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Telephone 982-4285  
Area Code 505

February 7, 1985

Mr. Richard L. Stamets  
Oil Conservation Division  
P. O. Box 2088  
Santa Fe, New Mexico 87501

Re: NMOCC Notice Procedures

Dear Dick:

At the New Mexico Oil & Gas Association Convention last October you provided me with a draft of possible notice changes to be required in certain oil Conservation Division Cases. I have circulated your request among my clients and to the New Mexico Oil and Gas Association.

As of this date I have received such a wide divergence of opinions of various operators and attorneys that I am unable to provide you with any consensus that is acceptable to a majority of operators. Therefore, the comments and suggestions that are contained in this letter are my own and do not represent those of either the New Mexico Oil & Gas Association or any operator.

I. Do we need to change the system?

The first question to consider is whether to change anything. There are certain operators that feel very strongly that "don't fix something that is not broken." There is certain merit to this position. Perhaps once or twice a year, someone claims that they did not get notice or that the notice was inadequate. Generally, the Division has solved this claim by granting another or additional hearings and giving that party or person an opportunity to be heard.

II. If we change the system, how do we do it?

There is concern that if we provide for notice procedures, we will only do two things: make it very difficult for the applicants to ever be certain that they

KELLAHIN and KELLAHIN

Mr. Richard L. Stamets  
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Page 2

have complied with the notice requirements, and create an artificial method by which "the lawyers" will have an automatic appealable issue to cause reversal of Division orders.

As you are aware, the notice problem in the recent Blanco Engineering Salt Water Disposal case is an excellent example of how more stringent notice procedures can be used by an opposing party to set aside a Division order.

You will recall that Blanco failed to provide a certified copy of the C-108 to Yates Petroleum, as required by the C-108 rules. However, Yates did get a copy of the Division docket at which this case was heard. Yates in fact was present at the same docket hearing with its own cases. Yates used the same attorney as was used by Blanco. The Blanco Witness and the Yates witness rode to the hearing in the same plane. Notwithstanding the foregoing, Yates was able to have an order which was more than 30-days old set aside. If the type of notice required in the C-108 is expanded to other OCD hearings then the operator is placed a great risk of being sure that he has gone to the considerable expense and effort to locating and notifying all appropriate parties.

III. Who is an appropriate party to get notice:

Is it only offsetting operators, is it working interest owners, unleased mineral owners, royalty owners, overriding royalty owners.

IV. OCD Proposed Draft:

I have taken the draft you have given me and made certain changes which I submit to you for your consideration.

V. How to Implement:

You can apparently set this for a hearing or simply issue it by directive. If you set it for hearing I suspect that it will be "bogged down" as the last case became. In either event, I might suggest that you have an informal

KELLAHIN and KELLAHIN

Mr. Richard L. Stamets  
February 7, 1985  
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meeting with the following Santa Fe attorneys that often practice before your Division, to get their further comments and suggestions: Bill Carr, Perry Pearce, Owen Lopez, and Ernie Padilla.

Very truly yours,

A handwritten signature in dark ink, appearing to read 'W. Thomas Kellahin', with a large, sweeping flourish above it.

W. Thomas Kellahin

WTK:ca  
Enc.

February 7, 1985

MEMORANDUM

TO: ALL OPERATORS  
FROM: R. L. STAMETS, DIRECTOR  
RE: NOTICE OF HEARING

Effective \_\_\_\_\_, the following notice procedures should be followed for Oil CONservation Division and Oil Conservation Commission hearings.

The Division shall give notice of each hearing before the Commission and notice of each hearing before a Division examiner by publication once in a newspaper of general circulation published in Santa Fe, New Mexico, and once in a newspaper of general circulation published in the county or each of the counties, if there be more than one, in which any land, oil, gas, or other property, which may be affected is situated.

*Docket*

Each applicant shall give additional notice as set forth below:

1. In cases of applications filed for compulsory pooling under Section 70-2-17 NMSA 1978, as amended, or statutory unitization under Section 70-7-1, et. seq. NMSA 1978, as amended: Individual notice shall be given to each known individual owning an uncommitted leasehold interest, an unleased and uncommitted mineral interest, or royalty interest not subject to a pooling or unitization clause in the lands affected by such application which interest must be committed and has not been voluntarily committed to the area proposed to be pooled or unitized. Such individual notice in compulsory pooling or statutory unitization cases shall be certified mail (return receipt requested).

2. In cases of applications for hearing for approval of unorthodox well locations: Individual notice shall be given to any offset operator in those adjoining spacing/proration units of the same size that is adversely affected by the proposed unorthodox location, or any potash operator in an adjoining

proration or spacing unit in the R-111-A area provided the subject well be closer to that potash operator than the closest standard location allows. Such notice shall be given by certified mail (return receipt requested).

3. In the case of applications for the approval of any non-standard proration unit: Individual notice shall be given to all operators owning a leasehold interest in the quarter-quarter section (for 40-acre pools or formations), the quarter section (for 160-acre pools or formations) or in the half section (for 320-acre pools or formations) in which the non-standard unit is located and to each operator on any proration unit, if there be such, or tract which adjoins or corners such quarter-quarter, or half section. Such notice shall be by certified mail (return receipt requested).

4. In the case of applications for adoption of, or amendment of, special pool rules: Individual notice shall be given to all operators within the existing, or proposed pool boundaries and those of operators within one (1) mile of such boundaries. Such notice to be provided by regular mail.

5. In the case of applications to amend R-111-A, the Potash-Oil Area and Special Rules, notice shall be given to any affected potash operator or oil or gas operator or owner. Such notice shall be provided by certified mail (return receipt requested).

6. In the case of applications for approval of downhole commingling of the product of multiple formations: Individual notice shall be given to all offset operators. Such notice shall be provided by regular mail.

Any individual notice required by this rule shall be mailed at least 10 days prior to the date of hearing on the application.

At each hearing, applicant shall cause to be made a matter of record, either by testimony at the hearing or by an affidavit signed by applicant or its authorized representative, that the notice provisions of this Rule 1204 have been complied with, that applicant has conducted a good-faith diligent effort to find the correct address of all interested persons entitled to receive notice, and that pursuant to Rule 1204, notice has been given at that correct address as provided by rule. In addition, such

certificate shall contain the names and address of each interested person to whom such notice was sent and where proof of receipt, if available, of each interested person who received such notice.



STATE OF NEW MEXICO  
ENERGY AND MINERALS DEPARTMENT  
OIL CONSERVATION DIVISION

TONEY ANAYA  
GOVERNOR

*Comments shown in red*

POST OFFICE BOX 2088  
STATE LAND OFFICE BUILDING  
SANTA FE, NEW MEXICO 87501  
(505) 827-5800

*Frank Chavez* No. 1-85

M E M O R A N D U M

TO: ALL OPERATORS, TRANSPORTERS, SERVICE COMPANIES,  
AND ANY OTHER PERSONS INVOLVED IN DEVELOPMENT  
AND PRODUCTION OF OIL AND GAS

FROM: R. L. STAMETS, DIRECTOR *R L S*

SUBJECT: PROPOSED RULE CHANGES

Attached are a number of possible rule changes which this agency may consider. In general these changes relate to the following:

- (1) Protection of fresh waters (Definitions and Rules 1, 2, 3, 7, 8, 108, and 701).
- (2) Notice prior to staking a well (Rule 102[c]).
- (3) Notice of situations or conditions to the Division (Rules 108, 113, and 116).
- (4) Notice of hearings (Rules 1204 through 1207).
- (5) Minor corrections (Rules 4 and 104J).

These proposals are submitted for public review and comment. Comments should be made in writing to this office not later than June 17, 1985. No hearing will be scheduled on these proposals prior to July, 1985.

May 9, 1985  
fd/

PROPOSED RULE ADDITIONS AND AMENDMENTS  
MAY 6, 1985

Additional Definitions

FRESH WATER (to be protected) includes all surface waters and all underground waters containing 10,000 parts per million or less of dissolved solids except for which, after notice and hearing, it is found there is no reasonably foreseeable beneficial use which would be impaired by contamination of such waters.

PRODUCED WATER shall mean those waters produced in conjunction with the production of crude oil and/or natural gas and commonly collected at field storage or disposal facilities including: lease tanks, commingled tank batteries, burn pits, LACT units, and community or lease salt water disposal systems and which may be collected at gas processing plants, pipeline drips and other processing or transportation facilities.



## B - MISCELLANEOUS RULES

### RULE 1. SCOPE OF RULES AND REGULATIONS

(a) The following General Rules of statewide application have been adopted by the Oil Conservation Division of the New Mexico Energy and Minerals Department to conserve the natural resources of the State of New Mexico, to prevent waste, [and] to protect correlative rights of all owners of crude oil and natural gas, and to protect fresh waters. Special rules, regulations and orders have been and will be issued when required and shall prevail as against General Rules, Regulations and Orders if in conflict therewith. However, whenever these General Rules do not conflict with special rules heretofore or hereafter adopted, these General Rules shall apply.

(b) The Division may grant exceptions to these rules after notice and hearing, when the granting of such exceptions will not result in waste but will protect correlative rights or prevent undue hardship.

### RULE 2. ENFORCEMENT OF LAWS, RULES AND REGULATIONS DEALING WITH CONSERVATION OF OIL AND GAS

The Division, its agents, representatives and employees are charged with the duty and obligation of enforcing all rules and statutes of the State of New Mexico relating to the conservation of oil and gas, including the related protection of fresh waters. However, it shall be the responsibility of all the owners or operators to obtain information pertaining to the regulation of oil and gas and protection of fresh waters before operations have begun.

### RULE 3. WASTE PROHIBITED/ GENERAL OPERATING

(a) The production or handling of crude petroleum oil or natural gas of any type or in any form, or the handling of products thereof, in such a manner or under such conditions or in such amount as to constitute or result in waste is hereby prohibited.

(b) All operators, contractors, drillers, carriers, gas distributors, service companies, pipe pulling and salvaging contractors, or other persons shall at all times conduct their operations in the drilling, equipping, operating, producing, plugging and abandonment of [and-gas-wells] gas, injection, disposal, and storage wells in a manner that will prevent waste of oil and gas, the contamination of fresh waters, or other damage to neighboring properties, and shall not wastefully utilize oil or gas, or allow either to leak or escape from a natural reservoir, or from wells, tanks, containers, pipe or other storage, conduit or operating equipment.

### RULE 4. UNITED STATES GOVERNMENT LEASES

The Division recognizes that all persons drilling on United States Government land shall comply with the United States government regulations. Such persons shall also comply with all applicable State rules and regulations which are not in conflict therewith. Copies of "Application for Permit to Drill, Deepen or Plug Back," (USGS Form No. 9-331C), "Sundry Notices and Reports on Wells," (USGS Form No. 9-331), and "Well Completion or Recompletion Report and Log," (USGS Form No. 9-330), for wells on U.S. Government land shall be furnished [by] the Division.

### RULE 5. CLASSIFYING AND DEFINING POOLS

The Division will determine whether a particular well or pool is a gas or oil well, or a gas or oil pool, as the case may be, and from time to time classify and reclassify wells and name pools accordingly, and will determine the limits of any pools producing crude petroleum oil or natural gas and from time to time redetermine such limits.

### RULE 6. FORMS UPON REQUEST

Forms for written notices, request and reports required by the Division will be furnished upon request.

### RULE 7. AUTHORITY TO COOPERATE WITH OTHER AGENCIES

The Division may from time to time enter into arrangement with State and Federal governmental agencies, industry committees and individuals, with respect to special projects, services and studies relating to conservation of oil and gas and the associated protection of fresh waters.

### RULE 8. LINED PITS (New Rule)

Lined pits may be used to contain produced water, sediment oil, tank bottoms, miscellaneous hydrocarbons, or other fluids subject to the jurisdiction of the Division under the Oil and Gas Act only upon prior approval of the Division.

C - DRILLING

RULE 102. NOTICE OF INTENTION TO DRILL

(a) Prior to the commencement of operations, notice shall be delivered to the Division of intention to drill any well for oil or gas or for injection purposes and approval obtained on Form C-101.

(b) No permit shall be approved for the drilling of any well within the corporate limits of any city, town, or village of this state unless notice of intention to drill such well has been given to the duly constituted governing body of such city, town or village or its duly authorized agent. Evidence of such notification shall accompany the application for a permit to drill (Form C-101).

(c) Prior to staking a well, the operator shall give notice to the land owner and, if different, notice to the tenant or lease.

- - - - -

RULE 104.

- - - - -

J. In computing acreage under H and I above, minor fractions of an acre shall not be counted [by] but  $\frac{1}{4}$  acres or more shall count as 1 acre.

