

New Mexico Energy, Minerals and Natural Resources Department

Bill Richardson
Governor

Joanna Prukop
Cabinet Secretary
Reese Fullerton
Deputy Cabinet Secretary

Mark Fesmire
Division Director
Oil Conservation Division



May 9, 2008

ERS Resources, LLC
Attn: Mike Hughes
C/O Orbit Petroleum Inc.
1131 East Britton Rd.
Oklahoma City, OK 73131

CERTIFIED MAIL NO.: 7099 3220 0009 7873 0837

ERS Resources, LLC
Attn: Jim Frazier
C/O Orbit Petroleum Inc.
1131 East Britton Rd.
Oklahoma City, OK 73131
Email: jfrazier@orbitpetro.com

CERTIFIED MAIL NO.: 7099 3220 0009 7873 0844

U.S. Specialty Insurance Company
13403 NW Freeway
Houston, Texas 77040

CERTIFIED MAIL NO.: 7099 3220 0009 7873 0776

Re: **Case No. 14078**
Operator: ERS Resources, LLC; OGRID No. 225298
Facilities: Artesia Metex Unit No. 005; 30-015-00945; L-24-18S-27E
Artesia Metex Unit No. 006; 30-015-00941; K-24-18S-27E
Artesia Metex Unit No. 008; 30-015-00944; I-24-18S-28E
Artesia Metex Unit No. 011; 30-015-01940; 3-19-18S-28E
Artesia Metex Unit No. 012; 30-015-01964; K-19-18S-28E
Artesia Metex Unit No. 013; 30-015-01951; J-19-18S-28E
Artesia Metex Unit No. 014; 30-015-01947; J-19-18S-28E
Artesia Metex Unit No. 016; 30-015-00942; M-24-18S-27E
Artesia Metex Unit No. 020; 30-015-01196; P-24-18S-27E
Artesia Metex Unit No. 021; 30-015-01942; 4-19-18S-28E
Artesia Metex Unit No. 022; 30-015-01965; N-19-18S-28E
Artesia Metex Unit No. 023; 30-015-01941; N-19-18S-28E
Artesia Metex Unit No. 024; 30-015-01949; O-19-18S-28E
Artesia Metex Unit No. 026; 30-015-00962; A-26-18S-27E

ERS Resources, LLC
Case 14078
OCD Exhibit No. 1-C



Artesia Metex Unit No. 027; 30-015-00951; D-25-18S-27E
Artesia Metex Unit No. 029; 30-015-01194; B-25-18S-27E
Artesia Metex Unit No. 031; 30-015-02139; 1-30-18S-28E
Artesia Metex Unit No. 032; 30-015-02140; C-30-18S-28E
Artesia Metex Unit No. 035; 30-015-00963; H-26-18S-27E
Artesia Metex Unit No. 036; 30-015-00952; E-25-18S-27E
Artesia Metex Unit No. 039; 30-015-00948; G-25-18S-27E
Artesia Metex Unit No. 040; 30-015-00954; H-25-18S-27E
Artesia Metex Unit No. 041; 30-015-02136; 2-30-18S-28E
Artesia Metex Unit No. 042; 30-015-02138; F-30-18S-28E
Artesia Metex Unit No. 044; 30-015-01190; I-26-18S-27E
Artesia Metex Unit No. 045; 30-015-00959; L-25-18S-27E
Artesia Metex Unit No. 049; 30-015-02141; K-30-18S-28E
Artesia Metex Unit No. 051; 30-015-00966; P-26-18S-27E
Artesia Metex Unit No. 052; 30-015-00960; M-25-18S-27E
Artesia Metex Unit No. 054; 30-015-00956; O-25-18S-27E
Artesia Metex Unit No. 056; 30-015-00987; A-35-18S-27E
Artesia Metex Unit No. 058; 30-015-00991; C-36-18S-27E

Dear Operator:

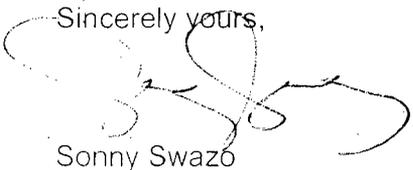
A hearing has been scheduled on the above application for **Thursday June 26, 2008, at 8:15 a.m.**, in the **Oil Conservation Division Hearing Room (Porter Hall) at 1220 South St. Francis Drive, Santa Fe, New Mexico.**

In the application OCD is seeking an Order requiring ERS Resources, LLC, to return the above identified wells to compliance with Rule 19.15.4.201 NMAC by a date certain, and in the event of Operator's non-compliance, authorization to plug the wells and forfeit the financial assurance.

