

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

**APPLICATION OF THE NEW MEXICO OIL AND GAS ASSOCIATION FOR
AMENDMENT OF CERTAIN PROVISIONS OF TITLE 19, CHAPTER 15, PART 16 OF
THE NEW MEXICO ADMINISTRATIVE CODE CONCERNING LOG, COMPLETION,
HYDRAULIC FRACTURING AND WORKOVER REPORTS, STATEWIDE.**

CASE NO. 14753

APPLICANT'S PRE-HEARING STATEMENT

This Pre-Hearing Statement is submitted on behalf of the New Mexico Oil and Gas Association by Holland & Hart LLP as required by Oil Conservation Division Rule 19.15.3.11.B NMAC.

APPEARANCES OF PARTIES

APPLICANT

The New Mexico Oil and Gas Association

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OTHER PARTIES

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Earthworks' Oil & Gas Accountability Project
(OGAP)

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STATEMENT OF CASE

The New Mexico Oil and Gas Association (NMOGA) has filed an application to amend 19.15.16.18 NMAC to provide for the disclosure of the composition of fluids used to hydraulically fracture new and recompleted wells, yet at the same time protect the proprietary, trade secret and confidential business information contained within the composition of these fluids. In response, the New Mexico Oil Conservation Division has proposed amendments that seek a similar level of disclosure of the hydraulic fracturing fluids actually used at a well site and has developed a Hydraulic Fracturing Fluid Disclosure form to accomplish this disclosure.

NMOGA generally supports the amendments proposed by the Division, with the exception that operators require at least 45 days, instead of 20 days, to obtain the necessary information from service providers. To incorporate the changes proposed by the Division and to avoid any inconsistency with the time period associated with the filing of a form C-105, NMOGA requests that the Commission add the following underlined language to the current Rule:

19.15.16.18 LOG, COMPLETION, HYDRAULIC FRACTURING AND WORKOVER REPORTS:

Within 20 days after the completion of a well drilled for oil or gas, or the recompletion of a well into a different common source of supply, the operator shall file a completion report with the division on form C-105. For the purpose of 19.15.16.18 NMAC, a hole drilled or cored below fresh water or that penetrates oil- or gas-bearing formations or that an owner drills is presumed to be a well drilled for oil or gas. The operator shall signify on form C-105, or alternatively on form C-103, whether the well has been hydraulically fractured. For a hydraulically fractured well, the operator shall also complete and file the division's Hydraulic Fracturing Disclosure Form within 45 days after completion of the well. As an alternative to the division's Hydraulic Fracturing Disclosure Form, the operator may complete and file with the division the hydraulic fracturing fluid product component information disclosure template prescribed as of July 1, 2011, by the Ground Water Protection Counsel/Interstate Oil and Gas Compact Commission FracFocus Registry website within 45 days after completion of the well. The Division does not require the reporting of information beyond MSDS data as described in 29 CFR 1910.1200. The Division does not require the reporting or disclosure of proprietary, trade secret or confidential business information.

NMOGA also supports the Hydraulic Fracturing Fluid Disclosure form developed by the Division, which is attached hereto as NMOGA Exhibit 5, and asks that it be specifically adopted as the reporting form in any order issued by the Commission.

NMOGA opposes the modifications to 19.15.16.18 NMAC proposed by the Earthworks' Oil & Gas Accountability Project ("OGAP"). The language proposed by OGAP is not consistent with the Surface Owners Protection Act, imposes an unnecessary and unworkable regulatory burden on the Division and operators, and appears to advocate disclosure to a website operated by a non-governmental third party that is outside the control of the Division and to which all operators in the state may not have access.

PROPOSED EVIDENCE

Witness: **Larry Dillon** **Estimated Time:** 20 minutes

Completions Manager
ConocoPhillips Company
San Juan Business Unit

Mr. Dillon will testify about (a) ConocoPhillips' use and submission of the Hydraulic Fracturing Fluid Product Component Information Disclosure template proscribed as of July 1, 2011 by the Ground Water Protection Counsel/Interstate Oil and Gas Compact Commission FracFocus Registry website; (b) the information provided on this template; (c) how the Hydraulic Fracturing Fluid Disclosure form proposed by the Division mirrors the FracFocus template; and (d) the amount of time required to obtain from service providers the information necessary to complete the FracFocus template.

EXHIBITS

The following exhibits are attached to this statement and comprise the exhibits that NMOGA anticipates it may introduce at the Commission hearing:

- NMOGA Ex. 1: Blank Hydraulic Fracturing Fluid Product Component Information Disclosure template from the FracFocus website.
- NMOGA Ex. 2: "How to Read a Fracturing Record" printout from the FracFocus website.

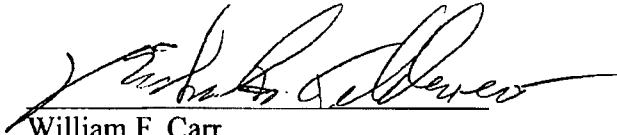
- NMOGA Ex. 3: Hydraulic Fracturing Fluid Product Component Information Disclosure template for ConocoPhillips' San Juan 27-4 94P Well, dated September 26, 2011.
- NMOGA Ex. 4: BJ Services Company Materials Safety Data Sheet for InFlo 250W.
- NMOGA Ex. 5: NMOCD Hydraulic Fracturing Fluid Disclosure form dated November 7, 2011.

PROCEDURAL MATTERS

None at this time.

Respectfully submitted:

HOLLAND & HART, LLP

A handwritten signature in black ink, appearing to read "William F. Carr", written over a horizontal line.

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**ATTORNEYS FOR
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CERTIFICATE OF SERVICE

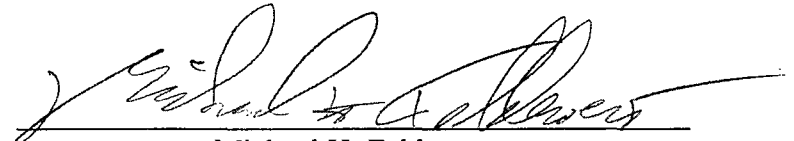
I hereby certify that on November 9, 2011, I served a copy of the foregoing document to the following via U.S. Mail to:

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**ATTORNEYS FOR
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PROJECT (OGAP)**


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