



**Stephanie Garcia Richard
Commissioner of Public Lands**

Information Sheet Regarding Produced Water and Fracturing Fluids

Special Considerations for Operation on State Trust Lands:

The State Land Office is dedicated to generating revenue to support New Mexico's public schools and institutions while ensuring the long-term health and productivity of the land. In keeping with this ongoing commitment we have evaluated the operations of containments, pits or ponds involving produced water and/or fracturing fluids. In the following two areas the NMSLO requires precautions in addition to compliance with the regulations set forth by the New Mexico Oil Conservation Division as well as all other federal, state and local requirements.

- 1. Design and Construction Specifications** In addition to compliance with all federal, state and local regulations Lessee shall
 - a. use factory welded seams whenever possible for the primary and secondary liners shall; and
 - b. use wildlife netting for all open containments, pits or ponds.

- 2. Surface Operations** In addition to compliance with all federal, state and local regulations
 - a. Lessee shall remove all surface trash and debris caused by their operations from the Leased Premises and shall keep such premises free and clear of such trash and debris. "Surface trash and debris" means all nonoperation and/or nonessential equipment resulting from the operations permitted pursuant to this Lease and includes, but is not limited to, garbage, rubbish, junk or scrap.
 - b. Lessor requires that a fence be present from the time the liner is installed in the pit through the satisfaction of closure and site reclamation requirements and the terms of the lease. Fencing shall be maintained with the intent to keep persons, livestock and wildlife out of the pit. The type of fence used shall be specific to the class of livestock in the area (either a site perimeter fence or pit fence). All fences shall be braced or constructed in such a manner as to keep wires tight with no sagging between posts. The Lessor will inspect and, if necessary, notify the Lessee of necessary repairs or requirements for maintaining the required condition of all fences associated with this Lease.
 - c. All releases and spills over one half barrel shall be reported to the Lessor within forty-eight (48) hours. All major and minor releases shall be treated and cleaned up pursuant to OCD regulations. All spills over one half barrel and less than five barrels shall be treated and cleaned up to the reasonable satisfaction of Lessor.



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APPLICATION CHECKLIST

When submitting your application for a **frac pond, multi-well fluid management pit or recycling containment facility** please use the following list to ensure you have included all necessary documentation with your application packet. Incomplete applications will not be processed.

Application Form – completed, signed and notarized, labeled Exhibit_____.

Metes and Bounds Survey – refer to survey criteria, labeled Exhibit_____.

Copy of Access Survey (*optional*), labeled Exhibit_____.

Site Plan – showing placement of improvements, labeled Exhibit_____.

List of Equipment and Improvements (*if extra space needed*), labeled Exhibit_____.

\$500.00 Non-Refundable Application Fee.*

Cultural Properties Protection Acknowledgment Form signed, and Instructions (*if required*), labeled Exhibit_____.

NMSLO Cultural Resources Cover Sheet provided by your archaeological consultant (*if required*), labeled Exhibit_____.

Copy of NMOCD Forms (*i.e. C-144, C-147, etc., if applicable*), labeled Exhibit_____.

Copy of the Environmental Assessment (*if conducted by BLM or otherwise required by an outside agency*), labeled Exhibit_____.

Contacted NMSLO Commercial Resources Division to determine what forms will be required to obtain consent or partial relinquishment from existing surface lessee(s).

If you have any questions regarding the application procedure please contact the Commercial Resources Division at (505) 827-5754.

* Please make checks payable to “*Commissioner of Public Lands*”. When you provide a check as payment, you authorize the State of New Mexico to either use information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction.



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**APPLICATION FOR A BUSINESS LEASE
TO CONSTRUCT/OPERATE A
FRAC POND, MULTI-WELL FLUID MANAGMENT PIT,
OR RECYCLING CONTAINMENT FACILITY**

To: Commissioner of Public Lands
Attn: Commercial Resources Division
P.O. Box 1148, Santa Fe, New Mexico 87504
310 Old Santa Fe Trail, Santa Fe, New Mexico 87501

New Lease No. _____
(assigned by NMSLO)

Existing Lease No. _____

I, _____ State of _____,
(Name of the legal entity, or if applying as an individual, the personal name) (State of incorporation)

a citizen over the age of twenty-one years (or a corporation authorized to do business in New Mexico) do hereby make application for a business lease upon the following described lands, or such portion thereof as may be available for leasing, situated in the County of _____, State of New Mexico. I submit herewith a \$500.00 non-refundable application processing fee upon the following described lands:

DESCRIPTION OF LAND (Enter amount of acreage in each Quarter Quarter Subdivision.)

