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2011 DEC 29 P 4:44

December 29, 2011

Ms. Jami Bailey, Director  
New Mexico Oil Conservation Division  
1220 S. St. Francis Drive  
Santa Fe, NM 87501

**HAND DELIVERED**

**Re: NMOCD Case No. 14763: In The Matter of the Application of Mack Energy Corporation for Compulsory Pooling, Lea County, New Mexico**

Dear Ms. Bailey:

On behalf of Siana Oil and Gas, LLC, enclosed for filing is an original and one copy of our Amended Pre-Hearing Statement in the above-referenced case.

Thank you.

Very truly yours,

Karen Williams  
Assistant to J. Scott Hall

JSH:kw

cc: James Bruce, Esq.

339843

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

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**APPLICATION OF MACK ENERGY  
CORPORATION FOR COMPULSORY  
POOLING, LEA COUNTY, NEW MEXICO**

**CASE NO. 14763**

**AMENDED PRE-HEARING STATEMENT**

Siana Oil and Gas LLP (Siana) provides this Pre-Hearing Statement as required by the rules of the Division.

**APPEARANCES**

**APPLICANT**

Mack Energy Corporation

**APPLICANT'S ATTORNEY**

James Bruce, Esq.  
P.O. Box 1056  
Santa Fe, NM 87504  
(505) 982-2043

**OPPOSING PARTY**

Siana Oil and Gas LLP

**OTHER PARTY'S ATTORNEY**

J. Scott Hall  
Montgomery & Andrews  
P.O. Box 2307  
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**STATEMENT OF THE CASE**

**APPLICANT**

Applicant seeks an order pooling all mineral interests from the surface to the base of the Abo formation underlying the SE/4 NW/4 of Section 32, Township 17 South, Range 33 East, NMPM, to form a standard 40-acre oil spacing and proration unit for (1) the fracture

recompletion of the Cockburn A State Well No. 5, (2) the initial consolidation of interests to be dedicated to the well, (3) designation of Applicant as operator, (4) approval and allocation of the costs of recompleting the well, including overhead and supervision charges, and (5) authorizing the operator to assess a risk penalty of costs plus 200% against the interests of non-consenting owners.

#### OTHER PARTY

Siana Oil and Gas LLP (Tom M. Ragsdale, President) is the owner of oil and gas leasehold working interests (approximately 6.25%) located in the spacing and proration unit that is the subject of Mack's Application. Other interest owners include Chase Oil Corporation, Robert C. Chase, Ventana Minerals LLC and DiaKan Minerals. Mack Energy assumed operations of the well in 2004 when it was plugged-backed, recompleted and production established from the Corbin-Abo pool.

Although Mack has operated the well since 2004, it never consolidated and dedicated the interests in the spacing unit to the well either by a voluntary agreement or by obtaining an order of the Division pooling the lands. Neither has Mack filed a complete C-104 for the well. These ongoing acts and omissions violate the Division's rules,<sup>1</sup> as well as the Oil and Gas Act. §70-2-18 NMSA (1978) of the Act provides, in part, as follows:

B. Any operator failing to obtain voluntary pooling agreements, or failing to apply for an order of the division pooling the lands dedicated to the spacing or proration unit as required by this section, shall nevertheless be liable to account to and pay each owner of minerals or leasehold interest, including owners of overriding royalty interests and other payments out of production, either the amount to which each interest would be entitled if pooling had occurred or the amount to which each interest is entitled in the absence of pooling, whichever is greater.

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<sup>1</sup> Under §19.15.16.19 A (1) and (3) NMAC, the well is not entitled to an allowable.

Further, Mack Energy has not attempted to obtain Siana's voluntary joinder and participation through good faith negotiations. Mack has done little more than send an AFE for a frac job, received by Siana on September 6, 2011. Then, on December 7, 2011, Mack Energy sent to Siana a form Joint Operating Agreement. This, coming one month after Mack Energy filed its Application for Compulsory Pooling on approximately November 7, 2011.

At the hearing on Mack Energy Corporation's Application, Siana Oil and Gas will ask the Division to enter an order providing relief as follows: (1) Denying the Application in its entirety. (2) Requiring Mack to render a full accounting for production revenues and operating expenses, including overhead and supervision charges, from the time Mack became operator of the well in 2004 to the present. (*See* Order No. R-1960-B.) (3) Requiring Mack to account and pay to Siana the amount attributable to its interest in the absence of pooling in accordance with §70-2-18 B. (4) Alternatively, if prospective compulsory pooling relief is granted, denying Mack Energy's request for recovery of the 200% risk penalty for the cost of the proposed fracture recompletion, including any supervision and overhead charges, in accordance with §19.15.13.8 D NMAC.

### **PROPOSED EVIDENCE**

#### APPLICANT

##### WITNESSES

##### EST. TIME

##### EXHIBITS

#### OPPONENT

##### WITNESSES

##### EST. TIME

##### EXHIBITS

Tom Ragsdale, Petroleum Engineer

45 min.

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**PROCEDURAL MATTERS**

Siana Oil and Gas may file a motion to dismiss Mack Energy's Application.

Montgomery and Andrews, P. A.

By:




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Attorneys for Siana Oil and Gas LLP

**Certificate of Service**

I hereby certify that a true and correct copy of the foregoing was served to counsel of record by electronic mail this 29th day of December, 2011.

James Bruce, Esq.  
P.O. Box 1056  
Santa Fe, NM 87504  
jamesbruc@aol.com



J. Scott Hall