

THREE RIVERS TRUCKING, INC.  
P. O. BOX 2728  
FARMINGTON, NEW MEXICO 87499

Dear Sir:

Please review the attached argument by Representative Dan Foley. This statement accurately represents the views of myself and thousands of fellow oil and gas industry workers. Any rule changes that would adversely affect the San Juan basin would be vigorously opposed by me and my 100 employees. As a registered Professional Engineer and a small business owner with over 38 years experience in the "oil patch", these recommendations appear to be both ridiculous and politically motivated. As a resident of Farmington and an outdoorsman, I would not stand for any degradation of the environment by the oil and gas industry. This is NOT happening. Please feel free to call me at my office with any questions you might have.

Sincerely,



Rod Pinkett  
(505)632-5300

Comments on Pit Rule Changes (Rule 50)  
Representative Dan Foley, House Republican Whip  
Monday, November 5, 2007

I want to begin by thanking you for allowing me to address the commission. I also want to let you know that as the Republican Whip in the New Mexico House of Representatives that today I am representing myself and Rep. Tom Taylor, the Republican Leader. I want to do something that I think has been lacking lately from people in Santa Fe and state government: that is thank the thousands of New Mexico citizens who get up every day and go to work in the oil and gas industry and provide this administration, this legislature and state government an enormous portion of the nearly six billion dollars of the hundreds of millions of dollars we have spent and will spend again in this upcoming session.

The OCC is an appointed group that is charged with implementing the policies of this administration. Make no mistake about it, you serve at the pleasure of the Governor and by accepting that role you are directly responsible for implementing this administration's policy. This roll is serious. In carrying it out – as is the case with all regulatory bureaucracies and agencies – it is vital that regulators and employees leave aside any allegiances to special interest groups, political activists, or ideologues. Those are not the people we serve. We serve the people of New Mexico. I know ALL New Mexicans want a clean and safe state in which to live and raise their families – all New Mexicans including the ones in this room and working today in the fields.

This begs the question as to why am I here today? The answer is simple: I believe you have unfairly placed the very industry that we depend on for the economic existence of this state on a path to destruction. Quite a number of observers, a growing number I might add, believe the very policies that you are trying to implement are based on pandering to Special Interest Groups.

Among the charges I have heard include 1) setting up committees that are stacked to get a pre-determined decision before a single public comment is made; and 2) decisions that are not based on any proven science. It seems the OCD, whose very existence depends on the oil and gas industry, is spending all its time and resources running the industry out of New Mexico.

There was once a cooperative relationship between the industry and OCD – by cooperative we don't mean that the industry ran the OCD, we mean that the industry had a seat at the table with OCD. Today the industry is perceived as a threat to the state, rather than an asset. There is a difference between regulating and destroying – today OCD is in a posture to destroy the industry.

Now these criticisms that I am bringing to light may be perceived as harsh, but certain facts indicate to me that these independent assessments may be correct. Why, for example, when the price of oil and gas has been reaching record highs, is the rig count in New Mexico down last week by 8?

Let me say this: IF you end up setting up rules that are not based on science, but are derived from political motivations – to create impressions about New Mexico and New Mexico's Environment Department and about this administration – and those rules achieve the notoriety which is their goal, but cripple our economy, you will not have lived up to your fiduciary responsibility? If such rules end up advancing political agendas, but add absolutely nothing to environmental protection, are you really living up to your oath of office? Are you serving the people of New Mexico, or are you serving an ideology? These are serious questions. Open questions. I pray the commentary – scientific commentary I have been privy to is false – that you do not have such designs, and that you are going to be able to show everyone that everything you do is based on hard science and not politics, not ideology.

Here's the reason: as legislators we are charged with funding the ongoing programs and priorities of the entire state of New Mexico. Where do you expect us as legislators to find the money to finance important projects throughout the state? Where do you expect us to find the money to finance the education of our children, finance the colleges and Universities? Where do you recommend we find the money to provide health care to the poorest children of our state? How about funding the Senior Programs in each and every community that help feed, through the meals on wheels programs, those very individuals that can not prepare the food they need for their very existence?

Let's talk about programs that are near and dear to the hearts of the Special Interest groups that are said to be driving you toward non-science based decisions: if you end up traveling down this path, who is going to fund the research for finding alternative energy options for this state? Who is going to fund the Housing programs to help those who can not afford to pay rent or mortgages? Who is going to pay to make sure that our state is safe?

I am troubled that during the very time this administration and this state have seen a surplus in money because of our friends, neighbors, and family members in the oil and gas business, we have had no problem expanding the role of government! In several areas that are going to be very costly – in annual operations expenses – for years to come.

