

**BEFORE THE CORPORATION COMMISSION OF THE
STATE OF OKLAHOMA**

APPLICANT: NATIONAL COAL COUNTY, INC.)	
)	
RELIEF SOUGHT: ADMINISTRATIVE APPROVAL AUTHORIZING COMMERCIAL SOIL FARMING FACILITY PURSUANT TO OAC 165:10-9-2)	CAUSE PD NO.
)	200700041
)	
LEGAL DESCRIPTION: SE/4 AND THE NE/4 OF SECTION 34, TOWNSHIP 2 NORTH, RANGE 8 EAST, COAL COUNTY, OKLAHOMA.)	ORDER NO.
)	536952

ORDER PERMITTING COMMERCIAL SOIL FARMING
UNPROTESTED CAUSE

On the 25th day of January, 2007, Cheri M. Wheeler, attorney for Applicant, National Coal County, Inc. filed for administrative approval to operate a commercial soil farming facility covering portions of the above-captioned lands. On the 30th day of January, 2007, Applicant obtained Emergency Order No. 53487.

The Department of Pollution Abatement ("Pollution Abatement") of the Oklahoma Corporation Commission reviewed the application and all related exhibits. The Commission adopts the following findings of said Department.

1. **RELIEF SOUGHT:** Applicant requested administrative approval to operate a commercial soil farming facility on lands as described as the SE/4 and the NE/4 of Section 34, Township 2 North, Range 8 East, Coal County, Oklahoma.
2. **SUBJECT MATTER JURISDICTION:** The Commission has jurisdiction over the subject matter herein.
3. **NOTICE:** Notice was given as required by law and the rules of the Commission.
4. **ADJUDICATION WITHOUT HEARING:** During the thirty (30) day protest period established by OAC 165:5-7-35, Pollution Abatement did not receive written protest to the application. Consequently, the cause was adjudicated on the basis of the applicant's application and related exhibits, pursuant to said rule.

FINDINGS AND ORDER

1. **LEGAL LOCATION:** Applicant's commercial soil farming facility is located in the SE/4 and the NE/4 of Section 34, Township 2 North, Range 8 East, Coal County, Oklahoma. The soil farming plat is attached hereto as Exhibit "A".
2. **TYPE OF MUD/FLUIDS:** Soil farming is restricted to water based muds and/or cuttings as provided by OAC165:10-9-2(i)(4), as well as any other such materials authorized by the Commission.
3. **METHOD OF APPLICATION:** Applicant shall soil farm pit and or suitable recycling/ reclaiming material by one of the following methods:
 - (a) Pit material will be transferred by means of a 12" steel pipe to a centrifuge pump. The pit material is then pumped into an irrigation reel and will be land applied by means of an aerator gun.
 - (b) Other methods as approved by Pollution Abatement.
4. **RUNOFF AND PONDING:** Runoff and ponding of soil-farmed materials is strictly prohibited during application pursuant to OAC165:10-9-2(i)(9).
5. **VEGETATIVE COVER:** If the vegetative cover is destroyed or significantly damaged by soil farming application, the vegetative cover shall be reestablished within one (1) year after the last soil farming application in accordance with OAC 165:10-9-2-(i)(12).
6. **CONSERVATION MANAGEMENT PLAN:** Applicant will plow or disk the area to be soil farmed as pit materials are applied. All soil farming shall be conducted without run-off.
7. **SAMPLING AND ANALYSIS REQUIREMENTS:** Pit materials to be soil farmed shall be sampled and analyzed for pH, Total Dissolved Solids (TDS), electrical conductivity, Arsenic, Chromium, and Oil and Grease. Arsenic and Chromium may be analyzed in one of the two ways as set forth in OAC 165:10-9-2(e)(3).

After sampling from the pit, cell, or tank which contained the material to be soil-farmed, the operator shall not allow additional fluids or other materials, except natural precipitation or fresh water, into said holding device to decrease the viscosity of the fluid, pursuant to OAC 165:10-9-2(d)(3)(D).

The receiving soil shall be analyzed for the following, at a minimum: pH, Total Soluble Salts (TSS), or Electrical Conductivity and Exchangeable Sodium Percentage (ESP), as set forth in OAC 165:10-9-2(e)(2).

The appropriate Commission district office shall be contacted at least two (2) working days prior to pit or soil sampling.

All analysis is to be completed by a laboratory operated by the State of Oklahoma, or certified by the Oklahoma Water Resources Board.

A copy of all pit material and soil analysis shall be submitted to Pollution Abatement.

8. **ADDITIONAL SAMPLING AND ANALYSIS:** Additional soil sampling and analysis of a plot shall be done prior to each soil farming application when records indicate that sixty (60) percent of the maximum application rate (loading limit) set out in subsection OAC 165:10-9-2(f)(1) of any parameter except total weight is reached. Applicant shall additionally fulfill the requirements of OAC 165:10-9-2(d) and (e).

9. **MAXIMUM APPLICATION RATE:** The maximum application rate and loading limit shall be calculated in accordance with OAC 165:10-9-2(f)(1). Said calculations shall be made using the most limiting parameter in order to determine the proper application rate(s) as set forth in OAC 165:10-9-2(f)(2).

