

State of New Mexico
Energy, Minerals and Natural Resources Department

Michelle Lujan-Grisham
Governor

Melanie A. Kenderdine
Cabinet Secretary

Benjamin Shelton
Deputy Secretary

Erin Taylor
Deputy Secretary

Gerasimos "Gerry" Razatos
Division Director (Acting)
Oil Conservation Division



Certified Mail Receipt # 7019 1640 0000 7986 3632

May 30, 2025

Mr. Calvin Brown
Moonshine Energy, LLC
3206 Ma Mar Drive
Midland, Texas 79705
c.brown@moonshineenergy.com

RE: Tentative Decision Regarding Permit Application for a Surface Waste Management Facility Permit for Moonshine Energy, LLC

Dear Mr. Brown:

The Oil Conservation Division (OCD) has completed a review of Moonshine Energy, LLC's (Moonshine) application for a surface waste management facility (SWMF). The OCD has tentatively decided on permit approval with conditions. Attached is draft permit, NM1-69, with general and specific conditions. The OCD has posted this decision, along with the draft permit, on OCD's website.

Given OCD's determination, Moonshine is now required to issue an OCD-approved notice of this decision by:

- 1) Publishing notice in a newspaper of general circulation in Lea County.
- 2) Giving written notice by certified mail, return receipt requested, of the OCD's proposed decision to surface owners within one-half mile of the facility boundary on or before publication of the newspaper notice;
- 3) Giving notice by first class mail or email to persons identified by the OCD who have requested notification of applications and to affected local, state, and tribal governmental agencies (see attached listing) on or before publication of the newspaper notice.

Note, this notice must include all the information required in 19.15.36.9.D NMAC and Moonshine must provide proof to the OCD that the public notice requirements of Subsections C and D of 19.15.36.9 NMAC have been met prior to the OCD scheduling a hearing pursuant to 19.15.36.10 NMAC or issuing the permit.

If you have any questions, please do not hesitate to contact me by telephone at (505) 795-1722 or by email at LeighP.Barr@emnrd.nm.gov. On behalf of the OCD, I wish to thank you and your staff for your cooperation during this process.

Respectfully,

Leigh Barr

Leigh Barr
Administrative Permitting Supervisor

**SURFACE WASTE MANAGEMENT FACILITY PERMIT NM1-69
MOONSHINE ENERGY, LLC – BIG STILL FACILITY**

1. GENERAL PROVISIONS.

- A. PERMITTEE AND PERMITTED FACILITY:** The Oil Conservation Division (OCD) of the Energy, Minerals and Natural Resources Department hereby issues surface waste management facility (SWMF) permit, **NM1-69** (Permit), to Moonshine Energy, LLC (Operator). The SWMF is located near mile marker 37.3 on New Mexico (NM) Highway 128, approximately 15 miles west of the City of Jal, NM. The site is within Township 24 South, Range 34 East, Section 25 and has a latitude and longitude of 32.195150, -103.426849.

The SWMF will consist of 5.4 ± acres for a commercial oil treating plant. The SWMF will consist of the following permitted units: ten 500 barrel (bbl) basic sediment and water steel frac tanks, ten 500 bbl separated oil steel frac tanks, and four 750 bbl separated water fiberglass tanks. Brought in waste at approximately 6,000 bbl/day will be offloaded through hoses equipped with secondary containment Pollution Control Corporation (PCC) connectors. All tanks will be located within secondary containment constructed of steel walls and lined with a 40-mil High Density Polyethylene (HDPE) liner.

- B. SCOPE OF PERMIT:** The OCD regulates the disposition, handling, transport, storage, recycling, treatment and disposal of produced water during, or for reuse in, the exploration, drilling, production, treatment or refinement of oil or gas, including disposal by injection pursuant to authority delegated under the federal Safe Drinking Water Act, in a manner that protects public health, the environment and fresh water resources pursuant to authority granted in the Oil and Gas Act (Chapter 70, Article 2 NMSA 1978) at Section 70-2-12(B)(15) NMSA 1978.

The OCD regulates the disposition of nondomestic wastes resulting from the exploration, development, production or storage of crude oil or natural gas to protect the public health and the environment pursuant to authority granted in the Oil and Gas Act (Chapter 70, Article 2 NMSA 1978) at Section 70-2-12(B)(21) NMSA 1978.

The OCD regulates disposition of nondomestic wastes resulting from the oil field service industry, the transportation of crude oil or natural gas, the treatment of natural gas or the refinement of crude oil to protect public health and the environment pursuant to authority granted in the Oil and Gas Act (Chapter 70, Article 2 NMSA 1978) at Section 70-2-12(B)(22) NMSA 1978.

