or require further information, please contact me at (505) 441-0965.

Sincerely,

Camille Reynolds  
Remediation Coordinator  
Plains All American

CC: Larry Johnson, NMOCD, Hobbs, NM

Enclosure

## **Martin, Ed, EMNRD**

---

**To:** Camille J Reynolds  
**Subject:** RE: Lovington Deep 6 Inch Release Site

The request outlined below is approved.

New Mexico Oil Conservation Division approval does not relieve Plains of liability should its operations at this site prove to have been harmful to public health or the environment. Nor does it relieve Plains of its responsibility to comply with the rules and regulations of any other local, state, or federal governmental agency.

Ed Martin  
New Mexico Oil Conservation Division  
Environmental Bureau  
1220 S. St. Francis  
Santa Fe, NM 87505  
Phone: 505-476-3492  
Fax: 505-476-3462  
email: ed.martin@state.nm.us

-----Original Message-----

From: Camille J Reynolds [mailto:cjreynolds@paalp.com]  
Sent: Thursday, November 17, 2005 7:31 AM  
To: Martin, Ed, EMNRD  
Subject: Lovington Deep 6 Inch Release Site

Mr. Martin:

This e-mail is a follow-up to our phone conversation concerning remediation activities to be conducted at the Plains release site known as Lovington Deep 6 located in Sec. 6, T17S, R36E, NMOCD reference # AP-037.

In the Stage 1 and 2 Abatement Plan and the Soil Closure Plan submitted by EPI on behalf of Plains, it is recommended that a clay barrier be installed in the floor of the excavation and another clay barrier be installed at approximately 2-4 feet bgs if necessary based on SPLP analytical results. With your approval, Plains is requesting that the barrier installed in the floor of the excavation be modified to a 20 mil synthetic liner as opposed to the clay barrier initially proposed.

The Abatement plan also states that the excavated, stockpiled soil will be spread out in 6 inch lifts and sampled prior to backfilling. Due to time constraints and limitations on the available working area, Plains is proposing to grid the stockpiled soil in 1,000 cubic yard grids and collect a 5 point composite sample of each grid.

Thank you for time and consideration in this matter. If you have any questions or concerns please contact me at 505-441-0965.

Sincerely,

Camille Reynolds  
Remediation Coordinator  
Plains All American

office: 505/396-3341  
fax: 505/396-2754  
cellular: 505/441-0965

*LAW OFFICES*

**HEIDEL, SAMBERSON, NEWELL, COX & McMAHON**

C. GENE SAMBERSON  
MICHAEL T. NEWELL  
LEWIS C. COX, III  
PATRICK B. McMAHON

311 NORTH FIRST STREET  
POST OFFICE DRAWER 1599  
LOVINGTON, NM 88260  
TELEPHONE (505) 396-5303  
FAX (505) 396-5305

F.L. HEIDEL  
(1913-1985)

RECEIVED

APR 18 2005

OIL CONSERVATION  
DIVISION

April 7, 2005

Edwin E. Martin  
Environmental Engineer  
NM Oil Conservation Division  
1220 South St. Francis Drive  
Santa Fe, NM 87505

**Re: Link Energy/Darr Angell**

Dear Mr. Martin,

Thank you for the opportunity to review Plains' Revised Stage 1/Stage 2 Abatement Plan for the Lovington Deep 6" Site. Without waiving any claims that my client, Mr. Darr Angell, may have against Plains or its predecessor's, I have two comments regarding the revised plan.

First, I am requesting that Plains provide Mr. Angell, through this firm, with a timely copy of all correspondence, reports and the like, including attachments, that are submitted to NMOCD regarding the Lovington Deep 6" Site until said site is closed by NMOCD.

Second, I am requesting that the third (3) sentence of paragraph 5.5.6 of the Plan be modified as follows:

It is proposed to cease abatement of the groundwater after receipt of 4 (four) consecutive quarters of monitoring well data, to include all monitor wells, below New Mexico Water Quality Control Commission (NMWQCC) drinking water standards.