At the hearing you will have an opportunity to show cause why an order should not be entered as requested in the application. **If you intend to present evidence at the hearing Oil Conservation Division Rule 19.15.14.1211.B NMAC requires you to file a pre-hearing statement at least four business days in advance of the hearing.** I have enclosed a copy of OCD Rule 19.15.14.1211 for your convenience. OCD Rule 19.15.14.1211 describes what information is required to be contained in a party's pre-hearing statement. Please consult OCD Rule 19.15.14.1211 as to what information you need to provide in your pre-hearing statement. I have also enclosed a copy of OCD Rule 19.15.14.1212, which addresses representation at administrative hearings before the Oil Conservation Division. Also enclosed is OCD's pre-hearing statement.

If you have questions please contact me at (505) 476-3463 or sonny.swazo@slate.nm.us.

Sincerely yours,


Sonny Swazo

cc: Daniel Sanchez, OCD Enforcement and Compliance Manager
Tim Gum, OCD District II Supervisor

Enclosures: Application
OCD Rule 19.15.14.1211 NMAC
OCD Rule 19.15.14.1212 NMAC

STATE OF NEW MEXICO RECEIVED
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION DIVISION 4 AM 10 56

APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION, THROUGH THE ENFORCEMENT AND COMPLIANCE MANAGER, FOR A COMPLIANCE ORDER AGAINST ERS RESOURCES, LLC, FINDING OPERATOR IN VIOLATION OF DIVISION RULE 19.15.4.201 NMAC AS TO THIRTY-TWO WELLS; REQUIRING OPERATOR TO RETURN SAID WELLS TO COMPLIANCE BY A DATE CERTAIN; REQUIRING OPERATOR TO PLUG SAID WELLS AND RESTORE AND REMEDIATE THE WELL SITES IF OPERATOR FAILS TO BRING SAID WELLS TO COMPLIANCE BY A DATE CERTAIN; AND AUTHORIZING THE DIVISION TO FORFEIT THE FINANCIAL ASSURANCE AND PLUG SAID WELLS IN THE EVENT OF OPERATOR'S NON-COMPLIANCE; EDDY COUNTY, NEW MEXICO.

CASE NO. **14078**

APPLICATION FOR COMPLIANCE ORDER AGAINST ERS RESOURCES, LLC

1. ERS Resources, LLC, (hereinafter "Operator") is a domestic limited liability company operating wells in New Mexico under OGRID 225298.

2. Operator is operator of record of the following subject wells:

- | | | |
|-------------------------------|---------------|--------------|
| • Artesia Metex Unit No. 005; | 30-015-00945; | L-24-18S-27E |
| • Artesia Metex Unit No. 006; | 30-015-00941; | K-24-18S-27E |
| • Artesia Metex Unit No. 008; | 30-015-00944; | I-24-18S-28E |
| • Artesia Metex Unit No. 011; | 30-015-01940; | 3-19-18S-28E |
| • Artesia Metex Unit No. 012; | 30-015-01964; | K-19-18S-28E |
| • Artesia Metex Unit No. 013; | 30-015-01951; | J-19-18S-28E |
| • Artesia Metex Unit No. 014; | 30-015-01947; | J-19-18S-28E |
| • Artesia Metex Unit No. 016; | 30-015-00942; | M-24-18S-27E |
| • Artesia Metex Unit No. 020; | 30-015-01196; | P-24-18S-27E |
| • Artesia Metex Unit No. 021; | 30-015-01942; | 4-19-18S-28E |
| • Artesia Metex Unit No. 022; | 30-015-01965; | N-19-18S-28E |
| • Artesia Metex Unit No. 023; | 30-015-01941; | N-19-18S-28E |
| • Artesia Metex Unit No. 024; | 30-015-01949; | O-19-18S-28E |
| • Artesia Metex Unit No. 026; | 30-015-00962; | A-26-18S-27E |
| • Artesia Metex Unit No. 027; | 30-015-00951; | D-25-18S-27E |
| • Artesia Metex Unit No. 029; | 30-015-01194; | B-25-18S-27E |