TOWNSHIP RANGE SECTION ALIQUOT (Subdivision) ACRES

Attach a metes and bounds survey with legal description when submitting the application.

*Please give general location or address of property if applicable:

1. Please check the box that matches the lease term you are requesting:

- 5-year lease.
- Long-term "bid lease". *Enter the number of lease years requested: _____

*A "bid lease" means a business lease entered into by the commissioner after the public advertisement and public auction required by the Enabling Act. If you are requesting a "bid lease" please indicate the number lease years you are requesting.

2. State the proposed access to the site. *(Please note that a separate right-of-way easement must be obtained for any access over state trust lands.)*

3. The primary proposed use is for:

- | | | |
|--|-----------------------------------|---|
| <input type="checkbox"/> Fresh Water Only Frac Pond; | <input type="checkbox"/> Existing | <input type="checkbox"/> New Construction |
| <input type="checkbox"/> Multi-Well Fluid Management Pit; | <input type="checkbox"/> Existing | <input type="checkbox"/> New Construction |
| <input type="checkbox"/> Recycling Containment and Facility; | <input type="checkbox"/> Existing | <input type="checkbox"/> New Construction |

4. The secondary proposed use includes: *(Please list all additional uses to be performed on the land.)*

5. Will this operation include facilities for recycling of produced water? Yes No

6. If this application is part of a larger project that will involve additional state trust lands and other instruments besides this lease please provide a summary of the project.

7. Will there be multiple operators using this facility? Yes No

8. Are there any existing improvements on the land: (If so, give type and description):

9. List all improvements and equipment you intend to place on the land and the approximate value of same, and attach a "Site Plan" showing improvements to be constructed and their location on the trust land: *(A separate sheet may be attached with this information.)*

10. Estimated completion of improvements installation (month day, year): _____

11. If you are required to file any permitting documents with the New Mexico Oil Conservation Division regarding this facility please provide a copy with the application.

12. Cultural Resource Protection

Parties are expected to review and abide by the laws and rules related to the protection of cultural properties, including the Cultural Properties Protection Rule (19.2.24 NMAC). Please indicate whether you have signed the enclosed Acknowledgment Form. Yes No

The NMSLO Cultural Resources Cover Sheet (Exhibit _____) provided to you by the archaeological consultant is attached to your application and indicates whether:

an ARMS Inspection or an Archaeological Survey has been conducted for this project. (see 19.2.24.9 & 19.2.24.10 NMAC for exceptions of certain categories of activity that do not require an ARMS inspection or survey).

Does your project involve federal or other state agencies? Yes No

In addition to complying with the requirements of the Cultural Properties Protection Rule, parties also must comply with all other applicable state and federal laws and rules, including laws and rules pertaining to endangered and threatened species and habitat protection.

13. Digital Files: Digital information of your project’s location is required. Acceptable formats: shapefiles (preferred), gps coordinates, kml/kmz files or georeferenced AutoCAD files. Yes No

Digital Files Custodian-Name if other than the applicant:

Email: Phone Number:

14. If this application is part of a larger project involving federal land please provide a copy of the Environmental Assessment prepared by BLM.

15. If there is an existing surface lessee you will be required to furnish a “Partial General Relinquishment” or “Consent to Lease Land Currently Leased” granting permission to lease trust land under existing lease. Please contact the Commercial Resources Division to verify you are using the proper form and obtain contact information for the existing lessee.

16. Please attach your proposed “Close-out Plan.” You may be required to post a bond to assure reclamation of the site. You will also be required to remove all your improvements upon termination of the lease.

17. Please provide contact information for the application process and the field contact for operations at the site.

Required Applicant Contact Information

Applicant Contact: _____

Applicant Phone: _____

Applicant Email: _____

Required Field Contact Information

Field Contact: _____

Field Phone: _____

Field Email: _____

Affirmation on the following page.

I, _____, the above applicant, do solemnly swear, or affirm,
(Please print name of applicant or of attorney in fact / authorized agent)
that each and every statement made in this application is true and correct to the best of my knowledge and belief.

Signature of Applicant

State of Parent Corporation & Incorporation No.

