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To: Florene Davidson **From:** James Aguilar thru Amanda Wilbur

Fax: 505/473-3462 **Pages:** 7 (including cover sheet)

Phone: 505/473-3458 **Date:** December 3, 2003

Re: Pueblo of Tesuque Testimonies **CC:**

Urgent For Review Please Comment Please Reply Please Recycle

Comments:

Attached are Testimonies of the Galisteo Basin and detrimental impacts on wildlife.

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Office of the Governor
Pueblo of Tesuque
Route 42 Box 360-T
Santa Fe, New Mexico 87506

December 3, 2008

Mr. Mark Fesmire, Director
STATE OF NEW MEXICO OIL CONSERVATION DIVISION
1220 South St. Francis Drive
Santa Fe, NM 87505

RE: Proposed Oil Conservation Division Amendment to 19.15.39 NMAC

Dear Mr. Fesmire:

The Pueblo of Tesuque, through its delegation of Governor Robert A. Mora, Sr., Lt. Governor Anthony Dorame and Former Governor Mark Mitchell, request to address in testimony the proposed revision to regulations applicable to exploration and drilling in Santa Fe County and the Galisteo Basin. Former Governor Mark Mitchell, the Pueblo's Tribal Historic Preservation Officer, will testify regarding our concerns about cultural and historic preservation. Lt. Governor Anthony Dorame will address the detrimental impacts on wildlife. In addition, please find attached our testimonies.

Sincerely,

A handwritten signature in cursive script that reads "Robert A. Mora, Sr.".

Robert A. Mora, Sr.,
Governor



Pueblo of Tesuque
Route 42 Box 360-T
Santa Fe, New Mexico 87506

Proposed Oil Conservation Division Amendment to 19.15.39 NMAC
Testimony of Lieutenant Governor Anthony Dorame, Pueblo of Tesuque

December 11, 2008
Porter Hall, Santa Fe, New Mexico

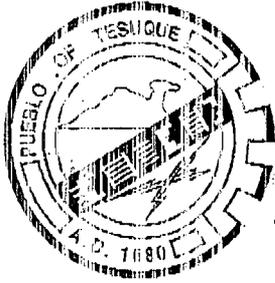
Good morning, Mr. Fesmire. My name is Lieutenant Governor Dorame. I am here to comment on behalf of Tesuque Pueblo on your proposed revision to regulations applicable to exploration and drilling in Santa Fe County and the Galisteo Basin.

Tesuque Pueblo is very concerned that the proposed amended regulations do nothing to prevent negative impacts on wildlife caused by oil and gas exploration and drilling.

The continued health of wildlife within the overall ecosystem is critically important to the Pueblo because wildlife is important in our overall traditional culture. The Pueblo is especially concerned about recent scientific findings establishing the multiple detrimental impacts oil and gas exploration and development have on wildlife, including loss of habitat, habitat fragmentation, morbidity due to ingestion of toxic chemicals, electrocution of hawks and eagles by power lines, and severe disruption of nesting and mating behavior. Exploration also frequently results in invasion of undesirable noxious, non-native plant species, which fundamentally changes habitat. It is therefore critical for the public and for the Pueblo that this biological impact of exploration be a factor in the approval or denial of permits.

In general terms, we would like to know if any endangered species studies or other wildlife studies have been done in the area. If such studies exist, we would like to review them. In specific terms, we believe that impacts on wildlife should be included as a factor determining approval or denial of a plan. In addition, OCD should require that the New Mexico Department of Game and Fish monitor the health of wildlife before and after a plan is put into effect and that adaptive management practices to mitigate previously unknown effects. Impacts on wildlife should also be addressed in each development plan's contingency plan.

Last, we believe OCD should consult with the tribes and Pueblos of New Mexico on any wildlife impacts before any permit is granted, consistent with Governor Bill Richardson's Executive Orders.



