

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

2008 SEP 25 PM 9 51
RECEIVED

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

MOTION TO DISMISS
H&M DISPOSAL'S UNTIMELY APPLICATION FOR HEARING DE NOVO

Pecos Operating Company ("Pecos") moves to dismiss H&M's Application for Hearing De Novo on the grounds that the Application is untimely. In support this motion, Pecos states:

1. This matter was heard by an Examiners William V. Jones and David K. Brooks on May 15, 2008.
2. On August 4, 2008, the Division Director entered his Order approving Pecos' application.
3. Counsel for Pecos obtained a copy of the Order from the Division's offices on August 6th, thereby indicating the Order was published and made available for pickup by the parties and the attorneys routinely practicing before the Division as early as August 6th. See Attachment A.
4. Section 70-2-13 of the Oil and Gas Act requires any appeal of the Division's order to be filed within thirty days from the time the decision is rendered:

When any matter or proceeding is referred to an examiner and a decision is rendered thereon, any party of record adversely affected shall have the right to have the matter heard de novo before the commission upon application filed with the division *within thirty days from the time any such decision is rendered.*

NMSA 1978, § 70-2-13 (emphasis added).

5. H&M Disposal did not file its Application until September 18, 2008, forty-five days after the decision was rendered by the Division.

WHEREFORE H&M Disposal's Application for Hearing De Novo must be dismissed as untimely.

Respectfully submitted,

HOLLAND & HART, LLP

By: 

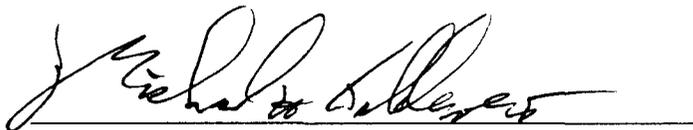
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ATTORNEYS FOR PECOS OPERATING COMPANY

CERTIFICATE OF SERVICE

I certify that on September 25, 2008, I served a copy of the foregoing document to the following counsel via hand delivery to:

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Michael H. Feldewert

Michael Feldewert

From: Lisamarie Ortiz
Sent: Wednesday, August 06, 2008 4:33 PM
To: Michael Feldewert; Ocean Munds-Dry; Olivia Ita; Lisamarie Ortiz
Subject: Pecos Operating Case No. 14122 - Order R-12978
Attachments: Pecos Operating - Order of the Division.pdf

Mike -

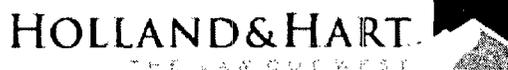
Richard picked up from the OCD today the Order of the Division for Pecos Operating Company, LLC for Approval of a Salt Water disposal Well in Lea County New Mexico. Page 7 of 9 the applicant, "Pecos Operating Company, is hereby permitted to utilize its Caudill SED Well No. 1 (fka State GA Well No. 7)." I did not forward to Plaisance. I thought you wanted to.

See ya Tuesday!

Lisamarie Ortiz

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**ATTACHMENT
A**

9/23/2008