- - - - -

RULE 108. DEFECTIVE CASING OR CEMENTING

In any well that appears to have a defective casing program or faultily cemented or corroded casing which ~~will permit or~~ may create underground waste or contamination of fresh waters, the operator shall give immediate notice to the Division and proceed with diligence to use the appropriate method and means to eliminate such hazard. ~~[of underground waste.]~~ If such hazard of waste or contamination of fresh water cannot be eliminated, the well shall be properly plugged and abandoned.

RULE 113. SHOOTING AND CHEMICAL TREATMENT OF WELLS

If injury results to the producing formation or injection interval casing or casing seat from shooting, fracturing, or treating a well, the operator shall notify the Division and proceed with diligence to use the appropriate method and means for rectifying such damage. If shooting or chemical treating results in irreparable injury to the well the Division may require the operator to properly plug and abandon the well.

RULE 116. NOTIFICATION OF FIRE, BREAKS, LEAKS, SPILLS, AND BLOWOUTS

- - - - -

1. Well Blowouts. Notification of well blowouts and/or fires shall be "immediate notification" described below. ("Well blowout" is defined as being loss of control over and subsequent eruption of any drilling or workover well, including the flow of 25 or more barrels of water per day from any formation, or the rupture of the casing, casinghead, or wellhead of any oil or gas well or injection or disposal well, whether active or inactive, accompanied by the sudden emission of fluids, gaseous or liquid, from the well.)

- - - - -

RULE 710. DISPOSITION OF ~~[TRANSPORTED]~~ PRODUCED WATER

(a) No person, including any transporter, may dispose of ~~[such]~~ produced water on the surface of the ground, or in any pit, pond, lake, depression, draw, streambed, or arroyo, or in any watercourse, or in any other place or in any manner which will constitute a hazard to any fresh water supplies.

Delivery of produced water to approved salt water disposal facilities, secondary recovery or pressure maintenance injection facilities, or to a drillsite for use in drilling fluid will not be construed as constituting a hazard to fresh water supplies provided the produced waters are placed in tanks or other impermeable storage at such facilities.

(b) The supervisor of the appropriate district office of the Division may grant temporary exceptions to paragraph (a) above for emergency situations and for use of produced water in road construction or maintenance or for use of produced waters for other construction purposes upon request and a proper showing by a holder of an approved Form C-133 (Authorization to Move Produced Water).

(c) Vehicular movement or disposition of produced water in any manner contrary to these rules shall be considered cause, after notice and hearing, for cancellation of Form C-133.

RULE 1204. METHOD OF GIVING LEGAL NOTICE FOR HEARING

Notice of each hearing before the Commission and notice of each hearing before a Division Examiner shall be ~~(given by personal service on the person affected or)~~ by publication once in a newspaper of general circulation published at Santa Fe, New Mexico, and once in a newspaper of general circulation published in the county or each of the counties, if there be more than one, in which any land, oil, or gas, or other property which may be affected is situated.

RULE 1205 CONTENTS OF NOTICE OF HEARING

~~[Such notice]~~ Published notices shall be issued in the name of "The State of New Mexico" and shall be signed by the Director of the Division, and the seal of the Commission shall be impressed thereon.

The notice shall specify whether the case is set for hearing before the Commission or before a Division Examiner and shall state the number and style of the case and the time and place of hearing and shall briefly state the general nature of the order or orders, rule or rules, regulation or regulations to be promulgated or effected. The notice shall also state the name of the petitioner or applicant, if any, and unless the contemplated order, rule, or regulation is intended to apply to and affect the entire state, it shall specify or generally describe the common source or sources of supply which may be affected by such order, rule, or regulation.

~~[RULE 1206. PERSONAL SERVICE OF NOTICE]~~

~~Personal service of the notice of hearing may be made by any agent of the Division or by any person over the age of 18 years in the same manner as is provided by law for the service of summons in civil actions in the district courts of this state. Such service shall be complete at the time of such personal service or on the date of publication, as the case may be. Proof of service shall be by the affidavit of the person making personal service or of the publisher of the newspaper in which publication is had. Service of the notice shall be made at least 10 days before the hearing.]~~

RULE [1207] 1206. PREPARATION OF NOTICES

After a motion or application is filed with the Division the notice ~~(or notices)~~ required under Rule 1205 shall be prepared by the Division and ~~(service and)~~ publication thereof shall be taken care of by the Division without cost to the applicant.

RULE 1207. ADDITIONAL NOTICE REQUIREMENTS (New Rule Alternative No. 1)

Each applicant for hearing before the Division or Commission shall give additional notice as set forth below:

1. In cases of applications filed for compulsory pooling under Section 70-2-17 NMSA 1978, as amended, or statutory unitization under Section 70-7-1, et. seq. NMSA 1978, as amended: Actual notice shall be given to each known individual owning an uncommitted leasehold interest, an unleased and uncommitted mineral interest, or royalty interest not subject to a pooling or unitization clause in the lands affected by such application which interest must be committed and has not been voluntarily committed to the area proposed to be pooled or unitized. Such individual notice in compulsory pooling or statutory unitization cases shall be by certified mail (return receipt requested).
2. In cases of applications for hearing for approval of unorthodox well locations: Actual notice shall be given to any offset operator in those adjoining spacing/proration units of the same size that is adversely affected by the proposed unorthodox location, or any potash operator in an adjoining proration or spacing unit in the R-111-A area provided the subject well be closer to that potash operator than the closest standard location allows. Such notice shall be given by certified mail (return receipt requested).
3. In the case of applications for the approval of any non-standard proration unit: Actual notice shall be given to all operators owning a leasehold interest in the quarter-quarter section (for 40-acre pools or formations), the quarter section (for 160-acre pools or formations) the half section (for 320-acre pools or formations), or in the section (for 640-acre pools or formations) in which the non-standard unit is located and to each operator on any proration unit, if there

*we prefer A142*

be such, or tract which adjoins or corners such quarter-quarter, quarter, half, or whole section. Such notice shall be by certified mail (return receipt requested).

4. In the case of applications for adoption of, or amendment of, special pool rules: Actual notice shall be given to all operators within the existing, or proposed pool boundaries and those of operators within one (1) mile of such boundaries. Such notice may be provided by regular mail.
5. In the case of applications to amend R-111-A, the Potash-Oil Area and Special Rules, actual notice shall be given to any affected potash operator or oil or gas operator or owner. Such notice shall be provided by certified mail (return receipt requested).
6. In the case of applications for approval of downhole commingling of the product of multiple formations: Actual notice shall be given to all offset operators. Such notice shall be provided by regular mail.
7. In the case of any ~~other~~ application which may diminish or adversely affect royalty interests: Actual notice shall be given to the applicant's royalty interest owners immediately affected. Such notice shall be provided by certified mail (return receipt requested). Any notice required by this rule shall be mailed at least 10 days prior to the date of hearing on the application.

At each hearing, the applicant shall cause to be made a matter of record, either by testimony at the hearing or by an affidavit signed by applicant or its authorized representative, that the notice provisions of this Rule 1207 have been complied with, that applicant has conducted a good-faith diligent effort to find the correct address of all interested persons entitled to receive notice, and that pursuant to Rule 1207, notice has been given at that correct address as provided by rule. In addition, such certificate shall contain the name and address of each interested person to whom such notice was sent and, where proof of receipt is available, a copy of same.

Evidence of failure to provide notice as provided in this rule may, upon a proper showing, be considered cause for reopening the case.

**RULE 1207. ADDITIONAL NOTICE REQUIREMENTS (New Rule Alternative No. 2)**

Each applicant for hearing before the Division or Commission shall give additional notice to any party expected to be adversely affected by granting of the application, any party whose interest would be pooled to form a spacing or proration unit, and any ~~of~~ ~~applicant's~~ royalty owners immediately affected by the granting of the application.

The notice required by this rule shall be mailed at least 10 days prior to the date of the hearing on the application.

At each hearing, the applicant shall cause to be made a matter of record, either by testimony or by an affidavit signed by the applicant or its authorized representative, the method used in determining the parties who received the additional notice required by this rule, the names and addresses of all such parties and a statement or proof that a good faith effort has been made to notify such parties of the purpose of the application and the date and time of the hearing.

Evidence of failure to provide notice as provided in this rule may, upon a proper showing, be considered cause for reopening the case.

*Morris R. Antweil*  
OIL OPERATOR  
P. O. Box 2010  
HOBBS, NEW MEXICO 88240

May 14, 1985

New Mexico Oil Conservation Division  
P. O. Box 2088  
Santa Fe, New Mexico 87501  
ATTN: Mr. R. L. Stamets, Director

RE: Proposed Rule Changes

Gentlemen:

We have reviewed the proposed rule changes as transmitted by your Memo No. 1-85 dated 9 May 85 and consider the proposed changes to be acceptable and useful.

We were particularly interested in the proposed changes regarding the notice of hearings. The present procedures leave the Division and the operators exposed to potential legal appeal problems and should be corrected as soon as possible. We favor New Rule Alternative No. 2 whereby the burden of notifying any party affected by the application rests solely on the applicant. The applicant must therefore determine the extent of notification that he wishes to undertake to protect his interest in the application.

We support the Division in the proposed rule changes.

Respectfully Submitted,

MORRIS R. ANTWEIL



R. M. Williams

RMW:pb

DOYLE HARTMAN

Oil Operator

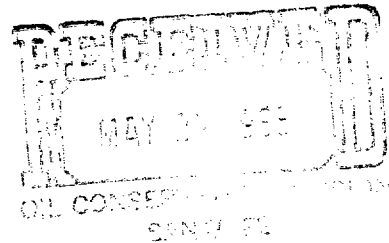
500 N. MAIN

P.O. BOX 10426

MIDLAND, TEXAS 79702

(915) 684-4011

May 22, 1985



R. L. Stamets, Director  
Energy and Minerals Department  
Oil Conservation Division  
Post Office Box 2088  
Santa Fe, New Mexico 87501

Re: Memorandum No. 1-85  
Proposed Rule Changes

Dear Mr. Stamets:

After reviewing the proposed rule changes, I would like to comment on two of the proposed changes.

Notice prior to staking a well (Rule 102[c]). I feel the addition of paragraph C requiring the notification of the land owner, tenant, and lease holder is unnecessary and undesirable. The present trespass laws adequately protect the rights of the surface owners, tenants, and lease holders. It is unnecessary for the Oil Conservation Division to become involved in the settlement of surface damages and this requirement would involve them in such settlements. The present method of the operators dealing with the surface owner or his agent seems to be working satisfactorily. The addition of this rule would be an added burden on the operator and would not serve any useful purpose.

Notification of Fire, Breaks, Leaks, Spills, and Blowouts (Rule 116 [1]). The addition of Rule 116 [1] (including the flow of 25 or more barrels of water per day from any formation) would not increase the effectiveness of this rule. A flow as small as 25 barrels per day would not be detectable in most drilling wells. The volume of water flow that would be detectable will vary according to well conditions and would be very difficult to define. The depth of the well, volume of the mud pits, and many other conditions will determine when a water flow is detected. Rule 116 as it is presently written, adequately covers major water flows which would require "immediate notification".

I wish to thank you for the opportunity to comment on these rule changes.

Very truly yours,

DOYLE HARTMAN

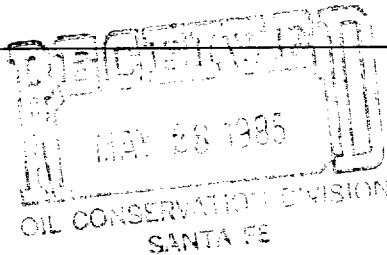
*Larry A. Nernmyr*

Larry A. Nernmyr  
Engineer

LAN/csh



Donald W. Johnson  
Division Manager  
Production Department  
Hobbs Division  
North American Production



Conoco Inc.  
P.O. Box 460  
726 East Michigan  
Hobbs, NM 88240  
(505) 393-4141

May 22, 1985

Mr. R. L. Stamets  
New Mexico Oil Conservation Division  
P.O. Box 2088  
Santa Fe, New Mexico 87501

Dear Mr. Stamets:

Conoco Inc. appreciates the opportunity to comment on the proposed rule changes outlined in your letter, dated May 9, 1985. We compliment you and your staff on your progressive attitude in continually seeking ways to improve the functions of the Energy and Minerals Department. We also compliment you on the methods used to make such improvements. The solicitation of ideas from industry representatives is certain to result in more efficient and realistic changes in regulations designed to regulate and control the oil and gas industry and preservation of our natural resources.