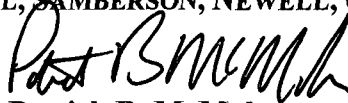
Mr. Angell reserves the right to modify any of these comments, to withdraw any of these comments or to add additional comments as information becomes available. If you have any questions, please do not hesitate to call.

Letter to Edwin E. Martin  
Environmental Engineer  
NM Oil Conservation Division  
*Link Energy/Darr Angell*  
April 7, 2005  
Page two.

Sincerely,

**HEIDEL, SAMBERSON, NEWELL, COX & McMAHON**

By:

  
**Patrick B. McMahon**

PBM:cd

pc: Darr Angell  
Mark E. Fesmire, Director/OCD  
Chris Williams, OCD/Hobbs



# NEW MEXICO ENERGY, MINERALS and NATURAL RESOURCES DEPARTMENT

**BILL RICHARDSON**

Governor

**Joanna Prukop**

Cabinet Secretary

**Mark E. Fesmire, P.E.**

Director

**Oil Conservation Division**

April 6, 2005

Ms. Camille Reynolds  
Plains All American Pipeline, L.P.  
P.O. Box 3119  
Midland, TX 79702-3119

Re: Annual Monitoring Report  
Plains All American Pipeline  
Lovington Deep 6 (Ref. #2002-10312)  
UL-H, Section 6, T17S, R36E  
Lea County, New Mexico  
NMOCD Ref. 1R-0383

Dear Ms. Reynolds:

The New Mexico Oil Conservation Division (NMOCD) has received and reviewed the report shown above. Please refer to the "Recommendations" section VIII of the report for the following:

1. Item #1 - Approved, with the understanding that a more aggressive phase-separated hydrocarbon recovery system will be installed as described in Part 5.5 of the revised Stage 1 and Stage 2 Abatement Plan, dated August 2004.
2. Item #2 - This will be superseded by Part 5.5.6 of the Stage 1-2 Abatement Plan.
3. Item #3 - Same
4. Item #4 - Approved with the understanding that the Stage 1-2 Abatement Plan will be updated accordingly.
5. Item #5 - No backfilling activities are to take place until a final soil closure report is submitted showing the sample results of the excavation as it exists at that time and sample results of the backfill material.

If you have any questions contact me at (505) 476-3492 or [emartin@state.nm.us](mailto:emartin@state.nm.us)

NEW MEXICO OIL CONSERVATION DIVISION

Edwin E. Martin  
Environmental Bureau

cc: NMOCD, Hobbs





# PLAINS ALL AMERICAN

March 30, 2005

Mr. Ed Martin  
New Mexico Oil Conservation Division  
Environmental Bureau  
1220 South St. Francis Drive  
Santa Fe, New Mexico 87505

Re: Plains All American – Annual Monitoring Reports  
4 Sites in Lea County, New Mexico

Dear Mr. Martin:

Plains All American is an operator of crude oil pipelines and terminal facilities in the state of New Mexico. Plains All American actively monitors certain historical release sites exhibiting groundwater impacts, consistent with assessments and work plans developed in consultation with the New Mexico Oil Conservation Division (NMOCD). In accordance with the rules and regulations of the NMOCD, Plains All American hereby submits our Annual Monitoring reports for the following sites:

8" Moore to Jal #1	Section 16, Township 17 South, Range 37 East, Lea County
8" Moore to Jal #2	Section 16, Township 17 South, Range 37 East, Lea County
Lovington Deep 6"	Section 6, Township 17 South, Range 36 East, Lea County
Livingston Line B. McCasland	Section 3, Township 21 South, Range 37 East, Lea County

EPI prepared these documents and has vouched for their accuracy and completeness, and on behalf of Plains All American, I have personally reviewed the documents and interviewed EPI in order to verify the accuracy and completeness of these documents. It is based upon these inquiries and reviews that Plains All American submits the enclosed Annual Monitoring Reports for the above 4 facilities.

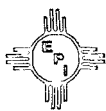
If you have any questions or require further information, please contact me at (505) 441-0965.