10. **FORM 1014CS REQUIREMENTS AND NOTIFICATION:** A completed form 1014CS shall be submitted to the Manager of Pollution Abatement for approval prior to commencement of soil farming. Said approval shall be in the form of a written permit, which must be utilized within two (2) months of the date of issuance or the permit will expire. Extensions may be granted by Pollution Abatement within the requirements of OAC 165:10-9-2(i)(10)(B). All subsequent applications shall be submitted in a like manner prior to soil farming.

11. **NOTICE TO COMMISSION:** Pursuant to OAC 165:10-9-2(i)(2), by agreement with the appropriate District Office, Applicant shall provide no less than twenty four (24) hour notice to the District Office prior to commencement of soil farming. Applicant shall also notify the District Office within twenty four (24) hours of each soil farming application. Written notice of commencement and completion shall be submitted to the Manager of Pollution Abatement within forty eight (48) hours.

12. **PRESENCE OF REPRESENTATIVE:** A representative of Applicant shall be present at all times during soil farming application as provided by OAC 165:10-9-2(i)(3).

13. **WEATHER RESTRICTIONS:** Applicants shall abide by all weather restrictions enumerated in OAC 165:10-9-2(i)(5).

14. **BUFFER ZONES:** No commercial soil farming shall take place within the following buffer zones:

- (a) One hundred (100) feet of a property line boundary;
- (b) Fifty (50) feet of any stream not designated by Oklahoma Water Quality Standards;
- (c) Three hundred (300) feet of any actively producing water well used for domestic, irrigation or industrial purposes; and
- (d) One thousand (1000) feet of any actively producing water well used for municipal purposes. OAC 65:10-9-2(i)(6).

15. **RECORD REQUIREMENT:** Applicant shall keep records of all soil farming applications as provided by OAC165:10-9-2(f)(3). Said records shall be available at all times for inspection by Commission representatives. Applicant shall submit an annual report to the Manger of Pollution Abatement in compliance with OAC165:10-9-2(k). The annual report shall be completed on Commission Form 1014A by February 1st of each year.

16. **OPERATOR AGREEMENT & SURETY:** Applicant shall file an operator agreement and shall maintain surety as provided by OAC 165:10-9-2(h)(1) and (h)(2). The surety amount shall be established by the Commission and shall be based upon the factors set forth in OAC 165:10-9-2(h)(1)(B).

17. **SIGN:** Applicant shall post a readily visible sign within twenty five (25) feet of the entrance to the soil farming facility as provided by OAC165:10-9-2(h)(2). Said sign shall contain the operator's name, legal description, order number, and emergency phone number.

18. **MONITOR WELLS:** Monitor wells shall be located in agreement with Pollution Abatement and constructed in compliance with OAC165:10-9-2(h)(3).

Monitor wells shall be sampled prior to the first soil farming application, and samples shall be taken once every six (6) months, during the months of January and July, after operations have commenced, until one (1) year after the last application is made. Then, samples shall be taken once every year for three (3) years. Sampling of the monitor wells shall be subject to the conditions set forth in OAC 165:10-9-2(h)(4).

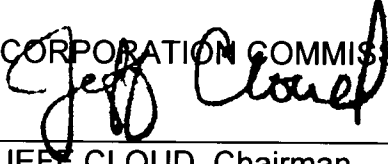
19. **RULES:** Applicant shall abide by all Commission rules and regulations governing commercial soil farming operations.

19. **TERMINATION:** If Applicant fails to notify Pollution Abatement of any violation of this Order, permit to soil farm, or any part of OAC 165:10-9-2, the authority to commercial soil farm may be revoked, and soil farming discontinued, as set forth in OAC 165:10-9-2(i)(10)(B).

20. **PREVENTION OF POLLUTION:** Applicant's commercial soil farming facility shall be operated and maintained at all times so as to prevent pollution. In the event a non-permitted discharge occurs, the provisions of OAC 165:10-9-2(i)(11) and OAC 165:10-7-5 shall be followed.

BY ORDER OF THE COMMISSION:

CORPORATION COMMISSION OF OKLAHOMA



JEFF CLOUD, Chairman



DENISE A. BODE, Vice Chairman



BOB ANTHONY, Commissioner

Done and performed this 20 day of March, 2007.



Peggy Mitchell, Secretary

REPORT OF POLLUTION ABATEMENT DEPARTMENT

The foregoing findings and Order incorporate the findings and recommendations of the Pollution Abatement Department.



Tim Baker, Manager
Department of Pollution Abatement

March 19, 2007

Date

MAP OF TUPELO COMMERCIAL
SOIL FARMING SITE LOCATED
IN A PART OF THE NE 1/4
AND THE SE 1/4 OF SEC. 34,
T.2N., R.8E. COAL CO., OK.
12-06-06 GORDON MOEBIUS

S3
12 ac.

S2
28 ac.

COMMERCIAL
PITS

S1
31 ac.

NS



"S" = SUITABLE SITE
"NS" = NONSUITABLE SITE
"ac." = ACRES
SCALE: 1 inch = 660'