



STATE OF NEW MEXICO  
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION  
2040 S. PACHECO  
SANTA FE, NEW MEXICO 87505  
(505) 827-7131

M E M O R A N D U M

BEFORE THE	
OIL CONSERVATION COMMISSION	
Santa Fe, New Mexico	
Case No. <u>11143</u> <u>11716</u>	Exhibit No. <u>4</u>
Submitted by <u>OCD</u>	
Hearing Date <u>5/11/95</u>	

TO: 711 RULE CHANGE COMMITTEE MEMBERS

FROM: ROGER C. ANDERSON *RC*  
Oil Conservation Division

SUBJECT: COMMISSION HEARING

DATE: APRIL 29, 1995

The Commission is scheduled to hear the proposed changes to Rule 711 on Thursday, May 11, 1995 in the OCC hearing room, 2040 Pacheco, Santa Fe N.M.

The Division will present the March 9, 1995 draft as the committee proposal. I have enclosed the comments from committee members that I have received to date. There are some items in the draft that the majority of the committee voted for but some individuals disagree with. Minority opinions are encouraged to present their positions to the Commission at the hearing.

The Division will present the position of disagreeing with an eight year phase-in of the bonding requirement for existing facilities. In light of past experience and the potential liability of the State, a four year phase in is more realistic

CRI

CONTROLLED RECOVERY

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P.O. BOX 369, HOBBS, NM 88241 (505) 393-1079

March 21, 1995

Mr. Roger C. Anderson  
Oil Conservation Division  
2040 S. Pacheco  
Santa Fe, New Mexico 87505

RE: 711 Rule Change

Mr. Anderson:

I have received your memorandum of March 10, 1995, asking about minority viewpoint.

I plan to give testimony myself and to present evidence. I possibly will call other persons for testimony. The primary area of my concern is Section C "Operational Requirements", #4.

Please advise me of the procedure for this hearing, such as what order will people be scheduled, who will testify for the OCD, rebuttal time, etc.

Sincerely,

*Ken Marsh*

Ken Marsh

KRM/ac



**TIERRA ENVIRONMENTAL CORPORATION**  
907 WEST APACHE  
P.O. DRAWER 15250  
FARMINGTON, NEW MEXICO 87401

**TELECOPIER TRANSMITTAL**

DATE: 5-9-95

COMPANY: OCD

ATTENTION: Roger Fide. Sorl

FAX NO.: 1-505-837-8177

NO. OF PAGES (including cover sheet) 3

FROM: Phil Nobis

**IF YOU HAVE ANY QUESTIONS CALL 1-505-325-0924**

**\*\*\*\*\*COMMENTS\*\*\*\*\***

I object to Ray miner's charge 1, But  
agree with 2+3. Charge 1 could include  
A Facility like RMI's two large impoundments  
as exempt.

I Also Agree with Ned Kendrick's Comments  
re: Pit Closure. Eight years seems too long  
to meet the financial requirement. Four is reasonable.

FAX NO. 1-505-325-1920

PCN

OIL CONSERVATION DIVISION  
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**marbob**  
energy corporation

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May 1, 1995

Oil Conservation Division  
2040 South Pacheco  
Santa Fe, New Mexico 87505

Attention: Mr. Roger Anderson

RE: Rule 711 Comments

Dear Mr. Anderson:

A couple of additional items have been brought to my attention, and I would like to add them to the comments I submitted earlier.

The use of the word "compensation" in the definition of commercial facility in A.1. gives some people problems because of operators' allocation of cost through joint interest billings being considered as possibly falling into the commercial definition, when in reality, they are a centralized facility. If we simply change the end of that sentence from "compensation for waste management" to "waste from more than one operator" we would solve their dilemma. I believe this change would not affect the spirit or intent of the definition of commercial facility, and as such, I will support this or similar language.

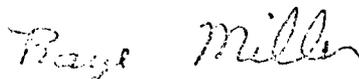
Finally, a question was raised to me as to whether the Director has any latitude to grant individual exemptions on a case by case basis where basically the facility is very similar to the exemptions listed in A.3. but for some criteria does not meet the total requirement, but can be shown to be no threat to ground water, public safety, and future liability to the State whereby an exemption could be granted. My belief is that the Director should have that discretion because it is certainly not our intent to over regulate small facilities which pose no threat to the public, yet serve as a vital component in making surrounding production more economic. Likewise, if this potential exemption needs to be stated, then I would support that addition as A.3g.

