



Richard L. Alvidrez
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April 24, 2000

(432-057)

HAND-DELIVERED

New Mexico Oil Conservation Commission
2040 South Pacheco
Santa Fe NM 87505

Attention: Clerk of the Commission

Re: Oil Conservation Commission No. 12,033; Order No. R-11134-A

Ladies and Gentlemen:

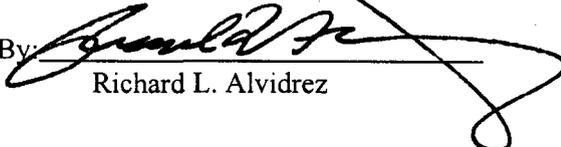
Enclosed please find five copies of a Notice of Appeal filed on behalf of Public Service Company of New Mexico ("PNM") from the decision of the Oil Conservation Commission in the above-referenced proceeding.

Please prepare the record on appeal in this proceeding for filing with the First Judicial District Court. The record should consist of a title page containing the names and mailing addresses of each party, a copy of all papers and pleadings filed in the above proceeding, a copy of the final order subject to review, all exhibits in this proceeding and the transcript of the proceedings. The transcript in this proceeding has previously been transcribed. PNM shall be responsible for the costs for the copy of the transcript in this matter.

Should you have any questions, please advise.

Very truly yours,

KELEHER & McLEOD, P.A.

By: 

Richard L. Alvidrez

RLA

Enclosures

cc: Marilyn Hebert, Esq.
Rand Carrol, Esq.
William F. Carr, Esq.

OIL CONSERVATION DIV.
00 APR 24 PM 12:32

W. A. Keleher (1886 -1972)
A.H. McLeod (1902 -1976)

Mailing Address
PO Drawer AA
Albuquerque NM 87103

Main Phone
505-346-4646

Street Address
Albuquerque Plaza
201 Third NW, 12th floor
Albuquerque NM 87102
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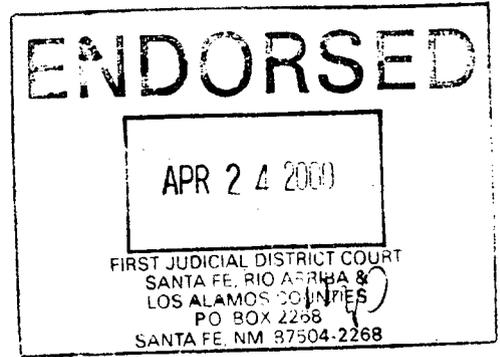
414 Silver SW, 12th floor
Albuquerque NM 87102
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000210

FIRST JUDICIAL DISTRICT
COUNTY OF SANTA FE
STATE OF NEW MEXICO



PUBLIC SERVICE COMPANY OF NEW
MEXICO,

Petitioner/Appellant

vs.

Cause No. D 010 CV 3 2000 073

NEW MEXICO OIL CONSERVATION
COMMISSION,

Respondent/Appellee

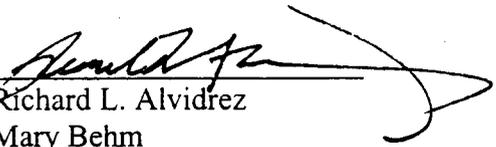
OIL CONSERVATION DIV
APR 24 PM 12:32

CERTIFICATE OF SATISFACTORY ARRANGEMENTS

COMES NOW Petitioner/Appellant, Public Service Company of New Mexico, by its counsel, Keleher & McLeod, P.A., and pursuant to Rule 1-074, hereby certifies that satisfactory arrangements have been made with the New Mexico Oil Conservation Commission for preparation and payment of the transcript and hearing record for the present appeal.

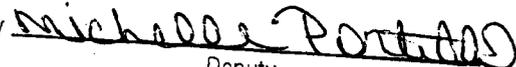
Respectfully Submitted,

KELEHER & McLEOD, P.A.

By 
Richard L. Alvidrez
Mary Behm
P.O. Drawer AA
Albuquerque, New Mexico 87103
(505) 346-4646

Attorneys for Petitioner/Appellant
Public Service Company of New Mexico

I hereby certify that the foregoing pleading is a true and correct copy of same which has been filed in my office on the 24 day of APR 20 00
Dated this 24 date of APR 20 00

By 
Deputy
JoAnne Vigil Quintana
Court Administrator/District Court Clerk

000211

CERTIFICATE OF SERVICE

THIS WILL CERTIFY, pursuant to Rules 1-074 and 1-005 that a true and correct copy of the foregoing Notice of Appeal was served by regular mail, postage paid, this 24th day of April 2000 to the following counsel of record in the administrative proceeding below:

