

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

**IN THE MATTER OF THE APPLICATION  
OF PECOS OPERATING COMPANY FOR  
APPROVAL OF A NON-COMMERCIAL SALT  
WATER DISPOSAL WELL, LEA COUNTY, NEW MEXICO**

**CASE NO. 14122  
ORDER NO. R-12978  
DE NOVO**

**APPLICANT'S PRE-HEARING STATEMENT FOR THE MOTION HEARING**

Applicant Pecos Operating Company (Pecos Operating) hereby submits this Pre-Hearing Statement as required by the rules of the New Mexico Oil Conservation Division/Commission.

**APPEARANCES**

APPLICANT

Pecos Operating Company

ATTORNEY

Michael H. Feldewert, Esq.  
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OPPONENT

H&M Disposal Company

OPPONENT'S ATTORNEY

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**APPLICANT'S STATEMENT OF CASE**

H&M Disposal Company seeks a de novo appeal from Order No. R-12978, which authorizes Pecos Operating to deepen and utilize the State GA Well No. 7 (API No. 30-025-

03688) to dispose of produced water into the Devonian Formation through perforations and openhole at a depth of 13495 feet to 13,900 feet. However, H&M Disposal's Application for a de novo appeal was not filed until forty-five days after the decision was rendered by the Division. Under Section 70-2-13 of the Oil and Gas Act, an application for a de novo appeal must be filed "within thirty days from the time any such decision is rendered." Since H&M Disposal's Application is untimely, the Commission does not have jurisdiction to hear a de novo appeal.<sup>1</sup>

### APPLICANT'S PROPOSED EVIDENCE

The Commission is only scheduled to hear arguments on the Motion to Dismiss H&M's untimely application for a hearing de novo. Accordingly, no evidence will be submitted at the upcoming hearing.

Respectfully submitted,

HOLLAND & HART, LLP

By:   
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ATTORNEYS FOR PECOS OPERATING COMPANY

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<sup>1</sup> H&M Disposal's untimely Application for a De Novo Appeal is the second time H&M has failed to comply with Division rules. On March 12, 2008, Pecos Operating provided a copy of its Form C-108 Application by certified mail to H&M Disposal pursuant to Rule 701. Mailing records reflect H&M Disposal received the Form C-108 Application on March 17, 2008. Rule 701 requires that any objection to a C-108 Application must be filed within 15 days of receipt. H&M Disposal did not file an objection with the Division until 23 days after receipt of Pecos Operating's Form C-108 Application. Nonetheless, the Division's hearing examiner allowed H&M Disposal to present its objections to Pecos' C-108 Application at the Division hearing. See Order R-12978 at ¶ 7.

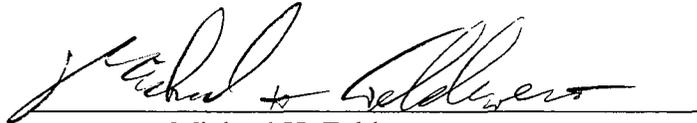
**CERTIFICATE OF SERVICE**

I certify that on October 30, 2008, I served a copy of the foregoing document *Applicant's Pre-Hearing Statement for the Motion Hearing* to the following counsel of record via U.S.

Mail, postage prepaid to:

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**ATTORNEYS FOR H&M DISPOSAL COMPANY**

A handwritten signature in cursive script, appearing to read "Michael H. Feldewert", is written over a horizontal line.

Michael H. Feldewert