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December 6, 2007

Lt. Governor Diane Denish
Hand Delivered

RE: NMOCD Actions May Create Problems in 2009

Dear Diane:

The proposed "Pit Rule" and other problems NMOCD that stem from continual rulemaking have the potential of hurting the ability of the next Governor to fund important programs. The impact of the problems that I see at NMOCD will probably not hurt New Mexico until 2009 or 2010. Below is a modification of a letter that you may see from other constituents.

In the name of "environmental protection" the Oil Conservation Division is about to damage our state's economy through the creation of the new "Pit Rule". Yet many environmental professionals believe the proposed Rule will cause environmental harm and result in less benefit than strong enforcement of the existing rule.

The proposed rule is not based on sound scientific fact, holistic environmental stewardship, economic rationale or a cost/benefit analysis. Rather, the rule appears to be grounded in philosophical talking points championed by certain special interest groups who do not understand the negative environmental implications of proposed NMOCD Rule or the benefits of strong enforcement of existing rules.

If the new rule is adopted, each drilling company would add to the cost of a new well at least \$75,000 (for a 5,000 foot oil or gas well) to as much as \$350,000 (for a deep well). In the San Juan Basin, I believe that this additional cost would render 25% to 50% of the companies' inventories as uneconomic. For the oil wells of southeast New Mexico, the percentage of inventory is less only if today's oil prices remain. I have no doubt that implementation of the Pit Rule will cause the loss of as much as \$700 million in state revenue per year. Fewer new wells and less oil and gas production translate to lost jobs, which is a far deeper wound to our communities than lost revenue to the state. Of equal importance is the certainty that the proposed rule will cause increased greenhouse gas production, higher traffic (safety risks and dust) without commensurate protection of water quality.

As you know, I am a strong environmentalist. Because I have testified for the oil and gas industry at every Pit Rule hearing since the mid 1980s, I have very specific knowledge on this issue. I would very much like to explain not only the Pit Rule, but how the NMOCD focus on writing new regulations is preventing them from doing their main job: preventing the waste of our natural resource. I would like to suggest three simple steps that might minimize the potential of future problems:

1. Create an appropriation of about \$500,000 for LANL or SNL to conduct a management and technical review (this is called a Red Team) of 2 state agencies

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- (NMOCD and another of your choice). The report would be presented to the Governor's Office and the mission of the study would be to improve performance.
2. Support revenue stabilization studies during the interim session of the proposed Pit Rule prior to promulgation of this Rule.
 3. Ask NMOCD to deliver their analysis of the environmental and economic costs and benefits of the proposed Pit Rule to your office prior to final rulemaking. Ask them to compare and contrast their findings relative to the evidence presented during the hearings.

I am available to buy you and/or some of your staff coffee at your Rio Grande Starbucks office annex or meet you and staff for lunch at The Grove (my treat). If you are too busy during the holidays, a meeting with Judy Espinosa (and whoever else wishes to learn about this issue from my perspective) would be more than great.

Sincerely,
R.T. Hicks Consultants, Ltd.



Randall T. Hicks
Principal