Printed Name of Signatory

Street Address

Attorney in Fact or Authorized Agent

City, State and Zip Code

Acknowledgment for an individual capacity:

State of _____

County of _____

This instrument was acknowledged before me on the _____ day of _____ (month),

20____ by _____ (name(s) of
person(s).

(Seal)

Signature of notarial officer

My commission

expires: _____

For an acknowledgment in a representative capacity:

State of _____

County of _____

This instrument was acknowledged before me on the _____ day of _____ (month),

20____ by _____ (name(s) of person(s)) as

_____ (type of authority, e.g., officer, trustee, etc.) of

_____ (name of party on behalf of whom

instrument was executed.)

(Seal)

Signature of notarial officer

My commission

expires: _____

\$500.00 NON-REFUNDABLE APPLICATION FEE*

* Please make checks payable to "Commissioner of Public Lands". When you provide a check as payment, you authorize the State of New Mexico to either use information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction.



Stephanie Garcia Richard, Commissioner of Public Lands
State of New Mexico

CULTURAL PROPERTIES PROTECTION ACKNOWLEDGMENT FORM

Exhibit _____

All lessees, operators, grantees, permittees, and/or applicants (collectively, “Parties”) requesting any authorization from the Commissioner of Public Lands, or conducting any project or activity on state trust land, are expected to review and abide by all applicable laws and rules related to the protection of cultural properties on state land, including the New Mexico State Land Office’s (“NMSLO”) Cultural Properties Protection Rule, 19.2.24 NMAC. The Cultural Properties Protection Rule can be viewed at <https://www.nmstatelands.org/culturalproperties/>.

Parties conducting surface-disturbing activity on state trust land must follow the procedures and timelines outlined in 19.2.24.8 NMAC. To minimize processing delays, Parties are strongly encouraged to supply NMSLO with appropriate documentation as early as possible pursuant to 19.2.24.8 (C), (D), (E) & (F) NMAC. Parties are advised to always exercise due caution to ensure that cultural properties on state trust land are not inadvertently excavated, disturbed, dislodged, damaged, destroyed, or removed by any person, pursuant to the Cultural Properties Protection Rule, 19.2.24.8 (A) NMAC and Section 18-6-9 (A) and (B), NMSA 1978.

By signing this acknowledgment form, Parties affirm that they have read this document, including the accompanying Instructions for Compliance, and have reviewed and agree to comply with NMSLO’s Cultural Properties Protection Rule. If a Party is other than a natural person, the individual signing below attests that they have the authority to execute this acknowledgment on behalf of and bind that Party.

Type and Number of Instrument (Lease Number):

(Required for Oil & Gas Leases-eg. VB06320001; include if available for other leases: Business, Renewables, Minerals, Water Bureau, ROW or Agricultural leases-eg. BL05220001, GR0232, R40893, SW0520, HA0102)

Name of Party (Company Name, if applicable):

Name of Signatory (Person Signing):

Relationship to Party/Title (position):

(eg. lessee, operator, grantee, applicant, self or other)

Phone Number:

Email Address:

Signature : _____

- Date:

INSTRUCTIONS FOR COMPLIANCE

Cultural Properties Protection Rule (19.2.24 NMAC)

The following instructions apply to all lessees, operators, grantees, permittees, and/or applicants (collectively, “Parties”) that intend to conduct new surface disturbing activities on state trust lands. The instructions provide additional guidance for fulfilling the requirements of NMSLO’s Cultural Properties Protection Rule. A copy of the Cultural Properties Protection Rule can be found at <https://www.nmstatelands.org/culturalproperties/>.

We thank you in advance for your commitment to protecting New Mexico’s past and living history. NMSLO encourages all Parties to provide current and accurate documentation as early as possible to minimize processing delays.

Please do not hesitate to reach out to the Cultural Resources Office at croinfo@slo.state.nm.us should you have any questions after reviewing these instructions or with NMSLO’s cultural properties review process.

