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NATURAL RESOURCES-OIL AND GAS LAW

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August 12, 1997

**HAND DELIVERED**

Mr. William J. LeMay, Director  
Oil Conservation Division  
2040 South Pacheco  
Santa Fe, New Mexico 87505

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AUG 14 1997  
Oil Conservation Division

11850

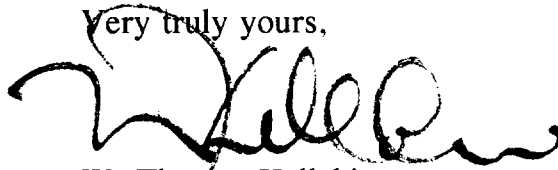
Re: Application of Burlington Resources Oil & Gas Company to amend  
Division Rule 1105.C to expand and extend the confidentiality provisions  
of said rule, State of New Mexico.

Dear Mr. LeMay:

On behalf of Burlington Resources Oil & Gas Company, please find enclosed our  
referenced application which we request be set for hearing on the next available  
Examiner's docket now scheduled for September 4, 1997.

Also enclosed is our proposed advertisement of this case for the NMOCD docket.  
It is my understanding that the Division assumes the responsibility for providing  
appropriate public notification when the Division considers a case to change or adopt a  
General Rule whether on its own motion or at the request of an interested party. In the  
past, this has been accomplished by reliance upon the Division extensive mailing list for  
its dockets and upon newspaper publications. Obviously it would not be possible for  
Burlington or anybody else to attempt to provide notification. If you desire that I attempt  
so other type of notification, please let me know.

Very truly yours,



W. Thomas Kellahin

cc: Rand Carroll, Esq. (OCD-Santa Fe)  
cc: Burlington Resources Oil & Gas Company  
Attn: Alan Alexander

## PROPOSED ADVERTISEMENT

CASE 11856 Application of Burlington Resources Oil & Gas Company to amend Division Rule 1105.C to expand and extend the confidentiality provisions of said rule, State of New Mexico. Applicant request that the Division amend its Rule 1105.C and adopt the following:

" Operators, and parties appearing before the Division, submitting data and information including but not limited to the data submitted pursuant to Rule 1105.A that they believe to be exempt from disclosure shall, at the time of submittal shall clearly mark it "CONFIDENTIAL INFORMATION" and physically separate it from other portions of the submitted data. Data so marked shall be kept confidential by the Division.

Such information obtained from an operator or party that constitutes trade secrets, proprietary and other confidential information/data, including but not limited to geological, geophysical or financial information, shall be withheld by the Division from public disclosure and shall not be made available for public inspection or made public or disclosed with the written consent of the operator for a period of not less than 90-days and upon written request to and approval by the Director, without notice or hearing, the operator can obtain up to three (3) additional 90-day periods of confidentiality.

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REGISTRATION DIVISION

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

**IN THE MATTER OF THE APPLICATION OF  
BURLINGTON RESOURCES OIL & GAS COMPANY  
TO AMEND DIVISION RULE 1105.C TO EXPAND AND EXTEND  
THE CONFIDENTIALITY PROVISIONS OF SAID RULE,  
STATE OF NEW MEXICO**

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Oil Conservation Division  
**CASE: 11856**

**APPLICATION**

COMES NOW BURLINGTON RESOURCES OIL & GAS COMPANY ("Burlington") by and through its attorneys, Kellahin & Kellahin, and applies to the New Mexico Oil Conservation Division ("Division") to amend Division Rule 1105.C to enlarge the scope of the "confidentiality provisions and to provide for multiple extensions of the 90-day "confidentiality period",

and in support thereof states:

1. The Division's only "confidentiality rule" is contained as a subparagraph of Division's General Rule 1105.

2. Division General Rule 1105.A requires that "within 20 days following the completion or recompletion of any well, the operator shall file Form C-105 with the Division....accompanied by a summary of all special tests conducted on the well, including drill stem tests...and all electrical and radio-activity logs run on the well..."

