

DOCKET: EXAMINER HEARING - THURSDAY - OCTOBER 17, 1996**8:15 A.M. - 2040 S. Pacheco****Santa Fe, New Mexico**

Dockets Nos 31-96 and 32-96 are tentatively set for November 7, 1996 and November 21, 1996. Applications for hearing must be filed at least 23 days in advance of hearing date. The following cases will be heard by an Examiner:

CASE 11611: (Readvertised)

Application of Pogo Production Company for an unorthodox oil well location and for an exception to the salt protection casing string requirements of Division Order No. R-111-P, Eddy County, New Mexico. Applicant seeks authority to delete the salt protection string requirements of Division Order No. R-111-P in the "Oil-Potash Area" from its proposed Amax "24" Federal Well No. 13 to be drilled at a standard oil well location 1310 feet from the South line and 330 feet from the West line (Unit M) of Section 24, Township 23 South, Range 31 East, to test the Ingle Wells-Delaware Pool. Said well site is located approximately 3 miles south of State Highway 128 at Mile Marker No. 18.

CASE 11624: Application of Murchison Oil & Gas, Inc. for an exception to the existing field rules for the White City - Pennsylvanian Gas Pool, Eddy County, New Mexico. Applicant seeks an order permitting the drilling of a third well at an orthodox location in Section 2, Township 25 South, Range 26 East, with applicant dedicating all of Section 2 to the well to test the formations included within said White City-Pennsylvanian Gas Pool. Said pool is located approximately eighteen (18) miles south of Carlsbad, New Mexico.

CASE 11547: (Continued from September 5, 1996, Examiner Hearing.)

Application of Nearburg Exploration Company, L.L.C., for compulsory pooling, Eddy County, New Mexico. Applicant seeks an order pooling all mineral interests from the surface to the base of the Morrow formation, in all formations developed on 320-acre spacing, underlying the E/2 of Section 11, Township 17 South, Range 25 East. Said unit is to be dedicated to the Eagle Creek 11 Com Well No. 1 to be drilled at a location 1980 feet from the South and East lines of said Section 11. Also to be considered will be the cost of drilling and completing said well and the allocation of the cost thereof as well as actual operating costs and charges for supervision, designation of applicant as operator of the well and a charge for risk involved in drilling said well. Said unit is located approximately 2 miles west of Artesia, New Mexico.

CASE 11089: (Reopened)

Application of Burlington Resources Oil & Gas Company to Reopen Case 11089 and amend Order No. R-46-A to conform to BLM Order No. UMU-1, San Juan County, New Mexico. Applicant seeks to amend Division Order No. R-46-A to conform to BLM Order No. UMU-1 to (a) amend the pool names, (b) utilize the same vertical limits, (c) conform the horizontal boundaries of the pools, (d) define the vertical limits as the stratigraphic equivalent interval, (e) approve certain non-standard gas spacing and proration units, (f) adopt an administrative procedure for unorthodox well locations, and (g) allow for the drilling of certain optional infill wells for the Barker Dome-Akah/Upper Barker Creek Pool, the Barker Dome-Desert Creek Pool, the Barker Dome-Ismay Pool and the Barker Dome-Paradox Pool, all within a horizontal area containing all or parts of Sections 7 through 11, 14 through 23, 27 through 32, Township 32 North, Range 14 West, and Sections 12, 13, 24, 25, 36, Township 32 North, Range 15 West. Said area is located approximately 9 miles west-northwest of La Plata, New Mexico.

CASE 11625: Application of Burlington Resources Oil & Gas Company for approval of a Pilot Project including an exception from Rule 2(b) of the Special Rules and Regulations for the Blanco-Mesaverde Gas Pool for purposes of establishing a program in its San Juan 29-7 Unit to determine proper well density and well location requirements in Mesaverde wells, Rio Arriba County, New Mexico. Applicant seeks approval for a pilot program including an exception for the San Juan 29-7 Unit located in Township 29 North, Range 7 West, from Rule 2(b) of the Special Rules and Regulations for the Blanco-Mesaverde Gas Pool and authorization to drill wells at unorthodox locations and to increase the well density from the current maximum of two (2) wells (160-acre infill) provided in Order No. R-1670-T to a maximum of four (4) wells (80-acre infill) per gas proration and spacing unit for wells dedicated to the Blanco-Mesaverde Gas Pool within the San Juan 29-7 Unit. Said unit is located approximately 4 miles southeast of Navajo City, New Mexico.

CASE 11626: Application of Burlington Resources Oil & Gas Company for the establishment of a downhole commingling reference case for its San Juan 27-5 Unit pursuant to Division Rule 303.E and the adoption of special administrative rules therefor, San Juan County, New Mexico. Applicant in accordance with Division Rule 303.E. seeks to establish a downhole commingling reference case to provide for (a) marginal economic criteria, (b) pressure criteria, (c) allocation formulas, and (d) modification of notification rules on an area-wide basis authorization for downhole commingling of Dakota, Mesaverde, Fruitland Coal and Pictured Cliffs gas production in the wellbores of existing or future wells drilled anywhere within the San Juan 27-5 Unit located in Township 27 North, Range 5 West. The center of said area is located approximately 10 miles southeast of Gobernador Camp, New Mexico.

CASE 11627: Application of Burlington Resources Oil & Gas Company for the establishment of a downhole commingling reference case for its San Juan 28-5 Unit pursuant to Division Rule 303.E and the adoption of special administrative rules therefor, San Juan County, New Mexico. Applicant in accordance with Division Rule 303.E. seeks to establish a downhole commingling reference case to provide for (a) marginal economic criteria, (b) pressure criteria, (c) allocation formulas, and (d) modification of notification rules on an area-wide basis authorization for downhole commingling of Dakota, Mesaverde, Fruitland Coal and Pictured Cliffs gas production in the wellbores of existing or future wells drilled anywhere within the San Juan 28-5 Unit located in Township 28 North, Range 5 West. The center of said area is located approximately 6 miles southeast of Gobernador Camp, New Mexico.

CASE 11628: Application of Burlington Resources Oil & Gas Company for the establishment of a downhole commingling reference case for its San Juan 28-6 Unit pursuant to Division Rule 303.E and the adoption of special administrative rules therefor, San Juan County, New Mexico. Applicant in accordance with Division Rule 303.E. seeks to establish a downhole commingling reference case to provide for (a) marginal economic criteria, (b) pressure criteria, (c) allocation formulas, and (d) modification of notification rules on an area-wide basis authorization for downhole commingling of Dakota, Mesaverde, Fruitland Coal and Pictured Cliffs gas production in the wellbores of existing or future wells drilled anywhere within the San Juan 28-6 Unit located in Township 27 North Range 6 West and Township 28 North, Range 6 West. The center of said area is located approximately 5 miles southwest of Gobernador Camp, New Mexico.

