

NEW MEXICO ENVIRONMENTAL LAW CENTER

October 29, 2007

VIA HAND DELIVERY

Mr. Mark Fesmire
Chairman
Oil Conservation Commission
New Mexico Department of Energy, Minerals
and Natural Resources
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

RE: Case No. 14015

Dear Mr. Chairman:

Please find enclosed the Oil & Gas Accountability Project's Pre-Hearing Statement with attached exhibits in the above matter.

If you have any questions, please feel free to contact me.

Sincerely,

Eric Jantz
Staff Attorney

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STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION COMMISSION

IN THE MATTER OF THE APPLICATION OF THE NEW MEXICO OIL
CONSERVATION DIVISION FOR REPEAL OF EXISTING RULE 50
CONCERNING PITS AND BELOW GRADE TANKS AND ADOPTION OF A
NEW RULE GOVENING PITS AND BELOW GRADE TANKS, CLOSED LOOP
SYSTEMS AND OTHER ALTERNATIVE METHODS TO THE FOREGOING,
AND AMENDING OTHER RULES TO CONFORMING CHANGES
STATEWIDE.

CASE NO. 14015

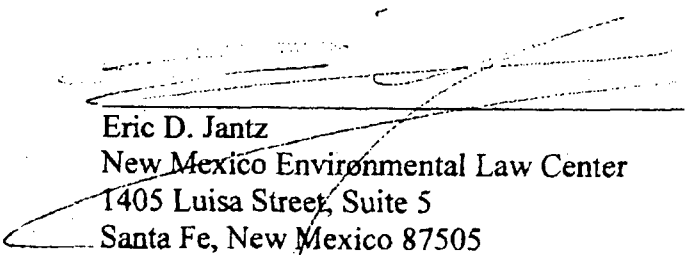
OIL & GAS ACCOUNTABILITY PROJECT'S NOTICE OF ERRATA

The Oil & Gas Accountability Project ("OGAP"), by and through its undersigned
attorneys, hereby notify the Oil Conservation Commission and all parties of the following
erratum in OGAP's October 29, 2007 Pre-Hearing Statement in the above-captioned
matter:

1. Failure to attach certificate of service to the Pre-Hearing Statement. A
copy of the certificate of service is attached hereto.

Dated: October 30, 2007

NEW MEXICO
ENVIRONEMTNAL LAW CENTER


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Fax: (505) 989-3769

Attorneys for OGAP

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CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of October, 2007, I have delivered a copy of the foregoing Response to Motion for Continuance in the above-captioned case via email, facsimile, or U.S. mail to the following:

David K. Brooks
Energy, Minerals and Natural Resources Department
1220 St. Francis Drive
Santa Fe, New Mexico 87505

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Gregory D. Huffaker, Jr.
Huffaker & Moffett, LLC
PO Box 1868
Santa Fe, New Mexico 87504-1868

By: 

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By: 

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ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION COMMISSION**

**IN THE MATTER OF THE APPLICATION OF THE NEW MEXICO OIL
CONSERVATION DIVISION FOR REPEAL OF EXISTING RULE 50
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NEW RULE GOVENING PITS AND BELOW GRADE TANKS, CLOSED LOOP
SYSTEMS AND OTHER ALTERNATIVE METHODS TO THE FOREGOING,
AND AMENDING OTHER RULES TO CONFORMING CHANGES
STATEWIDE.**

CASE NO. 140

PRE-HEARING STATEMENT

Pursuant to 19.15.14.1204.B, the Oil & Gas Accountability Project ("OGAP") hereby gives notice that it intends to present technical testimony at the hearing scheduled to begin on November 5, 2007, on the proposed repeal of existing Rule 50 and the adoption of a new rule governing regulation of pits, below grade tanks, closed loop waste systems and alternatives to those waste disposal methods ("Pit Rule").

With one exception, OGAP supports the New Mexico Oil Conservation Division's ("OCD") proposed Pit Rule. OGAP submits that proposed section NMAC 19.15.17.15.B.(4), allowing on-site burial of waste under certain circumstances, be stricken in its entirety and the following clause be added to the end of the paragraph in section NMAC 19.15.17.15.A.(1), "except that under no circumstances shall the division grant an exception allowing on-site burial of pit waste".

OGAP is a non-profit organization that works with urban, rural and Native communities to protect their homes, health, and environment from the impacts of oil and gas development. OGAP is a resource for these communities, providing expertise on oil

and gas development, environmental impacts and public health impacts. OGAP has thousands of members nationwide and 400 members in New Mexico.

OGAP and its members have an interest in the Pit Rule because it will impact how oil and gas companies conduct their operations in and near members' communities.

