

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

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IN THE MATTER OF APPLICATION OF SOUTHWEST ROYALTIES, INC.
FOR APPROVAL OF A REMEDIATION PLAN PURSUANT TO 19.15.29.11
NMAC FOR THE ARCO FEDERAL WELL NO. 1 TANK BATTERY, EDDY
COUNTY, NEW MEXICO.

CASE NO. 14732

PRE-HEARING STATEMENT

Applicant Southwest Royalties, Inc. ("Southwest Royalties") is asking for approval to bury approximately 10,500 sq. ft. of salt-impacted soil in a deep trench. The salt-impacted soil is the result of a produced water disposal pit and a minor spill associated with the Arco Federal Well No. 1 tank battery.

Oil field waste is waste generated during the exploration, production, refining, processing, gathering or transporting of oil and gas. 19.15.2.0.3 NMAC. Produced water is generated during the production of oil and gas. 19.15.2.P.10 NMAC. Therefore, the salt-impacted soil, resulting from the produced water disposal pit and minor spill, is oil field waste. Southwest Royalties seeks to deep trench bury the oil field waste soil near the tank battery, contrary to Oil Conservation Division rules.

The Oil Conservation Division ("OCD") opposes the approval because of the following:

1. The Bureau of Land Management ("BLM") is the surface and mineral owner for the Arco Federal Well No.1 tank battery site.
2. The BLM is requiring Southwest Royalties to clean up and restore the surface of the produced water tank battery site.
3. The BLM has informed Southwest Royalties that Southwest Royalties must obtain OCD approval of the clean up and restoration measures that Southwest Royalties intends to use.
4. The OCD has primary jurisdiction in the regulation of oil field waste disposal throughout the state of New Mexico, whether the disposal occurs on private, State or federal land. NMSA §70-2-12.
5. Southwest Royalties has submitted a remediation plan ("Proposed Plan") to the OCD for approval. 19.15.29.11 NMAC.
6. Southwest Royalties' Proposed Plan is to excavate the oil field waste and permanently bury it in a deep on-site trench.

7. On June 17th and again on June 25th, OCD notified Southwest Royalties that 19.15.34.11 NMAC not quoted correctly d waste in a pit except as authorized by other OCD rules.
8. New Mexico Annotated Code 19.15.34.11 states "Except as authorized by 19.15.30 NMAC, 19.15.17 NMAC, 19.15.36 NMAC or 19.15.26.8 NMAC persons, including transporters, shall not dispose of produced water or other oil field waste: (1) on or below the surface of the ground; *in a pit*; or in a pond, lake, depression or watercourse." (emphasis added) true - abatement
9. In order for Southwest Royalties to dispose of the oil field waste in a permanent deep trench (a pit), Southwest Royalties must seek an exception to the prohibition in 19.15.34.11 NMAC. 19.15.34.11.1 NMAC.
10. New Mexico Annotated Code 19.15.36 (Remediation) is inapplicable to Southwest Royalties' Proposed Plan because there is no protectable water in the area of the site and remediation specifically is for the purpose of abating pollution of water. true
11. New Mexico Annotated Code 19.15.11 (Pit Rule) is inapplicable to Southwest Royalties' Proposed Plan because Southwest Royalties' proposed permanent deep trench pit is a "permanent disposal pit or landfill" and not a "temporary pit" for oil and gas drilling or workover operations.
12. New Mexico Annotated Code 19.15.26.8 (Injection of Fluids into Reservoirs) is inapplicable to Southwest Royalties' Proposed Plan because the impacted soil is a solid.
13. Southwest Royalties' permanent deep trench burial of the oilfield waste, however, falls within the definition of a landfill in 19.15.36.7.A.4. NMAC. "Landfill means a discrete area of land or an *excavation designed for permanent disposal* of exempt [oil field waste] or non-hazardous waste." (emphasis added).
14. Because the Proposed Plan is to create a landfill, Southwest Royalties may seek an exception to 19.15.34.11 NMAC by applying for a surface waste management facility permit under 19.15.36 NMAC.
15. Southwest Royalties has not applied for an exception to the 19.15.34.11 NMAC prohibition, so approval of the Proposed Plan has been denied by the OCD.

RESPONDENT'S PROPOSED EVIDENCE

WITNESSES:

ESTIMATED TIME:

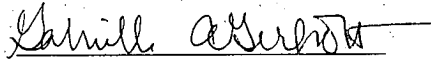
Glenn von Gonten, OCD Acting Environmental Bureau Chief
Hydrologist
Expertise in management of oilfield wastes; OCD
regulatory process;
Surface Waste Management Facilities Rule

2 hours

PROCEDURAL MATTERS

None.

Respectfully submitted
this 21st day of September 2011 by



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was electronically mailed on the following party on September 21, 2011:

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