• Artesia Metex Unit No. 031;	30-015-02139;	1-30-18S-28E
• Artesia Metex Unit No. 032;	30-015-02140;	C-30-18S-28E
• Artesia Metex Unit No. 035;	30-015-00963;	H-26-18S-27E
• Artesia Metex Unit No. 036;	30-015-00952;	E-25-18S-27E
• Artesia Metex Unit No. 039;	30-015-00948;	G-25-18S-27E
• Artesia Metex Unit No. 040;	30-015-00954;	H-25-18S-27E
• Artesia Metex Unit No. 041;	30-015-02136;	2-30-18S-28E
• Artesia Metex Unit No. 042;	30-015-02138;	F-30-18S-28E
• Artesia Metex Unit No. 044;	30-015-01190;	I-26-18S-27E
• Artesia Metex Unit No. 045;	30-015-00959;	L-25-18S-27E
• Artesia Metex Unit No. 049;	30-015-02141;	K-30-18S-28E
• Artesia Metex Unit No. 051;	30-015-00966;	P-26-18S-27E
• Artesia Metex Unit No. 052;	30-015-00960;	M-25-18S-27E
• Artesia Metex Unit No. 054;	30-015-00956;	O-25-18S-27E
• Artesia Metex Unit No. 056;	30-015-00987;	A-35-18S-27E
• Artesia Metex Unit No. 058;	30-015-00991;	C-36-18S-27E

3. Pursuant to NMSA 1978, Section 70-2-14, Operator has posted a fifty thousand dollars (\$50,000.00) blanket bond through U.S. Specialty Insurance Company, in Houston, Texas, to secure Operator's obligation to plug and abandon the subject wells in compliance with rules of the Oil Conservation Division ("OCD").

4. Of the subject wells, Operator has also posted individual bonds through U.S. Specialty Insurance Company on the:

• Artesia Metex Unit No. 005;	30-015-00945;	L-24-18S-27E
• Artesia Metex Unit No. 008;	30-015-00944;	I-24-18S-28E
• Artesia Metex Unit No. 012;	30-015-01964;	K-19-18S-28E
• Artesia Metex Unit No. 013;	30-015-01951;	J-19-18S-28E
• Artesia Metex Unit No. 014;	30-015-01947;	J-19-18S-28E
• Artesia Metex Unit No. 022;	30-015-01965;	N-19-18S-28E
• Artesia Metex Unit No. 023;	30-015-01941;	N-19-18S-28E
• Artesia Metex Unit No. 024;	30-015-01949;	O-19-18S-28E
• Artesia Metex Unit No. 026;	30-015-00962;	A-26-18S-27E
• Artesia Metex Unit No. 027;	30-015-00951;	D-25-18S-27E
• Artesia Metex Unit No. 035;	30-015-00963;	H-26-18S-27E
• Artesia Metex Unit No. 036;	30-015-00952;	E-25-18S-27E
• Artesia Metex Unit No. 042;	30-015-02138;	F-30-18S-28E
• Artesia Metex Unit No. 051;	30-015-00966;	P-26-18S-27E

5. OCD Rule 19.15.4.201 NMAC requires the operator of a well which has been continuously inactive for a period of one year and 90 days to plug and abandon the well or place the well on OCD-approved temporary abandonment status.

6. The subject wells have had no reported production or injection for a continuous period exceeding one year plus 90 days, and are neither plugged and abandoned in accord with OCD Rule 19.15.4.202 NMAC nor on approved temporary abandonment status in accord with OCD Rule 19.15.4.203 NMAC.

7. NMSA 1978, Section 70-2-12(B) (18) and NMSA 1978, Section 70-2-38 authorizes the Division to plug and abandon wells, and restore and remediate the location of abandoned wells.

8. Division rule 19.15.3.101(H) NMAC authorizes the Director to order the operator to plug and abandon any well not in compliance with 19.15.4.201 NMAC and restore and remediate the location by a date certain, and to direct the Division to forfeit the financial assurance upon failure or refusal of the operator, surety or other responsible party to properly plug and abandon the well and restore and remediate the location.

WHEREFORE, the Enforcement and Compliance Manager of the Division hereby applies to the Director to enter an Order:

- A. Finding Operator in violation of OCD Rule 19.15.4.201;
- B. Requiring Operator to bring its inactive wells to compliance with OCD Rule 19.15.4.201 by a date certain;
- C. Ordering Operator to plug and abandon the wells if Operator fails to bring its inactive wells into compliance by a date certain;

- D. Authorizing OCD to forfeit the applicable financial assurance and plug and abandon the wells in the event of Operator's non-compliance with the Order;
- E. For such other and further relief as the Director deems just and proper under the circumstances.

