



NEW MEXICO ENERGY, MINERALS and NATURAL RESOURCES DEPARTMENT

GARY E. JOHNSON
Governor
Jennifer A. Salisbury
Cabinet Secretary

Lori Wrotenbery
Director
Oil Conservation Division

December 20, 2001

Hon. David Catanach
Hearing Examiner
New Mexico Oil Conservation Division
1220 S. St. Francis Drive
Santa Fe, NM 87505

VIA email

Re: Case No. 12733
Application of the New Mexico Oil Conservation Division for an Order
Requiring Operators to Bring Ninety-five (95) Wells into Compliance with
Rule 201.B and Assessing Appropriate Civil Penalties, Eddy and Chaves
Counties, New Mexico

Dear Examiner Catanach:

I am advised that the referenced matter may be reopened as to one or more respondent parties as to whom the Division presented its case in chief at the hearing on October 4, 2001.

Although the parties as to whom the hearing was continued to January 10, 2002 by announcement to that effect at the October 4 hearing have constructive notice of the January 10 hearing pursuant to Rule 1209, this would not be the case as to those parties as to whom the case was taken under advisement on October 4, 2001. Hence, if the case is to be reopened as to any of such parties, I believe notice thereof should be republished, and should be mailed to those parties as to whom the case is to be reopened.

The time requirements for such new notice are not totally unambiguous. However, it is clear that the republication would have to occur at least three days before the hearing pursuant to NMSA 14-11-10, and notice to each party affected would have to be given at least ten days prior to such hearing pursuant to NMSA 70-2-23. Accordingly, if an order is issued which reopens the case as to respondent parties other than those as to whom continuance was previously announced, and such order is issued after December 31, 2001, there would not be time to give such parties the necessary notice prior to January 10, 2002.

In the interest of avoiding further fractionation of the case, I would accordingly recommend that, in that event, the entire remaining case be continued for such time as

necessary allow republication and renotification of such parties. Because an uncertainty exists as to the application of the 20 day notice provision of Rule 1207.B, I believe that the hearing should be continued to a date at least 20 days after the determination is made so as to allow compliance with the 20 day notice requirement.

Very truly yours,

A handwritten signature in black ink, appearing to be 'DA', written over a vertical line that extends downwards from the signature area.

David K. Brooks
Assistant General Counsel

cc: Mr. James G. Bruce
Mr. William F. Carr
Ms. Florene Davidson