

STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION COMMISSION

IN THE MATTER OF THE HEARING CALLED
BY THE OIL CONSERVATION COMMISSION
FOR THE PURPOSE OF CONSIDERING:

APPLICATION OF PUBLIC SERVICE COMPANY
OF NEW MEXICO FOR *DE NOVO* HEARING ON
ORDER NO. R-11134 ISSUED BY THE NEW
MEXICO OIL CONSERVATION DIVISION IN

CASE NO. 12,033

OIL CONSERVATION DIV.
99 AUG 23 PM 12:50

SUBPOEONA DUCE TECUM

**TO: Burlington Resources Oil & Gas Company
c/o William F. Carr
Campbell, Carr, Berge & Sheridan, P.A.
P.O. Box 2208
Santa Fe, New Mexico 87504**

Pursuant to NMSA (1978) § 70-2-8 and Rule 1211 of the New Mexico Oil Conservation Commission's Rules of Procedure, you are hereby ORDERED to appear at 9:00 am, August 25, 1999 at the offices of the Oil Conservation Division, 2040 South Pacheco, Santa Fe, New Mexico 87505 and to produce the documents and items specified in the attached Exhibit "A" and to make available to Public Service Company of New Mexico, and its attorneys, Keleher & McLeod, P.A., for copying, all of said documents and items.

This subpoena duces tecum on application of Public Service Company of New Mexico through its attorneys Keleher & McLeod, P.A., P.O. Drawer AA, Albuquerque, New Mexico 87103.

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Dated this ____ day of August 1999

NEW MEXICO CONSERVATION COMMISSION

BY: *Lyn Hunt for*
LORI WROTENBERY, DIRECTOR

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Ed Haseley, Direct Testimony:

Provide all notes, photographs, videotapes, logbooks, measurements, field audits, instrument calibration data, and similar documentation developed by Mr. Hasely or under Mr. Hasely's direction during his supervision of the remediation work, as referred to on Page 9 of Mr. Hasely's direct testimony.

Provide all notes, photographs, instrument readings, instrument calibration data, videotapes, logbooks, field audits, and similar documentation developed by Mr. Hasely or under Mr. Hasely's direction as referred to on Page 8, lines 8 and 9 (reference to nine or ten test holes excavated in the vicinity of Burlington's former production pit and a PID survey), including all contemporaneously developed data on the test hole locations, depths, sampling locations, and results.

Provide the correspondence that transmitted the actual data support (boring logs and PID readings) to OCD that was claimed to have been transmitted in Burlington Exhibit 21 (data from two soil borings, SB-1 and SB-2), but that were not included with the Exhibit.

All field notes, photographs and other documents provided to Burlington Resources by Philip Services Corp. relating to the Hampton 4M well site

James Rhodes – Rebuttal Testimony:

Provide the performance analysis referred to by Mr. Rhodes and upon which Mr. Rhodes bases his testimony at page 4, lines 4 and 5.

Paul Rosasco - Direct and Rebuttal Testimony:

Provide copies of all site-specific cross-sections, photographs, survey data, analytical chemistry data, data summaries, notes or logs from Mr. Rosasco's field and first-hand observations of the remediation and other on-site work at the Hampton 4M, and copies of all quantitative analyses that Mr. Rosasco relied upon for conclusions in your direct and rebuttal testimony.

Larry Dillon - Rebuttal Testimony:

Provide all bradenhead, mechanical integrity, and other test protocols and the results from those tests that were performed at the Hampton 4M site.

Provide all test results supporting Mr. Dillon's testimony on page 3 that the tanks and their associated piping had no leaks (e.g., tightness testing, hydrostatic testing, or other approved tank/piping tightness testing).

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STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION DIVISION

63 AUG 26 AM 7:46

**IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
COMMISSION FOR THE PURPOSE OF
CONSIDERING:**

CASE NO. 12033

**APPLICATION OF PUBLIC SERVICE COMPANY
OF NEW MEXICO FOR REVIEW OF OIL CONSERVATION
DIVISION DIRECTIVE DATED MARCH 13, 1998,
DIRECTING APPLICANT TO PERFORM ADDITIONAL
REMEDIATION FOR HYDROCARBON CONTAMINATION,
SAN JUAN COUNTY, NEW MEXICO.**

SUBPOENA DUCES TECUM

**TO: Public Service Company of New Mexico
c/o Richard L. Alvidrez, Esq.
Keleher & McLeod, P.A.
P. O. Drawer AA
Albuquerque, New Mexico 87103**

Pursuant to NMSA (1978), Section 70-2-8, and Rule 1211 of the New Mexico Oil Conservation Commission's Rules of Procedure, you are hereby ORDERED to appear at 9:00 a.m., August 25, 1999, at the offices of the Oil Conservation Division, 2040 South Pacheco, Santa Fe, New Mexico 87505 and to produce the documents and items specified in attached Exhibit A and to make available to Burlington Resources Oil & Gas Company, and their attorneys, William F. Carr and Paul R. Owen, for copying, all of said documents.