Part I: Archaeological Records Management Section (ARMS) Inspection (Records Review)

1. The ARMS inspection is a records review and should comply with the pre-field requirements of 4.10.15.9 NMAC. An ARMS inspection must be conducted prior to any new surface-disturbing activities, in compliance with 19.2.24.8 (C) NMAC. The specific timing of when an ARMS inspection is required depends on the category of activity, as described in 19.2.24.8 (E) NMAC. The Cultural Properties Protection Rule provides exceptions for certain categories of activity that do not require an ARMS inspection or survey; see 19.2.24.9 NMAC and 19.2.24.10 NMAC.
2. Parties are expected to engage a permitted archaeologist to conduct the initial ARMS inspection. Permitted archaeologists are referred to in these Instructions as “archaeological consultants.” Only ARMS inspections from archaeological consultants will be accepted. The list of archaeological consultants in New Mexico is available at <http://www.nmhistoricpreservation.org/documents/consultants.html>. Scroll down past the headings for “Archaeological Permits” and “Official Scenic Markers” to “Preservation Consultants.” Click on the pdf document titled “Cultural Resource Consultants.” The list is updated regularly and arranged by county of location. Because costs vary, the NMSLO encourages Parties to contact more than one archaeological consultant.
3. The Party must provide the archaeological consultant with all relevant supporting documentation. This may include a description of the project, cadastral plats, and location information in digital form (ArcGIS shape files, kml/kmz format, GPS coordinates, CAD drawings, plats, or accurate depictions on USGS 1:24000 quadrangles).
4. The archaeological consultant will conduct an ARMS inspection of the entire area of potential effect (APE). Based on the ARMS inspection, the findings will be summarized into one of three results as indicated on the NMSLO Cultural Resources Cover Sheet (“Cover Sheet”). The Cover Sheet is a fillable PDF form (available from the Web Portal and also from NMSLO’s website and Cultural Resources Office):
 - (A) ___ The entire area of potential effect or project area has been previously surveyed to current standards and **no** cultural properties were found within the survey area.
 - (B) ___ The entire area of potential effect or project area has been previously surveyed to current standards and cultural properties were found within the survey area.
 - (C) ___ The entire area of potential effect or project area has **not** been previously surveyed or has not been surveyed to current standards. A complete archaeological survey must be conducted and submitted for review.
5. If the ARMS inspection indicates that the entire APE has been previously surveyed and no cultural properties were located (**result A above**), NMSLO’s Cultural Resources Office and the relevant leasing

division (e.g. Water Bureau, Minerals; Agricultural Leasing; Business Leasing, Renewable Energy, Rights-of-Way, etc.) will complete the process of review and approval. In the case of oil and gas lease projects, once the Cultural Resources Office reviews and approves the ARMS inspection results, no further archaeological review is required and the project may proceed.

6. For the ARMS Review (**result A above**), the archaeological consultant will complete and submit the ARMS Inspection/Desktop Review web form on the Cultural Compliance Web Portal (Web Portal), available at <http://culturalcompliance.nmstatelands.org/>. NMSLO's Cultural Resources Office will have immediate access to the submitted web form and accompanying documents.
7. If the ARMS inspection result indicates a previous survey showing the presence of cultural properties within the APE (**result B above**), the Party must propose avoidance and protection measures for the project as designed in collaboration with their archaeological consultant.
8. If the ARMS inspection shows that the entire APE has **not** been subject to archaeological survey or to a current standards survey (**result C above**), a complete archaeological survey must be conducted. The new survey need not include areas already subjected to acceptable surveys. See continued instructions below, Part II.
9. Because specific locational information of cultural properties that may be contained in an ARMS inspection or archaeological survey is confidential under New Mexico law (see Cultural Properties Act, Section 18-6-11.1, NMSA 1978, and Section 19-1-2.1, NMSA 1978), Parties should expect to receive a copy only of the Cover Sheet from their archaeological consultant, and should forward the Cover Sheet to the appropriate NMSLO leasing division with their application.
10. Parties conducting project activities on state land under oil and gas leases, like other Parties, will receive a copy of the Cover Sheet from their archaeological consultant. To provide information on their upcoming projects on state land, Parties will then fill in the Oil and Gas Project Description Web Form at <http://culturalcompliance.nmstatelands.org/> and will submit, along with the Cover Sheet, any necessary documentation for cultural compliance review pursuant 19.2.24.8 (E)(3) NMAC. Only on-lease oil and gas projects with activities that are not included in any other lease application at NMSLO (eg. Business or Right of Way) should utilize the Web Portal.

