

From: [Hamlet, Robert, EMNRD](#)
To: [Nick Hines](#)
Cc: [Bratcher, Mike, EMNRD](#); [Venegas, Victoria, EMNRD](#); [Eads, Cristina, EMNRD](#)
Subject: Remediation and Closure Letter Report Denied - OWL SWD - Bobcat SWD - (Incident #NRM2017030695)
Date: Thursday, September 10, 2020 11:25:00 AM
Attachments: [Remediation and Closure Letter Report Denied- OWL SWD - BOBCAT SWD.pdf](#)

Nick,

We have received your Workplan/Remediation Proposal for **Incident #NRM2017030695 Bobcat SWD**, thank you. This Workplan/Remediation proposal is denied.

- The report says, “Due to the compacted layer of caliche encountered during excavation activities, it is anticipated the produced water did not infiltrate the subsurface. KJE verbally notified the NMOCD of the release on May 26, 2019, and it was determined approximately 200 barrels (BBLs) of produced water was released. According to OWL personnel, the release occurred along the pipeline and pooled in the pipeline right-of-way”.
- OWL anticipating produced water did not infiltrate the subsurface and/or relying on visual extent of a liquid release is an **unacceptable** practice in determining whether soil has been impacted by produced water.
- Please submit:
 1. Scaled site map diagram with sample points clearly marked
 2. Site Photos
 3. Site Assessment/Delineation summary (horizontal and vertical)
 4. Delineation sample analytical results (lab tested)
 5. Table containing analytical data
 6. Description of proposed excavation depths corresponding to analytical table
 7. Depth to groundwater evaluation, including fluid level data from New Mexico Office of the State Engineer or other documented evidence
 8. Karst evaluation
 9. FEMA National Flood map review.
 10. Signed and dated C-141 (Pages 5)
- We’ve had numerous discussions on this particular subject in our environmental meetings the last year. 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:**

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,

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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.