The following comments are furnished for your consideration:

- (1) Protection of fresh waters - It is suggested that the definition of Fresh Water be expanded to include the words "except casual waters" following "surface waters" in line 1. We believe this would more accurately define the intent of the waters to be protected. As an alternative the word "permanent" could be inserted following "includes all" in line 1.
- (2) The last word, under Rule 102 (c) should be "leasee," and probably should be preceded by the word "surface," making the last portion of that sentence read ----"if different, notice to the tenant or surface leasee."
- (3) The new language in Rule 116 is somewhat confusing and appears to be unnecessary. If the intent is to address the uncontrollable flow of water, then it appears that such circumstance would be covered even without the added language. If the intent is to include a controllable flow of water, then I believe that 25 barrels per day is too restrictive and should not be included in the definition of a "blowout."
- (4) The Method of Giving Legal Notice for Hearing has been expanded far beyond necessity. The proposed methods are not only cumbersome, but in some cases border on being impossible. The present method of notification has served well for many years, and I believe it is adequate. If there is strong feeling that some might complain because of not receiving notification, all operators and other interested parties could be made responsible



R. L. Stamets

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May 22, 1985

for seeing that they are included on a mailing list for all  
Examiner or Commission Hearings.

It would not be terribly difficult to comply with the first three cases stated under proposed Rule 107 (Alternative No. 1). In the case of special pool rules, however, it would be extremely difficult to identify and find proper addresses for every operator in the Jalmat Pool, for example. The same applies to Case Number 5 for Potash-Oil areas.

Alternative No. 2 would be the preferred one of the two proposed. It does not, however, consider that many Lease Agreements contain a "pooling clause" which allows the operator to communitize tracts without consent of the royalty owner.

Unless there is sufficient evidence that the present advertising procedure is inadequate, we recommend no changes in such procedure.

Yours very truly,

A handwritten signature in cursive script, appearing to read "Samuel R. Johnson". The signature is written in dark ink and is positioned below the typed name "Samuel R. Johnson".

HAI:tr



STATE OF NEW MEXICO  
**ENERGY AND MINERALS DEPARTMENT**  
OIL CONSERVATION DIVISION


TONY ANAYA  
GOVERNOR

POST OFFICE BOX 2088  
STATE LAND OFFICE BUILDING  
SANTA FE, NEW MEXICO 87501  
(505) 827-5800

No. 1-85

M E M O R A N D U M

TO: ALL OPERATORS, TRANSPORTERS, SERVICE COMPANIES,  
AND ANY OTHER PERSONS INVOLVED IN DEVELOPMENT  
AND PRODUCTION OF OIL AND GAS

FROM: R. L. STAMETS, DIRECTOR 

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- (4) Notice of hearings (Rules 1204 through 1207).
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These proposals are submitted for public review and comment. Comments should be made in writing to this office not later than June 17, 1985. No hearing will be scheduled on these proposals prior to July, 1985.

May 9, 1985  
fd/

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MAY 6, 1985

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PRODUCED WATER shall mean those waters produced in conjunction with the production of crude oil and/or natural gas and commonly collected at field storage or disposal facilities including: lease tanks, commingled tank batteries, burn pits, LACT units, and community or lease salt water disposal systems and which may be collected at gas processing plants, pipeline drips and other processing or transportation facilities.

B - MISCELLANEOUS RULES

RULE 1. SCOPE OF RULES AND REGULATIONS

(a) The following General Rules of statewide application have been adopted by the Oil Conservation Division of the New Mexico Energy and Minerals Department to conserve the natural resources of the State of New Mexico, to prevent waste, [and] to protect correlative rights of all owners of crude oil and natural gas, and to protect fresh waters. Special rules, regulations and orders have been and will be issued when required and shall prevail as against General Rules, Regulations and Orders if in conflict therewith. However, whenever these General Rules do not conflict with special rules heretofore or hereafter adopted, these General Rules shall apply.

(b) The Division may grant exceptions to these rules after notice and hearing, when the granting of such exceptions will not result in waste but will protect correlative rights or prevent undue hardship.

RULE 2. ENFORCEMENT OF LAWS, RULES AND REGULATIONS DEALING WITH CONSERVATION OF OIL AND GAS

The Division, its agents, representatives and employees are charged with the duty and obligation of enforcing all rules and statutes of the State of New Mexico relating to the conservation of oil and gas, including the related protection of fresh waters. However, it shall be the responsibility of all the owners or operators to obtain information pertaining to the regulation of oil and gas and protection of fresh waters before operations have begun.

RULE 3. WASTE PROHIBITED/ GENERAL OPERATING

(a) The production or handling of crude petroleum oil or natural gas of any type or in any form, or the handling of products thereof, in such a manner or under such conditions or in such amount as to constitute or result in waste is hereby prohibited.

(b) All operators, contractors, drillers, carriers, gas distributors, service companies, pipe pulling and salvaging contractors, or other persons shall at all times conduct their operations in the drilling, equipping, operating, producing, plugging and abandonment of [and-gas-wells] gas, injection, disposal, and storage wells in a manner that will prevent waste of oil and gas, the contamination of fresh waters, or other damage to neighboring properties, and shall not wastefully utilize oil or gas, or allow either to leak or escape from a natural reservoir, or from wells, tanks, containers, pipe or other storage, conduit or operating equipment.

RULE 4. UNITED STATES GOVERNMENT LEASES

The Division recognizes that all persons drilling on United States Government land shall comply with the United States government regulations. Such persons shall also comply with all applicable State rules and regulations which are not in conflict therewith. Copies of "Application for Permit to Drill, Deepen or Plug Back," (USGS Form No. 9-331C), "Sundry Notices and Reports on Wells," (USGS Form No. 9-331), and "Well Completion or Recompletion Report and Log," (USGS Form No. 9-330), for wells on U.S. Government land shall be furnished [by] the Division.

RULE 5. CLASSIFYING AND DEFINING POOLS

The Division will determine whether a particular well or pool is a gas or oil well, or a gas or oil pool, as the case may be, and from time to time classify and reclassify wells and name pools accordingly, and will determine the limits of any pools producing crude petroleum oil or natural gas and from time to time redetermine such limits.

RULE 6. FORMS UPON REQUEST

Forms for written notices, request and reports required by the Division will be furnished upon request.

RULE 7. AUTHORITY TO COOPERATE WITH OTHER AGENCIES

The Division may from time to time enter into arrangement with State and Federal governmental agencies, industry committees and individuals, with respect to special projects, services and studies relating to conservation of oil and gas and the associated protection of fresh waters.

RULE 8. LINED PITS (New Rule)

Lined pits may be used to contain produced water, sediment oil, tank bottoms, miscellaneous hydrocarbons, or other fluids subject to the jurisdiction of the Division under the Oil and Gas Act only upon prior approval of the Division.

C - DRILLING

RULE 102. NOTICE OF INTENTION TO DRILL

(a) Prior to the commencement of operations, notice shall be delivered to the Division of intention to drill any well for oil or gas or for injection purposes and approval obtained on Form C-101.

(b) No permit shall be approved for the drilling of any well within the corporate limits of any city, town, or village of this state unless notice of intention to drill such well has been given to the duly constituted governing body of such city, town or village or its duly authorized agent. Evidence of such notification shall accompany the application for a permit to drill (Form C-101).

(c) Prior to staking a well, the operator shall give notice to the land owner and, if different, notice to the tenant or lease.

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RULE 104.

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J. In computing acreage under H and I above, minor fractions of an acre shall not be counted [by] but  $\frac{1}{4}$  acres or more shall count as 1 acre.

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RULE 108. DEFECTIVE CASING OR CEMENTING

In any well that appears to have a defective casing program or faultily cemented or corroded casing which will permit or may create underground waste or contamination of fresh waters, the operator shall give immediate notice to the Division and proceed with diligence to use the appropriate method and means to eliminate such hazard. ~~[of underground waste.]~~ If such hazard of waste or contamination of fresh water cannot be eliminated, the well shall be properly plugged and abandoned.

RULE 113. SHOOTING AND CHEMICAL TREATMENT OF WELLS

If injury results to the producing formation or injection interval casing or casing seat from shooting, fracturing, or treating a well, the operator shall notify the Division and proceed with diligence to use the appropriate method and means for rectifying such damage. If shooting or chemical treating results in irreparable injury to the well the Division may require the operator to properly plug and abandon the well.

RULE 116. NOTIFICATION OF FIRE, BREAKS, LEAKS, SPILLS, AND BLOWOUTS

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1. Well Blowouts. Notification of well blowouts and/or fires shall be "immediate notification" described below. ("Well blowout" is defined as being loss of control over and subsequent eruption of any drilling or workover well, including the flow of 25 or more barrels of water per day from any formation, or the rupture of the casing, casinghead, or wellhead of any oil or gas well or injection or disposal well, whether active or inactive, accompanied by the sudden emission of fluids, gaseous or liquid, from the well.)

-----

RULE 710. DISPOSITION OF ~~[TRANSPORTED]~~ PRODUCED WATER

(a) No person, including any transporter, may dispose of ~~[such]~~ produced water on the surface of the ground, or in any pit, pond, lake, depression, draw, streambed, or arroyo, or in any watercourse, or in any other place or in any manner which will constitute a hazard to any fresh water supplies.

Delivery of produced water to approved salt water disposal facilities, secondary recovery or pressure maintenance injection facilities, or to a drillsite for use in drilling fluid will not be construed as constituting a hazard to fresh water supplies provided the produced waters are placed in tanks or other impermeable storage at such facilities.

(b) The supervisor of the appropriate district office of the Division may grant temporary exceptions to paragraph (a) above for emergency situations and for use of produced water in road construction or maintenance or for use of produced waters for other construction purposes upon request and a proper showing by a holder of an approved Form C-133 (Authorization to Move Produced Water).

(c) Vehicular movement or disposition of produced water in any manner contrary to these rules shall be considered cause, after notice and hearing, for cancellation of Form C-133.

RULE 1204. METHOD OF GIVING LEGAL NOTICE FOR HEARING

Notice of each hearing before the Commission and notice of each hearing before a Division Examiner shall be ~~(given by personal service on the person affected or)~~ by publication once in a newspaper of general circulation published at Santa Fe, New Mexico, and once in a newspaper of general circulation published in the county or each of the counties, if there be more than one, in which any land, oil, or gas, or other property which may be affected is situated.

RULE 1205 CONTENTS OF NOTICE OF HEARING

[Such notice] Published notices shall be issued in the name of "The State of New Mexico" and shall be signed by the Director of the Division, and the seal of the Commission shall be impressed thereon.

The notice shall specify whether the case is set for hearing before the Commission or before a Division Examiner and shall state the number and style of the case and the time and place of hearing and shall briefly state the general nature of the order or orders, rule or rules, regulation or regulations to be promulgated or effected. The notice shall also state the name of the petitioner or applicant, if any, and unless the contemplated order, rule, or regulation is intended to apply to and affect the entire state, it shall specify or generally describe the common source or sources of supply which may be affected by such order, rule, or regulation.

~~[RULE 1206. PERSONAL SERVICE OF NOTICE]~~

~~Personal service of the notice of hearing may be made by any agent of the Division or by any person over the age of 18 years in the same manner as is provided by law for the service of summons in civil actions in the district courts of this state. Such service shall be complete at the time of such personal service or on the date of publication, as the case may be. Proof of service shall be by the affidavit of the person making personal service or of the publisher of the newspaper in which publication is had. Service of the notice shall be made at least 10 days before the hearing.]~~

RULE [1207] 1206. PREPARATION OF NOTICES

After a motion or application is filed with the Division the notice ~~(or notices)~~ required under Rule 1205 shall be prepared by the Division and ~~(service and)~~ publication thereof shall be taken care of by the Division without cost to the applicant.

RULE 1207. ADDITIONAL NOTICE REQUIREMENTS (New Rule Alternative No. 1)

Each applicant for hearing before the Division or Commission shall give additional notice as set forth below:

1. In cases of applications filed for compulsory pooling under Section 70-2-17 NMSA 1978, as amended, or statutory unitization under Section 70-7-1, et. seq. NMSA 1978, as amended: Actual notice shall be given to each known individual owning an uncommitted leasehold interest, an unleased and uncommitted mineral interest, or royalty interest not subject to a pooling or unitization clause in the lands affected by such application which interest must be committed and has not been voluntarily committed to the area proposed to be pooled or unitized. Such individual notice in compulsory pooling or statutory unitization cases shall be by certified mail (return receipt requested).
2. In cases of applications for hearing for approval of unorthodox well locations: Actual notice shall be given to any offset operator in those adjoining spacing/proration units of the same size that is adversely affected by the proposed unorthodox location, or any potash operator in an adjoining proration or spacing unit in the R-111-A area provided the subject well be closer to that potash operator than the closest standard location allows. Such notice shall be given by certified mail (return receipt requested).
3. In the case of applications for the approval of any non-standard proration unit: Actual notice shall be given to all operators owning a leasehold interest in the quarter-quarter section (for 40-acre pools or formations), the quarter section (for 160-acre pools or formations) the half section (for 320-acre pools or formations), or in the section (for 640-acre pools or formations) in which the non-standard unit is located and to each operator on any proration unit, if there

be such, or tract which adjoins or corners such quarter-quarter, quarter, half, or whole section. Such notice shall be by certified mail (return receipt requested).