This of course includes first of all the 11% increase in the state budget last year. But it also includes such cash guzzlers as the Rail Runner, the Spaceport, and/or the desire of this administration to add a full-blown, comprehensive, universal Pre-K program.

Add to this the current discussion about expanding the role of Government Run Health Care Program or the desire to continue the GRIP programs while simultaneously trying to find a way to pay for the much needed maintenance and upkeep of our current roads and bridges.

In a time when major industries from Intel to Eclipse are laying off hundreds, if not thousands of New Mexicans, as well as the current discussion revolving around the expected short fall in dollars for road projects – which now we are hearing is going to

lead to thousands of unemployed construction workers around the state – the oil and gas industry is looking to higher New Mexicans in high paying, long term jobs with benefits. Why do we want that to end?

Now, based on what I have read and heard discussed, I would agree 100% if the policies we are discussing were based on proven sound science, and not talking points by Special Interest Groups that have no allegiance or loyalty to the future of this state. I am very concerned that these same Special Interest Groups who appear to be the authors of much of what is going on in New Mexico, spend their time criss-crossing the United States, taking credit for implementing anti-oil and gas policies that increase our dependency on foreign oil, which I must add seems contrary to the very goal these Special Interest Groups seem to advocate.

As reported in the Hobbs News-Sun on Saturday, November 3rd, Mr. Fesmire himself makes reference to the pit rule changes relating to ground water contamination because of leaking pipelines – this has nothing to do with the new pit rules. The current climate with OCD and the industry is one of guilty until proven guilty. Fining these industry people thousands of dollars a day with no due-process is not an American principle; it's a tactic of dictators and tyrants.

Another question that was brought to mind was the 100-mile rule. What science is this rule based on? How can you sit there and tell us that this is going to contaminate ground water if it's within 100 miles of a storage facility, but if it's within 102 miles a storage facility, it's not going to contaminate ground water? Here is another example of how this rule is arbitrary and capricious.

I am concerned about all these things, and as many of you who know me I am not one for pointing out problems and just walking away – I like to provide solutions as well.

The solution I have is simple: let's stop creating an environment of fear and business instability that only encourages these New Mexicans to move their businesses, and more importantly their investment dollars, to other states, and leaves this state wondering why is our rig count down?

Let's reach out to the very industry we go to every year, and depend on for funding everything from education to health care, and work with them and not against them. I know from visiting with these very individuals that IF, and I place emphasis on the IF, IF you find a so called "bad actor" get them – current rules and laws allow you to do that. No one is more supportive of finding, punishing, and getting rid of "bad actors" than the oil and gas community. They universally – to a man and to a woman I have spoken with – want the bad companies, the bad players eliminated. They give an entire industry a black eye. But, with lawful, conscientious companies and businessmen and women, we have to make sure we do not use fear and intimidation tactics to implement policies that are 1) not based on science; 2) have no beneficial environmental impact on New Mexico at all; 3) do not protect our citizens and families or our land in any way; and 4) are detrimental to the financial future of our state.

We must constantly remind ourselves that if there is a problem that needs to be fixed, then it must be done. However, when something that has nothing to do with the new proposed pit rule, such as leaky pipes, makes its way into this discussion, we wonder why. Is there some alternative agenda at play?

When it comes to making and implementing rules, we should gather New Mexicans to help with the process. The pit rule task force, by some accounts, includes people who live outside of New Mexico. Why are people who live outside of this state making rules for industries inside this state that represents our lifeblood? Shouldn't New Mexicans have the voice on the rule making committee, and not outsiders?

I want to close by reminding you that there is a legislative branch in state government and you should respect the checks and balances we have in place. I would encourage you to work with the legislature if you want to change statutes.

We should not try to implement changes of laws via regulations. That is un-democratic and antithetical to the American system. I can assure you there is bi-partisan support for reigning in this out of control regulatory environment that you are creating, this is not the first time, but may be the last. We are currently drafting bi-partisan legislation that will require real economic impact studies and if that study proves to affect a percentage of prior year revenue it will require approval of the legislature before that rule may be adopted.

I am here to work with you in making New Mexico a safer, better place. But you have to stop holding this industry hostage and stop making New Mexico an anti-business state by creating this cloud of anxiety. Let's show good faith and respect for science by bringing artificial pit rules to a close NOW and letting New Mexicans know you are going to move forward with decisions based ONLY on sound, proven science

Thank you for allowing me to be here today, and again thank you to the very people who get up every day and take the risk of investing in New Mexico and providing the thousands of jobs we need, we want, and we all will take credit for.

I also want to thank those thousands of individuals who get up every day and work in the fields and offices. I want you to know there are those of us in elective office that know the contribution you make every day to this state, and I want you to know we will fight to make sure you can get up tomorrow and have the very job you have today.