Finally, I would request that if anyone else from the department and committee are

going to address the commission, their comments be submitted to each of us for review prior to the hearing as we agreed.

Thank you for your help.

Sincerely,

A handwritten signature in cursive script that reads "Raye Miller".

Raye Miller  
Land Department

RM/mm

cc: Mr. Buddy Shaw  
Amoco Production Company  
200 Amoco Court  
Farmington, New Mexico 87401

Ms. Ruth Andrews  
New Mexico Oil and Gas Association  
Post Office Box 1864  
Santa Fe, New Mexico 87504

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**marbob**  
energy corporation

April 7, 1995

Energy, Minerals, and Natural Resources Department  
Oil Conservation Division  
2040 South Pacheco  
Santa Fe, New Mexico 87505

Attention: Mr. Roger C. Anderson

RE: 711 Rule Change

Dear Mr. Anderson:

Regarding the draft, dated March 9, 1995, which was submitted for our review, the only comment I have is located on page 17 under Section E. 3. Our new language provides for a particular potential exemption for C.9. It was my understanding that the C.9 was used only as an example and that our actual intent here would have been as follows:

3. comply with section C and D unless the Director grants an exemption;

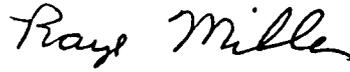
As you and I have discussed, there are a lot of varying ideas regarding the financial assurance exemption for centralized facilities. I believe Buddy and Ruth are working on trying to find acceptable language which everyone could live with. I will certainly review that and respond if and when it is available.

I believe the present draft provides increased protection against a situation such as developed in the Northwest without being so burdensome to the industry as to put existing operators out of business or restrict entry of new operators. Additionally, many environmental and public concerns have been addressed in the revised rule. As such, if I testify before the commission hearing regarding this change, I would be supporting the language that is contained in this draft. The only concern I have is in regards to permits such as was issued to SW or now the Consolidated (RMI) permit. The problem we have

is that for us to draft a rule which would have avoided the SW problem would probably put all of the good pit operators out of business in which case everybody loses. I would hope that we have learned from our past problems and that the actual permits of similar facilities would be tightened up to avoid repeat problems.

If you have any questions regarding these comments, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "Raye Miller".

Raye Miller  
Secretary/Treasurer

RM/mm

MONTGOMERY & ANDREWS  
PROFESSIONAL ASSOCIATION  
ATTORNEYS AND COUNSELORS AT LAW

OF COUNSEL  
William R. Federici  
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Post Office Box 2307  
Santa Fe, New Mexico 87504-2307

J. O. Seth (1883-1963)  
A. K. Montgomery (1903-1987)  
Frank Andrews (1914-1981)

Victor R. Ortega	Edmund H. Kendrick
Gary Kilpatric	Paula G. Maynes
Thomas W. Olson	R. Michael Shickich
Walter J. Melendres	Louis W. Rose
Bruce Herr	David C. Johnson
John B. Draper	Paul S. Grand
Nancy M. King	Thomas A. Clayton
Sarah M. Singleton	Grace Phillips
Stephen S. Hamilton	R. Bruce Frederick
Galen M. Butler	

May 2, 1995

VIA TELECOPY

325 Paseo de Peralta  
Santa Fe, New Mexico 87501

Telephone (505) 982-3873  
Fax (505) 982-4289

COUNSEL  
Marvin E. Pollock

Roger Anderson, Chief  
Environmental Bureau  
Oil Conservation Division  
Post Office Box 6429  
Santa Fe NM 87505

**Re: Proposed Changes to OCD Rule 711**

Dear Roger:

At the March 3, 1995 meeting of the 711 Rule Change Committee, an additional exemption from the definition of "centralized facility" was discussed. The exemption would cover remediations under Oil Conservation Commission Order No. 7940-C. My recollection is that Denny Foust of the OCD District Office in Aztec made the proposal and that the Committee concurred. Since the exemption was not included in the latest draft of proposed revisions, dated March 10, 1995, I suggest that it now be added to the draft that will be presented at the Hearing before the Commission on May 11, 1995.