4. In the case of applications for adoption of, or amendment of, special pool rules: Actual notice shall be given to all operators within the existing, or proposed pool boundaries and those of operators within one (1) mile of such boundaries. Such notice may be provided by regular mail.
5. In the case of applications to amend R-111-A, the Potash-Oil Area and Special Rules, actual notice shall be given to any affected potash operator or oil or gas operator or owner. Such notice shall be provided by certified mail (return receipt requested).
6. In the case of applications for approval of downhole commingling of the product of multiple formations: Actual notice shall be given to all offset operators. Such notice shall be provided by regular mail.
7. In the case of any other application which may diminish or adversely affect royalty interests: Actual notice shall be given to the applicant's royalty interest owners immediately affected. Such notice shall be provided by certified mail (return receipt requested). Any notice required by this rule shall be mailed at least 10 days prior to the date of hearing on the application.

At each hearing, the applicant shall cause to be made a matter of record, either by testimony at the hearing or by an affidavit signed by applicant or its authorized representative, that the notice provisions of this Rule 1207 have been complied with, that applicant has conducted a good-faith diligent effort to find the correct address of all interested persons entitled to receive notice, and that pursuant to Rule 1207, notice has been given at that correct address as provided by rule. In addition, such certificate shall contain the name and address of each interested person to whom such notice was sent and, where proof of receipt is available, a copy of same.

Evidence of failure to provide notice as provided in this rule may, upon a proper showing, be considered cause for reopening the case.

**RULE 1207. ADDITIONAL NOTICE REQUIREMENTS (New Rule Alternative No. 2)**

Each applicant for hearing before the Division or Commission shall give additional notice to any party expected to be adversely affected by granting of the application, any party whose interest would be pooled to form a spacing or proration unit, and any of applicant's royalty owners immediately affected by the granting of the application.

The notice required by this rule shall be mailed at least 10 days prior to the date of the hearing on the application.

At each hearing, the applicant shall cause to be made a matter of record, either by testimony or by an affidavit signed by the applicant or its authorized representative, the method used in determining the parties who received the additional notice required by this rule, the names and addresses of all such parties and a statement or proof that a good faith effort has been made to notify such parties of the purpose of the application and the date and time of the hearing.

Evidence of failure to provide notice as provided in this rule may, upon a proper showing, be considered cause for reopening the case.



Post Office Box 2819  
Dallas, Texas 75221  
Telephone 214 880 2500

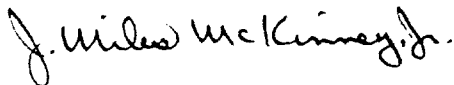
May 23, 1985

Mr. Tom Kellahin  
Regulatory Practices Chairman  
New Mexico Oil and Gas Association  
Post Office Box 2265  
Santa Fe, New Mexico 87504-2265

Dear Tom:

ARCO Oil and Gas Company has the following comments on the proposed amendments to NMOCD Rule 102 (c), regarding notification prior to staking a well. The rule is not clear as to what constitutes "giving notice". We believe that an attempt to notify owners at their last known address via U.S. Mail, telegram, teletype, telephone, or in person should be sufficient. Otherwise, a well could be delayed indefinitely due to inability to locate an owner. Also, we do not believe that there should be a requirement to notify both the landowner and the tenant or lessee. For privately held land, ARCO notifies the landowner, and on State or Federal lands we notify the lessee. Otherwise we have no real concerns with the rule since it has historically been our practice to provide notification before staking a well.

If you have any questions or if we can be of further assistance, please call me at (214) 880-5158 or Livvy Roth at (214) 880-2739.



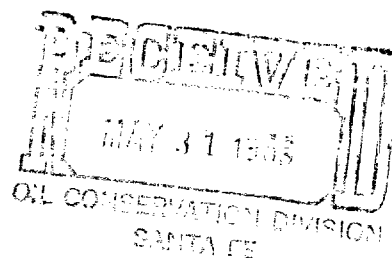
J. Miles McKinney, Jr.

JMM/OHR/hlw

XC: Mr. Peter Hanagan  
New Mexico Oil and Gas Association  
Post Office Box 1864  
Santa Fe, New Mexico 87504-1864

**ROBERT E. BOLING**  
**EXPLORATION CONSULTANT**  
~~202 AMERICAN HOME BUILDING~~  
305 South Fifth Street  
**ARTESIA, NEW MEXICO - 88210**

May 28, 1985



New Mexico Oil Conservation Division  
P. O. Box 2088  
Santa Fe, New Mexico 87501

Attention: Mr. R. L. Stamets

Re: Proposed addition to Rule 102

Gentlemen:

Please be advised of the following problems with the proposed addition to Rule 102:

1. Conflicts with lease. All oil and gas leases give the lessee the right of Ingress and Egress. Most all leases provide for damage payment to the surface owner or his lessee. No place in any standard lease form does it provide for notice to anyone before a well is staked.
2. Difficulty and extra expense of determining the surface owner. The present practice in the oil and gas business is to abstract and examine the title to the minerals only. To be forced to examine the title to the surface estate would in many cases cost thousands of dollars, both in abstract costs and examiner time. The present practice is to do the best we can in finding who is in possession of the surface, but to be obligated to make sure we have the owner or all of the owners would be truly a large burden. When there is multiple ownership of the surface, whom do you notify?
3. Notice prior to staking. Present practice is to try to determine who is in possession of the surface and the surface owner at the time the location is staked or after the location has been staked. After the location has been staked the operator is in a position to explain to the surface owner or occupant what he needs to do and discuss damages. Prior to staking a location the operator does not have anything to talk to the surface people about.
4. Compliance. It seems to me the most practical way to comply with the proposed rule would be to give the surface owner or occupant, if known, a letter at the time a lease is acquired stating that you plan to stake a location somewhere on the lease some day.
5. None of Oil Conservation Division's Business. I fail to see how notice to surface owners has anything to do with "...to prevent waste, to protect correlative rights of all owners of crude oil and natural gas,..."

For the reasons set out herein, it is respectfully requested that paragraph (c) not be added to Rule 102.

Yours very truly,

*Robert E. Boling*  
Robert E. Boling

REB:scp

cc: N.M. O&G Assoc.

Independent Petroleum Assoc. of N. M.

May 30, 1985

Tom Kellahin  
NMOGA Regulatory Practices Chairman  
P. O. Box 2265  
Santa Fe, New Mexico 87504

Dear Mr. Kellahin:

The following remarks are in regard to the May 9 memorandum from NMOCD Director R. L. Stamets concerning possible OCD rule change.

The proposed New Rule 8, under Section B-"Miscellaneous Rules," has an unnecessary negative connotation. The following wording would be preferable:

"RULE 8. LINED PITS

Lined pits may be used to contain produced water, sediment oil, tank bottoms, miscellaneous hydrocarbons, or other fluids subject to the jurisdiction of the Oil and Gas Act, with the prior approval of the Division."

Texaco strongly objects to the suggested new Rule 102(c), in Section C-"Drilling." While it is customary to contact the landowner of record before actual work on a location is begun, we can see no reason why he needs to be notified before a well is staked. For various reasons, the originally staked location is often not where the well is ultimately drilled (if it ever is drilled). Furthermore, there may be considerable delay between the time a well is staked and the time location preparation begins. This make it necessary for the operator to have to locate and notify the landowner a second time (or third time, if the stake has been moved) for the same location. We also fail to see why an operator should be required to notify both a landowner of record and his tenant. This rule change would create an unnecessary burden, and should not be made.

The intent of the proposed change to Rule 116 (Section C-"Drilling") is unclear, but it could be interpreted to define any 25 BWPD flow during drilling or workover operations as a "well blowout." It is not uncommon, when using a low solids drilling fluid, to experience such a flow and yet be able to safely continue drilling. This is certainly in no way analogous to a loss of well control or a blowout. Any water flow which would constitute a "loss of control over ... any drilling or workover well" is already covered under the current rule. This change is confusing and unnecessary, and therefore should not be made.

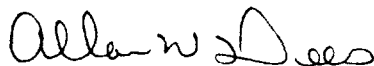
May 30, 1985

We object totally to the non-specific and ambiguous notification requirements in proposed Rule 1207 (Alternative No. 2). There is no reasonable way that an operator can be certain that he has fully complied with a requirement to notify every "party expected to be adversely affected by granting of the application." This provision would invite challenges to permits after issuance by the Division.

We also disagree with certain of the proposed new Rule 1207 (Alternative No. 1) additional notice requirements. For compulsory pooling or statutory unitization applications (Item 1), the applicant should not be required to identify and notify uncommitted royalty interests who are not subject to pooling or unitization clauses in their leases. Such a requirement would cause an applicant to have to review the terms of every lease in the proposed pool or unit to determine if the lessor(s) had agreed to pooling or unitization; this burden is totally unjustifiable. Lessors' election not to grant their lessees this authority is a contractual rather than a regulatory matter, and it should be the responsibility of the lessee to advise any such lessors of impending pooling or unitization proceedings. On the same basis, we object to the general royalty owner notification provisions in Item 7; this also is a contractual matter, between lessor and lessee, which should not be the subject of an OCD regulation. For adoption or amendment of special pool rules (Item 4), it should not be necessary to notify all operators within a mile of the existing or proposed pool boundaries. Such notification could certainly include a large number of operators who would in no way be impacted by the proposed pool rules. It is recommended that this notification be limited to those operators who could reasonably be expected to be affected by these rules (e.g., all operators within or directly offsetting the pool boundaries). Finally, Texaco recommends that the last paragraph of proposed Rule 1207 be clarified to indicate that failure to make a good-faith effort to provide the required notice (rather than simply being unable to do so) may be considered cause for reopening a case.

Should you have any questions regarding Texaco's comments, you may call me at (915) 688-4750. I would particularly appreciate being advised, before NMOGA comments are finalized, of any significant points on which the Regulatory Practices Committee disagrees.

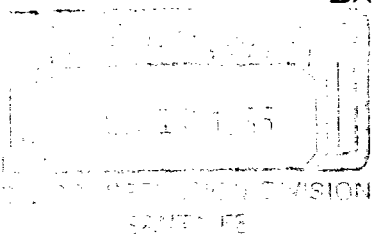
Yours very truly,



Allan W. Dees  
Regulatory Compliance Manager

AWD:cjc

cc: Peter Hanagan - NMOGA



BASS ENTERPRISES PRODUCTION CO.

FIRST CITY BANK TOWER  
201 MAIN ST.  
FORT WORTH, TEXAS 76102  
817/390-8400

June 5, 1985

STATE OF NEW MEXICO ENERGY AND MINERALS DEPARTMENT  
OIL CONSERVATION DIVISION  
P. O. Box 2088  
State Land Office Building  
Santa Fe, New Mexico 87501

Attention: R. L. Stamets, Director

RE: Proposed Rule Changes

Dear Sir:

In response to your memorandum dated May 9, 1985 concerning proposed rule changes which are being considered by your agency, we are offering the following comments for your consideration.

Rule 3 (B) - Although the term "other damage to neighboring properties" is from the statutes (70-2-12), the term is vague. If this term is to be included in the rules and regulations, it should be defined within; if not, it should not be included.

Rule 102 (C) - The way in which this proposal is currently written does not place any limits upon giving notice to the landowner or tenant. As a result, the operator may be expected to go beyond what would be considered reasonable diligence in obtaining the name of and notifying the landowner or surface tenant. We recommend that any requirement made to notify the landowner or surface tennant place limitations on what would be considered reasonable diligence in giving the notification. Our concept of reasonable diligence in this regard is an inspection of the lease premises to a degree that would allow an operator to locate the landowner or surface tenant and give the proper notice. Giving notice to the landowner or surface tenant should not under any circumstances constitute a precondition to the staking of a well or conducting operations. Reasonable diligence should be used by a prudent operator to give notice of the operation in the interest of causing the lease amount of disturbance to any surface operation.

Rule 113 - As written, this proposal is unclear as to what the rule is concerned about being injured. It could be the casing, the cement or the formation. This portion should be clarified. Additionally, if injury to the formation is the primary concern of the proposed rule, it will be very difficult to establish a means to repair it.