CASE 11629: Application of Burlington Resources Oil & Gas Company for the establishment of a downhole commingling reference case for its San Juan 29-7 Unit pursuant to Division Rule 303.E and the adoption of special administrative rules therefor, San Juan County, New Mexico. Applicant in accordance with Division Rule 303.E. seeks to establish a downhole commingling reference case to provide for (a) marginal economic criteria, (b) pressure criteria, (c) allocation formulas, and (d) modification of notification rules on an area-wide basis authorization for downhole commingling of Dakota, Mesaverde, Fruitland Coal and Pictured Cliffs gas production in the wellbores of existing or future wells drilled anywhere within the San Juan 29-7 Unit located in Township 29 North, Range 7 West. The center of said area is located approximately 9 miles southwest of Gobernador Camp, New Mexico.

CASE 11621: (Continued from October 3, 1996, Examiner Hearing.)

Application of Yates Petroleum Corporation for an unorthodox gas well location, Lea County, New Mexico. Applicant, in the above-styled cause, seeks approval of an unorthodox gas well location within the Atoka formation for its Papalotes Unit Well No. 1 (API No. 30-025-33275), located 1969 feet from the South line and 330 feet from the East line (Unit I) of Section 34, Township 14 South, Range 34 East, being approximately 10 miles west by south of Hilburn City, New Mexico. The E/2 of said Section 34 is to be dedicated to said well to form a standard 320-acre gas spacing and proration unit for said gas bearing interval.

CASE 11630: Application of Yates Petroleum Corporation for compulsory pooling, Eddy County, New Mexico. Applicant seeks an order pooling all mineral interests from the surface to the base of the Morrow formation, underlying the E/2 of Section 15, Township 18 South, Range 29 East, forming a standard 320-acre gas spacing and proration unit for any and all formations and/or pools developed on 320-acre spacing within said vertical extent, including but not limited to the North Turkey Track-Morrow Gas Pool. Said unit is to be dedicated to Yates Petroleum Corporation's Cerros "AQF" Federal Com Well No. 1 which is to be drilled at a standard well location. Also to be considered will be the cost of drilling and completing said well and the allocation of the cost thereof as well as actual operating costs and charges for supervision, designation of applicant as the operator of the well and a charge for risk involved in drilling and completing said well. Said unit is located approximately 19 miles east-southeast of Artesia, New Mexico.

CASE 11631: Application of Texaco Exploration & Production, Inc. for surface commingling, Lea County, New Mexico. Applicant seeks authority to surface commingle Vacuum-Drinkard, Vacuum-Blaine, Vacuum-Wolfcamp and Vacuum-Atoka Pool production from its N.M. "Z" State NCT-1, N.M. "O" State NCT-1, N.M. "M" State, N.M. "L" State, N.M. "R" State NCT-3, N.M. "R" State NCT-1 and N.M. "AB" State Leases. Said production is to be stored at a central facility located in the SE/4 SE/4 (Unit P) of Section 1, Township 18 South, Range 34 East. Said area is located approximately 2 miles south of Buckeye, New Mexico.

CASE 11632: Application of Texaco Exploration and Production Inc. for compulsory pooling, San Juan County, New Mexico. Applicant seeks an order pooling all gas interests in the Mesaverde formation, in and under the E/2 of Section 32, Township 30 North, Range 11 West. Said unit is to be dedicated to its Fed. State Com Well No. 2 to be drilled at a standard location 850 feet from the South line and 1700 feet (Unit O) from the East line of said Section 32. Also to be considered will be the cost of drilling and completing said well and the allocation of the cost thereof as well as actual operating costs and charges for supervision, designation of applicant as the operator of the well and a charge for risk involved in drilling said well. Said unit is located approximately 3 1/2 miles south-southeast of Aztec, New Mexico.

CASE 11633: **Application of InterCoast Oil and Gas Company for compulsory pooling and unorthodox well location, Eddy County, New Mexico.** Applicant seeks an order pooling all mineral interests for all formations developed on 320-acre spacing in the N/2 of Section 16, Township 20 South, Range 28 East, from the surface to the base of the Wolfcamp formation, Undesignated North Barton Flat-Wolfcamp Gas Pool. Said unit is to be dedicated to its InterCoast State 16 Well No. 1 which will be drilled at an unorthodox location 990 feet from the North line and 990 feet from the East line (Unit A) of said Section 16. Also to be considered will be the cost of drilling and completing said well and the allocation of the cost thereof as well as actual operating costs and charges for supervision, designation of applicant as the operator of the well and a charge for risk involved in drilling and completing said well. Said unit is located approximately 10 miles east-southeast of Lakewood, New Mexico.

CASE 11634: **Application of InterCoast Oil and Gas Company for compulsory pooling and unorthodox well location, Eddy County, New Mexico.** Applicant seeks an order pooling all mineral interests for all formations developed on 320-acre spacing in the N/2 of Section 20, Township 20 South, Range 28 East, from the surface to the base of the Morrow formation, Burton Flat-Morrow Gas Pool. Said unit is to be dedicated to its InterCoast State 20 Well No. 1 which will be drilled at an unorthodox location 990 feet from the North line and 990 feet from the East line (Unit A) of said Section 20. Also to be considered will be the cost of drilling and completing said well and the allocation of the cost thereof as well as actual operating costs and charges for supervision, designation of applicant as the operator of the well and a charge for risk involved in drilling and completing said well. Said unit is located approximately 10 miles east-southeast of Lakewood, New Mexico.

CASE 11518: (Continued from June 13, 1996, Examiner Hearing.)

Application of Sunco Trucking Company for approval to modify its Rule 711-permitted surface waste disposal facility, San Juan County, New Mexico. Applicant seeks approval to modify its Rule 711-permitted surface waste disposal located in the SW/4 NW/4 of Section 2, Township 29 North, Range 12 West. Applicant requests approval to construct and operate a 5-acre centralized landfarm within the 40-acre facility currently permitted to dispose of produced waters. The landfarm will receive contaminated soils and sludges from the produced water disposal operation on the facility, which are classified as "non-hazardous" oil field waste by RCRA Subtitle C exemption or by characteristic testing, to be spread on the ground in six inch lifts or less and periodically stirred to enhance the biodegradation of the contaminants. Said facility is located approximately 7 miles east-northeast of Farmington, New Mexico.

CASE 11604: (Continued from September 26, 1996, Examiner Hearing.)

Application of Sunco Trucking Water Disposal Company for a show cause hearing as to why it should not be fined for violations of Oil Conservation Division Rule 711, San Juan County, New Mexico. Applicant seeks a hearing to show cause to the Oil Conservation Division why applicant should not be fined \$5,000.00 for violations of the conditions of its Rule 711 permit.

CASE 11602: (Continued from September 26, 1996, Examiner Hearing.)