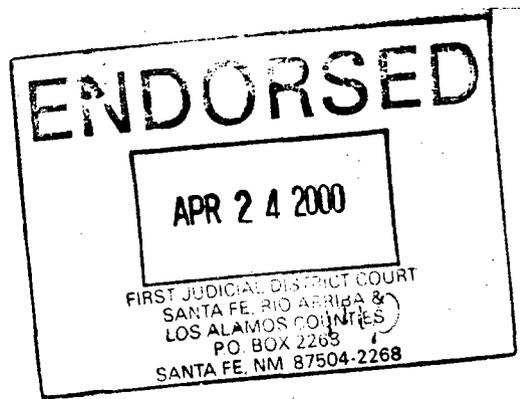
Ms. Marilyn S. Hebert
2040 S. Pacheco
Santa Fe, New Mexico 87505
Counsel for New Mexico Oil Conservation Commission

Mr. Rand L. Carroll
2040 S. Pacheco
Santa Fe, New Mexico 87505
Counsel for New Mexico Oil Conservation Division

Mr. William F. Carr
Campbell, Carr Berge & Sheridan, P.A.
P.O. Box 2208
Santa Fe, New Mexico 87504-2208
Counsel for Burlington Resources Oil and Gas Company


Richard L. Alvidrez

000212



FIRST JUDICIAL DISTRICT
COUNTY OF SANTA FE
STATE OF NEW MEXICO

AN ENCLAVE

PUBLIC SERVICE COMPANY OF NEW
MEXICO,

Petitioner/Appellant

vs.

Cause No. 02101 CV 20001073

NEW MEXICO OIL CONSERVATION
COMMISSION,

Respondent/Appellee

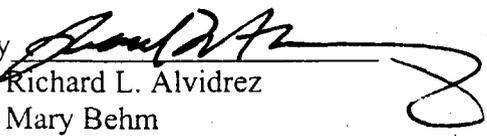
NOTICE OF APPEAL

COMES NOW Petitioner/Appellant, Public Service Company of New Mexico by its
counsel, Keleher & McLeod, P.A., and pursuant to Rule 1-074 of the New Mexico Rules of Civil
Procedure and NMSA §§ 70-2-25 and 39-3-1.1, hereby appeals the decision of the New Mexico
Oil Conservation Commission in Order No. R-11134-A issued in Case No. 12,033 on March 24,
2000. A true and correct copy of the Order No. R-11134-A is attached as Exhibit "A."

OIL CONSERVATION DIV
09 APR 24 PM 12:58

Respectfully Submitted,

KELEHER & McLEOD, P.A.

By 
Richard L. Alvidrez
Mary Behm

P.O. Drawer AA
Albuquerque, New Mexico 87103
(505) 346-4646

Attorneys for Petitioner/Appellant
Public Service Company of New Mexico

I hereby certify that the foregoing pleading is a true
and correct copy of same which has been filed in
my office on the 24 day of Apr 20 00
Dated this 24 date of Apr 20 00

By 
Deputy
JoAnne Vigil Quintana
Court Administrator/District Court Clerk

000210

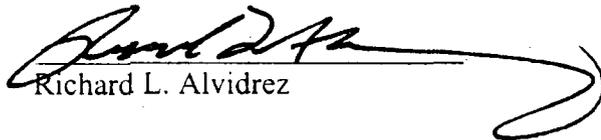
PROOF OF SERVICE

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Ms. Marilyn S. Hebert
2040 S. Pacheco
Santa Fe, New Mexico 87505
Counsel for New Mexico Oil Conservation Commission

Mr. Rand L. Carroll
2040 S. Pacheco
Santa Fe, New Mexico 87505
Counsel for New Mexico Oil Conservation Division

Mr. William F. Carr
Campbell, Carr Berge & Sheridan, P.A.
P.O. Box 2208
Santa Fe, New Mexico 87504-2208
Counsel for Burlington Resources Oil and Gas Company


Richard L. Alvidrez

000214

MAR 28 2000

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

IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
COMMISSION FOR THE PURPOSE
CONSIDER

De Novo

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*This is
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FINDS THAT:

- (1) Due public notice has been given and the Commission has jurisdiction of this case and its subject matter.
- (2) The applicant, Public Service Company of New Mexico ("PNM"), seeks an order from the Commission rescinding the March 13, 1998 Oil Conservation Division ("Division") directive ("Division Directive") to PNM requiring PNM to perform additional remediation for hydrocarbon contamination in the area of the Burlington Resources Oil & Gas Company ("Burlington") Hampton No. 4 M Well ("Hampton Well") located in Unit Letter N, Section 13, Township 30 North, Range 11 West, NMPM, San Juan County, New Mexico, and a determination by the Commission that PNM is not a responsible person pursuant to 19 NMAC 15.A.19 for purposes of further investigation and remediation of contamination at this location.
- (3) Burlington appeared at the hearing and presented evidence in opposition to the application of PNM. Burlington admits that it is a responsible person for contamination at the Hampton Well site but contends that PNM is also a responsible person for contamination at this site.
- (4) The Division's Environmental Bureau ("Bureau") appeared at the hearing and presented evidence in support of the Division Directive.
- (5) In 1984, Burlington's predecessors Meridian Oil Company and/or Southland Royalty Company drilled and completed the Hampton Well. Burlington operates well equipment located in the southern-most portion of the Hampton Well site.

000215

(6) Production from the Hampton Well has been sold pursuant to an agreement dated March 1, 1990, between Southland Royalty Company and Gas Company of New Mexico. PNM, successor to Gas Company of New Mexico, purchased natural gas produced from the Hampton Well pursuant to this agreement.

(7) PNM installed and operated dehydration equipment in the northern-most portion of the Hampton Well site until Williams Field Services purchased the equipment on June 30, 1995. The purpose of the dehydration equipment is to remove liquids from the gas stream produced from the Hampton Well. For more than 12 years PNM discharged the liquids, including liquid hydrocarbons, into an unlined disposal pit.

(8) During a site assessment of the Hampton Well site conducted on April 23, 1996, PNM discovered potential hydrocarbon contamination at PNM's pit. PNM began closure activities at PNM's pit in April 1996, pursuant to a Bureau-approved pit closure plan.

(9) On December 16, 1996, PNM performed a soil boring at PNM's former pit that encountered hydrocarbon groundwater contamination.

(10) On January 13, 1997, PNM notified the Bureau in writing of hydrocarbon groundwater contamination at PNM's former pit.

(11) On January 31, 1997, PNM installed two monitor wells upgradient from PNM's former pit. One of the wells, located adjacent to Burlington's equipment, encountered hydrocarbon groundwater contamination.

(12) On April 14, 1997, Burlington discovered a hydrocarbon seep along the northwestern edge of the Hampton Well site adjacent to PNM's former pit. Burlington notified both the Bureau and PNM about the seep.

(13) On April 17, 1997, Burlington conducted excavations around the northwest perimeter of the site and constructed a collection trench.

(14) On April 30, 1997, Burlington began excavation in the area of Burlington's former pit located in the southeastern portion of the Hampton Well site. Burlington drilled soil borings and monitor wells at the excavation that encountered hydrocarbon groundwater contamination.

(15) On August 1, 1997, the Bureau wrote to PNM and Burlington concerning the contamination at the Hampton Well site. Burlington was directed to submit a Soil and Groundwater Investigation Work Plan for the portion of the site upgradient of the PNM disposal pit, and PNM was directed to address the contamination downgradient of its pit.

(16) PNM installed a free-phase hydrocarbon recovery well system adjacent to PNM's former pit in November 1997, and initiated recovery of free-phase hydrocarbons from the groundwater in January 1998.

(17) On February 23, 1998, Mr. J. Burton Everett, the owner of the property immediately downgradient of the Hampton Well site, wrote the Division stating his concern about the migration of hydrocarbon contamination onto his property.

(18) On March 13, 1998, the Bureau wrote to PNM and directed PNM to remove, within 30 days, the remaining source areas with free-phase hydrocarbons in the vicinity of and immediately downgradient of PNM's former pit.

(19) In April 1998, PNM appealed the Division Directive and sought a stay of the directive pending a decision on its appeal. The Division denied PNM's request for stay on August 20, 1998.

(20) In April and May 1998, free product was discovered upgradient from the dehydration pit, and Burlington installed two additional monitor wells at the site.

(21) On September 1, 1998, the Bureau wrote PNM and Burlington and requested that they work together to remediate the Hampton Well site. The letter directed PNM and Burlington to conduct additional investigation and to determine the complete downgradient extent of hydrocarbon contamination at the Hampton Well site.

(22) Burlington set up meetings with PNM to discuss additional investigation and remediation at the Hampton Well site. No agreement was reached for a cooperative effort to address the contamination.

(23) On October 28, 1998, Burlington submitted a response to the Bureau's letter of September 1, 1998. Burlington stated that if PNM did not begin remediation of PNM's former pit by October 30, 1998, then Burlington would begin remediating the entire Hampton Well site, starting at PNM's former pit and working south towards Burlington's former pit.