State of New Mexico Energy and Minerals Department

June 5, 1985

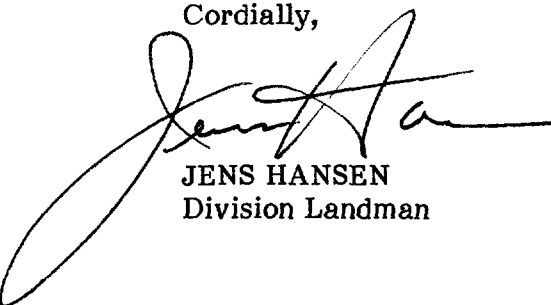
Page 2

Rule 116 (i) - The inclusion of water flow and the definition of a blowout is acceptable if the intent of the proposed rule is for the state to learn of abnormal pressured aquifers, which resulted from improper injection/disposal of produced water. However, the specification of 25 BPD is too low a value. It is doubtful one could recognize an influx of that rate while drilling. Perhaps if it were redefined as uncontrolled influx of water, it would be acceptable. If a rate must be specified, then it should be at least 1,000 BPD.

Rule 1207 - We prefer new rule alternative number 1 which names the interest owners in which notification should be made prior to a hearing. New rule alternative number 2 is too vague as to what is considered "being adversely affected" and could result in parties appearing subsequent to a hearing claiming they will be adversely affected, which could result in New Mexico Oil Conservation Division Orders being set aside.

Thank you for allowing us the opportunity to submit our comments to you regarding these proposed rule changes. We will look forward to attending a hearing on these matters which you have indicated will be scheduled after July 1985.

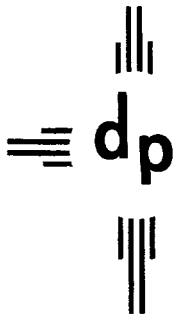
Cordially,

A handwritten signature in dark ink, appearing to read 'Jens Hansen', with a large, sweeping loop at the end.

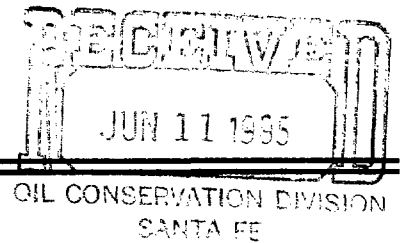
JENS HANSEN  
Division Landman

JH:jh

cc: Tom Kellahin  
Kellahin & Kellahin  
P. O. Box 2265  
Santa Fe, New Mexico 87505



# dugan production corp.



June 5, 1985

Richard L. Stamets, Director  
P.O. Box 2088  
Santa Fe, NM 87501

This letter is written as comment in response to Memorandum No. 1-85 regarding proposed rule changes. I will address the comments in order by rule number.

## Rule 2

The proposed addition to Rule 2 adds language which makes it the responsibility of the operator to obtain information pertaining to the protection of fresh waters before operations have begun. Reading this entire rule, I understand the additional language to mean that owners and operators are responsible for knowing the rules pertaining to protection of fresh water, and perhaps the added language should be modified to make that clear. I would suggest the following added language instead of the proposed added text "...and regulations pertaining to the protection of fresh waters..." ?

## SECTION N - Rules on Procedure

The changes in Rules 1204 through 1207 make substantial changes in the manner by which notice is to be given with respect to matters to come before the Commission.

We agree that notice by publication with the requirement of additional notice by mail to certain affected parties is an efficient and effective method of giving notice in the majority of cases. We believe that the additional notice requirements which combine the general and specific requirements is appropriate.

The general notice requirement should require notice to any party who might be affected by the granting of an application, rather than to "parties expected to be adversely affected" as under the suggested Alternative 2. As the requirement is written now, an applicant might, for one reason or another, decide that a party would not be adversely affected and therefore not give required notice. As a result, the Division could be faced with an excessive number of reopened cases. Also, persons affected but not necessarily adversely should be entitled to notice in a timely manner.

In addition to the generalized additional notice requirement, we would recommend specific notice requirements similar to Alternative 1 of proposed Rule 1207. Perhaps with a generalized notice requirement, not all of the specific paragraphs of Alternative 1 would be necessary.

Richard Stamets  
June 7, 1985  
Page Two

One particular area of difficulty which we can see is with Paragraph 4 of Alternative 1. In some situations, for example the Basin-Dakota gas pool, the pool is so large that just identifying operators within 1 mile of the boundaries of the pool might be extremely difficult and expensive. In fact, identifying the operators within the pool could prove to be a monumental task. Possibly the Division could review that particular provision and determine if there might be alternatives which could provide adequate notice in a less cumbersome manner.

We appreciate the opportunity to comment on these proposed changes and hope our comments are helpful.

Sincerely,

A handwritten signature in cursive script, reading "Robert G. Stovall".

Robert G. Stovall  
General Counsel

RGS:nw

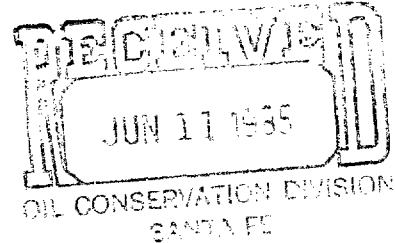


**El Paso**  
Natural Gas Company

P. O. BOX 1492  
EL PASO, TEXAS 79978  
PHONE: 915-541-2600

June 5, 1985

New Mexico Oil Conservation Division  
P.O. Box 2088  
State Land Office Bldg.  
Santa Fe, NM 87501



Attention: Mr. R. L. Stamets, Director

Subject: Proposed Rule Changes

Dear Mr. Stamets:

El Paso Natural Gas Company (El Paso) has reviewed and offers the following comments on the proposed rule changes dated May 9, 1985. The proposal includes new definitions of fresh and produced waters and integrates fresh water protection into the existing rules. El Paso is committed to the protection of water quality wherever it is necessary. Indeed, we have recently expended considerable resources designing and implementing wastewater collection and disposal systems at several locations, specifically to meet that commitment. El Paso can, therefore, easily support the OCD's objective to protect the groundwater.

Recently El Paso, along with other producers, worked with the Agency to define the amount of protection necessary to effectively control potential adverse effects of produced water on groundwater in Northwest New Mexico.

Because of the expected findings of these recent deliberations concerning the effects of produced waters, El Paso asks that the OCD review the proposed wording in rule 710(a). As now written, no person could dispose of produced water on the surface of the ground or in any pit, regardless of volume or hydrogeology, whether or not there were any hazard to fresh water supplies.

We suggest that the rule should read:

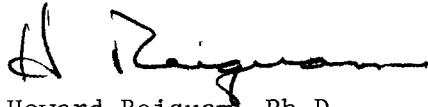
(a) No person, including any transporter, may dispose of (such) produced water on the surface of the ground, or in any pit, pond, lake, depression, draw, streambed, or arroyo, or in any watercourse, or in any other place (~~or~~) in any manner which will constitute a hazard to any fresh water supplies.

New Mexico Oil Conservation Division  
June 6, 1985  
Page 2

Such a change would then make the rule consistent with these recent discussions, and reduce the possibility of misinterpretation.

El Paso appreciates the opportunity to comment.

Sincerely,

A handwritten signature in dark ink, appearing to read "H. Reiquam". The signature is fluid and cursive, with a large initial "H" and a long, sweeping underline.

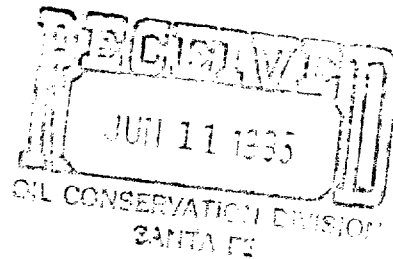
Howard Reiquam, Ph.D.  
Director  
Environmental Affairs Department

HR:gb



P.O. Box 120  
Casper, Wyoming 82602  
Telephone 307/235-2511

June 7, 1985



Energy and Minerals Department  
Oil Conservation Division  
State of New Mexico  
P. O. Box 2088  
Santa Fe, New Mexico 87501

Re: Proposed rule changes

Gentlemen:

After reviewing the New Mexico Oil Conservation Division's proposed rule changes, Marathon Oil Company hereby submits its comments:

Rule Number 113, as it appears in the proposed rule changes, needs to be clarified. The following wording should be added after the word, "well," in the last sentence of the paragraph:

"...which may permit or may create underground waste or contamination of fresh water..."

By adding the above wording, Rule 113 is clarified and the rule becomes more restrictive as to the reason why the Division may require the operator to plug and abandon the well. The attachment sets forth the rule with this change.

Sincerely,

A handwritten signature in cursive script, appearing to read 'E. M. Grant'.

E. M. Grant  
Coordinator, Gov't Reports & Compliance

EMG:at

attach.

(Attachment to 6/7/85 letter to New Mexico Energy and Minerals Department)

RULE 113. SHOOTING AND CHEMICAL TREATMENT OF WELLS

If injury results to the producing formation or injection interval casing or casing seat from shooting, fracturing, or treating a well, the operator shall notify the Division and proceed with diligence to use the appropriate method and means for rectifying such damage. If shooting or chemical treating results in irreparable injury to the well WHICH MAY PERMIT OR MAY CREATE UNDERGROUND WASTE OR CONTAMINATION OF FRESH WATER the Division may require the operator to properly plug and abandon the well.



**STATE OF NEW MEXICO**

**ENVIRONMENTAL IMPROVEMENT DIVISION**

P.O. Box 968, Santa Fe, New Mexico 87504-0968

(505) 984-0020

**TONEY ANAYA**  
**GOVERNOR**

**DENISE D. FORT**  
**DIRECTOR**

June 10, 1985

Mr. R.L. Stamets, Director  
Oil Conservation Division  
310 Old Santa Fe Trail  
Santa Fe, New Mexico 87503

Dear Mr. Stamets:

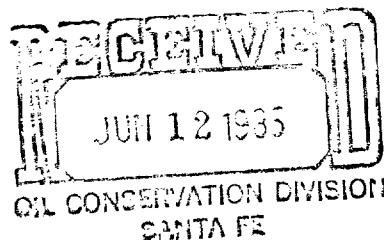
Thank you for providing me with a copy of your May 9, 1985 memorandum regarding proposed rule changes. The Ground Water/Hazardous Waste Bureau has reviewed the provisions to protect fresh waters and strongly supports the proposed changes in Rules 1, 2, 3, 7, 8, 108 and 710. For purposes of clarity, I suggest that you insert, "of oil and gas" after each reference to "waste" in Rule 108; this would be consistent with the existing language in Rule 3.b. Regarding the proposed definition of fresh water, the EID suggests for purposes of technical accuracy that the definition specify "total dissolved solids" rather than "dissolved solids" and that the units be "milligrams per liter" rather than "parts per million."

I commend you and the staff of your Environmental Bureau for proposing these rule changes to protect fresh waters in New Mexico. If the EID can be of further assistance in this matter, please let me know.

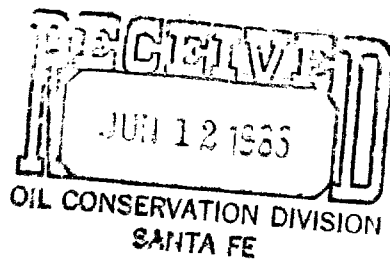
Sincerely,

*Denise Fort*  
Denise Fort  
Director

DF:DM:dlr



*underground waste  
in definition*



**Southland Royalty Company**

June 11, 1985

Mr. R. L. Stamets, Director  
Energy and Minerals Department  
Oil Conservation Division  
P. O. Box 2088  
Santa Fe, New Mexico 87501

RE: Propose Rule Changes

Dear Dick:

I appreciate the efforts to clarify and complete the OCD Rules and Regulations as attached to your memorandum of May 9, 1985.

My only concern with the proposed changes are with some vagueness created in Rule 3 and the other minor differences I have detailed in the following statements.

Rule 3. "or other damage to neighboring properties".  
This seems very broad and vague - open to unlimited interpretation. In one sense, it would be good to have the OCD in charge of noise and sight pollution or other matters as they correlate to recovery of natural resources. It would probably be better to have all control in one agency.

Rule 102 (c). "if different, notice to the tenant or leasee".  
There are many times when it could be very difficult to locate a tenant or leasee. There is no place of public record where this type of surface user is listed. A leasee could live in New Jersey as do some of the surface owners. The land owner of record is the only person which is always accessible.

Mr. R. L. Stamets  
Propose Rule Changes  
Page Two  
June 11, 1985

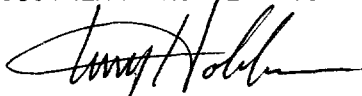
Rule 1207. "Additional Notice Requirements (New Rule Alternative No. 1)".

I believe the appropriate place for notice requirements is within the rule to which it pertains as is generally done now. This section would only serve to create discontinuity in the rules. You might want to put each statement (1-7) into the rule to which it applies.

"(New Rule Alternative No. 2)" - Delete as above.