RESPECTFULLY SUBMITTED,

This Fourth day of January 2008 by



Sonny Swazo
Assistant General Counsel
Energy, Minerals and Natural
Resources Department of the State of
New Mexico
1220 S. St. Francis Drive
Santa Fe, NM 87505
(505) 476-3463
Fax (505) 476-3462
Email: sonny.swazo@state.nm.us

Attorney for the New Mexico Oil
Conservation Division

Case No. 14078. Application of the New Mexico Oil Conservation Division for a Compliance Order against ERS Resources, LLC. The Applicant seeks an Order finding that Operator is in violation of 19.15.4.201 NMAC as to thirty-two wells, requiring Operator to bring the wells to compliance with 19.15.4.201 NMAC by a date certain, and authorizing the Division to forfeit the financial assurance and plug the wells in the event of Operator's non-compliance with the Order. The affected wells are:

- Artesia Metex Unit No. 005; 30-015-00945; L-24-18S-27E
- Artesia Metex Unit No. 006; 30-015-00941; K-24-18S-27E
- Artesia Metex Unit No. 008; 30-015-00944; I-24-18S-28E
- Artesia Metex Unit No. 011; 30-015-01940; 3-19-18S-28E
- Artesia Metex Unit No. 012; 30-015-01964; K-19-18S-28E
- Artesia Metex Unit No. 013; 30-015-01951; J-19-18S-28E
- Artesia Metex Unit No. 014; 30-015-01947; J-19-18S-28E
- Artesia Metex Unit No. 016; 30-015-00942; M-24-18S-27E
- Artesia Metex Unit No. 020; 30-015-01196; P-24-18S-27E
- Artesia Metex Unit No. 021; 30-015-01942; 4-19-18S-28E
- Artesia Metex Unit No. 022; 30-015-01965; N-19-18S-28E
- Artesia Metex Unit No. 023; 30-015-01941; N-19-18S-28E
- Artesia Metex Unit No. 024; 30-015-01949; O-19-18S-28E
- Artesia Metex Unit No. 026; 30-015-00962; A-26-18S-27E
- Artesia Metex Unit No. 027; 30-015-00951; D-25-18S-27E
- Artesia Metex Unit No. 029; 30-015-01194; B-25-18S-27E
- Artesia Metex Unit No. 031; 30-015-02139; 1-30-18S-28E
- Artesia Metex Unit No. 032; 30-015-02140; C-30-18S-28E
- Artesia Metex Unit No. 035; 30-015-00963; H-26-18S-27E
- Artesia Metex Unit No. 036; 30-015-00952; E-25-18S-27E
- Artesia Metex Unit No. 039; 30-015-00948; G-25-18S-27E
- Artesia Metex Unit No. 040; 30-015-00954; H-25-18S-27E
- Artesia Metex Unit No. 041; 30-015-02136; 2-30-18S-28E
- Artesia Metex Unit No. 042; 30-015-02138; F-30-18S-28E
- Artesia Metex Unit No. 044; 30-015-01190; I-26-18S-27E
- Artesia Metex Unit No. 045; 30-015-00959; L-25-18S-27E
- Artesia Metex Unit No. 049; 30-015-02141; K-30-18S-28E
- Artesia Metex Unit No. 051; 30-015-00966; P-26-18S-27E
- Artesia Metex Unit No. 052; 30-015-00960; M-25-18S-27E
- Artesia Metex Unit No. 054; 30-015-00956; O-25-18S-27E
- Artesia Metex Unit No. 056; 30-015-00987; A-35-18S-27E
- Artesia Metex Unit No. 058; 30-015-00991; C-36-18S-27E

The Artesia Metex Unit No. 027, Artesia Metex Unit No. 036, and Artesia Metex Unit No. 058, are located approximately 8 miles southeast of Artesia, in Eddy County, New Mexico.

The Artesia Metex Unit No. 005 and Artesia Metex Unit No. 006 are located approximately 9 miles southeast of Artesia, in Eddy County, New Mexico.

The Artesia Metex Unit No. 016, Artesia Metex Unit No. 026, Artesia Metex Unit No. 029, Artesia Metex Unit No. 035, Artesia Metex Unit No. 045, Artesia Metex Unit No. 052, and Artesia Metex Unit No. 056, are located approximately 10 miles southeast of Artesia, in Eddy County, New Mexico.

The Artesia Metex Unit No. 040 is located approximately 11 miles southeast of Artesia, in Eddy County, New Mexico.