This Permit does not convey any property rights of any sort or any exclusive privilege, and does not authorize any injury to persons or property, any invasion of other private rights, or any infringement of state, federal or local laws, rules or regulations.

- C. PERMIT CONDITIONS AND OPERATOR COMMITMENTS:** The Operator must ensure all operations are consistent with the terms and conditions of this Permit and in conformance with all pertinent rules and regulations under the Oil & Gas Act. Furthermore, the Operator shall abide by the approval conditions contained herein, along with all commitments submitted in the May 2025 permit application, including any attachments and/or amendments, all of which are incorporated into this Permit by reference.
- D. MODIFICATIONS:** The Operator must submit an application to the OCD in advance of any major or minor modifications for approval. A major modification means a modification of a SWMF that involves an increase in the land area that the permitted SWMF occupies; a change in the design capacity or nature of the permitted oil field waste stream; addition of a new treatment process; an exception to, waiver of or change to a numerical standard provided in 19.15.36 NMAC; or other modification that the OCD determines is sufficiently substantial that public notice and public participation in the application process are appropriate. A minor modification means a modification of a SWMF that is not a major modification.
- E. DEFINITIONS:** Terms not specifically defined in this Permit shall have the same meanings as those in the Oil and Gas Act or the rules adopted pursuant to that Act, as the context requires.
- F. GENERAL PERFORMANCE STANDARDS:** The Operator shall operate in a manner as to prevent waste of oil and gas, prevent the contamination of fresh waters and so that oil and gas are not used wastefully or allowed to leak or escape from a natural reservoir or from wells, tanks, containers, pipe or other storage conduit or operating equipment.
- G. EFFECTIVE DATE, EXPIRATION, RENEWAL, AND PENALTIES FOR OPERATING WITHOUT A PERMIT:** This Permit is effective on **MONTH DAY, 2025** and will expire ten years thereafter on **MONTH DAY, 2035**. The Operator may submit an application for renewal to the OCD no later than 120 calendar days before the expiration date. If the operator submits such a renewal application before the required date and is in compliance with the existing permit, then that existing permit will not expire until the OCD approves or denies the renewal application. Operating with an expired permit will subject the Operator to civil and/or criminal penalties (see Section 70-2-31 NMSA 1978).
- H. FINANCIAL ASSURANCE:** The Operator shall provide financial assurance (FA) in a form approved by the OCD for the commercial SWMF's estimated closure and post closure cost. The amount of FA required is \$171,664.00. The FA must be submitted to the OCD prior to permit issuance (See 19.15.36.11.B NMAC).

The Operator shall also submit to the OCD an updated closure/post-closure plan, including the associated cost estimates, to determine the adequacy of FA during every successive five-year term. The five-year term due date is **MONTH DAY, 2030** (i.e., 5-years from permit issuance).

- I. TRANSFER OF PERMIT:** The Operator shall not transfer this Permit without the OCD's prior written approval. A request for transfer of a permit shall identify officers, directors and owners of twenty-five percent or greater in the transferee.

2. GENERAL FACILITY OPERATIONS.

- A. LABELING:** The Operator shall clearly label all tanks, drums, and containers to identify the contents along with pertinent emergency notification information.

- B. INSPECTIONS AND MAINTENANCE OF SECONDARY CONTAINMENT SYSTEMS:** The Operator shall inspect all secondary containment systems at least daily, including secondary containment PCC connectors to ensure proper operation and to prevent system failure. The Operator shall empty all secondary containment systems of any fluids within one week of discovery or within 48-hours of discovery if a visible sheen is observed. The Operator shall keep written records of inspections using inspection form(s) as specified in its approved Application.

- C. RELEASE REPORTING AND CORRECTIVE ACTION FOR RELEASES:** The Operator shall comply with the spill/release reporting and corrective action provisions of 19.15.29 NMAC and 19.15.30 NMAC, as applicable.

- D. ANNUAL REPORT:** The Operator shall submit an annual report to the OCD by April 30th of each year. The annual report shall include the following information for the preceding calendar year:

- i. A summary of any noted deficiencies/issues determined from the inspections conducted as part of Table 3 in the Operation, Maintenance and Inspection Plan submitted in the approved Application and any corrective actions taken;
- ii. A discussion on the effectiveness of stormwater run-on and run-off plans/controls, including berm condition and erosion control measures;
- iii. A copy of the annual hydrogen sulfide (H₂S) monitoring results for tank batteries in accordance with permit condition 9D;
- iv. A copy of all facility training records;
- v. A copy of all complaint logs and resolutions; and
- vi. A summary report that includes the nature and amount of any reportable releases pursuant to 19.15.29 NMAC, with a description of the disposition of any contaminated soil or water.