Application of Bass Enterprises Production Company for approval of the expansion of the Atoka Participating Area in the James Ranch Unit, Eddy County, New Mexico. Applicant seeks approval of the third expansion of the participating area for the Atoka formation in the James Ranch Unit Area including 1,683.13 acres, more or less, located in portions of Sections 35 and 36 of Township 22 South, Range 30 East, and portions of Sections 5, 6, 8, and 17 of Township 23 South, Range 31 East. Said unit is located approximately 15 miles east of Carlsbad, New Mexico.

CASE 11603: (Continued from September 26, 1996, Examiner Hearing.)

Application of Bass Enterprises Production Company for approval of the expansion of the Atoka Participating Area in the James Ranch Unit, Eddy County, New Mexico. Applicant seeks approval of the fourth expansion of the participating area for the Atoka formation in the James Ranch Unit Area including 238.54 acres, more or less, located in portions of Section 12, Township 22 South, Range 30 East, and portions of Section 7, Township 22 South, Range 31 East. Said unit is located approximately 15 miles east of Carlsbad, New Mexico.

DOCKET: COMMISSION HEARING - TUESDAY - OCTOBER 29, 1996

9:00 A.M. - 2040 SOUTH PACHECO - SANTA FE, NEW MEXICO
The Land Commissioner's designee for this hearing will be Jami Bailey

CASE 11352: (Continued from August 15, 1996, Commission Hearing.)

In the matter of the hearing called by the Oil Conservation Division to amend Rule 116 of its General Rules and Regulations pertaining to the notification of fires, breaks, leaks, spills and blowouts. The proposed amendments to Rule 116 would include and/or exclude certain situations from its coverage. A copy of the proposed amendment is attached to this docket.

CASE 11635: In the matter of the hearing called by the Oil Conservation Division to enact a new rule establishing methods and standards for the prevention and abatement of water pollution associated with operations in the oil and gas industry. A copy of the proposed rule is attached to this docket.

Evidence and testimony will be taken in the above cases on this date, but the cases will be continued to the Commission Hearing scheduled for November 14, 1996 in order to hear additional testimony and evidence.

CASE 11514: (De Novo - Continued from September 18, 1996, Commission Hearing)

Application of Read & Stevens, Inc. for an unorthodox infill gas well location and simultaneous dedication, Chaves County, New Mexico. Applicant seeks approval of an unorthodox infill gas well location in the Buffalo Valley-Pennsylvanian (Prorated) Gas Pool for a well to be drilled 990 feet from the South line and 1980 feet from the West line (Unit O) of Section 26, Township 15 South, Range 27 East. Said well is to be simultaneous dedicated with the existing Harris Federal Well No. 4, located at a standard gas well location in Unit "P" of said Section 26, to a standard 320-acre gas spacing and proration unit comprising the S/2 of said Section 26. Said unit is located approximately 9.5 miles southeast of Lake Arthur, New Mexico. Upon application of Read & Stevens, Inc., this case will be heard De Novo pursuant to the provisions of Rule 1220.

CASE 11579: (De Novo)

Application of Pogo Producing Company for a pressure maintenance project, Lea County, New Mexico. Applicant, in the above-styled cause, seeks approval to institute a pressure maintenance project in the West Red Tank-Delaware Pool within its federal oil and gas lease (No. NM-86149) comprising the W/2 of Section 26, Township 22 South, Range 32 East, by the injection of natural gas through the perforated interval from approximately 8,399 feet to 8,471 feet into its existing Red Tank "26" Federal Well No. 1 located 1880 feet from the South and West lines (Unit K) of said Section 26. Said project area is located approximately 29 miles west by south of Eunice, New Mexico. Upon application of Pogo Producing Company, this case will be heard De Novo pursuant to the provisions of Rule 1220.

CASE 11563: (De Novo)

Application of Nearburg Exploration Company, L.L.C for compulsory pooling, Lea County, New Mexico. Applicant seeks an order pooling all mineral interests in all formations developed on 80-acre spacing, including but not limited to the West Lovington-Strawn Pool, under Lots 15 and 16 of Section 3 and all interests in all formations developed on 40-acre spacing, including but not limited to the Northeast Eidson-Mississippian Pool, under Lot 16 of Section 3, all in Township 16 South, Range 35 East. Said unit is to be dedicated to its Nike "3" Well No. 1 to be drilled at a standard location 2970 feet from the South line and 330 feet from the East line of said Section 3. Also to be considered will be the cost of drilling and completing said well and the allocation of the cost thereof as well as actual operating costs and charges for supervision, designation of applicant as the operator of the well and a charge for risk involved in drilling and completing said well. Said area is located approximately 4 miles west of Lovington, New Mexico. Upon application of A. L. Cone Partnership, this case will be heard De Novo pursuant to the provisions of Rule 1220.

CASE 11515: (De Novo)

In the matter of the hearing called by the Oil Conservation Division ("Division") on its own motion to permit the operator Woosley Oil Co., American Employers' Insurance Company, and all other interested parties to appear and show cause why the Santa Fe Energy Well No. 1 located in Unit P of Section 8, Township 19 North, Range 6 West; Santa Fe Energy Well No. 2 located in Unit A of Section 17, Township 19 North, Range 6 West; State Well No. 1 located in Unit D of Section 16, Township 19 North, Range 6 West; State Well No. 2 located in Unit C of Section 16, Township 19 North, Range 6 West; State Well No. 3 located in Unit A of Section 16, Township 19 North, Range 6 West; Ptasynski A Well No. 1 located in Unit I of Section 11, Township 19 North, Range 5 West; and Ptasynski A Well No. 2 located in Unit J of Section 11, Township 19 North, Range 5 West; all located in McKinley County, New Mexico, should not be plugged and abandoned in accordance with a Division-approved plugging program, authorizing the Division to plug said wells, and ordering a forfeiture of the plugging bond. The center of the area encompassing said wells is located approximately 10 miles southeast of Chaco Canyon National Monument, New Mexico. Upon application of Commercial Union Insurance Companies and American Employers' Insurance Company, this case will be heard De Novo pursuant to the provisions of Rule 1220.

AWAITING FINAL COMMISSION ACTION - NO EVIDENCE OR TESTIMONY WILL BE TAKEN.

CASE 11596: In the matter of the hearing called by the Oil Conservation Commission to establish a rule to allow Commission members to participate in Commission meetings and hearings by means of a conference telephone or other similar communications equipment when it is otherwise difficult or impossible for members to attend the meeting or hearing in person.

CASE 11551: Application of the Oil Conservation Division to amend Division Rule 1115 to require electronic filing of Form C-115, "Operator's Montly Report."