Sincerely,

SOUTHLAND ROYALTY COMPANY

A handwritten signature in cursive script, appearing to read "C. Terry Hobbs".

C. Terry Hobbs  
District Operations Engineer

CTH/eg



**PHILLIPS OIL COMPANY**  
A SUBSIDIARY OF PHILLIPS PETROLEUM COMPANY

HOUSTON, TEXAS 77001  
BOX 1967

BELLAIRE, TEXAS  
6330 WEST LOOP SOUTH  
PHILLIPS BUILDING

RECEIVED

June 13, 1985

State of New Mexico  
Energy and Minerals Department  
Oil Conservation Division  
PO Box 2088, State Land Office Bldg.  
Santa Fe, New Mexico 87501

JUN 17 1985

OIL CONSERVATION DIVISION

Attn: R. L. Stamets, Director

Re: Oil Conservation Division -  
Proposed Rule Changes  
Memorandum 1-85

Dear Mr. Stamets:

The Eastern Division of Phillips Oil Company appreciates the opportunity to contribute comments to assist in your consideration of the proposed rule changes as set out in Memorandum 1-85. Our comments on the specific proposed rule changes follow:

1. In the proposed change for Rule 3(b), we note that the word "oil" is omitted. We suggest that the language should read "plugging and abandonment of oil, gas, injection, disposed...".

2. In your proposal for Rule 8, the new rule dealing with Lined Pits, we suggest that a provision be included whereby the Oil Conservation Division's administrative action exceptions are included (reference existing OCD Saltwater Disposal Order No. R 3221, as amended).

3. In proposed Rule 102(c), we object to the procedure requiring duplicate notification prior to the staking of a well. We believe that requirements to promote diligent efforts to notify current property owners or tenants are valid; however, we feel this duplicative notification procedure would place an excessive time burden on our operations. Historically, on both State and Federal leases, our normal practice has been to notify the owner of the lease after staking with a copy of the Application to Drill form, while the tenant notification has been made prior to the time the well is staked and before the Application to Drill form is filed. In addition, when the lease is neither owned by the State nor the Federal Government, our practice has been to notify both owner and tenant prior to staking the well. We believe our procedure works successfully, and recommend it be considered in lieu of the proposed rule change.

We trust these comments, along with those from other concerned parties, will assist you in reviewing this situation.

Sincerely,

PHILLIPS OIL COMPANY

*R. H. Jukes*

R. H. Jukes  
Vice President  
Eastern Division

RHJ/lc





**Amoco Production Company**

Denver Region  
1670 Broadway  
P.O. Box 800  
Denver, Colorado 80201  
303-830-4040

J. D. Cutter  
Proration and Unitization Manager

June 14, 1985

**RECEIVED**

**JUN 17 1985**

**OIL CONSERVATION DIVISION**

R. L. Stamets, Director  
Oil Conservation Division  
State Land Office Building  
Santa Fe, New Mexico 87501

File: JDC-286-986.512

Proposed Rule Changes

We offer the following comments regarding the changes proposed in your Memorandum No. 1-85;

Rule 102 (C)

It is common practice for Amoco and other prudent operators to make every reasonable effort to notify the landowner and/or tenant before staking. However, since tenant and leasee identification is not a matter of public record, it appears to be an undue hardship to require notification before staking.

Rule 1207 - Alternative No. 1

Acceptable if section seven (7) is removed. Since the determination of "adversely affected" is vague and often indeterminate before an order is issued, the legality of any order would be questionable.

Rule 1207 - Alternative No.2

Entirely unacceptable due the vague and often indeterminate definition of "adversely affected" and/or "immediately affected."

CJB/sma

cc: R. J. Criswell - Amoco Building  
W. J. Holcomb - Farmington District

LAW OFFICES

LOSEE & CARSON, P. A.

300 AMERICAN HOME BUILDING

P. O. DRAWER 239

ARTESIA, NEW MEXICO 88211-0239

A. J. LOSEE

JOEL M. CARSON

ELIZABETH LOSEE

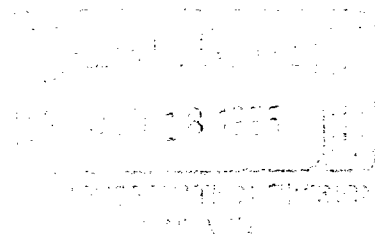
JAMES E. HAAS\*

AREA CODE 505

746-3508

14 June 1985

\*LICENSED IN TEXAS ONLY



Oil Conservation Division  
P. O. Box 2088  
Santa Fe, New Mexico 87501

Attention: Mr. R. L. Stamets, Director

Re: Proposed Rule Changes

Gentlemen:

My comments are only applicable to the proposed notice changes in the rules on procedure. With respect to Rule 1207, I suggest Alternative No. 1 with the modifications hereinafter mentioned. Alternative No. 2 is broader than required by Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306 (1950). Also, by reason of the door will be open to judicial attack on the validity of Commission orders.

I offer these general comments with respect to Alternative No. 1 of Rule 1207. Notice by mailing should be the same in all cases -- probably by certified mail, return receipt requested, with the requirement that at or prior to the hearing, an affidavit of such mailing be filed with the Division. The notice should only be required where the applicant knows the identity and address of the party to be notified or with reasonable diligence can determine the name and address of such party. Where the applicant is unable to locate the party, this should be recited in the affidavit filed with the Division.

Does "offset" include "diagonal" or is it limited to "direct" offsets? A definition of offset should be included in the notice requirement. Also, I always wondered whether the word "operator" in the Commission Rules is limited to someone who has been designated an operator under a federal lease, or who is a party to an operating agreement and has been designated as operator therein, or whose name merely appears on the Midland Map Company map?

Oil Conservation Division

14 June 1985

-2-

I do not believe that the applications described in 1207.5 or 6 should require anything more than publication. 1207.7 is too broad and would subject Commission orders to judicial attack.

Very truly yours,

LOSEE & CARSON, P.A.

A handwritten signature in black ink, appearing to read "A. J. Losee". The signature is stylized with a large, looping initial "A" and a cursive "Losee".

A. J. Losee

AJL:jcb

cc: Mr. Randy Patterson



# United States Department of the Interior

IN REPLY REFER TO:

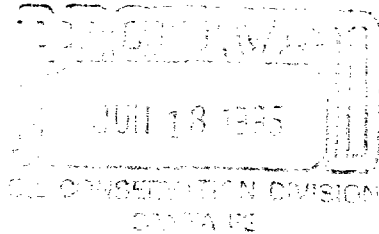
3100 (015)

## BUREAU OF LAND MANAGEMENT ALBUQUERQUE DISTRICT OFFICE

505 Marquette, N.W.

P.O. Box 6770

Albuquerque, New Mexico 87197-6770



JUN 14 1985

State of New Mexico  
Energy and Minerals Department  
Oil Conservation Division  
P.O. Box 2088  
Santa Fe, NM 87501

Gentlemen:

By your memorandum of May 9, 1985, comments regarding proposed rule changes (No. 1-85) were requested. As the "land owner" in those cases where the State or private parties own the oil/gas estate, we support the 102(c) proposed rule regarding notification of the "land owner" prior to the staking of a location. We recommend that the rule be expanded to encourage the operator to contact the "land owner" at the time of staking to discuss Federal clearances and to attempt to arrive at an agreement concerning the location of the well and the access route. By so doing, the APD could be more complete and mutually acceptable to the lessee and "land owner" which would result in more timely processing of the ADP.

Sincerely,

District Manager

ACTING

## NOTEGRAM-TELEGRAM

IF TELEGRAM

PRIORITY			COMMUNICATIONS CODE
3	2	1	

Date \_\_\_\_\_

To \_\_\_\_\_ Group or Staff \_\_\_\_\_ Address \_\_\_\_\_

From \_\_\_\_\_ Group or Staff \_\_\_\_\_ Address \_\_\_\_\_

*Please Send Federal Express*

*OIL CONSERVATION DIVISION*

*STATE LAND OFFICE BUILDING*

*ROOM 206*

*310 OLD SANTA FE TRAIL*

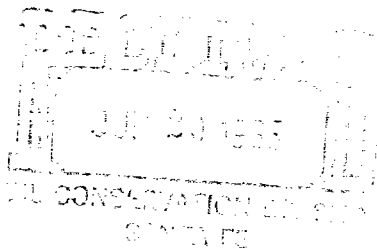
*SANTA FE, NEW MEXICO*

*87501*

*Dennis Ryan*

*X-3616*





**Shell Western E&P Inc.**

A Subsidiary of Shell Oil Company



P.O. Box 576

Houston, TX 77001

June 14, 1985

State of New Mexico  
Energy and Minerals Department  
Oil Conservation Division  
ATTN: Mr. R. L. Stamets, Director  
P.O. Box 2088  
Santa Fe, New Mexico 87501

Gentlemen:

Re: Proposed Rule Amendments

Shell Western E&P Inc. appreciates this opportunity to comment on the proposed amendments to the General Rules of statewide application of the Oil Conservation Division transmitted under cover of Division memorandum dated May 9, 1985.

Our comments concern the proposed amendment to Rule 8(b). We recommend deletion of the proposed phrase "or other damage to neighboring properties." Additionally, we note that the word "oil" following the phrase "plugging and abandonment of" in the current rule appears to have been omitted inadvertently in the proposed amendment. If revised to take into account our comments, the proposed amendment to Rule 8(b) would provide as follows:

All operators, contractors, drillers, carriers, gas distributors, service companies, pipe pulling and salvaging contractors, or other persons shall at all times conduct their operations in the drilling, equipping, operating, producing, plugging and abandonment of oil ~~[and gas wells]~~, gas, injection, disposal, and storage wells in a manner that will prevent waste of oil and gas, the contamination of fresh waters, and shall not wastefully utilize oil or gas, or allow either to leak or escape from a natural reservoir, or from wells, tanks, containers, pipe or other storage, conduit or operating equipment.

The proposed amendment would require operators to conduct operations "in a manner that will prevent . . . damage to neighboring properties." Shell Western strives to conduct its operations in such a manner. However, we believe that adoption of the proposed amendment would be inappropriate and have unintended consequences.



CITIES SERVICE OIL AND GAS CORPORATION  
P.O. BOX 300 TULSA, OKLAHOMA 74102

BRENTON B. MOORE  
Senior Attorney

June 14, 1985

LEGAL DIVISION

VIA AIRBORNE

RECEIVED

JUN 17 1985

OIL CONSERVATION DIVISION

The State of New Mexico  
Energy and Minerals Department  
Oil Conservation Division  
P.O. Box 2088  
State Land Office Building  
Santa Fe, New Mexico 87501

ATTN: R. L. Stamets, Director

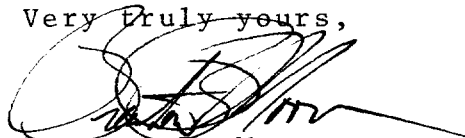
Re: Proposed Rule Changes

Gentlemen:

Submitted herein are an original and three copies of the comments of Cities Service Oil and Gas Corporation with respect to the proposed rules considered under your memorandum No. 1-85 issued on May 9, 1985.

We respectfully request that you notify this office of the hearing on these proposals as soon as a date has been set.

Very truly yours,



Brenton B. Moore

BBM/tmm

Enclosures



## Additional Definitions

Cities Service recommends that the proposed definitions for Produced Water be amended to read:

PRODUCED WATER shall mean those waters produced in conjunction with the production of crude oil and/or natural gas, including carbon dioxide and commonly collected at field storage or disposal facilities including: lease tanks, commingled tank batteries, burn pits, LACT units, and community or lease salt water disposal systems and which may be collected at gas processing plants, pipeline drips and other processing or transportation facilities.

### Rule 102. Notice of Intention to Drill

Cities Service recommends that the proposal for subparagraph (c) be completely rewritten as follows:

~~(e) Prior to staking a well, the operator shall give notice to the land owner and, if different, notice to the tenant or lease.~~

(c) Prior to the commencement of operations,  
the operator shall give notice of intention to  
drill to the surface owner, or owners.

Rule 1207. Additional Notice Requirements

(New Rule Alternative No. 1)

Cities Service recommends that the proposal submitted for paragraph 2, 3 and 7 of this Rule be amended to read:

2. In cases of applications for hearing for approval of unorthodox well locations: Actual notice shall be given to ~~any affect~~ the operator in those adjoining of a well on each adjoining or cornering tract of land or spacing/ proration unit,s of the same size that is adversely affected by the proposed unorthodox ~~location~~ toward which the well location is proposed to be moved, or to any potash operator in an adjoining proration or spacing unit in the R-111-A area, provided the subject well be closer to that potash operator than the closest standard location allows. Such notice shall be given by certified mail (return receipt requested).