3. MATERIAL STORAGE.

- A. DRUM AND CONTAINER STORAGE:** The Operator shall store all drums and other containers, including empty drums and containers, on a contained impermeable pad. “Containers” include tote tanks, sacks, and buckets. The Operator shall store empty drums on their sides with the bungs in place and lined up on a horizontal plane. The Operator may store fresh water outside the drum and container, process, maintenance, material and waste storage areas without having a contained impermeable pad, liner, pavement, or curbing.
- B. ABOVE GROUND TANKS:** The Operator shall place all above ground tanks, excluding freshwater tank(s), within secondary containment; the secondary containment areas must be constructed as specified in the approved Application. Note, changes to any engineering designs presented in the approved Application must be discussed and approved by the OCD prior to construction.

4. WASTE MANAGEMENT.

- A. WASTE STREAMS:** This Permit authorizes the Operator to handle the **exempt** oil field waste streams as specified in Subsection 3.1 of the Oil Field Waste Management and Exclusion Plan submitted in the approved Application. The Operator must obtain the OCD’s approval to receive any waste stream not specified in its approved Application for collection, disposal, reclamation, treatment, or storage. Note, naturally occurring radioactive material (NORM) waste cannot be accepted at the Facility.
- B. WASTE STORAGE:** The Operator shall store waste at the Facility only in clearly marked waste storage areas that have been specified in the approved Application, except that waste generated during emergency response operations may be stored elsewhere for no more than 72 hours. The OCD may approve additional waste storage areas on a case-by-case basis.

The Operator shall not store oil field waste, as defined in 19.15.2.7.O(3) NMAC, generated at the Facility by the Operator on-site for more than 180 calendar days from the date that the container is filled without obtaining approval from the OCD.

- C. WASTE ACCEPTANCE:** The Operator shall follow the below waste acceptance criteria:
- i. The Operator shall not accept oil field wastes transported by motor vehicle at the SWMF unless the transporter has a form C-133, authorization to move liquid waste, approved by the OCD.
 - ii. The Operator shall require a certification on form C-138, signed by the generator or the generator’s authorized agent, that represents and warrants that the oil field wastes are generated from oil and gas exploration and production operations, are exempt waste and are not mixed with non-exempt waste.

- iii. The Operator shall not accept oil field wastes associated with tank bottoms, removal of sediment oil, or miscellaneous hydrocarbons unless accompanied by a signed C-117A form.
5. **BELOW-GRADE TANKS AND SUMPS:** The Operator shall obtain the OCD's approval before installing a below-grade tank or sump. The Operator shall submit a proposed design plan that meets the design and construction specifications for below-grade tanks in 19.15.17.11 NMAC and which meets the definition for sumps specified in 19.15.17.7.Q NMAC to the OCD at least 90 calendar days before installation of the unit. Design plans for below-grade tanks/sumps shall incorporate secondary containment and/or leak detection. The OCD will review and approve with or without conditions or deny the Operator's proposed design for a new below-grade tank or sump.
6. **UNDERGROUND PROCESS AND WASTEWATER PIPELINES.**
- A. **UNDERGROUND PIPELINES:** The Operator shall notify the OCD prior to installing any underground pipelines. The Operator shall submit a design plan to the OCD for new underground pipelines at least 90 calendar days before commencement of construction. The OCD shall determine whether any modifications to this Permit are necessary and appropriate based on the new underground pipelines.
 - B. **SCHEMATIC DIAGRAMS OR PLANS:** As applicable, the Operator shall maintain at the Facility all underground process and wastewater pipeline schematic diagrams or plans showing all drains, vents, risers, valves, underground piping, pipe type, rating, size, and approximate location.
7. **STORMWATER:** The Operator shall implement and maintain stormwater run-on and run-off plans/controls as specified in the approved Application. The perimeter berm shall be constructed along the northeastern, northern, western, and southern boundaries of the facility as shown on the permit drawings in the approved Application (i.e., Appendix S.C.P.1). Note, changes to any engineering designs presented in the approved Application must be discussed and approved by the OCD prior to construction. The Operator shall inspect the perimeter berm monthly and after a major rainfall or windstorm event, and maintain the stormwater control features in such a manner as to prevent erosion.
8. **CLOSURE/POST-CLOSURE.**
- A. In addition to the closure/post-closure plan submitted in the approved Application, the Operator shall complete the following action items during closure of the entire Facility:
 - i. Tanks and equipment used for oil treatment are cleaned and oil field waste is disposed of at an OCD approved SWMF (the Operator shall reuse, recycle or remove tanks and equipment from the Facility within 90 days of closure);
 - ii. Buildings, fences, and roads are removed; and

- iii. Upon closure of the entire Facility, the Operator shall not accept any material for the collection, disposal, remediation, reclamation, treatment, or storage.