**RULE 116 COMMITTEE PROPOSED REPLACEMENT RULE 116
FOR CURRENT RULE 116**

116 UNAUTHORIZED RELEASE NOTIFICATION AND CORRECTIVE ACTION

116.A. NOTIFICATION: The Division shall be notified of any unauthorized release occurring during the drilling, producing, storing, disposing, injecting, transporting, servicing or processing of crude oil, produced water, condensate or oil field waste including Regulated NORM, or other oil field related chemicals, contaminants or mixture thereof, in the State of New Mexico in accordance with the requirements of this rule. [1-1-50... - -96]

116.B. REPORTING REQUIREMENTS: Notification of an unauthorized release as defined in Rule A.7 shall be made by the person operating or controlling either the release or the location of the release in accordance with the following requirements:

(1) A Category I release shall be reported by giving both immediate verbal notice and timely written notice pursuant to Subsection C(1) and C(2) of this Rule. For purpose of this Rule, a Category I Release is either:

(a) a release of a volume in excess of 25 barrels; or

(b) a release of any volume, excluding natural gas, which:

(i) results in a fire;

(ii) will reach a water course;

(iii) may with reasonable probability endanger public health; or

(iv) results in substantial damage to property or the environment. [- -96]

(2) A Category II Release shall be reported by giving immediate verbal notice pursuant to Subsection C (1) of this Rule. For purpose of this Rule, a Category II Release is a release of any volume of natural gas, which:

(a) results in a fire;

(b) may with reasonable probability endanger public health;

or

(c) result in substantial damage to property or the environment. [- -96]

(3) A Category III release shall be reported by giving timely written notice pursuant to Subsection C(2) of this Rule. For the purpose of this Rule, a Category III Release is a release of a volume, excluding natural gas, greater than 5 barrels but not more than 25 barrels. [- -96]

116.C. CONTENTS OF NOTIFICATION:

(1) **Immediate verbal notification** is required to be reported pursuant to Subsection B of Rule 116 shall be reported within twenty-four (24) hours of discovery to the District Office of the Division for the area within which this release takes place. This notification shall include the identification of the location of the release by quarter-quarter section, township and range; by distance and direction from the nearest town or landmark; the nature and estimated quantity of the loss and general conditions prevailing in the area; and any mitigation or corrective action being taken. [5-22-73... -96]

(2) **Timely written notification** is required to be reported pursuant to Subsection B of Rule 116 within fifteen (15) days to the District Office of the Division for the area within which this release takes place by completing and filing Division Form C-141. [5-22-73... -96]

116.D. **CORRECTIVE ACTION:** The responsible person must complete Division approved corrective action for unauthorized releases which endanger public health or the environment. Releases will be addressed in accordance with a remediation plan submitted to and approved by the Division or with an Abatement Plan submitted in accordance with Rule 19 (19 NMAC 15.A.19). [-96].

TO BE ADDED TO CURRENT RULE 15.A.7

ABATE or ABATEMENT shall mean the investigation, containment, removal or other mitigation of water pollution. [- -96]

ABATEMENT PLAN shall mean a description of any operational, monitoring, contingency and closure requirements and conditions for the prevention, investigation and abatement of water pollution. [- -96]

BACKGROUND shall mean, for purposes of ground-water abatement plans only, the amount of ground-water contaminants naturally occurring from undisturbed geologic sources or water contaminants occurring from a source other than the responsible person's facility. This definition shall not prevent the Director from requiring abatement of commingled plumes of pollution, shall not prevent responsible persons from seeking contribution or other legal or equitable relief from other persons, and shall not preclude the Director from exercising enforcement authority under any applicable statute, regulation or common law. [- -96]

FACILITY shall mean any structure, installation, operation, storage tank, transmission line, motor vehicle, rolling stock, or activity of any kind, whether stationary or mobile. [- -96]

GROUND WATER shall mean interstitial water which occurs in saturated earth material and which is capable of entering a well in sufficient amounts to be utilized as a water supply. [- -96]

HAZARD TO PUBLIC HEALTH exists when water which is used or is reasonably expected to be used in the future as a human drinking water supply exceeds at the time and place of such use, one or more of the numerical standards of 20 NMAC 6.2.3103, or the naturally occurring concentrations, whichever is higher, or if any toxic pollutant as defined at 20 NMAC 6.2.1101 affecting human health is present in the water. In determining whether a release would cause a hazard to public health to exist, the Director shall investigate and consider the purification and dilution reasonably expected to occur from the time and place of release to the time and place of withdrawal for use as human drinking water. [- -96]

NON-AQUEOUS PHASE LIQUID shall mean an interstitial body of liquid oil, petroleum product, petrochemical, or organic solvent, including an emulsion containing such material. [- -96]

OIL FIELD WASTES shall mean those wastes produced in conjunction with the exploration, production, refining, processing and transportation of crude oil and/or natural gas and commonly collected at field storage, processing, disposal, or service facilities, and waste collected at gas processing plants, refineries and other processing or transportation facilities. [- -96]

PERSON shall mean an individual or any other entity including partnerships, corporation, associations, responsible business or association agents or officers, the state or a political subdivision of the state or any agency, department or instrumentality of the United States and any of its officers, agents or employees. [- -96]

RELEASE shall mean all breaks, leaks, spills, releases, fires or blowouts involving crude oil, produced water, condensate, drilling fluids, completion fluids or other chemical or contaminant or mixture thereof, including oil field wastes and natural gases to the environment. [- -96]

REMEDIATION PLAN shall mean a written document to address reportable releases that will not with reasonable probability reach ground water or surface water, and that will likely be remedied within one (1) year. When ground water is affected, a remediation plan may be required for releases that will be remedied within one (1) year. The plan may include appropriate information, including assessment data, health risk demonstrations, and corrective action(s). The plan may also include an alternative proposing no action beyond the submittal of a spill report. [- -96]

RESPONSIBLE PERSON shall mean the owner or operator who must complete Division approved corrective action for pollution from releases. [- -96]

SIGNIFICANT MODIFICATION OF AN ABATEMENT PLAN shall mean a change in the abatement technology used excluding design and operational parameters, or relocation of 25% or more of the compliance sampling stations, for any single medium, as designated pursuant to 19 NMAC 19.E(4)(b)(iv). [- -96]

SUBSURFACE WATER shall mean ground water and water in the vadose zone that may become ground water or surface water in the reasonably foreseeable future or may be utilized by vegetation. [- -96]

VADOSE ZONE shall mean unsaturated earth material below the land surface and above ground water, or in between bodies of ground water. [- -96]

WATER shall mean all water including water situated wholly or partly within or bordering upon the state, whether surface or subsurface, public or private, except private waters that do not combine with other surface or subsurface water. [- -96]

WATER CONTAMINANT shall mean any substance that could alter if released or spilled the physical, chemical, biological or radiological qualities of water. "Water contaminant" does not mean source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954. [- -96]

WATERCOURSE shall mean any lake bed, or gully, draw, stream bed, wash, arroyo, or natural or human-made channel through which water flows or has flowed. [- -96]

WATER POLLUTION shall mean introducing or permitting the introduction into water, either directly or indirectly, of one or more water contaminants in such quantity and of such duration as may with reasonable probability injure human health, animal or plant life or property, or to unreasonably interfere with the public welfare or the use of property. [- -96]

WELL BLOWOUT shall mean a loss of control over and subsequent eruption of any drilling or workover well or the rupture of the casing, casinghead, or wellhead or any oil or gas well or injection or disposal well, whether active or inactive, accompanied by the sudden emission of fluids, gaseous or liquids, from the well. [- -96]