I suggest that the following language be added:

A.3.g pits that are being remediated or closed <sup>on-site</sup> pursuant to Commission Order No. 7940-C.

I believe the sense of the Committee was that, although there is no intention to regulate the

Roger Anderson, Chief  
May 2, 1995  
Page 2

closure of these pits under Rule 711, it would be helpful to make this point absolutely clear in the regulation.

Sincerely,

A handwritten signature in black ink, appearing to read "Edmund H. Kendrick". The signature is fluid and cursive, with a prominent initial "E" and a long, sweeping tail.

Edmund H. Kendrick

EHK/lc  
2652-94-27



May 8, 1995

**Rule 711 Committee**

RE: **Additional Comments  
Suggested Changes**

Dear Committee Member:

The Commission hearing is set for Thursday, May 11, 1995. The published draft will be considered by the Commission at that hearing. I have received a few suggested changes from industry as well as an item that was not what I felt was our intent in the last discussion. I would ask that you review these items, and if you find that they do not change the intent of our work and if you have no objection to them, that you indicate support for the changes and fax the attached page back to Roger Anderson and Ruth Andrews at NMOGA so that they can determine if there is unanimous support for these changes or if there are any objections.

1. The word compensation used in our definition of commercial facility in A.1. bothers some of the industry people because of operator's allocation of cost through joint interest billing of centralized facilities as possibly falling into the commercial definition. I would suggest that A.1. be changed from:

*"A commercial facility is defined as any waste management facility that receives compensation for waste management."*

To proposed language of:

*"A commercial facility is defined as any waste management facility that receives waste from more than one operator."*

2. The potential exemption identified in Section E.3. is very narrow in scope only relating to the requirement in C.9. It was my understanding that the fence requirement was used only as an example and that it was our intent to give the Director some latitude on existing facilities. I would suggest that E.3. be changed from:

*"comply with section C and D unless the Director grants an exemption for C.9.; and"*

To proposed language of:

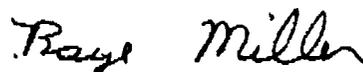
*"comply with sections C and D unless the Director grants an exemption; and"*

3. The question was raised as to whether the Director has any latitude to grant individual exemptions on a case by case bases where the facility is very similar to the exemptions listed in A.3. but for some criteria does not meet the total requirement, but can be shown to be no threat to ground water, public safety, or a future liability to the State of New Mexico. I feel that Director should have some discretion to review some of the smaller facilities which pose no threat to the public or ground water to exempt these facilities. To accomplish this, I would propose the following as A.3g.:

*"facilities exempted by the Director"*

I would ask that you review these items as quickly as possible and respond to them on the attached sheet. Thank you for your help in this matter.

Sincerely,



Raye Miller  
Committee Member

RM/mm

cc: Roger Anderson  
Oil Conservation Division  
2040 South Pacheco  
Santa Fe, New Mexico 87505

OIL CONSERVATION DIVISION  
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**BENSON-MONTIN-GREER DRILLING CORP.**

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501 AIRPORT DRIVE, SUITE 221, FARMINGTON, NM 87401 505-325-8874 FAX: 505-327-9207

May 3, 1995

Mr. Roger Anderson  
New Mexico Oil Conservation Division  
2040 South Pacheco Street  
Santa Fe, NM 87504

Re: RULE 711: EVAPORATION PONDS:  
HEARING MAY 11

Dear Roger:

I want you to know that I propose to submit testimony at the hearing May 11 to do two things:

1. Support the elimination of the word "compensation" in distinguishing between centralized facilities and commercial facilities, and
2. Add another exemption which, depending upon counsel's advice, would be something like: "small evaporation ponds, receiving less than 50 BWPD on an annual basis, where only produced water is introduced into the facility, when approved by the Director, upon good cause shown".

In doing this, I am not being critical of the committee's work: I think you and the other members did a good job. Further I apologize for not bringing my suggestions to the committee earlier. I had planned to attend your meeting which you held in Farmington but it was impossible for me to do that day.

Regards,



ARG/tlp

cc: Mr. Tom Kellahin  
Mr. Raye Miller  
Mr. Buddy Shaw  
Mr. John Roe