Sincerely,

Camille Reynolds  
Remediation Coordinator  
Plains All American

CC: Larry Johnson, NMOCD, Hobbs, NM

Enclosures



ENVIRONMENTAL PLUS, INC. *Micro-Blaze Micro-Blaze Out™*  
STATE APPROVED LAND FARM AND ENVIRONMENTAL SERVICES

29 March 2005

Mr. Ed Martin  
NM Energy, Minerals, and Natural Resources Department  
New Mexico Oil Conservation Division – Environmental Bureau  
1220 South St. Francis Drive  
Santa Fe, NM 87505

1R-383

Re: Annual Monitoring Report  
Plains All American Pipeline, L.P. Lovington Deep 6 (Ref. #2002-10312)  
UL-H, Section 6, T17S, R36E, Lea County, New Mexico

Dear Mr. Martin:

Environmental Plus, Inc. (EPI), on behalf of Ms. Camille Reynolds, Plains All American Pipeline, L.P. (Plains), submits for your consideration this *Annual Monitoring Report* for the above-referenced site. Based on data collected during the past year, Plains recommends continued site monitoring for, and recovery of, phase-separated hydrocarbons (PSH) on a semi-monthly basis. In addition, Plains recommends the collection of groundwater level data in the groundwater monitoring wells not impacted with PSH on a semi-monthly basis and continued quarterly sampling of these groundwater monitoring wells.

Should you have any questions or comments please feel free to contact me at (505) 394-3481. Ms. Reynolds may be contacted through Plains' Lovington office at (505) 396-3341. All official correspondence should be addressed to:

Ms. Camille Reynolds  
Plains All American Pipeline, L.P.  
P.O. Box 3119  
Midland, Texas 79702-3119

Sincerely,

ENVIRONMENTAL PLUS, INC.

Iain Olness, P.G.  
Hydrogeologist

cc: Larry W. Johnson, NMOCD – Hobbs District Office  
Camille Reynolds, Plains All American Pipeline, L.P. – Lovington  
Jeff Dann, Plains All American Pipeline, L.P. – Houston  
File

ENVIRONMENTAL PLUS, INC.



# NEW MEXICO ENERGY, MINERALS and NATURAL RESOURCES DEPARTMENT

**BILL RICHARDSON**

Governor

**Joanna Prukop**

Cabinet Secretary

**Mark E. Fesmire, P.E.**

Director

**Oil Conservation Division**

March 8, 2005

Mr. Patrick B. McMahon  
Heidel, Samberson, Newell, Cox & McMahon  
Post Office Drawer 1599  
Lovington, NM 88260

Re: Link Energy (now Plains All American) Stage 1 and Stage 2  
Abatement Plan for the  
Lovington Deep 6" Site located in  
U/L-H, Sec. 6, Twp 17 South, Rng 36 East  
NMPM, Lea County, New Mexico

Dear Mr. McMahon:

Enclosed is a revised Stage 1/Stage 2 Abatement Plan for the above site. The original plan submitted by Link was commented upon in your letter dated February 2, 2004, and this revision is submitted in response to your comments.

Please review and let me know if you have further comments or concerns. If I do not hear from you, or your client, by April 8, 2005, I will assume that there are no further concerns on your part and work may commence per the plan attached.

If you can, please let me know at your earliest convenience if the plan, as submitted, is acceptable to you, and work may begin much sooner than April 8, 2005.

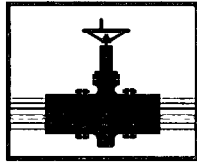
If you have any questions, contact me at (505) 476-3492 or [emartin@state.nm.us](mailto:emartin@state.nm.us)

NEW MEXICO OIL CONSERVATION DIVISION

Edwin E. Martin

Environmental Engineer

cc: NMOCD, Hobbs (without enclosure)  
Camille Reynolds (without enclosure)



**PLAINS**  
**MARKETING, L.P.**

February 7, 2005

Mr. Ed Martin  
New Mexico Oil Conservation Division  
Environmental Bureau  
1220 South St. Francis Drive  
Santa Fe, New Mexico 87505

Re: Plains All American Stage 1 and Stage 2  
Abatement Plan  
Lovington Deep 6" Release Site  
EMS No.: 2002-10312  
SE/4, NE/4 Section 6, T17S, R36E  
Lea County, New Mexico

Dear Mr. Martin:

Please find attached for your approval a Stage 1 and Stage 2 Abatement Plan, dated August 2004, for the Lovington Deep 6" release site located in the SE/4, NE/4, Section 6, T17S, and R36E in Lea County, New Mexico. The Stage 1 and Stage 2 Abatement Plan details site activities conducted to date and future activities for remediation and closure of the site.

