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New Mexico OCD
1220 South St. Francis Drive
Santa Fe, New Mexico 87505
Attn: Chair, Oil Conservation Division
Mr. Mark E. Fesmire, P.E.

October 4, 2007

I would like to thank the OCD for the opportunity to submit my comments and proposed changes concerning the newly proposed pit regulations for the state of New Mexico. I have submitted prior information and I have testified before the commission throughout this entire process. Mr. Wayne Price has been very fair and open to hear all sides of this issue and I would like to publicly thank him for his diligence and hard work that he has put forth for all parties involved.

The New Mexico Oil Conservation Division has issued its draft rule for a proposed major re-write of the State's Pit Rule (Title 19.15.17 NMAC). I have completed my review of the draft and have conferred with a number of other concerned individuals and companies that have been involved in this re-write process. I am comfortable in stating that if this draft is implemented as written, it will have a dramatic detrimental affect on the New Mexico Oil and Gas Industry. I have personally spoken to six oil and gas companies who will sell and leave their businesses in New Mexico if this regulation is passed as written.

My comments concerning the new pit regulations are all in conjunction with the temporary pits used as drilling reserve pits at oil and gas drill sites. It appears from my interpretation as well as others, that operators will now be virtually required to drill all new wells in New Mexico with a closed-loop system and haul the cuttings to an NMOCD approved landfill. If a temporary pit could ever be used the entire pit contents would most likely be required to be removed and disposed at an approved landfill. To require an operator to remove the drill cuttings from the well site if there is an approved disposal site located within a 100 mile radius would be very expensive and expose the operator to future additional liabilities. This new regulation would have a very deep, negative economic impact on the oil and gas industry and in turn will have a negative impact on the revenue generated for the state of New Mexico. This 100 mile radius rule would virtually require all new reserve pits in Southeastern New Mexico to be removed and hauled to an approved disposal. This region has thousands of wells that have already been drilled and all these cuttings are still on location and will be forever and pose no environmental risk. What would really be accomplished by now requiring an operator to remove drill cuttings from this area, except to add huge expenses to operators and put many people out of work throughout the industry? **The proposed alternative would be**

to remove the 19.15.17.13 F Section 1 (a) General Requirements, which mandates the removal of the drill cuttings if located within a 100 mile radius of a division-approved facility or an out of state waste management facility, which would then allow on site closure methods to be used.

Secondly, to require these cuttings to be removed and commingle these cuttings with who knows what kind of waste into a public disposal would then expose the operators to many years of liability exposure. If a disposal operator, either knowingly or unknowingly, accepted even a single load of a class One Hazardous waste into the site and the site then had to be cleaned, every company or individual who had disposed anything into that disposal facility would then be liable for the amount of waste they had disposed of legally. I have been a past owner of a waste disposal facility and this is a tremendous risk that all operators would now have to accept in order to drill in the state of New Mexico if this regulation should pass as currently written.

Another particularly disconcerting item is the prohibition of any pit within 200 feet of a “watercourse”, (assuming an operator could ever use a temporary pit with in all the requirements that are proposed). Given the ambiguity of this term, an operator could easily find themselves banned from placing pits anywhere in areas laced with dry sand washes and arroyos. As you know, this type of terrain is very prevalent in New Mexico and would also make the use of pits virtually impossible if passed as proposed. **The proposed alternative would be to remove from section 19.15.17.10 A 1 (c) “....., or 200 feet of any other watercourse, lakebed, sinkhole or playa lake (measured from the ordinary high water mark), ...”**

I would be very surprised if there has been a full economic impact study to evaluate the effect of these newly proposed regulations. I can imagine the negative effect to the New Mexico Oil and Gas industry would be in the hundreds of millions of dollars if not in the billions of dollars over the next two years alone. This should truly be explored before rules like these are put into effect because once the damage is done it will be too late to recapture the loss of revenue and businesses that this regulation would cause.

This new proposed regulation is particularly disappointing for those of whom have been involved in the Pit Rule Task Force process. It seems all of their efforts over the past 6 months to participate in this “collaborative” effort, providing hard data and expert testimony on pit contents and water protection, were for naught.

In conclusion, the operators should have the option actually use temporary drilling reserve pits and to be allowed to close their temporary drilling reserve pits on site in an approved method, i.e. deep burial or capping and not be required to remove the cuttings to a disposal facility even if an approved disposal facility were located next door to their drilling location. The ODC should not require operators to remove these cuttings which

are not hazardous and pose no environmental risk, as this would be a very expensive proposition and also cause additional future liability issue for all operators, not only for their own cuttings but for the risk of others contaminating their basically harmless drill cuttings at a public disposal. This new proposed pit regulation is not business friendly and will hurt the New Mexico Oil and Gas Industry.

This rule change would basically put hundreds of companies out of business including mine that I have now owned and operated for more than 20 years. It would also cause the loss of thousands of jobs in our already unstable industry and furthermore to be put out of business by the government / new regulations, to whom I pay a tremendous amount of tax money to, is very discouraging.

Please reconsider this regulation,

A handwritten signature in black ink, appearing to read "Rick Gasser", with a long horizontal flourish extending to the right.

Rick Gasser
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