COMMITTEE PROPOSED NEW RULE
19 NMAC 15.A.19

19. PREVENTION AND ABATEMENT OF WATER POLLUTION.

19.A. PURPOSE

(1) The purposes of this Rule are to:

(a) Abate pollution of subsurface water so that all ground water of the State of New Mexico which has a background concentration of 10,000 mg/L or less TDS, is either remediated or protected for use as domestic, industrial and agricultural water supply, and to remediate or protect those segments of surface waters which are gaining because of subsurface-water inflow, for uses designated in the Water Quality Standards for Interstate and Intrastate Streams in New Mexico (20 NMAC 6.1); and [- - 96]

(b) Abate surface-water pollution so that all surface waters of the State of New Mexico are remediated or protected for designated or attainable uses as defined in the Water Quality Standards for Interstate and Intrastate Streams in New Mexico (20 NMAC 6.1). [- -96]

(2) If the background concentration of any water contaminant exceeds the standard or requirement of Section B(1), B(2) or B(3), pollution shall be abated by the responsible person to the background concentration. [- -96]

(3) The standards and requirements set forth in Section B(1), B(2), or B(3) are not intended as maximum ranges and concentrations for use, and nothing herein contained shall be construed as limiting the use of waters containing higher ranges and concentrations. [- -96]

19.B. ABATEMENT STANDARDS AND REQUIREMENTS

(1) The vadose zone shall be abated so that water contaminants in the vadose zone will not with reasonable probability contaminate ground water or surface water, in excess of the standards in Subparagraphs (2) and (3) below, through leaching, percolation, or other transport mechanisms, or as the water table elevation fluctuates. [- -96]

(2) Ground-water pollution at any place of withdrawal for present or reasonably foreseeable future use, where the TDS concentration is 10,000 mg/L or less, shall be abated to conform to the following standards: [- -96]

(a) Toxic pollutant(s) as defined in 20 NMAC 6.2.1101 shall not be present; and [- -96]

(b) The standards of 20 NMAC 6.2.3103 shall be met. [- -

(3) Surface-water pollution shall be abated to conform to the Water Quality Standards for Interstate and Intrastate Streams in New Mexico (20 NMAC 6.1). [- -96]

(4) Subsurface-water and surface-water abatement shall not be considered complete until eight (8) consecutive quarterly samples, or an alternate lesser number of samples approved by the Director, from all compliance sampling stations approved by the Director meet the abatement standards of Subparagraphs (1), (2), and (3) above. Abatement of water contaminants measured in solid-matrix samples of the vadose zone shall be considered complete after one-time sampling from compliance stations approved by the Director. [- -96]

(5) Technical Infeasibility:

(a) If any responsible person is unable to fully meet the abatement standards set forth in Subparagraphs (1) and (2) above using commercially accepted abatement technology pursuant to an approved abatement plan, he may propose that abatement standards compliance is technically infeasible. Technical infeasibility proposals involving the use of experimental abatement technology shall be considered at the discretion of the Director. Technical infeasibility may be demonstrated by a statistically valid extrapolation of the decrease in concentration(s) of any water contaminant(s) over the remainder of a twenty (20) year period, such that projected future reductions during that time would be less than 20% of the concentration(s) at the time technical infeasibility is proposed. A statistically valid decrease cannot be demonstrated by fewer than eight (8) consecutive quarters. The technical infeasibility proposal shall include a substitute abatement standard(s) for those contaminants that is/are technically feasible. Abatement standards for all other water contaminants not demonstrated to be technically infeasible shall be met. [- -96]

(b) In no event shall a proposed technical infeasibility demonstration be approved by the Director for any water contaminant if its concentration is greater than 200% of the abatement standard for that contaminant. [- -96]

(c) If the Director cannot approve any or all portions of a proposed technical infeasibility demonstration because the water contaminant concentration(s) is/are greater than 200% of the abatement standard(s) for each contaminant, the responsible person may further pursue the issue of technical infeasibility by filing a petition with the Division seeking approval of alternate abatement standard(s) pursuant to Paragraph B(6) below. [- -96]

(6) Alternative Abatement Standards:

(a) At any time during or after the submission of a Stage 2 abatement plan, the responsible person may file a petition seeking approval of alternative abatement standard(s) for the standards set forth in Paragraphs (1) and (2) above. The Division may approve alternative abatement standard(s)

if the petitioner demonstrates that:

(i) either:

1. compliance with the abatement standard(s) is/are not feasible, by the maximum use of technology within the economic capability of the responsible person; or
2. there is no reasonable relationship between the economic and social costs and benefits (including attainment of the standard(s) set forth in this Paragraph B to be obtained, and

(ii) the proposed alternative abatement standard(s) is/are technically achievable and cost-benefit justifiable; and

(iii) the potential for point-of-use treatment versus in-situ remediation of ground water to standards has been evaluated and will be employed if technically feasible and cost-benefit justifiable; and

(iv) compliance with the proposed alternative abatement standard(s) will not create a present or future hazard to public health or undue damage to property. [- -96]

(b) The petition shall be in writing, filed with the Division Environmental Bureau Chief. The petition shall:

(i) State the petitioner's name and address;

(ii) State the date of the petition;

(iii) Describe the facility or activity for which the alternate abatement standard(s) is sought;

(iv) State the address or description of the property upon which the facility is located;

(v) Describe the water body or watercourse affected by the release;

(vi) Identify the abatement standard from which petitioner wishes to vary;

(vii) State why the petitioner believes that

compliance with the regulation will impose an unreasonable burden upon his activity;

- (viii) Identify the water contaminant(s) for which alternative standard(s) is/are proposed;
- (ix) State the alternative standard(s) proposed;
- (x) Identify the three-dimensional body of water pollution for which approval is sought;
- (xi) Include a demonstration of the feasibility of point-of-use treatment, if applicable;
- (xii) State the extent to which the abatement standard(s) set forth in Paragraph B is/are now, and will in the future be, violated.
- (xiii) The petition may include a transport, fate and risk assessment in accordance with accepted methods, and other information as the petitioner deems necessary to support the petition. [- -96]

(c) The Division Environmental Bureau Chief shall review the petition and, within sixty (60) days after receiving the petition, shall submit a written recommendation to the Director to approve, approve subject to conditions, or disapprove any or all of the proposed alternative abatement standard(s). The recommendation shall include the reasons for the Division Environmental Bureau Chief's recommendation. The Division Environmental Bureau Chief shall submit a copy of the recommendation to the petitioner by certified mail.
[- -96]

(d) If the Division Environmental Bureau Chief recommends approval, or approval subject to conditions, of any or all of the proposed alternative abatement standard(s), the Division shall hold a public hearing on those standards. If the Division Environmental Bureau Chief recommends disapproval of any or all of the proposed alternative abatement standard(s), the petitioner may submit a request to the Director, within fifteen (15) days after receipt of the recommendation, for a public hearing on those standards. If a timely request for hearing is not submitted, the recommended disapproval shall become a final decision of the Director and shall not be subject to review. [- -96]

(e) If the Director grants a public hearing, the hearing shall be conducted in accordance with Division hearing procedures. [- -96]

(f) Based on the record of the public hearing, the Division shall approve, approve subject to condition, or disapprove any or all of the proposed alternative abatement standard(s). The Division shall notify the petitioner by certified mail of its decision and the reasons therefore. [- -96]

(7) Modification of Abatement Standards. The abatement standards that are in effect at the time that the Stage 2 abatement plan is approved shall be the abatement standards for the duration of the abatement plan, unless the Director determines that additional action is necessary to protect public health and the environment. In any appeal of the Director's determination that additional actions are necessary, the Director shall have the burden of proof. [- -96]

19.C. ABATEMENT PLAN REQUIRED.

