

Hamlet, Robert, EMNRD

From: Hamlet, Robert, EMNRD
Sent: Wednesday, June 10, 2020 11:10 AM
To: Baker, Adrian
Cc: Bratcher, Mike, EMNRD; Venegas, Victoria, EMNRD; Eads, Cristina, EMNRD; Mann, Ryan
Subject: Deferral Denied - XTO - Big Sinks 2-24-30 State Battery - (Incident #NAB1913729531) (2RP-5422)
Attachments: Deferral Denied - XTO - Big Sinks 2-24-30 State Battery.pdf

Adrian,

We have received your deferral request for **Incident #NAB1913729531 Big Sinks 2-24-30 State Battery**, thank you. This deferral request is denied.

- Soil sample points FS11, FS13, SW03, SW04, SW22, SW24, and SW29 are off-site and in the pasture.
- Please move forward with reclamation and restoration of these spill areas.
- A deferral can only be granted on an active well pad and not on a road, right-of-way, or in the pasture. A clarification document has been placed on the OCD website to clarify the matter. <http://www.emnrd.state.nm.us/OCD/documents/OCDInternalPolicy-SpillRuleClarifications.pdf>

Spill Rule Procedures September 6, 2019 Page 2 & 3

VI. ON-SITE vs. OFF-SITE REMEDIATION:

a. The remediation requirements in Table 1 19.15.29.12 NMAC are the same for all releases, whether they occur on an active production site or not (19.15.29.12(C)(2) and (3) NMAC). Remediation on an active site can be deferred in areas immediately under or around production equipment such as production tanks, wellheads, and pipelines where remediation could cause a major facility deconstruction. A major facility deconstruction is determined by the OCD on a case by case basis. The remediation, restoration, and reclamation may be deferred with OCD's written approval until the equipment is removed during other operations, or when the well or facility is plugged or abandoned, whichever comes first. For the deferral request the contamination must be fully delineated. In addition, the contamination must not pose an imminent risk to human health, the environment, or groundwater. Deferrals are not forever and remediation must be completed in a timely fashion once the equipment is out of use for oil and gas operations.

b. Cleanup of off-site impacts cannot be deferred as they would not meet the deferral requirements of 19.15.29.12(C)(2) NMAC.

c. The difference between on- and off-site releases is when the reclamation and restoration must occur. Off-site releases must be reclaimed and restored immediately. On-site reclamation and restoration can wait until operations have ceased, but still must be done.

Please let me know if you have any further questions.

Regards,

Robert J Hamlet
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Energy, Minerals, and Natural Resources

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OCD approval does not relieve the operator of liability should their operations fail to adequately investigate and remediate contamination that may pose a threat to groundwater, surface water, human health or the environment. In addition, OCD approval does not relieve the operator of responsibility for compliance with any other federal, state, or local laws and/or regulations.