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December 13, 2002

Hand Delivered

Lori Wrotenbery
Oil Conservation Commission
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

Re: Case No. 12734 (de novo)

Dear Ms. Wrotenbery:

Enclosed for filing are an original and four copies of San Juan Coal Company's response regarding its motion to strike.

Very truly yours,



James Bruce

Attorney for San Juan Coal Company

OIL CONSERVATION DIV
02 DEC 13 PM 12:55

*Application of Richardson Operating
Co.
Record on Appeal, 2103.*

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 RICHARDSON OPERATING
COMPANY TO ESTABLISH A SPECIAL
"INFILL WELL" AREA WITHIN THE BASIN-
FRUITLAND COAL GAS POOL AS AN EXCEPTION
TO RULE 4 OF THE SPECIAL RULES FOR THIS
POOL, SAN JUAN COUNTY, NEW MEXICO.

Case No. 12734 (de novo)
Order No. R-11775

OIL CONSERVATION DIV.
02 DEC 13 PM 12:55

SAN JUAN COAL COMPANY'S RESPONSE TO
RICHARDSON OPERATING COMPANY'S REPLY TO
OBJECTION AND MOTION TO STRIKE

On November 19, 2002 San Juan Coal Company ("San Juan") filed its Objection and Motion to Strike (the "Motion"), objecting to the introduction of Richardson Operating Company's ("Richardson") coal gas modelling data, and moved the Commission for an order striking the supplemental materials submitted by Richardson regarding its model.

On December 9, 2002 Richardson filed its reply (the "Reply"), basically claiming that (a) San Juan is too late in objecting, or in the alternative that San Juan has waived objection, and (b) the documents relied upon by Richardson are relevant, and in any event the Commission may take administrative notice of prior proceedings. These matters are addressed briefly below.

A. UNTIMELY OBJECTION.

On October 31, 2002, during the testimony of Richardson's witness, Dave Cox, Commissioner Lee questioned Mr. Cox about the basis of his model and the data used therein, which was used to

derive the numbers set forth in Richardson Exhibit C-26. Richardson said it would provide the data to the Commission and San Juan. San Juan had not seen Exhibit 26 until a few days before the hearing, nor had it seen the underlying modelling data. At the close of hearing, San Juan specifically requested and was allowed the opportunity to review the Cox data and respond thereto. **Hearing Transcript at 621-623.** San Juan's Motion is simply part of its response, as permitted by the Commission at hearing. Therefore, it is neither untimely, nor did San Juan waive any objection.

In addition, Richardson claims in the Reply that the affidavit of San Juan's witness, Dan Paul Smith, which is attached to San Juan's Motion, is not evidence. San Juan simply points out that the sworn affidavit complies with San Juan's right to respond to Richardson's post-hearing submittal.

B. RELEVANCE OF DATA.

Mr. Cox did not have the underlying modelling data with him at hearing, and on November 12, 2002 Richardson submitted five booklets of data to the Commission in support the model. The booklets are marked Richardson Exhibits E, E-1, E-2, E-3, and E-4.

Richardson Exhibits E-1, E-2, E-3, and E-4 are materials gleaned from presentations to the Division in prior Fruitland coal hearings. That data is ten years old or older. Moreover, at hearing, Richardson never requested incorporation of the record of the prior cases, and these four exhibits should be struck from the record based on irrelevance, lack of reliability, and failure to

request incorporation, which it could have done in its submittal to the Commission.

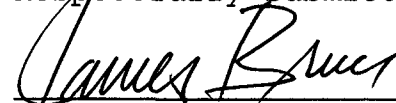
Richardson has failed to demonstrate that the model, backup information, and associated testimony of Dave Cox - whether relevant or not - is reliable and scientifically valid. The affidavit of Dan Paul Smith, attached to San Juan's Motion, establishes that fact, and is part of San Juan's response to Mr. Cox, which the Commission expressly allowed.

C. OBJECTION TO COX AFFIDAVIT.

In Richardson's Reply, by tendering a new affidavit by Dave Cox, it attempts to initiate a second round of post-hearing submittals to rehabilitate Mr. Cox's discredited testimony. This second round was not authorized by the Commission and it is improper. San Juan objects, and moves that the Cox affidavit, attached to the Reply, be stricken; Mr. Cox has already had his opportunity to attempt to respond to Dr. Lee's questions, and did so by submitting the five volumes of data.

WHEREFORE, San Juan requests that its motion be granted, and that Richardson's model, backup information, associated testimony of Dave Cox, and Richardson Exhibits E, E-1, E-2, E-3, and E-4, be stricken from the record.

Respectfully submitted,



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CERTIFICATE OF SERVICE

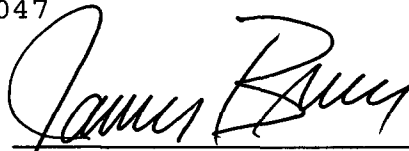
I hereby certify that a copy of the foregoing pleading was served upon the following counsel of record in the fashion indicated this 13th day of December, 2002:

Via Hand Delivery

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