OGAP intends to present two technical witnesses: Dr. Theo Colborn, Ph.D, and Ms. Mary Ellen Denomy, C.P.A. A summary of Dr. Colborn's and Ms. Denomy's testimony and their resumes are attached to this Notice. In addition, OGAP reserves the right to call Dr. Colborn, Ms. Denomy, and other witnesses as rebuttal witnesses if that is appropriate.

I. Party presenting technical testimony: Oil & Gas Accountability Project.

II. Name and Qualifications of witnesses to be presented:

A. Dr. Theo Colborn: Dr. Colborn is an environmental health analyst and a Professor at the University of Florida, Gainesville. She earned a PhD in zoology from the University of Wisconsin-Madison, with distributed minors in epidemiology, toxicology, and water chemistry. She holds an M.A. in fresh water ecology from Western State College of Colorado. Her field and laboratory research for these degrees involved tracking the mobilization of toxic trace metals in high altitude streams in Colorado. Dr. Colborn also has a B.S. in pharmacy from Rutgers University in New Jersey.

In 1985, Dr. Colborn moved to Washington DC on Fellowship from the United States Congress, Office of Technology Assessment and later established and ran the Wildlife and Contaminants Program at World Wildlife fund until 2003. Dr. Colborn served on the US EPA science advisory board and several panels, the US and Canadian State Departments' International Joint Commission, to Environment Canada, Health Canada, the

US Fish and Wildlife Service, the US Department of the Interior, the Centers for Disease Control and Prevention, Agency for Toxic Substances and Disease Registry, and similar government agencies in Europe, the United Kingdom, and Japan.

Dr. Colborn has published in scientific journals and authored books on the effects of low level and/or ambient exposure to toxic chemicals which has triggered action at the state, national, and international level to improve the protocols for testing chemicals when determining their safety.

In 2002, Dr. Colborn moved home to Paonia, Colorado where she established The Endocrine Disruption Exchange ("TEDX"), a non-profit group whose goal is to reduce the use of and exposure to chemicals that interfere with human development and function. TEDX's mission is to provide objective technical information to a wide range of clientele including policy makers without charge. Additional qualifications are set forth in Dr. Colborn's attached résumé, OGAP Exhibit 1.

B. Ms. Denomy: Ms. Denomy received her B.S. in Accounting from Wayne State University. Ms. Denomy received additional education relevant to her profession, as outlined in her résumé, attached hereto as OGAP Exhibit 2. Ms. Denomy has extensive accounting experience and has spent the last eleven years representing oil and gas royalty holders and is an Accredited Petroleum Accountant. Additionally, Ms. Denomy is the oil and gas tax auditor for Garfield and Rio Blanco counties in Colorado. Finally, Ms. Denomy has extensive experience as an expert witness in litigation involving oil and gas production finances.

III. Summary of Testimony:

A. Dr. Colborn's testimony will include, but not be limited to, the following:

Dr. Colborn will present a review of the chemicals, including heavy metals, based on publicly available data, which could be potentially present in oil and gas waste pits in northwestern and southeastern New Mexico. Dr. Colborn will explain how the data from the pits were assembled, including a brief discussion of the Material Safety Data Sheets and the Chemical Abstract Service.

Second, Dr. Colborn will present a summary, including charts and graphs, of the possible health effects of chemicals used in oil and gas production in New Mexico. Dr. Colborn will discuss the relative strengths and weaknesses of the information available on possible health effects of chemicals used in oil and gas production and will describe the process she used to evaluate the possible health effects of the chemicals. A written excerpt of Dr. Colborn's testimony is attached hereto as OGAP Exhibit 3.

Finally, Dr. Colborn will summarize the number of chemicals detected in New Mexico pits that appear on national toxic chemicals lists. *See*, OGAP Exhibit 3.

Duration of Testimony: Approximately 2 hours, using a Powerpoint slide show.

Recommended Changes to the Proposal: Dr. Colborn will testify in support of the proposed Pit Rule, with the exception that she will testify that public health would be better protected if on-site burial of pit waste were prohibited in all circumstances.

B. Ms. Denomy's testimony will include, but will not necessarily be limited to, the following:

Ms. Denomy will review government and industry reports and literature, including reports prepared by the Oil Conservation Division, which evaluate the

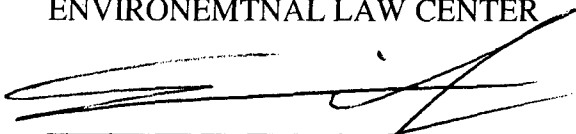
economic costs and benefits of traditional the use of earthen pits and closed loop drilling systems. Ms. Denomy will conclude that closed loop drilling systems are economically competitive with earthen pits and in some instances are more cost-effective. Copies of the articles upon which Ms. Denomy will base her opinion are attached as OGAP Exhibits 4 - 12.

Duration Of Testimony: Approximately 1 and one half hours.

Recommended Changes to the Proposal: Ms. Denomy will testify in support of the proposed Pit Rule.

Dated: October 29, 2007

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