(1) Unless otherwise provided by this Rule, all responsible persons who are abating, or who are required to abate, water pollution in excess of the standards and requirements set forth in Paragraph B. shall do so pursuant to an abatement plan approved by the Director. When an abatement plan has been approved, all actions leading to and including abatement shall be consistent with the terms and conditions of the abatement plan. [- -96]

(2) In the event of a transfer of the ownership, control or possession of a facility for which an abatement plan is required or approved, where the transferor is a responsible person, the transferee also shall be considered a responsible person for the duration of the abatement plan, and may jointly share the responsibility to conduct the actions required by this Rule with other responsible persons. The transferor shall notify the transferee in writing, at least thirty (30) days prior to the transfer, that an abatement plan has been required or approved for the facility, and shall deliver or send by certified mail to the Director a copy of such notification together with a certificate or other proof that such notification has in fact been received by the transferee. The transferor and transferee may agree to a designated responsible person who shall assume the responsibility to conduct the actions required by this Rule. The responsible persons shall notify the Director in writing if a designated responsible person is agreed upon. If the Director determines that the designated responsible person has failed to conduct the actions required by this Rule, the Director shall notify all responsible persons of this failure in writing and allow them thirty (30) days, or longer for good cause shown, to conduct the required actions before setting a show cause hearing requiring those responsible persons to appear and show cause why they should not be ordered to comply, a penalty should not be assessed, a civil action should not be commenced in district court or any other appropriate action should not be taken by the Division. [- -96]

(3) If the source of the water pollution to be abated is a facility that operated under a discharge plan, the Director may require the responsible person(s) to submit a financial assurance plan which covers the estimated costs to conduct the actions required by the abatement plan. Such a financial assurance plan shall be consistent with any financial assurance requirements adopted by the Division. [- -96]

19.D. EXEMPTIONS FROM ABATEMENT PLAN REQUIREMENT.

(1) Except as provided in Subparagraph (2) below, Paragraphs C and E do not apply to a person who is abating water pollution:

(a) from an underground storage tank, under the authority of the Underground Storage Tank Regulations (20 NMAC Part 5) adopted by the New Mexico Environmental Improvement Board, or in accordance with the New Mexico Ground Water Protection Act; [- -96]

(b) under the authority of the U.S. Environmental Protection Agency pursuant to either the federal Comprehensive Environmental Response, Compensation and Liability Act, and amendments, or the Resource Conservation and Recovery Act; [- -96]

(c) pursuant to the Hazardous Waste Management Regulations (20 NMAC 4.1) adopted by the New Mexico Environmental Improvement Board; [- -96]

(d) under the authority of the U.S. Nuclear Regulatory Commission or the U.S. Department of Energy pursuant to the Atomic Energy Act; [- -96]

(e) under the authority of a ground-water discharge plan approved by the Director, provided that such abatement is consistent with the requirements and provision of Paragraphs A, B, (3), E(4), F, and K of this Rule. [- -96]

(f) under the authority of a Letter of Understanding, Settlement Agreement or Administrative Order on Consent or other agreement signed by the Director prior to (insert effective date of Rule), 1996, provided that abatement is being performed in full compliance with the terms of the Letter of Understanding, Settlement Agreement or Administrative Order on Consent; and [- -96]

(g) on an emergency basis, or while abatement plan approval is pending, or in a manner that will result in compliance with the standards and requirements set forth in Paragraph B within one year after notice is required to be given pursuant to 19 NMAC 15.C.116.B provided that the Division does not object to the abatement action. [- -96]

(2) If the Director determines that abatement of water pollution subject to Subparagraph (1) will not meet the standards of Paragraphs B(2) and B(3), or that additional action is necessary to protect health, welfare, environment or property, the Director may notify a responsible person, by certified mail, to submit an abatement plan pursuant to Paragraphs C and E(1). The notification shall state the reasons for the Director's determination. In any appeal of the Director's determination under this Paragraph, the Director shall have the burden of proof.
[- -96]

19.E. ABATEMENT PLAN PROPOSAL.

(1) Except as provided for in Paragraph D of this Rule a responsible person shall, within sixty (60) days of receipt of written notice from the Director that an abatement plan is required, submit an abatement plan proposal to the Director for approval. Stage 1 and Stage 2 abatement plan proposals may be submitted together. For good cause shown, the Director may allow for a total of one hundred and twenty (120) days to prepare and submit the abatement plan proposal. [- -96]

(2) Voluntary Abatement.

(a) any person wishing to abate water pollution in excess of the standards and requirements set forth in Paragraph B may submit a Stage 1 abatement plan proposal to the Director for approval. Following approval by the Director of a final site investigation report prepared pursuant to Stage 1 of an abatement plan, any person may submit a Stage 2 abatement plan proposal to the Director for approval. [- -96]

(b) Following approval of a Stage 1 or Stage 2 abatement plan proposal under E(2)(a) above, the person submitting the approved plan shall be a responsible person under this Rule for the purpose of performing the approved Stage 1 or Stage 2 abatement plan. Nothing in this Rule shall preclude the Director from applying 19 NMAC 15.C.116.D to a responsible person if applicable. [- -96]

(3) Stage 1 abatement plan. The purpose of Stage 1 of the abatement plan shall be to design and conduct a site investigation that will adequately define site conditions, and provide the data necessary to select and design an effective abatement option. Stage 1 of the abatement plan may include, but not necessarily be limited to, the following information depending on the media affected, and as needed to select and implement an expeditious abatement option: [- -96]

(a) Descriptions of the site, including a site map, and of site history including the nature of the release that caused the water pollution, and a summary of previous investigations; [- -96]

(b) Site investigation workplan to define:

- (i) site geology and hydrogeology, the vertical and horizontal extent and magnitude of vadose-zone and ground-water contamination, subsurface hydraulic parameters including hydraulic conductivity, transmissivity, storativity, and rate and direction of contaminant migration, inventory of water wells inside and within one (1) mile from the perimeter of the three-dimensional body where the standards set forth in Subparagraph B(2) are exceeded, and location and number of such wells actually or potentially affected by the pollution; and
- (ii) surface-water hydrology, seasonal stream flow characteristics, ground-water/surface-water

relationships, the vertical and horizontal extent and magnitude of contamination and impacts to surface water and stream sediments. The magnitude of contamination and impacts on surface water may be, in part, defined by conducting a biological assessment of fish, benthic macroinvertebrates and other wildlife populations. Seasonal variations should be accounted for when conducting these assessments. [- -96]

(c) Monitoring program, including sampling stations and frequencies, for the duration of the abatement plan that may be modified, after approval by the Director, as additional sampling stations are created; [- -96]

(d) Quality assurance plan, consistent with the sampling and analytical techniques listed in 20 NMAC 6.3107.B and with Section 1103 of the Water Quality Standards for Interstate and Intrastate Streams in New Mexico (20 NMAC 6.1), for all work to be conducted pursuant to the abatement plan; [- -96]

(e) A schedule for all Stage 1 abatement plan activities, including the submission of summary quarterly progress reports, and the submission, for approval by the Director, of a detailed final site investigation report; and [- -96]

(f) Any additional information that may be required to design and perform an adequate site investigation. [- -96]

(4) Stage 2 Abatement Plan:

(a) Any responsible person shall submit a Stage 2 abatement plan proposal to the Director for approval within sixty (60) days, or up to one hundred and twenty (120) days for good cause shown, after approval by the Director of the final site investigation report prepared pursuant to Stage 1 of the abatement plan. A stage 1 and 2 abatement plan proposal may be submitted together. The purpose of Stage 2 of the abatement plan shall be to select and design, if necessary, an abatement option that, when implemented, will result in attainment of the abatement standards and requirements set forth in Paragraph B, including post-closure maintenance activities. [- -96]

(b) Stage 2 of the abatement plan should include, at a minimum, the following information:

- (i) Brief description of the current situation at the site;
- (ii) Development and assessment of abatement options;
- (iii) Description, justification and design, if

- necessary, of preferred abatement option;
- (iv) Modification, if necessary, of the monitoring program approved pursuant to Stage 1 of the abatement plan, including the designation of pre- and post-abatement-completion sampling stations and sampling frequencies to be used to demonstrate compliance with the standards and requirements set forth in Paragraph B;
 - (v) Site maintenance activities, if needed, proposed to be performed after termination of abatement activities;
 - (vi) A schedule for the duration of abatement activities, including the submission of summary quarterly progress reports;
 - (vii) A public notification proposal designed to satisfy the requirements of Subparagraphs G(2) and (3);
 - (viii) Any additional information that may be reasonably required to select, describe, justify and design an effective abatement option. [- -96]

19.F. OTHER REQUIREMENTS.

- (1) Any responsible person shall allow any authorized representative of the Director, upon presentation of proper credentials and with reasonable prior notice, to:
- (a) enter the facility at reasonable times;
 - (b) inspect and copy records required by an abatement plan;
 - (c) inspect any treatment works, monitoring and analytical equipment;
 - (d) sample any wastes, ground water, surface water, stream sediment, plants, animals, or vadose-zone material including vadose-zone vapor;
 - (e) use monitoring systems and wells under such responsible person's control in order to collect samples of any media listed in (d) above; and
 - (f) gain access to off-site property not owned or controlled by such responsible person, but accessible to such responsible

person through a third-party access agreement, provided that it is allowed by the agreement. [- -96]

(2) Any responsible person shall provide the Director, or a representative of the Director, with at least four (4) working days advance notice of any sampling to be performed pursuant to an abatement plan, or any well plugging, abandonment or destruction at any facility where an abatement plan has been required. [- -96]

(3) Any responsible person wishing to plug, abandon or destroy a monitoring or water supply well within the perimeter of the 3-dimensional body where the standards set forth in Paragraph B(2) are exceeded, at any facility where an abatement plan has been required, shall propose such action by certified mail to the Director for approval, unless such approval is required from the State Engineer. The proposed action shall be designed to prevent water pollution that could result from water contaminants migrating through the well or borehole. The proposed action shall not take place without written approval from the Director, unless written approval or disapproval is not received by the responsible person within thirty (30) days of the date of receipt of the proposal. [- -96]

19.G. PUBLIC NOTICE AND PARTICIPATION.

(1) Prior to public notice, the applicant shall give written notice, as approved by the Division, of Stage 1 and Stage 2 abatement plans to the following persons:

(a) surface owners of record within one (1) mile of the perimeter of the geographic area where the standards and requirements set forth in Paragraph B are exceeded;

(b) the county commission where the geographic area where the standards and requirements set forth in Paragraph B are exceeded is located;

(c) the appropriate city official(s) if the geographic area where the standards and requirements set forth in Paragraph B are exceeded is located or is partially located within city limits or within one (1) mile of the city limits;

(d) those persons, as identified by the Director, who have requested notification, who shall be notified by mail;

(e) the New Mexico Trustee for Natural Resources, and any other local, state or federal governmental agency affected, as identified by the Director, which shall be notified by certified mail;

(f) the appropriate Governor or President of any Indian Tribe, Pueblo or Nation if the geographic area where the standards and requirements set forth in Paragraph B are exceeded is located or is partially located within tribal boundaries or within one (1) mile of the tribal boundaries, who shall be notified by certified mail;

(g) The distance requirements for notice may be extended by the Director if the Director determines the proposed abatement plan has the potential to adversely impact public health or the environment at a distance greater than one (1) mile. The Director may require additional notice as needed. A copy and proof of such notice will be furnished to the Division. [- -96]

(2) After the Division determines that the Stage 1 and Stage 2 abatement plans are administratively complete, the applicant will issue public notice in a form approved by the Division in a newspaper of general circulation in the county in which the facility is to be located. The public notice shall include, as approved in advance by the Director:

- (a) name and address of the responsible person;
- (b) location of the proposed abatement;
- (c) brief description of the nature of the water pollution and of the proposed abatement action;
- (d) brief description of the procedures followed by the Director in making a final determination;
- (e) statement on the comment period;
- (f) statement that a copy of the abatement plan can be viewed by the public at the Division's main office or at the Division's District office for the area in which the release occurred;
- (g) statement that written comments on the abatement plan, and requests for a public hearing that include the reasons why a hearing should be held, will be accepted for consideration if sent to the Director within thirty (30) days after the determination of administrative completeness; and
- (h) address and phone number at which interested persons may obtain further information. [- -96]

(3) Any person seeking to comment or request a public hearing on such abatement plans must file comments or hearing requests with the Division within thirty (30) days of the date of public notice. Requests for a public hearing must be in writing to the Director and shall set forth the reasons why a hearing should be held. A public hearing shall be held if the Director determines there is significant public interest. [- -96]

(4) The Division will distribute notice of the filing of an abatement plan with the next Division and Commission hearing docket following receipt of the plan. [- -96]

19.H. DIRECTOR APPROVAL OR NOTICE OF DEFICIENCY OF SUBMITTALS.