Should you have any questions or comments, please contact me at (505) 441-0965.

Sincerely,

Camille Reynolds  
Remediation Coordinator  
Plains All American



# NEW MEXICO ENERGY, MINERALS and NATURAL RESOURCES DEPARTMENT

**BILL RICHARDSON**

Governor

**Joanna Prukop**

Cabinet Secretary

**Mark E. Fesmire, P.E.**

Director

**Oil Conservation Division**

July 7, 2004

Mr. Jerry Bryant  
Link Energy  
P.O. Box 1660  
Midland, TX 79703

Dear Mr. Bryant:

The New Mexico Oil Conservation Division has received your "Preliminary 2003 Ground Water Monitoring Report" for the Link Energy Lovington Deep 6" #2002-10312, dated April 5, 2004 (OCD ref. 1R0383).

The report states that a Stage I and Stage II Abatement Plan has been submitted to NMOCD for approval. NMOCD has received such a plan dated November, 2003. However, NMOCD is under the impression that this plan is in the process of being revised for re-submission. NMOCD has not received any subsequent filings on the abatement plan.

The revised Stage I and Stage II Abatement Plan for this site should be submitted to this office on or before August 15, 2004.

If you have any questions, contact me at (505) 476-3492 or [emartin@state.nm.us](mailto:emartin@state.nm.us)

NEW MEXICO OIL CONSERVATION DIVISION

Edwin E. Martin, Environmental Bureau

cc: Larry W. Johnson, NMOCD, Hobbs  
Jeff Dann, Link Energy, Houston  
Pat McCasland, EPI

**Martin, Ed**

---

**To:** Pat McCasland (E-mail); Frank Hernandez (E-mail)  
**Cc:** Patrick McMahon (E-mail); Jeffrey P. Dann (E-mail)  
**Subject:** Link Energy Lovington Deep 6"

Pat, I know that, in our discussions, we have both worked toward a simple way of changing the existing Link plan, such as merely changing some of the pages and inserting the revised text into the document.

After further review, and discussions with Wayne Price, I believe that it would be best if the plan were revised, and re-submitted in its entirety.

Please make the changes we discussed in our meeting in Hobbs.

In addition to these changes, please propose additional excavation at the site and removal and remediation of contaminated soil down to a practicable depth greater than the current 10 feet. Your remediation levels in 6.9.2 of the Soil Remediation And Risk Assessment are acceptable if you run an SPLP to determine the non-leachability of the BTEX.

In the re-submitted plan, please refer to the appropriate sections of the Soil Remediation and Risk Assessment whenever applicable. This will make it easier to follow.

If you have any questions, please contact me.

*Ed Martin*

New Mexico Oil Conservation Division  
Environmental Bureau  
1220 S. St. Francis  
Santa Fe, NM 87505  
Phone: 505-476-3492  
Fax: 505-476-3471  
emartin@state.nm.us

*LAW OFFICES*

**HEIDEL, SAMBERSON, NEWELL, COX & McMAHON**

C. GENE SAMBERSON  
MICHAEL T. NEWELL  
LEWIS C. COX, III  
PATRICK B. McMAHON

311 NORTH FIRST STREET  
POST OFFICE DRAWER 1599  
LOVINGTON, NM 88260  
TELEPHONE (505) 396-5303  
FAX (505) 396-5305

F.L. HEIDEL  
(1913-1985)

February 2, 2004

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

RECEIVED  
FEB 03 2004  
Environmental Bureau  
Oil Conservation Division

**Re: Link Energy, LLC Stage 1 and Stage 2  
Abatement Plan Proposal for the  
Lovington Deep 6" Site located in  
Unit Letter H, Section 6, Township 17 South,  
Range 36 East, NMPM, Lea County, New Mexico**

Dear Sir/Madam:

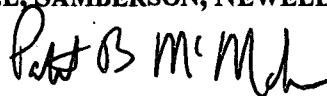
As per the Notice of Publication for the above referenced matter, please accept this correspondence, and the attached, as Mr. Darr Angell's written comments on Link's Stage 1 and Stage 2 Abatement Plan Proposal.