B. If the Operator chooses to close part of the Facility while continuing to operate the other parts of the Facility, the Operator shall submit a partial closure plan to the OCD. The OCD will review and approve with or without conditions or deny the Operator's proposed partial closure plan.

9. ADDITIONAL SITE SPECIFIC CONDITIONS:

A. The Operator shall comply with all applicable requirements of the SWMF Rule (19.15.36 NMAC), the Oil and Gas Act (Chapter 70, Article 2 NMSA 1978), all conditions specified in this Permit, and the commitments made in the approved Application.

B. The Operator shall include the SWMF permit number, NM1-69, on the sign pursuant to 19.15.36.13.J NMAC.

C. The Operator shall within 24 hours of receiving notification from the OCD or a concerned party that an objectionable odor has been detected or reported, implement the following response procedures:

- i. Log date and approximate time of notice that an odor exists, including the name of the complainant and any contact information; and
- ii. Investigate the source of the odor and log steps taken, including date and time, actions taken, and conclusions reached.

D. The Operator shall monitor at least once per year for H₂S at the vent of each covered tank. The Operator shall include the results of the annual H₂S monitoring event in the required Annual Report. The Operator shall also comply with 19.15.11.12.E NMAC as applicable.

E. The Operator shall obtain OCD approval prior to any design changes to the oil treating plant.

F. The Operator shall obtain OCD approval prior to the installation of any wells or other structures within the boundaries of the Facility.

G. The Operator shall file to the OCD a copy of form C-118, Sheet 1, by the 15th of the next succeeding month.

H. As appropriate, the Operator shall file to the OCD a copy of form C-117A (Tank Cleaning, Sediment Oil Removal, Transportation of Miscellaneous Hydrocarbons and Disposal Permit). Note, a copy of this form must be on location during tank cleaning, removal of sediment oil or miscellaneous hydrocarbons at the treating plant to which it is delivered.

- I. In the event the Operator determines if there are abandoned well(s) that are unplugged or improperly plugged within the Facility boundary, the Operator shall take appropriate corrective actions in accordance with OCD regulations.

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**OCD Identified Entities for Notice by First Class Mail or E-mail in Accordance with
19.15.36.9.C (3) - (4) NMAC for Surface Waste Management Facilities**

Mayor of Jal
710 W. Wyoming
Jal, NM 88252

Lea County Manager
100 Main St., STE 4
Lovington, NM 88260

Field Supervisor
US Fish & Wildlife Service
2105 Osuna Road, Northeast
Albuquerque, NM 87113-1001

State Historic Preservation Officer
407 Galisteo, Suite 236
Santa Fe, NM 87501

Dr. Harry Bishara
PO Box 748
Cuba, NM 87013

Commissioner of Public Lands
New Mexico State Land Office
PO Box 1148
Santa Fe, NM 87504

Director
New Mexico Department of Game & Fish
1 Wildlife Way
Santa Fe, NM 87507

Secretary
Indian Affairs Department
1220 South Saint Francis Drive
Santa Fe, NM 87505

Director of NM Department of Agriculture
1050 Stewart Street
Las Cruces, NM 88003

Director of BLM
100 Sun Avenue, NE
Pan American Building, Suite 330
Albuquerque, NM 87109

Director of NM State Parks
1220 South St. Francis Drive
Santa Fe, NM 87505

State Engineer
Office of the State Engineer
PO Box 25102
Santa Fe, NM 87504-5102

New Mexico Oil & Gas Association
PO Box 1864
Santa Fe, New Mexico 87504

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Secretary
New Mexico Environment Department
PO Box 5469
Santa Fe, NM 87502-5469

Ground Water Quality Bureau Chief
New Mexico Environment Department
PO Box 5469
Santa Fe, NM 87502-5469

USDA Forest Service
333 Broadway Blvd. SE
Albuquerque, NM 87102

Hazardous Waste Bureau Chief
New Mexico Environment Department
2905 Rodeo Park Dr. E
Building 1
Santa Fe, NM 87505

Solid Waste Bureau Chief
New Mexico Environment Department
PO Box 5469
Santa Fe, NM 87502-5469

Surface Water Quality Bureau Chief
New Mexico Environment Department
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