

State of New Mexico  
Energy, Minerals and Natural Resources Department

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**Michelle Lujan Grisham**  
Governor

**Sarah Cottrell Propst**  
Cabinet Secretary

**Todd E. Leahy, JD, PhD**  
Deputy Cabinet Secretary

**Adrienne Sandoval**  
Director, Oil Conservation Division



October 27, 2021

Mr. Matt Henderson  
Hilcorp Energy Company  
382 County Road 3100  
Aztec, NM 87410

**RE: Tentative Decision Regarding the Application for a Centralized Surface Waste Management Facility, Permit NM2-26, Tank Mountain Surface Waste Management Facility, Section 5, Township 31 North, Range 9 West NMPM, San Juan County, New Mexico**

Pursuant to applicable parts of the Oil Conservation Commission regulations 19.15.36 NMAC, the Oil Conservation Division (OCD) has completed its review of your application for a centralized surface waste management facility at the location described above. OCD has tentatively decided on permit approval with conditions. Attached is the draft permit with general and specific conditions. OCD will be posting this decision, along with the draft permit, on our website.

Given OCD's determination, you are now required to issue a division-approved notice of this decision by:

- (1) giving written notice by certified mail, return receipt requested, of the division's proposed decision to the surface owners within one-half mile of the proposed facility boundary;
- (2) publishing notice in a newspaper of general circulation in San Juan County; and
- (3) giving notice by first class mail or email to persons identified by OCD who have requested notification of applications generally (listing attached), along with San Juan County, the New Mexico State Land Office, and the US Bureau of Land Management.

This notice must include all the information required in 19.15.36.9(D) NMAC such as the applicants name and address, proposed facility location, a brief description of the proposed facility, the depth to shallowest groundwater beneath the proposed facility, the estimated or measured concentration of total dissolved solids in that groundwater beneath the proposed facility, a statement that this decision is available on OCD's website or upon written request to division clerk Florene Davidson at the address below, a description of all alternatives, exceptions, or waivers requested as part of your application, and a statement as to the procedures for requesting a hearing on your application.

If you have any questions, please do not hesitate to contact me by telephone at (505) 670-5684 or by email at LeighP.Barr@state.nm.us. On behalf of the OCD, I wish to thank you and your staff for your cooperation during this process.

Respectfully,

*Leigh Barr*

Leigh P. Barr - Administrative Permitting Supervisor



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**DRAFT**

Date

Mr. Matt Henderson  
Hilcorp Energy Company  
382 County Road 3100  
Aztec, NM 87410

**RE: Centralized Surface Waste Management Facility Permit NM2-26, Tank Mountain Surface Waste Management Facility, Section 5, Township 31 North, Range 9 West NMPM, San Juan County, New Mexico**

Mr. Henderson,

Pursuant to applicable parts of the Oil Conservation Commission regulations 19.15.36 NMAC, the Oil Conservation Division (OCD) has completed its review of Hilcorp Energy Company's (Hilcorp) application for a centralized waste management facility at the location described above. OCD does not agree with Hilcorp's interpretation that the saturated interval encountered in monitoring well MW03 does not meet the definition of ground water. Based on OCD's interpretation, only 74 feet of separation is between the lowest elevation in which Hilcorp proposes to place oil field waste and ground water and as such, soils and drill cuttings placed in the waste management facility must not exceed a chloride concentration of 500 mg/kg.

OCD hereby approves permit NM2-26 with conditions. Attached are the general and specific conditions. If you have any questions, please contact Leigh Barr of my staff by email at [LeighP.Barr@state.nm.us](mailto:LeighP.Barr@state.nm.us). On behalf of the OCD, I wish to thank you and your staff for your cooperation during this permit review.

Respectfully,

**Adrienne Sandoval**  
*Director*

Attachment – NM2-26 Permit Conditions

**SURFACE WASTE MANAGEMENT FACILITY PERMIT CONDITIONS**  
**NM2-26**  
**Hilcorp Energy Company**  
**Section 5, Township 31 North, Range 9 West NMPM**

**Date**

Hilcorp Energy Company of 382 County Road 3100, in Aztec, New Mexico 87410 (Operator) is permitted to construct and operate a surface waste management facility (Facility) as described in the Application filed by the Operator and in accordance with (a) the terms of this Permit, (b) the rules governing solid waste management facilities (19.15.36 NMAC), and (c) all other applicable provisions of the Oil and Gas Act (Act) and the rules promulgated under the Act. The Operator is responsible for ensuring any oil and gas operations located within the overall facility area do not interfere with the proper operation of the facility as described in the Application and authorized by this Permit. Any change to the operations proposed, or any change to the area covered, will require a modification to the Permit, including any necessary changes to the amount of financial assurance. The Oil Conservation Division (OCD) of the Energy, Minerals, and Natural Resources Department (EMNRD) will determine if any Permit changes constitute a "major modification" under 19.15.36 NMAC.