In addition, this letter is Mr. Angell's written request for a public hearing on this matter. The reasons for his request for public hearing are fully set forth in the attached comments.

Thank you,

**HEIDEL, SAMBERSON, NEWELL, COX & McMAHON**

By:

  
Patrick B. McMahon

PBM:cd  
Enclosure  
pc w/encl: Chris Williams  
Ed Martin  
Darr Angell

TO: Director, Oil Conservation Division

FROM: Mr. Darr Angell  
Lovington, Lea County, New Mexico  
c/o Heidel, Samberson, Newell, Cox & McMahon  
Post Office Drawer 1599  
Lovington, New Mexico 88260

RE: Link Energy, LLC Stage 1 and Stage 2  
Abatement Plan Proposal for the  
Lovington Deep 6" Site located in  
Unit Letter H, Section 6, Township 17 South,  
Range 36 East, NMPM, Lea County, New Mexico

DATE: January 30, 2004

RECEIVED  
FEB 03 2004  
Environmental Bureau  
Oil Conservation Division

Pursuant to the January 4, 2004 Notice of Publication regarding Link's Stage 1 and Stage 2 Abatement Plan Proposal for the Lovington Deep 6" site located in Lovington, New Mexico (hereinafter referred to as the "Plan") the following are Mr. Darr Angell's objections to the Plan. The Plan also identifies a supplemental document, namely, Eott Energy Soil Remediation and Risk Assessment Proposal, Lovington Deep 6" Ref. #2002-10312, July 21, 2003. (Plan, 1.0) (hereinafter "Supplement"). To the extent applicable, the objections identified herein are also objections to the Supplement.

Sometime in November 2003, Environmental Plus, Inc. of Hobbs, New Mexico, through Mr. Pat McCasland (Technical Services Manager), submitted the above referenced Plan on behalf of Link to the Oil Conservation Division. This Plan is in response to a pipeline leak discovered by unknown person(s) on Mr. Angell's property. The leak has contaminated the surface, subsurface and groundwater. The pollution has encroached on areas well outside of the easement or right-of-way grant under which the pipeline is operated.

The Oil Conservation Division (hereinafter referred to as "OCD") has been charged with the duty to protect the public health, fresh waters, animal and plant life and the environment from leaks, spills or releases of any material which has a reasonable probability to injure or be detrimental to any of these categories. In addition, the OCD has a duty to prevent leaks, spills or releases of any material from unreasonably interfering with the public welfare or use of property. To those ends, the OCD has compiled a document entitled, "Guidelines for Remediation of Leaks, Spills and Releases" (hereinafter referred to as "Guidelines"). It is through the procedures and protocols set forth in the Guidelines that leaks, spills and releases are to be addressed by the OCD and by the responsible party. The responsible party may deviate from these procedures and protocols only if they provide a scientific basis for the deviation. The Link Plan fails to follow these Guidelines.



Specifically, the Plan is deficient for the following reasons:

- A. First and foremost, the Plan submitted by Link incorrectly ranks the Site. For this reason alone the Plan fails and should be rejected.

The Guidelines set forth clear and simple criteria which are to be used to rank a site. Considering the specifics of this site, the primary criteria used to rank the Site is "Depth to Groundwater." The Guidelines define "Depth to Groundwater" as "...the vertical distance from the lowermost contaminants to the seasonal high water evaluation of the groundwater." According to Link, "Soils observed from Borehole 1 (BH1), the leak origin borehole impacted to the groundwater interface where product was observed floating atop the aquifer." (Plan, 4.1.1). The distance from the lowermost contaminants to groundwater is therefore zero (0') feet. Depth to Groundwater, for ranking purposes, is zero (0') feet. This site should be ranked 20 and remediated accordingly.

