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January 12, 2012

VIA HAND DELIVERY

Jami Bailey, Director
Oil Conservation Division
New Mexico Department of Energy
Minerals and Natural Resources
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

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Re: Case Nos. 14784 & 14785: Joint Motion for Continuance

Dear Ms. Bailey:

Please find enclosed with this letter a Joint Motion for Continuance in Case Nos. 14784 and 14785 filed by the New Mexico Oil and Gas Association, the Independent Petroleum Association of New Mexico, and the Oil and Gas Accountability Project. As indicated in the Motion, neither the Oil Conservation Division nor the New Mexico Wilderness Alliance oppose the Motion. Please do not hesitate to contact me should you have any questions or concerns.

Sincerely,

Adam G. Rankin
Associate

CC: David Brooks
Gabrielle Gerholt
Karin V. Foster
Earl E. DeBrine, Jr.
Eric D. Jantz
Judith B. Calman

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

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IN THE MATTER OF THE APPLICATION OF THE NEW MEXICO OIL AND GAS ASSOCIATION FOR AMENDMENT OF CERTAIN PROVISIONS OF TITLE 19, CHAPTER 15 OF THE NEW MEXICO ADMINISTRATIVE CODE CONCERNING PITS, CLOSED LOOP SYSTEMS, BELOW GRADE TANKS, SUMPS AND OTHER ALTERNATIVE METHODS RELATED TO THE FOREGOING AND AMENDING OTHER RULES TO CONFORMING CHANGES, STATEWIDE.

CASE NO. 14784

IN THE MATTER OF THE APPLICATION OF THE INDEPENDENT PETROLEUM ASSOCIATION FOR AMENDMENT OF CERTAIN PROVISIONS OF TITLE 19, CHAPTER 15 OF THE NEW MEXICO ADMINISTRATIVE CODE CONCERNING PITS, CLOSED LOOP SYSTEMS, BELOW GRADE TANKS, SUMPS, AND AMENDING OTHER SPECIAL RULES RELATING TO THE FOREGOING MATTERS, STATEWIDE.

CASE NO. 14785

JOINT MOTION FOR CONTINUANCE

The New Mexico Oil and Gas Association (“NMOGA”), the Independent Petroleum Association of New Mexico (“IPANM”), and the Oil and Gas Accountability Project (“OGAP”) by and through their undersigned attorneys, hereby jointly seek a continuance in Case Nos. 14784 and 14785, and state as grounds therefore the following:

1. On September 30, 2011, NMOGA filed, in accordance with Oil Conservation Division Rules, the above-captioned Application for Rulemaking, which was assigned Case No. 14784. On November 29, 2011, IPANM filed, in accordance with Division rules, the above-captioned Application for Rulemaking, which was assigned Case No. 14785.

2. The changes sought to the Commission’s rules in each rulemaking application are identical with an additional change to 19.15.39.8(B) NMAC sought in IPANM’s Application.

3. On December 16, 2011, the Oil Conservation Commission gave notice of public hearing that beginning on January 23, 2012, and continuing through January 27, 2012, it would convene to consider the Applications.

4. On December 29, 2011, the New Mexico Wilderness Alliance filed a letter with the Commission, which has not yet been ruled upon, seeking to continue and sever Case No. 14785. In response to that letter, the Commission established a briefing schedule for these cases, allowing briefing through January 12, 2012. Because the briefing schedule is open through January 12, 2012, the Commission has yet to rule on this issue and, therefore, Petitioners are not yet aware of the full scope of the hearing, making it difficult to prepare for a January 23 hearing.

5. On January 6, 2012, NMOGA and IPANM received from the Oil Conservation Division its Notices of Modifications to the Petitioners' separately proposed amendments to the rule.

6. On January 10, 2012, NMOGA and IPANM were served with a Motion for Immediate Stay of Commission Proceedings filed by the Oil and Gas Accountability Project ("OGAP") in the First Judicial District Court of New Mexico in the appellate review now underway of the 2008 Pit Rule and the 2009 amendments to the Pit Rule in Case Nos. D-101-CV-2009-2473.

7. On January 10, 2012, NMOGA and IPANM also were served with a Petition for Writ of Prohibition filed as an original action in the First Judicial District Court of New Mexico seeking the District Court to prohibit the Commission from proceeding with hearing NMOGA and IPANM's separate applications for rulemaking.

8. The New Mexico Legislature opens its legislative session on January 17, 2012, and has a deadline for the introduction of proposed legislation of February 1, 2012.

9. The motions filed by OGAP in State District Court seeking immediate stay and a writ of prohibition prohibiting the Commission proceedings concerning the Applications require briefing of the issues raised and a full presentation of these issues to the Court which will require significant time and resources from the Petitioner's preparation for the week-long hearing on these applications.

10. In addition, Petitioners' membership and counsel have numerous obligations relating to and before the New Mexico Legislature leading up to and through the conclusion of the 2012 session on February 16, 2012.

11. Petitioners and their counsel are now working through the modifications to the proposed amendments presented by the Division on January 6, 2012.

12. Together, these demands on the time and resources of Petitioners' and their counsel will significantly impair Petitioners' ability to present their cases in the manner and fashion that focuses the record on the issues before the Commission.

13. Moreover, the parties believe that with more time they may be able to narrow the issues before the Commission for rulemaking.

14. A short delay of the hearing will enable the matters before the State District Court to be resolved in an orderly fashion and enable Petitioners to develop and streamline their cases, knowing the issues to be considered by the Commission and the scope of the hearing. This would allow for a full and complete hearing on all issues and would result in a far more orderly and concise hearing, as well as a more succinct record that will fully support a Commission decision on any of the issues to be heard.

15. A more orderly and concise hearing and a more complete and succinct record would favor all parties to these proceedings, as well as the Commission itself.

16. A continuance of reasonable duration would not prejudice, injure, or harm any party to these proceedings.

17. Petitioners have contacted the New Mexico Wilderness Alliance and the New Mexico Oil Conservation Division who do not oppose this motion.

WHEREFORE, Petitioners jointly move the Commission to issue an order continuing the hearing on the Applications in Case Nos. 14784 and 14785 for six weeks or until the Commission is next able to convene after February 17, 2012, and that all filing dates established by Division Rule shall be extended and applicable to the new hearing date once it has been set by the Commission.

Respectfully Submitted,

By 

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**ATTORNEYS FOR
THE OIL & GAS ACCOUNTABILITY PROJECT**

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Joint Motion for Continuance was served upon the following parties by U.S. Mail and electronic mail on this 12th day of January 2012.

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