**1. GENERAL PROVISIONS**

- A. Permittee and Permitted Facility.** OCD issues surface oil field waste management permit NM2-26 to Hilcorp Energy Company (382 County Road 3100, in Aztec, New Mexico 87410) for the construction, operation, and eventual closure of a centralized facility located upon a 38-acre tract in an unincorporated portion of San Juan County, New Mexico.

The waste management facility is intended for the permanent disposal of Resource Conservation and Recovery Act (RCRA) exempt and non-exempt/non-hazardous oil field waste and will include a landfarm (~18 acres) and associated infrastructure (~20 acres).

- B. Scope of Permit.** OCD regulates the disposition of water produced or used in connection with the exploration and production of oil and gas and to direct disposal of that water in a manner which will afford reasonable protection against contamination of fresh water supplies pursuant to authority granted in the Oil & Gas Act (Chapter 70, Article 2 NMSA 1978). Under that Act, OCD also regulates the disposition of nondomestic wastes resulting from the exploration, production, or storage of crude oil and natural gas to protect public health and the environment. Similarly, OCD regulates the disposition of nondomestic wastes resulting from the oil field service industry, the transportation of crude oil and natural gas, the treatment of natural gas, and the refinement of crude oil to protect public health and the environment pursuant to jurisdiction and authority granted by the same Act.

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

- C. Owner/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 its permit application received by OCD on November 25, 2020, including any attachments and/or amendments, all of which are incorporated into this Permit by reference.

- D. Modifications.** The Operator must notify the OCD in advance of any further increase in the land area the facility occupies, any changes in the design capacity, any changes in the nature of the oil field waste streams, or any additions of a new treatment process. As a result, the OCD Director may require a modification to the permit conditions.
- E. Definitions.** Terms not specifically defined in the permit shall have the same meanings as those in the Oil & Gas Act, or the rules adopted pursuant to the Act, as the context requires.
- F. General Performance Standards.** The Operator must operate in accordance with the permit conditions, comply with the Oil & Gas Act and rules issued pursuant to the Act, protect public health and the environment, prevent the waste of oil and gas, and prevent the contamination of fresh waters.
- G. Effective Date, Expiration, Renewal, and Penalties for Operating Without a Permit.** This permit is effective on **Date** and will expire ten years thereafter on **Date**.

The Owner/Operator may submit an application for renewal to 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 owner/operator to civil and/or criminal penalties (see Section 70-2-31 NMSA 1978).

- H. Financial Assurance.** The Operator has provided financial assurance in a form acceptable to OCD. The amount currently required by rule is \$25,000 for a centralized facility (19.15.36.11 A. NMAC).

## 2. GENERAL FACILITY OPERATIONS

- A. Labeling.** The Operator must clearly label all tanks, drums, and other containers to identify the contents and to provide emergency notification information. The Operator may use a tank coding system if the coding system is incorporated into their emergency response planning.
- B. Inspections and Maintenance of Secondary Containment Systems.** The Operator must inspect all secondary containment systems and sumps at least monthly to ensure proper operation and to prevent over filling or system failure. The Operator must empty all secondary containment systems of any fluids within 48 hours of discovery, notify the OCD of the discovery, and initiate corrective actions. The Operator must keep written records of its inspections and of any fluid analyses. The Operator shall maintain and make the documentation available for OCD inspection.
- C. Release Reporting and Corrective Action for Releases.** The Operator must comply with the spill reporting and corrective action provisions of the Oil & Gas Regulations (19.15.29 and 19.15.30 NMAC) as may be amended from time to time.
- D. Annual Report.** The Operator must submit a comprehensive annual report to the OCD by September 1<sup>st</sup> of each year detailing the Operator's activities during the preceding year (where a year is defined as July 1<sup>st</sup> through June 30<sup>th</sup>). The annual report must include the following information for the preceding year: (1) all inspection forms, including those for leak detection systems; (2) all analytical results, (3) hydrogen sulfide monitoring results, (4) process piping integrity test results, (5) training records, (6) complaint logs and resolutions, and (7) a summary of the nature, amount, and any related remediation of any reportable releases.

### 3. MATERIAL STORAGE

- A. Process, Maintenance, and Material Storage Areas.** The operator must pave and curb all process, maintenance, and material storage areas at the Facility, excluding evaporation ponds, below-grade tanks, and sumps, or incorporate another appropriate spill collection device for these areas as approved by the OCD.
- B. Above Ground Tanks.** The Operator must place above ground tanks on impermeable pads and surround the tanks with lined berms or with other impermeable secondary containment system having a capacity of at least one and one-third times the capacity of the largest tank, or the combined volume of any interconnected tanks. This does not apply to tanks containing fresh water.