(24) PNM continued recovery of free phase hydrocarbons until early November 1998, when Burlington's remediation activities resulted in the removal of PNM's free phase hydrocarbon recovery well system.

(25) PNM's appeal of the Division Directive was heard at a Division examiner hearing in November 1998. The Division entered Order No. R-11134, and PNM appealed to the Commission.

(26) At the time of the Commission *de novo* hearing, neither PNM nor Burlington had completed remediation activities at the Hampton Well site. Groundwater contamination remains at the Hampton Well site, and a plume of contamination extends approximately 1000 feet downgradient from the site.

(27) The evidence indicates that soil and groundwater contamination at the Hampton Well site is a result of hydrocarbon releases at the facilities of both PNM and Burlington, and not from off-site sources.

(28) The evidence also indicates that the groundwater gradient is from southeast to northwest.

(29) The evidence further indicates that PNM's facilities are located downgradient from Burlington's facilities and that groundwater contamination from Burlington's facilities has moved downgradient and commingled with groundwater contamination from PNM's facilities.

(30) The evidence failed to indicate that PNM or Burlington had removed all soil and ground water contamination that resulted from releases from their former pits.

(31) Burlington should be the responsible party for any contamination remaining south and upgradient of the PNM disposal pit and equipment.

(32) PNM should be the responsible party for any soil contamination below its pit.

(33) PNM and Burlington should share the responsibility of remediating any groundwater or soil contamination, other than any soil contamination below the PNM pit, remaining north and downgradient of the property for which Burlington is responsible pursuant to paragraph 31, above.

(34) Both PNM and Burlington should submit remediation plans to the Bureau, for approval, within 30 days of the date of this order. At a minimum, the remediation plans should contain plans to determine the lateral extent of contamination, to remove remaining sources of contamination, to control the downgradient migration of the plume of groundwater contamination, and to remediate the remaining contaminants.

(35) PNM should have the oversight and reporting responsibilities for ground water remediation in the area north and downgradient of the property for which Burlington is responsible pursuant to paragraph 31, above.

(36) Contamination at the Hampton Well site is a threat to public health and safety and the environment. Both PNM and Burlington should begin remedial activities within 10 days of Bureau approval of the remediation plans.

000218

(37) The application of PNM should be denied.

IT IS THEREFORE ORDERED THAT:

(1) The application of the Public Service Company of New Mexico ("PNM") for an order rescinding the Division directive to PNM dated March 13, 1998 requiring it to perform additional remediation for hydrocarbon contamination in the area of the Burlington Resources Oil & Gas Company Hampton No. 4-M Well located in Unit N, Section 13, Township 30 North, Range 11 West, NMPM, San Juan County, New Mexico, and a determination by the Division that PNM is not a responsible person for purposes of further investigation and remediation of contamination at this location is hereby denied.

(2) Burlington shall be the responsible party for any contamination remaining south and upgradient of the PNM disposal pit and equipment.

(3) PNM shall be the responsible party for any soil contamination remaining below its pit.

(4) PNM and Burlington shall share the responsibility of remediation for any groundwater or soil contamination, other than any soil contamination below the PNM pit, remaining north and downgradient of the property for which Burlington is responsible pursuant to ordering paragraph 2, above.

(5) Both PNM and Burlington shall submit remediation plans to the Bureau, for approval, within 30 days of the date of this order. At a minimum, the remediation plans must contain plans to determine the lateral extent of contamination, to remove remaining sources of contamination, to control the downgradient migration of the plume of groundwater contamination, and to remediate the remaining contaminants.

(6) Both PNM and Burlington shall begin remedial activities within 10 days of Bureau approval of the remediation plans.

(7) PNM shall have the oversight and reporting responsibilities for groundwater remediation in the area north and downgradient of the property for which Burlington is responsible pursuant to ordering paragraph 2, above.

(8) Jurisdiction is hereby retained for the entry of such further orders as the Division may deem necessary.

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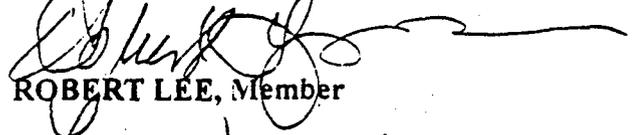
CASE NO. 12033
Order No. R-11134-A
Page 6

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.