Link, however, ranks this site as a 10. They do so by unilaterally changing the ranking criteria set forth in the Guidelines. This was done purposefully to justify the Plan which fails to adequately clean up the impacted areas.

The Plan defines Depth to Groundwater as the "...distance from the lower most acceptable concentration to the groundwater." (Plan, 3.3.4). This definition is incorrect and artificially impacts remediation levels for TPH. This definition of depth to groundwater is not a mistake or typographical error. The author of the Plan has used this incorrect definition on a number of other Stage1/Stage 2 Plans submitted to the OCD. By changing the definition, Link chooses the "acceptable concentration" levels themselves and works the ranking criteria backwards to justify the remediation levels that they would prefer to attain.

Despite the fact that contamination at BH1 has reached groundwater, the Plan identifies depth to groundwater, for ranking purposes, as being greater than fifty (50') feet. (See Plan, 3.3.6.1). This is an obvious attempt to alter the clean up requirements.

Link has incorrectly ranked the Site as a 10. They do so by unilaterally changing the definition of "Depth to Groundwater" to suit their desired remediation levels and by ignoring their own soil sample results for BH1. These flaws call into question the entire Plan, including the proposed remediation/clay barrier proposition.

For these reasons the Plan should be rejected. Link should be required to re-evaluate the site, rank the site as 20 and remediate according to the Guidelines.

- B. The Plan exhibits a number of additional issue, each of which calls into questions the

soundness of the Plan and which questions its approval. The following are Mr. Angell's additional objections to the Plan and are roughly set forth in the same chronological order as they appear in the Plan.

1. (Plan, 3.0). The Plan fails to identify any rights that Link enjoys which allow Link to remediate contaminated soils on Site and/or to leave contaminated soils in place. OCD does not have the authority to order a landowner to allow on site remediation and if it did so order OCD would be engaging a taking without just compensation.

*This is understood*  
TRUE

2. (Plan 3.3). This portion of the Plan sets out the objectives of the Plan and notes that certain information is contained in the Plan.

- a. The Plan fails to adequately define the geology of the site.
- b. The Plan fails to adequately define the hydrology of the site, including hydraulic conductivity, transmissivity and storativity.
- c. The Plan fails to adequately define the vertical and/or horizontal extent and magnitude of vadose zone and groundwater contamination.
- d. The Plan fails to determine rate and direction of contaminant migration.
- e. The Plan fails to adequately determine groundwater/surface water relationships.
- f. The Plan fails to identify adequate background sampling.

*See*  
*"Soil Remediation and Risk Assessment Proposal" DATED 7/21/03*

*SITE WAS EXCAVATED TO OUTER BOUNDARIES OF CONTAMINATION. PROBABLY NEEDED ONE MONITOR WELL, DOWN-GRADIENT, OUTSIDE OF EXCAVATION.*

TRUE

3. (Plan, 3.3.4.6). The Plan fails to adequately delineate groundwater contamination at the site. Despite a southwest groundwater gradient. (Plan, 3.3.4.6), Link failed to install a monitor well downgradient from the spill site. (See Attachment to Plan). The Plan is premature. Link should be required to delineate downgradient groundwater contamination and resubmit the Plan.

4. (Plan, 3.3.5.3.). The Plan admits that groundwater at the site is impacted. However, nowhere in the Plan or the Supplement does Link identify the results of groundwater sampling at BH1.

5. (Plan, 4.1.1). The Plan fails to identify the amount of free product on the groundwater at the site.

TRUE

⑦

6. (Plan 3.3.8). The Plan fails to adequately identify groundwater remediation efforts at the site, including the extent and nature of the remediation systems, the projected timeline for remediation, whether those efforts affect the VADSAT 3.0 model, whether those efforts are compatible with an engineered clay barrier, and what efforts will be undertaken to recharge the aquifer.

7. (Plan, 4.0). The Plan has failed to accurately identify soil and groundwater remediation levels.

8. (Plan, 4.1.1). The Plan fails to identify the location of Borehole 6.