### 4. WASTE MANAGEMENT

- A. Waste Streams.** This permit authorizes the Operator to handle the RCRA-exempt waste streams and non-exempt/non-hazardous oil field waste. OCD approval must be obtained to receive any waste stream not specified in the application prior to its collection, storage, treatment, or disposal.
- B. Waste Storage.** The Operator must store wastes at the Facility only in clearly marked storage areas that have been specified in the application, except for any waste that may be generated during emergency response operations. However, such emergency waste may be stored elsewhere for no more than 72 hours. OCD may approve additional storage on a case-by-case basis.

The Operator must not store non-oil field waste generated at the Facility by the Operator for more than 180 calendar days from the date any container is filled without OCD approval.

- C. Class V Wells.** Leach fields and other wastewater disposal systems at OCD-regulated facilities which inject non-hazardous fluids into or above an underground source of drinking water are Underground Injection Control Class V wells pursuant to 20.6.2.5002 NMAC. This permit does not authorize the use of a Class V injection well for the disposal of industrial waste at the Facility. Other Class V wells, including wells used only for the injection of domestic wastes, must be permitted by the New Mexico Environment Department.

### 5. BELOW GRADE TANKS AND SUMPS

- A.** Below grade tanks and sumps must have secondary containment systems with leak detection and meet the construction and operating requirements of 19.15.17 NMAC.

### 6. FACILITY-SPECIFIC CONDITIONS, EXCEPTIONS, WAIVERS, AND ALTERNATIVES

- A.** The Operator shall provide a survey plat of the surface waste management facility boundary, prepared by a registered professional surveyor in New Mexico, to the OCD at least 30 days prior to the start of construction of the landfarm.
- B.** The Operator shall furnish OCD with a complete set of construction drawings, including a major milestone schedule for construction, at least 30 days prior to the start of construction of the landfarm. The construction drawings must substantially comply with the engineering design provided with the application.

The major milestone schedule shall be regularly updated throughout construction activities.

- C.** The Operator shall submit as-built engineering drawings/diagrams of the Facility to OCD within 30 days of construction of landfarm cells, berms, drainage control systems, etc. The operator shall also explain any notable changes from what was provided in the submitted application and provide up-to-date calculations and analyses based on the as-built design, as applicable.
- D.** The Operator shall comply with the following requirement: soils and drill cuttings placed in the landfarm shall be sufficiently free of liquid content to pass the paint filter test and shall not have a chloride concentration exceeding 500 mg/kg due to landfarm location (e.g., ground water is less than 100 feet but at least 50 feet below the lowest elevation at which the operator will place oil field waste).
- E.** The Operator shall amend all reference materials (e.g., plan for management of approved oil field wastes, best management practice plan, training materials, etc.) to state that soils and drill cuttings placed in the landfarm will not exceed a chloride concentration of 500 mg/kg.
- F.** Naturally Occurring Radioactive Material (NORM) waste cannot be accepted at the Facility unless in compliance with 19.15.35 NMAC.
- G.** The Operator shall maintain a minimum berm height around each cell to at least two feet above the top of treatment-zone soils.
- H.** The Operator shall develop and implement a hydrogen sulfide prevention and contingency plan that complies with 19.15.11 NMAC for surface waste management facilities in the event a monitor detects H<sub>2</sub>S at the Facility at a concentration greater than 10 parts per million. The Plan must be submitted to OCD within 30-days of completion for approval.
- I.** The Operator is required to use EPA Method 8015M in lieu of EPA Method 418.1 for TPH measurement.
- J.** The Operator upon closure shall establish a vegetative cover equal to seventy percent of the native perennial vegetative cover (un-impacted by overgrazing, fire or other intrusion damaging to native vegetation) or a scientifically documented ecological description consisting of at least three native plant species, including at least one grass, but not including noxious weeds and conduct maintenance of the completed cover through two successive growing seasons. (19.15.36.18 A (6) NMAC)
- K.** The Operator shall ensure that soils are disked biweekly unless weather conditions prevent the disking activity such as below freezing temperatures and significant precipitation. In the event the Operator is unable to conduct the biweekly disking, the reason and weather condition(s) must be noted in a log along with supporting documentation and made available for OCD inspection upon request. The Operator is only allowed to miss up to six biweekly disking events on an annual basis unless given permission by the OCD to exceed this number.
- L.** The Operator shall determine that all abandoned oil wells within the area are properly plugged in accordance with OCD regulations prior to the initiation of construction activities within the Facility. If any wells are found to be unplugged or improperly plugged, the Operator shall take the appropriate corrective actions.

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

Mayor Victor Snover  
City of Aztec  
201 W Chaco St.  
Aztec, NM 87410

County Manager  
100 S. Oliver Drive  
Aztec, NM 87410

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  
(Include a location map and a site map with the notice)

Dr. Harry Bishara  
P.O. Box 748  
Cuba, NM 87013

Stephanie Garcia Richards  
Commissioner of Public Lands, New Mexico State Land Office  
310 Old Santa Fe Trail  
P.O. Box 1148  
Santa Fe, NM 87504

Mike Sloane  
Director, New Mexico Department of Game & Fish  
1 Wildlife Way  
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