



NEW MEXICO ENERGY, MINERALS and NATURAL RESOURCES DEPARTMENT

BILL RICHARDSON

Governor

Joanna Prukop
Cabinet Secretary

Lori Wrotenbery

Director

Oil Conservation Division

MEMORANDUM

To: Frank Chavez, District Supervisor, District III

From: Lori Wrotenbery, Director *LW*

Date: September 12, 2003

Re: **Processing of Applications for Permits to Drill (APDs) in the High Productivity Area (HPA) of the Basin-Fruitland Coal Gas Pool pursuant to Rule 7(d)(2) of the applicable special pool rules adopted in Order No. R-8768-F**

A question has arisen concerning when the Division can approve APDs for which there is a requirement for notice to affected persons in the referenced rule.

Rule 7(d)(2)(i) provides that APDs for infill wells in the HPA will be sent to affected persons:

together with a notice advising such affected persons that they have twenty (20) days from receipt thereof in which to file with the District Office of the Division written objection to the proposed APD.

Rule 7(d)(2)(ii) provides that:

The District Supervisor may approve the APD that has been filed at any time after the expiration of the twenty-day notice period if no objection has been received.

Under these provisions, the District Supervisor is not authorized to approve an APD until 20 days after the last affected person has received the notice. However, since the rule does not require the operator to furnish proof of receipt of notices, the District Supervisor has no means of knowing when such receipt occurred.

It is a reasonable presumption that a properly addressed notice will be received within ten days of its mailing. Accordingly, in the absence of proof of the date that the notices were actually received, the District Supervisor may approve APDs to which Rule 7(d)(2) applies after the expiration of thirty (30) days from the date the notices were mailed. If the operator furnishes proof of the date or dates when all such notices were received, the District Supervisor may approve the APD after the expiration of twenty (20) days after the date of receipt by the last affected person to receive such notice.