3. In the case of applications for the approval of any non-standard proration unit: Actual notice shall be given to ~~all operators owning a leasehold interest~~ each lessee in the quarter-quarter section (for 40-acre pools or formations), the quarter section (for 160-acre pools or formations), the half section (for 320-acre pools or formations), or in the section (for 640-acre pools or formations) in which the non-standard unit is located and to each operator ~~on any proration unit; if there be such; or tract which adjoins or corners such quarter-quarter; quarter; half; or whole section of each adjoining or cornering tract of land or spacing/~~ proration unit.

7. In the case of any other application which ~~may diminish or adversely affect royalty interests will, if granted, alter any owner's or any royalty interest owner's percentage interest in an existing well:~~ Actual notice shall be given to the owners and applicant's royalty interest owners in such existing well. ~~immediately affected.~~ Such notice shall be provided by certified mail (return receipt requested). Any notice required by this rule

shall be mailed at least 10 days prior to the date of hearing on the application.

Rule 1207. Additional Notice Requirements  
(New Rule Alternative No. 2)

Cities Service recommends that the proposal submitted for this Rule be deleted in its entirety.

Jason Kellahin  
W. Thomas Kellahin  
Karen Aubrey

KELLAHIN and KELLAHIN  
*Attorneys at Law*  
El Patio - 117 North Guadalupe  
Post Office Box 2265  
Santa Fe, New Mexico 87504-2265

Telephone 982-4285  
Area Code 505

June 14, 1985

**HAND DELIVERED**

OIL CONSERVATION DIVISION

JUN 14 1985

RECEIVED

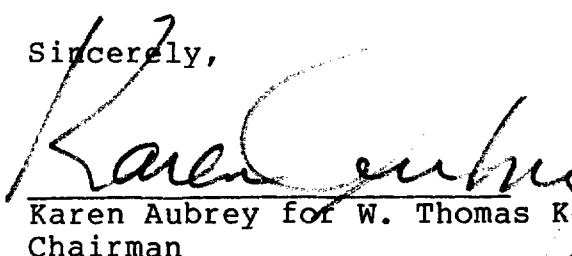
Mr. Richard L. Stamets  
Oil Conservation Division  
Post Office Box 2088  
Santa Fe, New Mexico 87501

Re: Proposed Rule Changes

Dear Mr. Stamets:

I enclose copies of letters which we have received from Texaco, ARCO, Robert E. Boling and Bass Enterprises Production Company containing comments on the proposed rule changes. I would appreciate it if you would consider these comments as part of the record in connection with the adoption of any rule changes as proposed.

Sincerely,

  
Karen Aubrey for W. Thomas Kellahin  
Chairman  
NMOGA Regulatory Practice Committee

KA:mh

Enclosures

cc: W. Thomas Kellahin, Esq.  
Mr. Pete Hanagan

# Memo

From  
DAVID G. BOYER  
Hydrogeologist

To Dick-

I Agree with cities service's  
proposal to add  $CO_2$  to the  
definition of produced water.  
I disagree with their proposal  
to protect ground water  
of 5000 mg/L TDS or less,  
and we can't do it anyway.

Dave

Regarding Case # 8643



CITIES SERVICE OIL AND GAS CORPORATION  
P.O. BOX 300 TULSA, OKLAHOMA 74102

BRENTON B. MOORE  
Senior Attorney

June 14, 1985

LEGAL DIVISION

VIA AIRBORNE

*Case file*

The State of New Mexico  
Energy and Minerals Department  
Oil Conservation Division  
P.O. Box 2088  
State Land Office Building  
Santa Fe, New Mexico 87501

ATTN: R. L. Stamets, Director

Re: Proposed Rule Changes

Gentlemen:

Submitted herein are an original and three copies of the comments of Cities Service Oil and Gas Corporation with respect to the proposed rules considered under your memorandum No. 1-85 issued on May 9, 1985.

We respectfully request that you notify this office of the hearing on these proposals as soon as a date has been set.

Very truly yours,



Brenton B. Moore

BBM/tmm

Enclosures

*Also, Cities Service wants 5000 mg/L TDS protected  
in lieu of 10,000 mg/L in Fresh water Definition.*

## Additional Definitions

Cities Service recommends that the proposed definitions for Produced Water be amended to read:

PRODUCED WATER shall mean those waters produced in conjunction with the production of crude oil and/or natural gas, including carbon dioxide and commonly collected at field storage or disposal facilities including: lease tanks, commingled tank batteries, burn pits, LACT units, and community or lease salt water disposal systems and which may be collected at gas processing plants, pipeline drips and other processing or transportation facilities.

### Rule 102. Notice of Intention to Drill

Cities Service recommends that the proposal for subparagraph (c) be completely rewritten as follows:

(e) Prior to staking a well, the operator shall give notice to the land owner and, if different, notice to the tenant or lease.



Jason Kellahin  
W. Thomas Kellahin  
Karen Aubrey

KELLAHIN and KELLAHIN  
*Attorneys at Law*  
El Patio - 117 North Guadalupe  
Post Office Box 2265  
Santa Fe, New Mexico 87504-2265

Telephone 982-4285  
Area Code 505

June 17, 1985

**HAND DELIVERED**

RECEIVED

Mr. Richard L. Stamets  
Oil Conservation Division  
Post Office Box 2088  
Santa Fe, New Mexico 87501

JUN 17 1985

OIL CONSERVATION DIVISION

Re: Proposed Rule Changes

Dear Mr. Stamets:

The following constitute our firm's comments on the proposed rule changes dated May 9, 1985.

**Additional Definitions:**

We have no particular comment on the additional definitions except to state that they are, in our opinion, unnecessary in light of the other statutory and regulatory schemes protecting fresh water and regulating produced water.

**Rule 1: Scope of Rules and Regulations**

Protection of produced water is clearly within the statutory scope of the Commission's authority. We do not have any particular objection to the inclusion of protection of fresh waters in the rule setting out the scope of the Rules and Regulations of the Oil Conservation Division.

**Rule 2: Enforcement of Laws, Rules and Regulations Dealing with Conservation of Oil and Gas**

See comment to Rule No. 1 above.

Mr. Richard L. Stamets

Page - 2 -

June 17, 1985

**Rule No. 3:** Waste Prohibited/General Operating

The phrase "other damage to neighboring properties" appears to us to be unnecessarily vague, subject to subjective interpretation, and to open the door to possibly unnecessary and unwelcome litigation between adjoining owners. Phrase "damage to neighboring properties" could conceivably create a situation where the Commission is required by its regulations to enter into disputes between surface owners or surface owners and minerals owners in connection with surface damage. If it is the intention of the Commission to exclude surface disputes, we believe that the rule should reflect that intent.

**Rule No. 8:** Lined Pits

Proposed Rule 8 seems to go beyond the scope of Order R-7940 entered on June 12, 1985. Under Order R-7940 unlined pits will not be prohibited until January 1, 1987. Further, existing lined pits or below grade tanks do not have to come into compliance until January 1, 1986.

Pit registration will not be required until after January 1, 1986. We believe that the section permitting disposal into lined pits "only upon prior approval of the Division" should be rewritten to more closely track the provisions of Order R-7940.

**Rule No. 102 (c):** Notice of Intention to Drill

We do not see how notifying the surface owner, tenant, or lessee of intent to stake a well, assists the Oil Conservation Commission in carrying out its statutory duties to prevent waste, promote conservation and protect correlative rights. As you are aware, staked locations are changed frequently and it seems to us to put an unnecessary burden on the operator to notify, and re-notify a surface owner, tenant, or lessee of any location which is staked. We suggest that Paragraph (c) not be added to Rule 102.

Mr. Richard L. Stamets  
Page - 3 -  
June 17, 1985

**Rule No. 108:** Defective Casing or Cementing

We would suggest the inclusion of some time limit defining immediate notice.

**Rule No. 113:** Shooting and Chemical Treatment of Wells

We believe that the scope of this rule should be limited to injury to the casing or casing seat from shooting, fracturing, or treating the well. In the event that the producing formation is damaged, there does not appear to us to be any "appropriate method" for rectifying the damage.

**Rule No. 116:** Notification of Fire, Breaks, Leaks, Spills and Blowouts

We believe that the definition of loss of well control is overbroad and is already covered by current New Mexico Oil Commission Rules and Regulations.

**Rule No. 710:** Disposition of Produced Water

The changes in Rule 710 obviously need to be coordinated with the terms of the Commission Order 7940. In addition, the Commission has not, to our knowledge, defined "any manner which will constitute a hazard to fresh water supplies". As you are aware there was no conclusive evidence of damage to fresh water supplies presented in the course of the hearings in Case 8224 which resulted in Order 7940.

**Rule No. 1204 and 1205:** Method of Giving Legal Notice for Hearing - Contents of Notice of Hearing

Paragraph No. 1 deletes the personal service requirement for notices of hearing. Our office believes that this is appropriate in the event that the Commission adopts additional notice requirements which ensure that working interest owners, offsetting operators, and others, will in fact receive adequate, timely notice which satisfies constitutional due process requirements.

Mr. Richard L. Stamets  
Page - 4 -  
June 17, 1985

**Rule No. 1206:** Preparation of Notices

We have no comment.

**Rule No. 1207:** Additional Notice Requirements

As you are aware, our firm has been concerned for some period of time about the notice procedures as they presently exist in the Commission Rules. On the whole, we believe that Alternative No. 1 is the better rule, because it sets forth to whom the notice must be provided and does not leave that decision to an interpretation of "party expected to be adversely affected".

We have the following additional comments.

1. We believe that actual notice should be defined in the rules to include the giving of notice by certified mail. We believe that the rules should also contemplate the situation where an operator cannot find the interest owner and provide that the operator is permitted to give actual notice by certified mail at the last known address. Actual notice should also be defined to include the situations where a party can be shown to know about the hearing even though a return receipt may not be available.

2. With regard to unorthodox well locations, we believe that the notice should be given to offset operators, potash operators in adjoining proration units but should not require a decision by the applicant as to whether or not an offset operator is "adversely affected."

3. The rule for non-standard proration units appears to be adequate. We would suggest, however, that the term actual notice should be defined.

4. The rule for notice for amendment or adoption of special pool rules appears to be adequate.

Mr. Richard L. Stamets  
Page - 5 -  
June 17, 1985

5. The rule for notice to amend Order R-111(A) appears to be adequate.

6. It is our opinion that notice for approval of downhole commingling should be limited to actual notice to all offset operators producing from any of the commingled formations.

We would assume that you would wish to notify royalty owners whose interests may be adversely affected even if they were not the applicant's royalty interest owners. This rule should cover the situation where a compulsory pooling application is filed which seeks to pool royalty interests not subject to a pooling or unitization clause, but where those royalty owners are not royalty owners of the party filing the application.

In the case of all of the rules above, we believe that notice should be mailed at least twenty (20) days prior to the hearing date of the application. In our practice it appears that receiving notice of a hearing in which one may have an interest, and having to prepare a case and exhibits within ten (10) days is simply not enough time.

In addition, we believe that some waiver provisions should be included in each of these rules so that the time limit could be shortened in the event that an operator is able to obtain waivers from all operators affected.

We believe that evidence of failure to provide notice should, in addition to providing for re-opening of the case, provide for a party to appear at the hearing and request that the case be continued. We believe that this would encourage compliance with the notice rules.

Finally, we have an additional suggestion on a rule change which is not presently included in the list of published changes. For sometime now, there has been some serious disagreement between different parties over whether or not an application for a De Novo

KELLAHIN and KELLAHIN

Mr. Richard L. Stamets

Page - 6 -

June 17, 1985

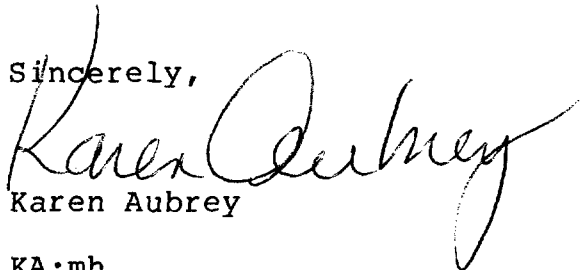
hearing operates as a stay of an Examiner order. As you are aware, this is a matter which is not directly addressed in either the statutes or the rules as they are presently written.

We believe that this would be an appropriate time to resolve the question as to whether or not an examiner's order is automatically stayed upon the filing of an application for De Novo hearing or not.

Finally, we have another comment on the Rules as they exist. Presently, as you are aware, a party often does not know that his case will be opposed until he appears at the Oil Conservation Commission for a hearing. This results in "trial by ambush" in many instances, use of the examiner proceedings as only discovery hearings, and, occasionally inadequate preparation. We are aware that other jurisdictions require an opposing party to file, with the Commission, and send to the applicant, some kind of notice indicating that a case will be opposed. If the Commission were to adopt this procedure it might permit a more realistic estimate of the docket length, reduce the number of De Novo hearings, and result in more effectively prepared cases on all sides.

