



HARVEY E. YATES COMPANY

A MEMBER COMPANY OF HEYCO ENERGY GROUP

October 26, 2007

Ms. Florene Davidson, Commission Clerk
New Mexico Oil Conservation Commission
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

Re: Order N. R-12819 and 19.15.14.1204 NMAC. Proposed Pit Rule (Case No. 14015)

Dear members of the Oil Conservation Commission:

Pursuant to the above referenced order, following are comments to the proposed Pit Rule, Case #14015.

General Comments:

Harvey E. Yates Company (HEYCO), like the IPANM, is committed to supporting reasonable environmental and safety requirements for the Oil and Gas industry in New Mexico. We also support the prudent transition and implementation of effective new technologies and high-tech advancements. We are also committed to fighting the implementations of those rules that are unnecessary, duplicative, ineffective, wasteful, poorly researched or poorly implemented.

HEYCO finds the rationale from the EMNRD faulty. In the Application for Rulemaking section II, a) statement fallaciously implies that there are no exempted aquifers or areas in the state where salinity, or naturally occurring hydrocarbons have rendered the surface formations unsuitable for consideration as a source of usable groundwater; b) statement fallaciously implies that current liner technology is insufficient to protect groundwater; c) statement fallaciously implies that closure of pits by encapsulation of waste is insufficient to protect groundwater; d) statement fallaciously implies the current requirements concerning the design construction and operation of pits and below-grade tanks are insufficient.

The new pit rules will cause additional egregious effects:

- 1) Greater expense and the creation of additional waste as defined by the OCD, thus further decreasing declining drilling activity and revenues to the State of New Mexico.
- 2) Dictate drilling practices that may lead to harm of the environment, groundwater contamination and safety risk through the improper use of overbalanced closed loop drilling practices (which can cause losses of drilling fluids and cuttings into wellbores and open formations)
- 3) Impair correlative rights as defined by the OCD (the ability of each owner of each property in a pool for different sides of a lease line or boundray of a proration unit that coincides with different pit regulations dictated by the OCD, to produce without waste his just and equitable share of the hydrocarbons present in a pool).
- 4) Allow the continued propagation of environmental regulations without support of significant scientific data to the general detriment of the people of New Mexico.

Rule Specific Comments:

Exhibit A 19.15.17.6 Objective: To regulate pits, closed-loop systems, below-grade tanks and sumps used in connection with oil and gas operations for the protection of public health, welfare and the environment *uniformly throughout the state of New Mexico*. Reasoning: Only the uniform application of pit rules across the state prevents waste and protection of correlative rights. Rule 21 should be repealed because it covers an area too large to address just a site specific action and it fails to prevent waste and protect correlative rights over a large oportion of New Mexico.

19.15.17.9 B2 HEYCO proposes that the permit application for a temporary pit shall include a design plan for the construction and operation of the temporary pit meeting the applicable requirements and shall include a closure plan meeting the applicable requirements.

Due to the numerous changes needed please reference the attached documents.

Harvey E. Yates Company supports the Industry Committee recommendations and hopes that the OCC will give careful consideration to the recommended modifications.

Sincerely,



Arlene Rowland

Gordon Yahney