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VIA HAND DELIVERY

Ms. Florene Davidson
Oil Conservation Division
1220 South St. Francis Drive
Santa Fe, NM 87505

**Re: Case 14015: Application of the New Mexico Oil Conservation Division for
Repeal of Existing Rule 50 Concerning Pits, etc.**

Controlled Recovery Inc.'s Written Closing Argument

Dear Ms. Davidson:

Pursuant to the Chairman's direction on December 7, 2007, Controlled Recovery Inc. ("CRI") hereby submits its written closing argument.

Introduction. CRI expresses its appreciation to the Commission for its patience and close attention over many hours of testimony and public comment over the past month. New Mexico is well served by each of the members of its Oil Conservation Commission.

CRI supports the draft Rule's principal thrust -- to eliminate the risk to soil and groundwater presented by current pit design and practice. CRI does have some specific changes to propose -- those will be presented in CRI's redline of the draft Rule late this week. In this document we address the two issues that dominated the hearing, risk and costs as they apply to permanent disposal of drilling and workover pit contents.

The technology, if one can call it that, represented by the current permanent disposal practice of on-site burial has remained essentially unchanged from the dawn of the industry in New Mexico. While other aspects of the industry, e.g., 3D seismic, tertiary recovery, horizontal drilling, fracturing and completion, have benefitted from the application of intense innovation and the latest technology, waste disposal has not. 2008 is high time for the industry to confront the challenges posed by its waste disposal practices.

The Risk. All the science experts who spoke to the issue on both sides (except perhaps Dr. Thomas) agreed that there is a long term risk to groundwater from leaving drilling waste on-site. The practice of on-site disposal must cease entirely as a common practice in the industry if that risk is to be avoided.

That risk is inconsistent with the deep trench burial burrito concept beyond 100 miles from permitting landfills, or anywhere. The 100 mile limitation was not demonstrated, on the

record of this hearing, to be justified by added costs of hauling. Tolerating deep trench burial by making it an option outside 100 miles is inconsistent with national and New Mexico waste disposal practice. The trend is towards engineered and managed centralized facilities and away from poorly engineered, unmanaged, dispersed sites.

CRI asks the Commission to consider this question – What engineering evidence supports the long term integrity of a burrito as a permanent waste disposal facility? The answer is absolutely none. For just one example, there has been no study of the risk of water infiltration to the top, and around the sides, of a burrito after it is abandoned in place a few months after drilling is completed. The industry provided no “sound science,” indeed it didn’t present any science at all for this Commission to conclude a burrito meets any solid waste engineering standard at all. No one testified the burrito design is a safe permanent waste depository for waste containing up to 100,000 mg/k of chloride and unknown other WQCC §3103 contaminants. No one has studied whether or not harmful gases may be produced in a burrito.

Compare the burrito design and operations standards with those of permanent landfills in Rule 36: Landfills have double protection with 60 mil liners, leachate collection, leak detection, a 100 foot minimum groundwater separation, and perhaps most notable, 30 year post-closure monitoring. A burrito operator, on the other hand, is free to leave the site forever the day he finishes installation, subject to only a two year revegetation maintenance standard, instead of a 30 year guarantee.

The risk is plain. Landfills are designed and engineered for permanent disposal. Burritos are not. No on-site burial, and no deep trench burial, should be allowed in this Rule.

The Costs. Certainly the Commission accepts the principle that environmental protection comes at a cost. There will be added costs from the Pit Rule, at least initially. Will they be murderous, confiscatory? That case has not been made. And, whether those costs will continue is an open question.

Other industries and consumers have borne the costs of avoiding environmental risk without permanent harm. Electricity cost more to produce because coal-fired power plants were forced to install scrubbers. The air in Northwest New Mexico is discernibly cleaner as a result. The utilities and their consumers continue to thrive. Automobiles cost more to buy because the government mandated pollution control equipment. The air in our cities is noticeably cleaner as a result. More vehicles are being purchased than ever before.

It is a fair assessment to conclude that the added cost, initially, to the industry of drilling a well will increase by something less than 8 to 10% -- a range of an 8-10% increase just drilling costs for both shallow and deep wells is established by substantial evidence in the record of this proceeding.

The total impact on the industry’s overall costs will be less than 8 to 10% because costs other than drilling costs were not discussed. When industry decides whether to drill a well it considers more than just drilling costs. It also assesses the cost of completing a well (both downhole and surface infrastructure, such as pipelines in the case of gas wells, and tank batteries

and the trucking to empty them for oil wells). It also assesses the allocated per well cost of its marketing and administrative activities. It also considers the cost of producing and maintaining that particular well through its operating life, and the cost of shutting down the well after its life is completed. None of these costs were included in any figures presented at the hearing, but there is no denying they exist or that industry considers them when it decides where to drill. It is fair to conclude, therefore, that the total cost increase, initially, from the draft Rule will be in a range considerably less than 8 – 10%.

Economies of scale and innovations in operations will assuredly reduce these costs in the future. Closed loop drilling rigs, where required, will become available, and their costs and efficiencies will improve over time. The cost of closed loop drilling will decline as experience with it increases. Apparently, Cimarex Corporation has already seen this happen. If additional landfills are needed, they will be permitted and opened. Designing closed loop systems to handle coal bed cavitation is an engineering problem, not an insurmountable hurdle.

Increased truck traffic is a cost of the draft Rule. But the solid waste industry and its regulators, who are years ahead of the Commission in managing centralized waste disposal, have concluded the costs associated with increased truck traffic are justified in the interest of environmentally safe permanent waste disposal.

Singularly missing from the record of this proceeding is any showing by the industry that the increase in truck traffic attendant to the Rule would significantly increase the amount of existing traffic already incident to drilling and maintaining wells and the marketing of oil and gas. Accept the Division's testimony that perhaps 100 trips would be required for digging and hauling a drilling pit. How many trips are made over the life of a well for other purposes? 200? 1,000? The Commission is left to speculate. The industry hasn't made its case on the record before the Commission.

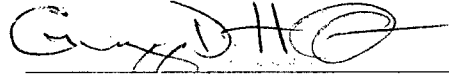
Added costs are necessary to avoid the risk presented by on-site disposal. They have not been shown to be ruinous or prohibitive.

What the Commission should do. When we submit CRI's redline later this week, we will give the Commission additional reasons to:

- Discard the deep trench burrito as an option.
- Establish 100 foot minimum to groundwater siting.
- Eliminate district office approval of siting or other exceptions.
- Adopt wider public notice and public participation for exceptions and modifications that amount to exceptions.

Respectfully submitted,

HUFFAKER & MOFFETT LLC

A handwritten signature in black ink, appearing to read "Gregory D. Huffaker, Jr.", written over a horizontal line.

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CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of December, 2007, a copy of Controlled Recovery Inc.'s Written Closing Argument in the above-captioned case were delivered to the following:

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A handwritten signature in black ink, appearing to read "Gary D. Hicks", is written over a horizontal line.