Part II: Archaeological Surveys and Compliance Measures

1. If the ARMS inspection, in compliance with 19.2.24.8 NMAC, indicates that the entire APE has not been subject to archaeological survey (see Part I, Para. 4, **result C**), a complete archaeological survey must be conducted to current standards in compliance with 4.10.15 NMAC. The new survey need not include areas already subjected to acceptable surveys.
2. In compliance with 19.2.24.8 (F) NMAC, at least 15 calendar days prior to any survey activities, the archaeological consultant should fill in and submit a Notification of Intent to Conduct an Archaeological Survey through the Web Portal at <http://culturalcompliance.nmstatelands.org/>.
3. Only archaeological surveys from archaeological consultants will be accepted and must be conducted under current standards in compliance with 4.10.15 NMAC. Information on how to access the list of archaeological consultants is listed in Part I, Para. 2 above. NMSLO encourages Parties to contact more than one archaeological consultant in your location as proximity will be a factor in estimated costs of an archaeological survey.
4. Parties will be expected to design their project to avoid any cultural properties identified within the APE (as recorded on the Cover Sheet in Part I, Para. 4, **result B**) by the archaeological survey obtained in conjunction with a project or by pre-existing surveys, or provide other mitigation measures in collaboration with their archaeological consultant. Parties are encouraged to provide NMSLO with appropriate current and accurate documentation of the proposed activity as early as possible (preferably at least sixty calendar days prior to any surface disturbing activity) to minimize processing delays and ensure implementation of avoidance and protection measures.

- a. Pursuant to the Cultural Properties Protection Rule, 19.2.24.12 (A) NMAC, if any Party becomes aware of actual or imminent damage to cultural properties on state trust lands where that Party is conducting activities, that Party shall immediately notify NMSLO and suspend project activities in the immediate area of the damage or the threatened cultural property. Activities shall remain suspended until the State Historic Preservation Officer and NMSLO approve resumption of activities.
- b. A Party that damages cultural properties on state trust land is responsible for the cost of an archaeological damage assessment, plus the remediation value of the affected cultural property as determined by that damage assessment. In addition, the Commissioner of Public Lands may file an action to recover an amount equal to twice the cost of restoration, stabilization, and interpretation of the damaged cultural property, in accordance with the Cultural Properties Act, Section 18-6-11.2(C), NMSA 1978.

5. The archaeological consultant, upon completion of the survey report, should submit the fillable, completed Cover Sheet to croinfo@slo.state.nm.us with any relevant questions.

Pursuant to the requirements of 4.10.8.18 NMAC, the Cultural Resources Office will review a complete copy of the survey report, its findings and any required compliance (avoidance or mitigation) measures and recommend revisions, if applicable. The Cultural Resources Office will provide further guidance on how archaeological consultants should submit complete survey reports and any required compliance measures for review.

The Cultural Resources Office additionally may request electronic files of survey report(s), sites, location of findings, or survey areas in order to complete its review, all of which should be sent to croinfo@slo.state.nm.us.

6. The complete results of an archaeological survey are confidential under New Mexico law (see Cultural Properties Act, Section 18-6-11.1, NMSA 1978, and Section 19-1-2.1, NMSA 1978).
 - a. Upon approval of the final archaeological survey report and its findings/recommendations, the archaeological consultant will upload the final archaeological report along with all supporting documentation to the New Mexico Cultural Resources Information System (NMCRIS). Parties should expect to receive a copy of the Cover Sheet from their archaeological consultant, and should forward it to the appropriate leasing division with their application.
 - b. In the case of oil and gas leases only, Parties themselves will upload the Cover Sheet along with their Project Description Web Form documentation submitted via the Web Portal at <http://culturalcompliance.nmstatelands.org/>.
7. The website <http://nmstatelands.org/cultural-resources-office/> contains a list of State Trust Land Archaeologists within NMSLO's Cultural Resources Office (along with related contact info) to whom questions can be addressed.
8. Below is a list of useful links, emails, and phone numbers:
 - a. Cultural Compliance Portal: <http://culturalcompliance.nmstatelands.org>
 - b. Cultural Resources Office Website: <http://www.nmstatelands.org/cultural-resources-office/>
 - c. Cultural Properties Protection Rule and FAQs: <http://www.nmstatelands.org/culturalproperties/>
 - d. Historic Preservation Division-List of Archaeological consultants: <http://www.nmhistoricpreservation.org/documents/consultants.html>
 - e. Inquiries to the Cultural Resources Office: croinfo@slo.state.nm.us
 - f. Main New Mexico State Land Office phone number: 505-827-5760