(1) The Director shall, within sixty (60) days of receiving a Stage 1 abatement plan proposal, a site investigation report, a technical

infeasibility demonstration, or an abatement completion report, approve the document, or notify the responsible person of the document's deficiency, based upon the information available. [- -96]

(2) The Director shall, within thirty (30) days of receiving a fact sheet, approve or notify the responsible person of the document's deficiency, based upon the information available. [- -96]

(3) If no public hearing is held pursuant to Subparagraph G(3), then the Director shall, within ninety (90) days of receiving a Stage 2 abatement plan proposal, approve the plan, or notify the responsible person of the plan's deficiency, based upon the information available. [- -96]

(4) If a public hearing is held pursuant to Subparagraph G(3), then the Director shall, within sixty (60) days of receipt of all required information, approve Stage 2 of the abatement plan proposal, or notify the responsible person of the plan's deficiency, based upon the information contained in the plan and information submitted at the hearing. [- -96]

(5) If the Director notifies a responsible person of any deficiencies in a site investigation report, or in a Stage 1 or Stage 2 abatement plan proposal, the responsible person shall submit a modified document to cure the deficiencies specified by the Director within thirty (30) days of receipt of the notice of deficiency. The responsible person shall be in violation of this Rule if he fails to submit a modified document within the required time, or if the modified document does not make a good faith effort to cure the deficiencies specified by the Director. [- -96]

(6) Provided that the other requirements of this Rule are met and provided further that Stage 2 of the abatement plan, if implemented, will result in the standards and requirements set forth in Paragraph B being met within a schedule that is reasonable given the particular circumstances of the site, the Director shall approve the plan. [- -96]

19.I. INVESTIGATION AND ABATEMENT.

Any responsible person who receives approval for Stage 1 and/or Stage 2 of an abatement plan shall conduct all investigation, abatement, monitoring and reporting activity in full compliance with this Rule and according to the terms and schedules contained in the approved abatement plans. [- -96]

19.J. ABATEMENT PLAN MODIFICATION.

(1) Any approved abatement plan may be modified, at the written request of the responsible person, in accordance with this Rule, and with written approval of the Director. [- -96]

(2) If data submitted pursuant to any monitoring requirements specified in the approved abatement plan or other information available to the Director indicates that the abatement action is ineffective, or is creating unreasonable injury to or interference with health, welfare, environment or property, the Director may require a responsible person to modify an abatement

plan within the shortest reasonable time so as to effectively abate water pollution which exceeds the standards and requirements set forth in Paragraph B, and to abate and prevent unreasonable injury to or interference with health, welfare, environment or property. [- -96]

19.K. COMPLETION AND TERMINATION.

(1) Abatement shall be considered complete when the standards and requirements set forth in Paragraph B are met. At that time, the responsible person shall submit an abatement completion report, documenting compliance with the standards and requirements set forth in Paragraph B, to the Director for approval. The abatement completion report also shall propose any changes to long-term monitoring and site maintenance activities, if needed, to be performed after termination of the abatement plan. [- -96]

(2) Provided that the other requirements of this Rule are met and provided further that the standards and requirements set forth in Paragraph B have been met, the Director shall approve the abatement completion report. When the Director approves the abatement completion report, he shall also notify the responsible person in writing that the abatement plan is terminated. [- -96]

19.L. DISPUTE RESOLUTION.

In the event of any technical dispute regarding the requirements of B, D, E, J, or K or Section 116.E, including notices of deficiency, the responsible person may notify the Director by certified mail that a dispute has arisen, and desires to invoke the dispute resolution provisions of this Paragraph, provided that such notification must be made within thirty (30) days after receipt by the responsible person of the decision of the Director that causes the dispute. Upon such notification, all deadlines affected by the technical dispute shall be extended for a thirty (30) day negotiation period, or for a maximum of sixty (60) days if approved by the Director for good cause shown. During this negotiation period, the Director or his/her designee and the responsible person shall meet at least once. Such meeting(s) may be facilitated by a mutually agreed upon third party, but the third party shall assume no power or authority granted or delegated to the Director by the Oil and Gas Act or by the Division or Commission. If the dispute remains unresolved after the negotiation period, the decision of Director shall be final. [- -96]

19.M. APPEALS FROM DIRECTOR'S AND DIVISION'S DECISIONS.

(1) If the Director determines that (i) an abatement plan is required pursuant to 19 NMAC 15.C.116.D, (ii) approves or provides notice of deficiency of a proposed abatement plan, technical infeasibility demonstration or abatement completion report, or (iii) modifies or terminates an approved abatement plan, he shall provide written notice of such action by certified mail to the responsible person and any person who participated in the action. [- -96]

(2) Any person who participated in the action before the

Director and who is adversely affected by the action listed in Subparagraph (1) above may file a petition requesting a hearing before a Division Examiner [- -96]

(3) The petition shall be made in writing to the Division and shall be filed with the Division within thirty (30) days after receiving notice of the Director's action. The petition shall specify the portions of the action to which the petitioner objects, certify that a copy of the petition has been mailed or hand-delivered to the Director, and to the applicant or permittee if the petitioner is not the applicant or permittee, and attach a copy of the action for which review is sought. Unless a timely petition for hearing is made, the Director's action is final. [- -96]

(4) The hearing before the Division shall be conducted in the same manner as other Division hearings. [- -96]

(5) The cost of the court reporter for the hearing shall be paid by the petitioner. [- -96]

(6) Any party adversely affected by any order by the Division pursuant to any hearing held by an Examiner, shall have a right to have such matter heard de novo before the Commission. [- -96]

(7) The appeal provisions do not relieve the owner, operator or responsible person of their obligations to comply with any federal or state laws or regulations. [- -96]

19.N. NOTIFICATION

(1) With respect to any release from any facility of oil or other water contaminant, in such quantity as may with reasonable probability be detrimental to water or cause an exceedance of the standards in 20 NMAC 15.A.19. B(1), B(2) or B(3), and as soon as possible after learning of such a release, but in no event more than twenty-four (24) hours thereafter, any person in charge of the facility shall orally notify the Division's Environmental Bureau Chief of the occurrence. To the best of that person's knowledge, the following items of information shall be provided: [- -96]

(a) The name, address, and telephone number of the person or persons in charge of the facility, as well as the owner and/or operator of the facility;

(b) Name and address of facility;

(c) Land status;

(d) The date, time, location, and duration of the release;

(e) The source and cause of the release;

(f) A description of the release, including its chemical composition;

(g) The estimated volume of the release;

(h) Any actions taken to mitigate immediate damage from

the release. [- -96]

(2) Within fifteen (15) days after the release is discovered the facility owner and/or operator shall send written notification to the same Division official, verifying the prior oral notification as to each of the foregoing items and providing any appropriate additions or corrections to the information contained in the prior oral notification. [- -96]