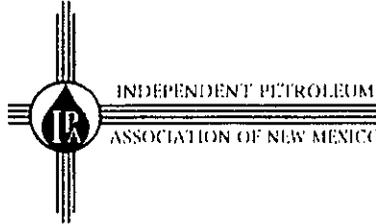


New Mexico Oil & Gas Association



NEW MEXICO INDUSTRY COMMITTEE

Association of New Mexico Oil and Gas Operators

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P.O. Box 226, SPM 2200  
Santa Fe, New Mexico 87501

March 10, 2008

New Mexico Oil Conservation Commission  
1220 South St. Francis Drive  
Santa Fe, New Mexico 87505

Re: Request for Clarification  
Pit Rule Points of Agreement

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Dear Members of the Commission:

On Friday, December 14, 2007, the Commission voted to approve certain "Points of Agreement" based upon its preliminary deliberations in the proposed Pit Rule matter. While we understand that testimony and argument is closed in this matter, the New Mexico Oil and Gas Association (NMOGA), the Independent Petroleum Association of New Mexico (IPANM) and the New Mexico Industry Committee (NMIC) (collectively "the Associations") would like to request that the Commission consider clarifying certain issues in the Points of Agreement when it resumes deliberations on the proposed rule. It is the Associations' hope that such clarification may reduce confusion in the future.

### **Below Grade Tanks**

In section 1(a), the Commission stated that below-grade tanks will either be permitted or registered. Permitted implies receipt of an approval from the Division. Given the large number of tanks involved, the Associations request that the Commission clarify the time line and what operators are to do pending Division and Commission action on permits or, in the alternative, adopt a registration program that does not require explicit Division or Commission approval to allow such tanks unless there is an objection by the Division.

In section 1(c), the Associations request clarification whether the statement that such tanks "will not require replacement or retrofiting" means that secondary containment will not be required for this design, as secondary containment would appear to be "retrofitting."

### **Temporary Pits**

The Associations request clarification on whether the allowance for the use of temporary pits for cavitation "by exception" means by an exception requiring a hearing before the commission or an exception approved by the District office. It is estimated that cavitations range in the tens to hundreds per year and clarification of this point will assist business planning in terms of when approval may be expected.

### **On-site Burial of Waste**

The Associations request clarification on a number of aspects of this section of the Points of Agreement. The requests for clarification are as follows:

- By use of the term "on-site burial of waste," did the Commission intend to allow any form of on-site burial (e.g., deep trench and closure in place as recommended by NMIC) or restrict such on-site burial to a particular form?
- In paragraphs 5(c) and (d), the Commission appears to adopt a more lenient standard for on-site burial that is greater than 100 feet from groundwater, but the large landfill standards are more stringent in that they regulate more constituents (e.g., BTEX, GRO/DRO and the 3103 constituents). The Associations request that the Commission clarify that the only constituents of concern are BTEX and chloride.
- In paragraph 5(f), the Associations assume, and hope that the Commission will clarify favorably, that deep trench burial at concentrations higher than allowed by the small and regular landfarm standards is still under consideration.
- In paragraphs 5(c) and (d), the Commission states that on-site burial will be "allowed by exception to the general rule." The Associations request clarification on the "general rule," which does not appear to be stated in the Points of Agreement. The Associations further request clarification whether the use of the term "exception" means requiring a hearing before the commission or an exception approved by the District office. Testimony before the Commission demonstrated that there are presently well more than 1000 pit closures a year counting new wells and workovers. The Associations are concerned that exception by hearing before the Commission may entail substantial delays. Clarification of this point will assist business planning in terms of when approval may be expected.

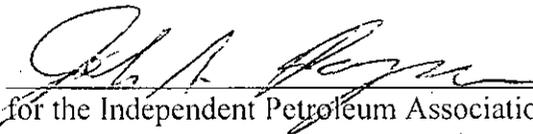
The Associations respectfully request the Commission give these requests for clarification of the Points of Agreement consideration as they continue with their deliberations on the Pit Rule in the hope that clarification offered now can avoid confusion in the future.

- The Associations thank the Commission for its consideration of these requests.

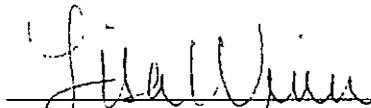
Sincerely,



for the New Mexico Oil and Gas Association



for the Independent Petroleum Association of NM



for the New Mexico Industry Committee

CC: Ms. Florene Davidson, Clerk of the Commission  
David Brooks, Esq, Counsel for the Division  
Dr. Don Nepper, Authorized Representation, NMCCA&W  
Gregory Huffaker, Esq., Counsel for CRI, Inc.  
Eric Jantz, Esq., Counsel for OGAP