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This subpoena is issued on application of Burlington Resources Oil & Gas Company, through their attorneys, Campbell, Carr, Berge & Sheridan, P.A., Post Office Box 2208, Santa Fe, New Mexico 87504.

Dated this th20 day of August, 1999.

NEW MEXICO OIL CONSERVATION COMMISSION

BY: 
LORI WROTENBERY, DIRECTOR

EXHIBIT "A"

**TO SUBPOENA DUCES TECUM
TO PUBLIC SERVICE COMPANY OF NEW MEXICO
IN NEW MEXICO OIL CONSERVATION DIVISION
CASE 12033**

PURPOSE: The purpose of this subpoena is to provide all of the information necessary for Burlington Resources Oil & Gas Company, to be able to prepare its opposition to Public Service Company of New Mexico in NMOCD Case 12033.

PRODUCE THE FOLLOWING:

1. On page 6, lines 10-11 of Valda Terauds' testimony, a "videotape and photographs of Burlington's remediation efforts introduced by PNM Witness Sikelianos" is referenced. Please produce the referenced videotape and photographs.
2. On page 37, line 21 of Maureen Gannon's testimony, Ms. Gannon states that PNM has spent over \$200,000 on remediation and investigation. Please provide a detailed breakdown of PNM's expenditures on remediation and investigation in association with the Hampton 4M well site.

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INSTRUCTIONS

This Subpoena Duces Tecum seeks all information available to you or in your possession, custody or control from any source, wherever situated, including but not limited to information from any files, records, computers documents, employees, former employees, consultants, counsel and former counsel. It is directed to each person to whom such information is a matter of personal knowledge.

When used herein, "you" or "your" refers to the person or entity to whom this Subpoena Duces Tecum is addressed to including all of his or its attorneys, officers, agents, consultants, employees, directors, representatives, officials, departments, divisions, subdivisions, subsidiaries, or predecessors.

The term "document" as used herein means every writing and record of every type and description in the possession, custody or control of Public Service Company of New Mexico, whether prepared by you or otherwise, which is in your possession or control or known by you to exist, including but not limited to all drafts, papers, books, writings, records, letters, videotapes, photographs, computer disks, tangible things, correspondence, communications, telegrams, cables, telex messages, memoranda, notes, notations, work papers, transcripts, minutes, reports and recordings of telephone or other conversations or of interviews, conferences, or meetings. It also includes diary entries, affidavits, statements, summaries, opinions, reports, studies, analyses, evaluations, contracts, agreements, jottings, agenda, bulletins, notices, announcements, plans, specifications, sketches, instructions charts, manuals, brochures, publications, schedules, price lists, client lists, journals, statistical records, desk calendars, appointment books, lists, tabulations sound recordings, computer printouts, books of accounts, checks, accounting records, vouchers, and invoices reflecting business operations, financial statements, and any notice or drafts relating to the foregoing, without regard to whether marked confidential or proprietary. It also includes duplicate copies if the original is unavailable or if the duplicate is different in any way, including marginal notations, from the original.

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OIL CONSERVATION DIV.
92 AUG 25 10:18:12

**STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION DIVISION**

**IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
COMMISSION FOR THE PURPOSE OF
CONSIDERING:**

CASE NO. 12033

**APPLICATION OF PUBLIC SERVICE COMPANY
OF NEW MEXICO FOR REVIEW OF OIL CONSERVATION
DIVISION DIRECTIVE DATED MARCH 13, 1998,
DIRECTING APPLICANT TO PERFORM ADDITIONAL
REMEDATION FOR HYDROCARBON CONTAMINATION,
SAN JUAN COUNTY, NEW MEXICO.**

**BURLINGTON RESOURCES OIL & GAS COMPANY'S
MOTION TO QUASH SUBPOENA DUCES TECUM**

Burlington Resources Oil and Gas Company ("Burlington"), moves the New Mexico Oil Conservation Division to quash the subpoena issued on behalf of Public Service Company of New Mexico ("PNM"), on August 23, 1999. The subpoena should be quashed because it seeks information to which PNM has had access throughout this matter, and because it is unduly burdensome, being served two days before a response is due, and three days before the hearing on the merits in this matter. In support of this Motion, Burlington states:

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1. The hearing on the merits in this matter is scheduled to begin on Thursday, August 26, 1999.

2. Since the Division's Order, which is the subject of this *de novo* review by the Commission, was issued in this matter on February 5, 1999, Burlington has made available all information which PNM has from time to time informally requested. Burlington has not refused any informal discovery requests made by PNM in this matter since the February 5, 1999 Order.

3. PNM has made no formal discovery in this matter since the Division's Order was issued in this matter on February 5, 1999.

4. PNM has not sought the particular information requested in its August 23, 1999 subpoena, either through formal or informal discovery in this matter.

5. In the August 23 subpoena, PNM seeks eight categories of information from four Burlington witnesses. The information sought by PNM is substantial and will necessitate Burlington's full attention to the subpoena, to the detriment of Burlington's preparation for the August 26, 1999 hearing on the merits.