3. Division General Rule 1105.C provides a limited "confidentiality" provision for the data, including logs, submitted pursuant to Rule 1105.A such that, at the operator's request:

"...the Division will keep these data confidential for 90 days from the date of completion of the well, provided, however, that the report, log(s), and other attached data may, when pertinent, be introduced in any public hearing before the Division or its examiners or in any court of law, regardless of the request that they be kept confidential."

4. With the exception of Division General Rule 1105.C, and despite the fact that the Division deals with data and information which should be classified as "confidential" the Division has not adopted a rule for the protection from disclosure trade secrets and other confidential or proprietary data submitted to the Division.

5. By comparison, the Bureau of Land Management ("BLM"), in accordance with 43 CFR Part 2 (3162.8), affords to the operator the following confidentiality provisions:

(a) trade secrets and commercial and financial information that is privileged or confidential or other information that may be withheld under the Freedom of Information Act, such as geological or geophysical data and maps shall not be available for public inspection or made public or disclosed without the consent of the operator for a period of 12-month with a possibility of an additional 12-months period. But upon termination of the lease, such information shall be made available to the public.

(b) geological, geophysical or financial information which is not required under the regulations but submitted by the operator to the Authorized Officer is held confidential and not released without the consent of the operator.

(c) the regulations set out the circumstances when trade secrets, proprietary and other confidential information shall be made available to states and Indian tribes upon request for purposes of conducting an investigation.

6. Modern exploration efforts involve a high degree of economic risk and considerable capital investment in order to develop state of the art geological/geophysical data sufficient to justify exploratory drilling in New Mexico. Such data represents the "trade secrets" of operators which should be kept confidential.

7. Both the Division and the BLM recognize that operators are entitled to maintain the confidentiality of certain data which affords protection to those operators who have expended considerable time, money and effort to acquire such data which gives them a competitive advantage over other operators who simply want to take advantage of "public" filings in order to obtain technical data for which they had not paid.

8. The BLM has successfully maintained the confidentiality of certain proprietary data is essential for the industry and has still been able to perform its various regulatory responsibilities.

9. However, the Division's confidentiality rule is limited in scope and provides for only one 90-day confidentiality period for only certain data which provides very little if any protection of these trade secrets.

10. Expanding the Division's confidentiality rules is essential for the industry and can be accomplished by Division while still enabling the Division to perform its various regulatory responsibilities.

11. It is also the declares policy of the Division to consult, cooperate, coordinate and enter into cooperative agreements with the BLM relating to oil and gas development and operational regulations.

12. The current Division confidential rule is in adequate and in conflict with the BLM confidential rule.

13. The BLM confidential rule provides a more effective and efficient means for the protection of confidential data than is afforded by the Division's rule.

14. Accordingly, Burlington request that the Division amend its Rule 1105.C and adopt the following:

" Operators, and parties appearing before the Division, submitting data and information including but not limited to the data submitted pursuant to Rule 1105.A that they believe to be exempt form disclosure shall, at the time of submittal shall clearly mark it "CONFIDENTIAL INFORMATION" and physically separate it from other portions of the submitted data. Data so marked shall be kept confidential by the Division.

Such information obtained from an operator or party that constitutes trade secrets, proprietary and other confidential information/data, including but not limited to geological, geophysical or financial information, shall be withheld by the Division from public disclosure and shall not be made available for public inspection or made public or disclosed with the written consent of the operator for a period of not less than 90-days and upon written request to and approval by the Director, without notice or hearing, the operator can obtain up to three (3) additional 90-day periods of confidentiality.

15. The amendment of Rule 1105.C as set forth above, will prevent the economic loss caused by the premature disclosure of trade secrets and other confidential and proprietary data.

WHEREFORE, Applicant requests that this application be set for hearing before the New Mexico Oil Conservation Division on the September 4, 1997 and that after notice and hearing the application be approved.

Respectfully submitted:

A handwritten signature in black ink, appearing to read 'W. Thomas Kellahin', written over a horizontal line.

W. THOMAS KELLAHIN

Kellahin & Kellahin

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