We appreciate the opportunity to submit the above comments to you. If you have any questions of us, please don't hesitate to call.

Sincerely,

  
Karen Aubrey

KA:mh

cc: Mr. Pete Hanagan

Jason Kellahin  
W. Thomas Kellahin  
Karen Aubrey

KELLAHIN and KELLAHIN  
*Attorneys at Law*  
El Patio - 117 North Guadalupe  
Post Office Box 2265  
Santa Fe, New Mexico 87504-2265

Telephone 982-4285  
Area Code 505

June 18, 1985

**HAND DELIVERED**

RECEIVED  
JUN 18 1985  
OIL CONSERVATION DIVISION

Mr. Richard L. Stamets  
Oil Conservation Division  
Post Office Box 2088  
Santa Fe, New Mexico 87501

Re: Proposed Rule Changes

Dear Mr. Stamets:

The following constitute the comments of the NMOGA on the proposed rule changes dated May 9, 1985.

**Additional Definitions:**

We have no particular comment on the additional definitions except to state that they are, in our opinion, unnecessary in light of the other statutory and regulatory schemes protecting fresh water and regulating produced water.

**Rule 1: Scope of Rules and Regulations**

Protection of produced water is clearly within the statutory scope of the Commission's authority. We do not have any particular objection to the inclusion of protection of fresh waters in the rule setting out the scope of the Rules and Regulations of the Oil Conservation Division.

**Rule 2: Enforcement of Laws, Rules and Regulations Dealing with Conservation of Oil and Gas**

See comment to Rule No. 1 above.

Mr. Richard L. Stamets  
Page - 2 -  
June 18, 1985

**Rule No. 3:** Waste Prohibited/General Operating

The phrase "other damage to neighboring properties" appears to us to be unnecessarily vague, subject to subjective interpretation, and to open the door to possibly unnecessary and unwelcome litigation between adjoining owners. Phrase "damage to neighboring properties" could conceivably create a situation where the Commission is required by its regulations to enter into disputes between surface owners or surface owners and minerals owners in connection with surface damage. If it is the intention of the Commission to exclude surface disputes, we believe that the rule should reflect that intent.

**Rule No. 8:** Lined Pits

Proposed Rule 8 seems to go beyond the scope of Order R-7940 entered on June 12, 1985. Under Order R-7940 unlined pits will not be prohibited until January 1, 1987. Further, existing lined pits or below grade tanks do not have to come into compliance until January 1, 1986.

Pit registration will not be required until after January 1, 1986. We believe that the section permitting disposal into lined pits "only upon prior approval of the Division" should be rewritten to more closely track the provisions of Order R-7940.

**Rule No. 102 (c):** Notice of Intention to Drill

We do not see how notifying the surface owner, tenant, or lessee of intent to stake a well, assists the Oil Conservation Commission in carrying out its statutory duties to prevent waste, promote conservation and protect correlative rights. As you are aware, staked locations are changed frequently and it seems to us to put an unnecessary burden on the operator to notify, and re-notify a surface owner, tenant, or lessee of any location which is staked. We suggest that Paragraph (c) not be added to Rule 102.



Mr. Richard L. Stamets  
Page - 3 -  
June 18, 1985

**Rule No. 108:** Defective Casing or Cementing

We would suggest the inclusion of some time limit defining immediate notice.

**Rule No. 113:** Shooting and Chemical Treatment of Wells

We believe that the scope of this rule should be limited to injury to the casing or casing seat from shooting, fracturing, or treating the well. In the event that the producing formation is damaged, there does not appear to us to be any "appropriate method" for rectifying the damage.

**Rule No. 116:** Notification of Fire, Breaks, Leaks, Spills and Blowouts

We believe that the definition of loss of well control is overbroad and is already covered by current New Mexico Oil Commission Rules and Regulations.

**Rule No. 710:** Disposition of Produced Water

The changes in Rule 710 obviously need to be coordinated with the terms of the Commission Order 7940. In addition, the Commission has not, to our knowledge, defined "any manner which will constitute a hazard to fresh water supplies". As you are aware there was no conclusive evidence of damage to fresh water supplies presented in the course of the hearings in Case 8224 which resulted in Order 7940.

**Rule No. 1204 and 1205:** Method of Giving Legal Notice for Hearing - Contents of Notice of Hearing

Paragraph No. 1 deletes the personal service requirement for notices of hearing. Our office believes that this is appropriate in the event that the Commission adopts additional notice requirements which ensure that working interest owners, offsetting operators, and others, will in fact receive adequate, timely notice which satisfies constitutional due

Mr. Richard L. Stamets  
Page - 4 -  
June 18, 1985

process requirements.

**Rule No. 1206:** Preparation of Notices

We have no comment.

**Rule No. 1207:** Additional Notice Requirements

As you are aware, our firm has been concerned for some period of time about the notice procedures as they presently exist in the Commission Rules. On the whole, we believe that Alternative No. 1 is the better rule, because it sets forth to whom the notice must be provided and does not leave that decision to an interpretation of "party expected to be adversely affected".

We have the following additional comments.

1. We believe that actual notice should be defined in the rules to include the giving of notice by certified mail. We believe that the rules should also contemplate the situation where an operator cannot find the interest owner and provide that the operator is permitted to give actual notice by certified mail at the last known address. Actual notice should also be defined to include the situations where a party can be shown to know about the hearing even though a return receipt may not be available.

2. With regard to unorthodox well locations, we believe that the notice should be given to offset operators, potash operators in adjoining proration units but should not require a decision by the applicant as to whether or not an offset operator is "adversely affected."

3. The rule for non-standard proration units appears to be adequate. We would suggest, however, that the term actual notice should be defined.

4. The rule for notice for amendment or adoption of special pool rules appears to be

Mr. Richard L. Stamets  
Page - 5 -  
June 18, 1985

adequate.

5. The rule for notice to amend Order R-111(A) appears to be adequate.

6. It is our opinion that notice for approval of downhole commingling should be limited to actual notice to all offset operators producing from any of the commingled formations.

We would assume that you would wish to notify royalty owners whose interests may be adversely affected even if they were not the applicant's royalty interest owners. This rule should cover the situation where a compulsory pooling application is filed which seeks to pool royalty interests not subject to a pooling or unitization clause, but where those royalty owners are not royalty owners of the party filing the application.

In the case of all of the rules above, we believe that notice should be mailed at least twenty (20) days prior to the hearing date of the application. In our practice it appears that receiving notice of a hearing in which one may have an interest, and having to prepare a case and exhibits within ten (10) days is simply not enough time.

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Mr. Richard L. Stamets

Page - 6 -

June 18, 1985

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We appreciate the opportunity to submit the above comments to you. If you have any questions of us, please don't hesitate to call.

Sincerely,

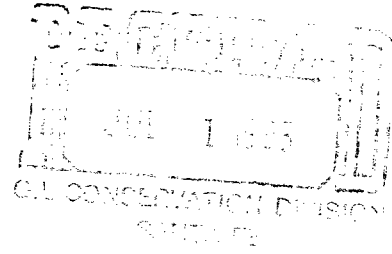
A handwritten signature in dark ink, appearing to read "Karen Aubrey", with a long, sweeping horizontal stroke extending to the right.

Karen Aubrey  
for W. T. Kellahin, Chairman  
Regulatory Practices Committee  
KA/WTk:mh

**ROBERT E. BOLING**  
EXPLORATION CONSULTANT  
305 SOUTH FIFTH STREET

ARTESIA, NEW MEXICO - 88210

June 28, 1985



Mr. R. L. Stamets, Director  
New Mexico Oil Conservation Division  
P. O. Box 2088  
Santa Fe, New Mexico 87501

Re: Proposal to amend Rule 102  
(case 8645)

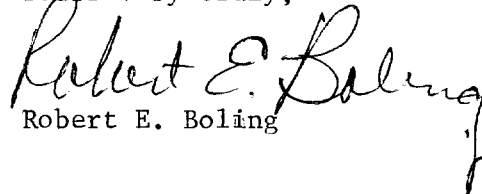
Dear Dick:

Since you are leaving the portion of the captioned concerning notice to landowner and/or tenants prior to the staking of well locations, I presume you have some sort of reason for wanting this provision in the regulations.

I respectfully request answers to the following questions:

1. Who wants the information?
2. What are they going to do with it?
3. Is your department short of paper to handle?
4. What does notification to surface owners or tenants have to do with protecting correlative rights, preventing waste, etc?

Yours very truly,

  
Robert E. Boling

REB:scp

Jason Kellahin  
W. Thomas Kellahin  
Karen Aubrey

KELLAHIN and KELLAHIN  
*Attorneys at Law*  
El Patio - 117 North Guadalupe  
Post Office Box 2265  
Santa Fe, New Mexico 87504-2265

Telephone 982-4285  
Area Code 505

July 16, 1985

RECEIVED

HAND DELIVERED

JUL 16 1985

OIL CONSERVATION DIVISION

Mr. Richard L. Stamets  
Oil Conservation Division  
Post Office Box 2088  
Santa Fe, New Mexico 87501

Re: Proposed Rule Changes

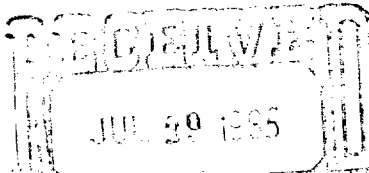
Dear Mr. Stamets:

On July 10, 1985 you offered our firm the opportunity to attempt to redraft the proposed new rule regarding unorthodox well locations. We submit the following language for your consideration:

Rule 1207(2)

In cases of applications for hearing for approval of unorthodox well locations: Notice by certified mail shall be given to the operator of a well on each adjoining or cornering tract or spacing/proration unit toward which the proposed location is to be moved, or to any potash operator in an adjoining proration/spacing unit in the R-111-A area if the proposed location will be closer to that potash operator than the closest standard location allows.

MERIDIAN OIL INC.  
5613 DTC Parkway  
Englewood, Colorado 80111  
303/694-4100



July 24, 1985

*Dear  
what do you  
think*

OIL CONSERVATION DIVISION  
SANTA FE

Mr. R. L. Stamets  
New Mexico Oil Conservation Commission  
State Land Office Building  
P. O. Box 2088  
Santa Fe, New Mexico 87501

RE: Proposed Rule Changes  
OCD Memo 1-85, May 9, 1985

Dear Mr. Stamets:

Meridian Oil Inc. operates numerous wells in the San Juan Basin of New Mexico and has been involved extensively with produced water issues in northwest New Mexico. We submit the following comments and recommendations for your consideration relating to the NMOCC proposed rule changes.

ADDITIONAL DEFINITIONS:

The proposed definition of freshwater appears to make the Oil Conservation Commission responsible for determining what and where these fresh waters are. We are of the opinion that such fresh water should be defined and or categorized by the State Engineer.

We would recommend that a brief statement be added to your definition which makes clear that the State Engineer has categorized such waters as fresh water which could be used beneficially at some foreseeable time in the future.

Also in your proposed rule amendment, produced water is defined as those waters produced in conjunction with the production of crude oil...

The Enumeration of Powers (70-2-12 15) states that produced water is that water which is either produced or used. This would make commingled make-up water, used for water flooding, for example, a part of the definition as it should be.

RULE 102 (a)

We do not see the difference, for injection, between Form C-101 and Form C-108. We recommend that "injection purposes" be deleted from this section as the current Rule 701 B.1. requires that extensive data be submitted with Form C-108. Approval of C-108 must be granted prior to commencing drilling an injection well along with public notice in a newspaper and that notification be given to adjacent property owners, etc.





Mr. Stamets  
July 24, 1985  
Page 2

RULE 113

In this proposed change, injury to the formation or injection interval is to be rectified and notice given to the Division. In our opinion, during fracturing, acidizing, etc., "damage" to either the injection interval or producing formation is the intent, for purposes of production and/or salt water disposal/enhanced recovery. The Division's intention is to protect freshwater, not to impede production and saltwater disposal.

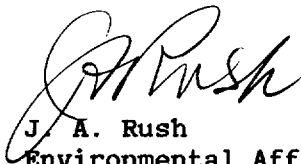
In allowing prudent injection practices, the Division requires that fluids be confined to the approved injection interval, or confining strata.

We therefore recommend that the wording of Rule 113 be changed to read:

"If injury results to the confining strata,  
casing or casing seat from shooting,  
fracturing....."

Thank you for the opportunity to comment on these proposals.

Yours very truly,

A handwritten signature in cursive script, appearing to read "J. A. Rush".

J. A. Rush  
Environmental Affairs Coordinator

JAR/bs