Office of the Governor
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Route 42 Box 360-T
Santa Fe, New Mexico 87506

Proposed Oil Conservation Division Amendment to 19.15.39 NMAC
Testimony of Mark Mitchell, Tribal Historic Preservation Officer, Pueblo of Tesuque

December 11, 2008
Porter Hall, Santa Fe, New Mexico

Good morning, Mr. Fesuire, Mr. _____ My name is Mark Mitchell. I am a former Governor of the Pueblo of Tesuque and serve as the Pueblo's Tribal Historic Preservation Officer. I am here today to comment on your proposed revision to regulations applicable to exploration and drilling in Santa Fe County and the Galisteo Basin.

The Pueblo of Tesuque has been engaged with this issue since before Governor Richardson issued his executive order in January 2008. We submitted official comments on the moratorium on May 9, 2008, which are attached to our written testimony.

We continue to be gravely concerned about exploration in this area for three reasons which are not addressed by your proposed revision to the regulations. First, the Galisteo Basin is a Traditional Cultural Property, as defined by the National Historic Preservation Act, for the Pueblo because it is visited by Pueblo people for traditional cultural reasons year round. Second, the Pueblo is concerned about destruction of archaeological and historical resources, the vast majority of which are not yet documented. Third, the Pueblo is concerned about detrimental impacts on wildlife. Today I will be addressing our first two concerns. Lieutenant Governor Anthony Dorame will address the wildlife impacts.

Throughout this year, our primary concern has been protection of the highly sensitive cultural and historic resources in the Galisteo Basin. While the amended rule, as currently proposed, addresses impacts on fresh water, human health, and the environment, we are concerned that it fails to address impacts on these resources, as required by Section 18-6-2 and 18-6.8.1 of the New Mexico Cultural Properties Act and various other statutes designed to preserve New Mexico's historic and archaeological resources for the public.

Failure to address cultural and historic resources in the regulation also conflicts with Governor Richardson's Executive Order 2005-003, "Adoption of Statewide Tribal Consultation Policy on the Protection of Sacred Places and Repatriation." This Executive Order states that "consultation is critical and necessary" to "avoid any irreplaceable loss" of Native American cultural and historic sites and sacred places. We take consultation seriously and are very concerned that your agency would omit a consultation requirement from its proposed regulation on oil and gas drilling in the Galisteo Basin.

In conclusion, we find your proposed revision to be incomplete. Our position is that further revisions are necessary in order to protect the heritage of the tribes, the Pueblos, and the citizens of New Mexico.

Cultural and Traditional Importance to Pueblo Tribal Members

The Galisteo Basin is a Traditional Cultural Property ("TCP") of current and historical importance to the Pueblo. Tribal members of the Pueblo visit the Galisteo Basin many times during the year for traditional cultural activities. The Pueblo utilizes traditional plants harvested from the area for medicinal and cultural purposes. Oil and gas exploration and development in the area will potentially limit the ability of tribal members to gather those plants which are significant to the Pueblo.

Destruction of Archaeological and Historical Resources

The Pueblo has strong historical roots in the Galisteo Basin because the ancient pueblos located there are considered an ancestral home to the people of Tesuque and have a place in the lexicon of Tesuque oral history. As recognized in the Galisteo Basin Archeological Sites Protection Act, Public Law 108-208 (2004) the Basin is home to many historic and prehistoric sites which merit and require protection. The Act lists many of these sites, but it is not comprehensive. There are many other places in the basin that have yet to be identified. In fact, with only 12% of the Galisteo Basin surveyed, more than 3,000 cultural resources have been identified.

Exploration of this sensitive Basin will not only result in "incidental" destruction of cultural resources. The influx of people and machinery and the creation of roads into virgin territory will enable pothunters and other miscreants to intentionally exploit and destroy the priceless archaeological heritage of the Pueblos and of the State of New Mexico. Vandalism and looting has been a major problem at oil and gas drilling sites in places such as the Canyons of the Ancients in Colorado. Disturbance of sites in the Galisteo Basin would result in violation of statutes created to protect these sites, including the New Mexico Cultural Properties Act 1978, Section 18-6-8.1, and in the loss of invaluable historical and archaeological resources.