ON  
MAP

9. (Plan graphs pages 8 and 9). The Plan incorrectly identifies the TPH Threshold which should be 100 based on a proper site rank.

TRUE

10. (Plan, 4.2). The Plan fails to address issues related to the volatilization of contaminants by use of mechanical shredding methods. ?

11. (Plan, 4.2). The Plan has failed to adequately delineate the horizontal and vertical extent of contamination.

12. (Supplement, p.26.). Soil samples of the Excavation Bottom and Sidewalls and Spoils Pile were obtained in January, March and April of 1999, nearly four years *before* the leak occurred or was discovered.

13. (Supplement, p.27). Soil samples for BH4 were obtained four years *before* the leak occurred was discovered.

14. (Supplement, p.27). Soil samples for BH5 were obtained nearly four years *before* the leak occurred.

15. (Supplement, p.27). Soil samples for BH6 were obtained nearly four years *before* the leak occurred.

16. (Supplement generally). Hold times for soil samples identified in the Supplement exceed acceptable limits. Soil samples were tested at the lab over a period more than seven days from the date the soil was obtained.

17. (Plan 4.2.1). Link's risk assessment fails to demonstrate that the proposed remaining contaminants will not pose a threat to present or foreseeable beneficial use of fresh water, public health, and the environment and in fact the site is located in the same general area as the City of Lovington Water Field.

18. (Plan 4.2.1). The information collected during the soil delineation phase of

Typo's 7.

the project is insufficient to support use of the VADSAT 3.0 model.

19. (Plan 4.2.1). The information collected during the soil delineation phase of the project does not support the use of the VADSAT 3.0 model.
20. (Plan 4.2.1). The Plan fails to adequately demonstrate how the engineered clay barrier is supported by the VADSAT 3.0 model.
21. According to the American Petroleum Institute, the VADSAT 3.0 model is very sensitive to input parameters such as infiltration or recharge rates. (API Soil & Groundwater Research Bulletin, No.2, March 1997). According to the Plan, the model input parameters are presented in Attachment V. No Attachment V to the Plan or Supplement exists.
22. The input parameters identified in Attachment IV to the Supplement are arbitrary.
23. The input parameters identified in Attachment IV to the Supplement are not supported by information collected at the site.
24. The input parameters identified in Attachment IV to the Supplement are chosen for the sole purpose of supporting Link's proposed remediation activities.
25. The Plan fails to support the input parameters identified in Attachment IV of the Supplement.
26. The information collected during the soil delineation phase of the project is insufficient to support the use of an engineered clay barrier.
27. The information collected during the soil delineation phase of the project does not support the use of an engineered clay barrier.
28. (Plan 4.2.3). The Plan allows for back filling with contaminated material. This material exceeds contamination levels allowed for a site ranked 20 under the Guidelines.
29. (Plan, 4.3). The Plan fails to address the recharge of the aquifer.
30. (Plan 4.3.1). The Plan rennumbers the monitoring wells. However the Plan fails to identify the administrative purpose which necessitates the renumbering of the monitor wells. The renumbering of the monitoring wells invites mistakes and confusion and is suspect at best.

31. (Plan, 4.3.4). The Plan has not demonstrated that air sparging will be compatible with an engineered clay barrier.
32. (Plan, p.21). The Plan fails to account for Benzene levels in groundwater upgradient of the leak site.
33. The proposed location of Monitor Well #7 is inadequate.
34. (Plan, p.21). Benzene gradients identified in the Plan are not supported by the information collected from the site.
35. The input parameters identified in Attachment IV of the Supplement define the waste zone mean thickness as 15.24 meters (49.99 ft.).
36. (Supplement attachment IV). The input parameters identified in Attachment IV of the Supplement define the mean depth to groundwater as 1.524 meters (5.0 ft.).
37. (Supplement attachment IV). The input parameters identified in Attachment V of the Supplement define the mean aquifer thickness as 15.24 meters (49.99 ft.).
38. The Plan fails to assess the impacts to the Angells' health, to the public health, to animals and plants, to the Angell's property and to the interference with the use of the Angell's property caused by the leak at issue.
39. The Plan's Quality Assurance Project Plan fails to adequately support site investigation and/or remediation.