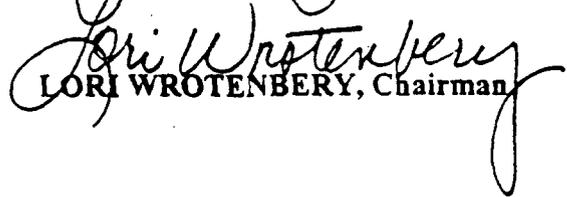
**STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION**



JAMI BAILEY, Member



ROBERT LEE, Member



LORI WROTENBERY, Chairman

S E A L

030200

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

**IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
COMMISSION FOR THE PURPOSE OF
CONSIDERING:**

**De Novo
Case No. 12033
Order No. R-11134-A**

**APPLICATION OF PUBLIC SERVICE COMPANY OF NEW MEXICO FOR
REVIEW OF OIL CONSERVATION DIVISION DIRECTIVE DATED MARCH 13,
1998, DIRECTING APPLICANT TO PERFORM ADDITIONAL REMEDIATION
FOR HYDROCARBON CONTAMINATION, SAN JUAN COUNTY, NEW MEXICO.**

ORDER OF THE COMMISSION

This case came on for hearing on August 26 and 27, 1999, at Santa Fe, New Mexico, before the New Mexico Oil Conservation Commission ("Commission").

NOW, on this 24th day of March, 2000, the Commission, a quorum being present, having considered the record of the hearing:

FINDS THAT:

- (1) Due public notice has been given and the Commission has jurisdiction of this case and its subject matter.
- (2) The applicant, Public Service Company of New Mexico ("PNM"), seeks an order from the Commission rescinding the March 13, 1998 Oil Conservation Division ("Division") directive ("Division Directive") to PNM requiring PNM to perform additional remediation for hydrocarbon contamination in the area of the Burlington Resources Oil & Gas Company ("Burlington") Hampton No. 4 M Well ("Hampton Well") located in Unit Letter N, Section 13, Township 30 North, Range 11 West, NMPM, San Juan County, New Mexico, and a determination by the Commission that PNM is not a responsible person pursuant to 19 NMAC 15.A.19 for purposes of further investigation and remediation of contamination at this location.
- (3) Burlington appeared at the hearing and presented evidence in opposition to the application of PNM. Burlington admits that it is a responsible person for contamination at the Hampton Well site but contends that PNM is also a responsible person for contamination at this site.
- (4) The Division's Environmental Bureau ("Bureau") appeared at the hearing and presented evidence in support of the Division Directive.
- (5) In 1984, Burlington's predecessors Meridian Oil Company and/or Southland Royalty Company drilled and completed the Hampton Well. Burlington operates well equipment located in the southern-most portion of the Hampton Well site.

000221

(6) Production from the Hampton Well has been sold pursuant to an agreement dated March 1, 1990, between Southland Royalty Company and Gas Company of New Mexico. PNM, successor to Gas Company of New Mexico, purchased natural gas produced from the Hampton Well pursuant to this agreement.

(7) PNM installed and operated dehydration equipment in the northern-most portion of the Hampton Well site until Williams Field Services purchased the equipment on June 30, 1995. The purpose of the dehydration equipment is to remove liquids from the gas stream produced from the Hampton Well. For more than 12 years PNM discharged the liquids, including liquid hydrocarbons, into an unlined disposal pit.

(8) During a site assessment of the Hampton Well site conducted on April 23, 1996, PNM discovered potential hydrocarbon contamination at PNM's pit. PNM began closure activities at PNM's pit in April 1996, pursuant to a Bureau-approved pit closure plan.

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(37) The application of PNM should be denied.

IT IS THEREFORE ORDERED THAT:

(1) The application of the Public Service Company of New Mexico ("PNM") for an order rescinding the Division directive to PNM dated March 13, 1998 requiring it to perform additional remediation for hydrocarbon contamination in the area of the Burlington Resources Oil & Gas Company Hampton No. 4-M Well located in Unit N, Section 13, Township 30 North, Range 11 West, NMPM, San Juan County, New Mexico, and a determination by the Division that PNM is not a responsible person for purposes of further investigation and remediation of contamination at this location is hereby denied.

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(8) Jurisdiction is hereby retained for the entry of such further orders as the Division may deem necessary.

000227

CASE NO. 12033
Order No. R-11134-A
Page 6

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.

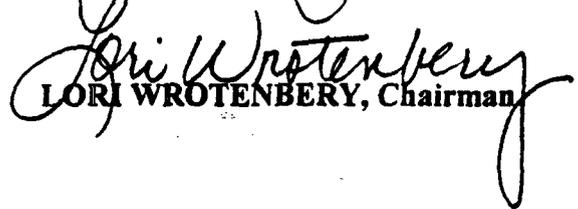
**STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION**



JAMI BAILEY, Member



ROBERT LEE, Member



LORI WROTENBERY, Chairman

S E A L

000226