Office of the Governor
Pueblo of Tesuque
Route 42 Box 360-T
Santa Fe, New Mexico 87506

May 9, 2008

Governor Bill Richardson
State of New Mexico
State Capitol, Room 400
Santa Fe, New Mexico 87501

Re: Comments regarding Executive Order 2008-004, "Imposing a Six Month Moratorium on New Oil and Gas Drilling in Santa Fe County and the Galisteo Basin."

Dear Governor Richardson:

The Pueblo of Tesuque strongly supports your moratorium of January 24, 2008 on oil and gas drilling in the Galisteo Basin. The Pueblo respectfully requests that you take further action to ensure the protection of the culturally sensitive, ecologically fragile and archaeologically rich land of the Galisteo Basin. Specifically, the Pueblo requests that you expand the moratorium for an additional six months in order to ensure that the State, affected tribes and Pueblos, and the many other affected communities have sufficient time to adequately evaluate the impact of the proposed oil and gas exploration. We also request that if oil and gas drilling is permitted in the area then the administering state agencies comply with the Governor's Executive Order 2005-003, and consult with the Pueblo on each potential site to be explored and/or developed prior to any ground disturbance occurring.

The Pueblo opposes any such exploration for the following reasons. First, the Galisteo Basin is a Traditional Cultural Property for the Pueblo because it is visited by Pueblo people for traditional cultural reasons year round. Second, the Pueblo is concerned about destruction of archaeological and historical resources, the vast majority of which are not yet documented. Third, the Pueblo is concerned about detrimental impacts on wildlife. Fourth, the Pueblo is concerned about environmental and human health impacts of the exploration and of future drilling.

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Exploration of this sensitive Basin will not only result in "incidental" destruction of cultural resources. The influx of people and machinery and the creation of roads into virgin territory will enable pothunters and other miscreants to intentionally exploit and destroy the priceless archaeological heritage of the Pueblos and of the State of New Mexico. Vandalism and looting has been a major problem at oil and gas drilling sites in places such as the Canyons of the Ancients in Colorado. Disturbance of sites in the Galisteo Basin would result in violation of statutes created to protect these sites, including the New Mexico Cultural Properties Act 1978, Section 18-6-3.1, and in the loss of invaluable historical and archaeological resources.

Detrimental Impact on Wildlife

The Pueblo is concerned about detrimental effects on wildlife in the Galisteo Basin, such as habitat fragmentation. The continued health of wildlife within the overall ecosystem is critically important to the Pueblo because wildlife is important in the overall traditional culture of the Pueblo. The Pueblo is especially concerned about recent scientific findings establishing the multiple detrimental impacts mining development has on wildlife, including loss of habitat, morbidity due to ingestion of toxic chemicals, electrocution of hawks and eagles by power lines, and severe disruption of nesting and mating behavior.

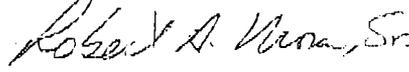
Negative Impact to Environment and Human Health

Oil and gas exploration brings people and massive machinery into sensitive areas to drill holes, construct concrete pads, build roads and lay pipeline. The Pueblo is concerned with the environmental impact of oil and gas drilling in the Basin. The Galisteo Basin supports a unique and fragile ecosystem that, once damaged, will take long years to recover.

For the above reasons, the Pueblo strongly opposes exploration of the Galisteo Basin, which will inevitably lead to drilling. Thank you for your commitment to this important issue. We request a meeting with you and Indian Affairs Secretary Alvin Wainman well before the initial moratorium expires in July to discuss our request for a six-month extension and issues related to the potential impacts on our Pueblo. We look forward to

working with you to ensure protection of the Galisteo Basin for the Pueblos and for New Mexico.

Sincerely,



Governor Robert A. Mora, Sr.

cc: Indian Affairs Secretary Alvin Warren