6. If PNM needed the information requested for its hearing preparation, it could have asked Burlington for that information six months ago, or three months ago, or a month ago, or even a week ago. PNM did not seek that information. Instead, it waited until three days before the hearing, made no telephone calls or attempts to cooperate with Burlington's counsel, and obtained a subpoena which provides Burlington less than 48 hours to compile

and produce information from four different witnesses.

7. Having made no attempt to discover the information sought in the subpoena through formal or informal discovery, PNM's attempt to use a subpoena to discover substantial amounts and categories of information, a mere three days before the hearing on the merits in this action, is a blatant attempt to abuse the Commission's compulsory process for the purpose of harassment. Burlington submits that the Commission should refuse to participate in PNM's harassment and attempts to divert Burlington from its hearing preparation.

Therefore, because the subpoena issued by the Division on behalf of PNM on August 23, 1999, is unduly burdensome and an abuse of the Commission's subpoena power, Burlington respectfully requests that the subpoena be quashed.

Respectfully submitted,

CAMPBELL, CARR, BERGE
& SHERIDAN, P.A.

By:



WILLIAM F. CARR

PAUL R. OWEN

Post Office Box 2208

Santa Fe, New Mexico 87504-2208

ATTORNEYS FOR
BURLINGTON RESOURCES OIL AND GAS
COMPANY

CERTIFICATE OF SERVICE

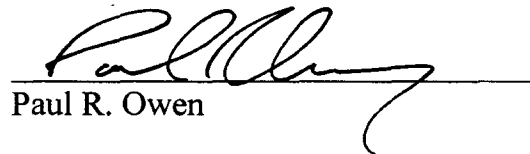
I hereby certify that a copy of the foregoing Motion was served by facsimile transmission and certified U.S. Mail, return receipt requested, this 25th day of August, 1999, upon the following counsel of record:

Richard L. Alvidrez
Keleher & McLeod, P.A.
Post Office Drawer AA
Albuquerque, New Mexico 87103
facsimile (505) 346-9150

And was served by hand-delivery upon the following counsel of record:

Rand Carroll, Esq.
Oil Conservation Division
New Mexico Energy, Minerals
& Natural Resources Department
2040 South Pacheco Street
Santa Fe, New Mexico 87505

Marilyn S. Hebert
New Mexico Energy, Minerals
& Natural Resources Department
2040 South Pacheco Street
Santa Fe, New Mexico 87505


Paul R. Owen

OIL CONSERVATION DIV.

STATE OF NEW MEXICO 99 AUG 25 AM 6:33
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION COMMISSION

IN THE MATTER OF THE HEARING CALLED
BY THE OIL CONSERVATION COMMISSION
FOR THE PURPOSE OF CONSIDERING:

APPLICATION OF PUBLIC SERVICE COMPANY CASE NO. 12,033
OF NEW MEXICO FOR *DE NOVO* HEARING ON
ORDER NO. R-11134 ISSUED BY THE NEW
MEXICO OIL CONSERVATION DIVISION IN

**RESPONSE OF PUBLIC SERVICE COMPANY OF NEW MEXICO TO
SUBPOEONA DUCE TECUM**

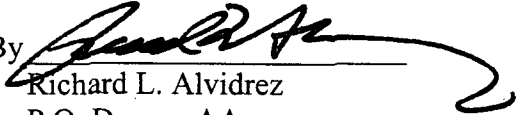
Pursuant to NMSA (1978) § 70-2-8 and Rule 1211 of the New Mexico Oil Conservation Commission's Rules of Procedure, Public Service Company of New Mexico ("PNM") hereby responds to the subpoena duces tecum issued on behalf of Burlington Resources Oil & Gas ("Burlington"). In compliance with the foregoing subpoena, PNM is producing the following documents for inspection and copying by Burlington at the date and time specified:

1. Table 1 showing Hampton 4M Expenditures, by year, through January 1999
2. Videotape of Burlington Hampton 4M remediation activities on 11-11-98 and 11-12-98
3. Photographs (23) taken by PNM representatives on 11-11-98 and 11-12-98 at the Hampton 4M well site
4. Color photocopies of Polaroid photographs (35 photos on 9 pages)

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Dated this 25th day of August 1999

Respectfully submitted
KELEHER & McLEOD, P.A.

By 
Richard L. Alvidrez
P.O. Drawer AA
Albuquerque, New Mexico 87103
(505) 346-4646

*Attorneys for Public Service
Company of New Mexico*

CERTIFICATE OF SERVICE

THIS WILL CERTIFY that a true and correct copy of the Response of Public Service Company of New Mexico to Subpoena Duces Tecum was hand-delivered this 25th day of August to the following:

William F. Carr, Esq.
Paul Owen
Campbell, Carr, Berge & Sheridan, P.A.
110 North Guadalupe, Suite 1
Santa Fe, NM 87504-2208

Rand L. Carroll, Esq.
NM Oil Conservation Division
2040 S. Pacheco Street
Santa Fe, New Mexico 87505-5472

Marilyn Herbert
Oil Conservation Commission
2040 S. Pacheco Street
Santa Fe, New Mexico 87505-5472

KELEHER & McLEOD, P.A.

By 
Richard L. Alvidrez

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