*used for model.  
Conservative  
use of depths -*

Mr. Angell reserves the right to modify any of these comments, to withdraw any of these comments and/or to add additional comments as information becomes available.

Respectfully Submitted,

**HEIDEL, SAMBERSON, NEWELL, COX & McMAHON**  
Post Office Drawer 1599  
Lovington, New Mexico 88260  
(505) 396-5303

By: Patrick B. McMahon

**Patrick B. McMahon**  
Attorneys for Darr Angell

**Martin, Ed**

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**From:** Jeff Dann [Jeff\_Dann@LinkEnergy.com]  
**Sent:** Tuesday, December 23, 2003 9:01 AM  
**To:** Martin, Ed  
**Subject:** Re: Lovington Deep 6"

Ed - thanks for looking it over and I'll get Pat started on the other processes.....

Jeffrey P. Dann, C.P.G.  
Environmental Specialist  
Link Energy  
Phone: (713) 993-5352  
Fax: (713) 993-5845  
email: jeff.dann@linkenergy.com

"Martin, Ed" <EMARTIN@state.nm.us>

12/23/2003 09:15 AM

To: "Jeffrey P. Dann (E-mail)" <jeff.dann@linkenergy.com>  
cc: "Pat McCasland (E-mail)" <ENVIPLUS1@aol.com>  
Subject: Lovington Deep 6"

I have looked over the Stage1/2 Abatement Plan for this site and it appears to be administratively complete. The abatement plan process includes provisions for declaring plans complete in this manner. After that, other processes need to come into play before the plan is deemed final. This process could take as long as 60 days. I will go ahead and send you a letter indicating that the plan is administratively complete, but that's about all I can do at this point.

If you have any questions, please contact me.

I hope both of you have a very nice Christmas and a Happy New Year.

Ed Martin  
New Mexico Oil Conservation Division  
Environmental Bureau  
1220 S. St. Francis  
Santa Fe, NM 87505  
Phone: 505-476-3492  
Fax: 505-476-3471

12/23/2003



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December 12, 2003

Mr. Edwin E. Martin  
New Mexico Energy Minerals and Natural Resources Department  
Oil Conservation Division, Environmental Bureau  
P.O. Box 6429  
1220 South St. Francis Drive  
Santa Fe, New Mexico 87505

Subject: Stage 1 and Stage 2 Abatement Plan Submittal

Re: Link Energy LLC (formerly EOTT) Lovington Deep 6" Ref.# 2002-10312  
UL-H SE¼ of the NE¼ of Section 6 T17S R36E  
Latitude: 32° 52' 1.132"N Longitude: 103° 23' 16.570"W  
Land owner: Darr Angell

Mr. Martin,

Enclosed herewith, please find two copies of the "Stage 1 and Stage 2 Abatement Plan for the Link Energy, LLC (formerly EOTT) Lovington Deep 6" Ref.# 2002-10312." Environmental Plus, Inc. (EPI) of Eunice, New Mexico is submitting this plan on behalf of Mr. Frank Hernandez, District Environmental Supervisor for Link Energy, LLC, pursuant to the New Mexico Oil Conservation Division (NMOCD) "Rule 19," i.e., NMAC 15.1.19 B(2) and follows the electronic submittal of December 12, 2003. With your notification that the plan is administratively complete, Link will proceed with the public notification process.

All official communication should be addressed to;

Mr. Frank Hernandez, Link Energy, LLC  
5805 East Highway 80  
P.O. Box 1660  
Midland, Texas 79703

e-mail: frank.hernandez@linkenergy.com

If there are any questions please call Mr. Ben Miller or myself at the office or at 505.390.0288 and 505.390.7864, respectively, or Mr. Frank Hernandez at 505.631.3095.

Sincerely,

Pat McCasland  
EPI Technical Services Manager

cc: Chris Williams, NMOCD, Hobbs  
William Von Drehle, Link w/enclosure  
Jeff Dann, Link w/enclosure  
Frank Hernandez, Link w/enclosure  
Ben Miller, EPI Vice President and General Manager  
Sherry Miller, EPI President  
file

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