The Artesia Metex Unit No. 020, Artesia Metex Unit No. 032, Artesia Metex Unit No. 039, Artesia Metex Unit No. 042, Artesia Metex Unit No. 044, Artesia Metex Unit No. 051, and Artesia Metex Unit No. 054, are located approximately 12 miles southeast of Artesia, in Eddy County, New Mexico.

The Artesia Metex Unit No. 011, Artesia Metex Unit No. 012, Artesia Metex Unit No. 013, Artesia Metex Unit No. 014, Artesia Metex Unit No. 021, Artesia Metex Unit No. 031, and Artesia Metex Unit No. 041, are located approximately 13 miles southeast of Artesia, in Eddy County, New Mexico.

The Artesia Metex Unit No. 022, Artesia Metex Unit No. 023, and Artesia Metex Unit No. 049, are located approximately 14 miles southeast of Artesia, in Eddy County, New Mexico.

The Artesia Metex Unit No. 008 and Artesia Metex Unit No. 024 are located approximately 16 miles southeast of Artesia, in Eddy County, New Mexico.

STATE OF NEW MEXICO RECEIVED
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION DIVISION 31 PM 1 30

APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION, THROUGH THE ENFORCEMENT AND COMPLIANCE MANAGER, FOR A COMPLIANCE ORDER AGAINST ERS RESOURCES, LLC, FINDING OPERATOR IN VIOLATION OF DIVISION RULE 19.15.4.201 NMAC AS TO THIRTY-TWO WELLS; REQUIRING OPERATOR TO RETURN SAID WELLS TO COMPLIANCE BY A DATE CERTAIN; REQUIRING OPERATOR TO PLUG SAID WELLS AND RESTORE AND REMEDIATE THE WELL SITES IF OPERATOR FAILS TO BRING SAID WELLS TO COMPLIANCE BY A DATE CERTAIN; AND AUTHORIZING THE DIVISION TO FORFEIT THE FINANCIAL ASSURANCE AND PLUG SAID WELLS IN THE EVENT OF OPERATOR'S NON-COMPLIANCE; EDDY COUNTY, NEW MEXICO.

CASE NO. 14078

ENTRY OF APPEARANCE AND
PRE-HEARING STATEMENT

The Oil Conservation Division submits this entry of appearance and pre-hearing statement pursuant to OCD Rule 1211 [19.15.14.1211 NMAC].

APPEARANCES

APPLICANT

Oil Conservation Division

APPLICANT'S ATTORNEY

Sonny Swazo
Oil Conservation Division
Energy, Minerals and Natural
Resources Department
1220 S. St. Francis Drive
Santa Fe, NM 87505
(505) 476-3463
FAX: 476-3462
Email: Sonny.Swazo@state.nm.us

RESPONDENT

ERS Resources, LLC

No entry of appearance filed.

STATEMENT OF THE CASE

The Oil Conservation Division ("OCD") is seeking an order finding Respondent ERS Resources, LLC, in violation of OCD Rule 19.15.4.201 NMAC (Rule 201") as to 32 wells; requiring Respondent to return the wells to compliance with OCD Rule 201 by a

date certain; requiring Respondent to plug and abandon the wells if Respondent does not bring the wells into compliance with OCD Rule 201 by a date certain; and authorizing the OCD to plug and abandon the wells and forfeit the applicable financial assurance in the event of Operator's non-compliance.

Respondent has posted a \$50,000.00 blanket bond on the wells. In addition, several wells have individual bonds. However, as a result of the new financial assurance requirements, Respondent needs to post additional financial assurance on several of the wells.

APPLICANT'S PROPOSED EVIDENCE

WITNESS:

ESTIMATED TIME:

Daniel Sanchez
Enforcement and Compliance Manager

45 Minutes

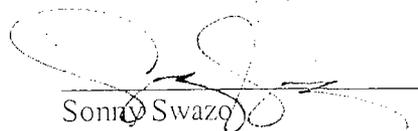
Dorothy Phillips
Financial Assurance Administrator

by affidavit.

PROCEDURAL MATTERS

None.

Respectfully submitted
this 31 day of January 2008 by



Sonny Swazo
Oil Conservation Division
Energy, Minerals and Natural
Resources Department
1220 S. St. Francis Drive
Santa Fe, NM 87505
(505) 476-3463

Attorney for the Oil Conservation Division

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was served upon the following by first class mail this 31 day of January 2008:

ERS Resources, LLC
1001 FM 1929
Voss, Texas 76888

ERS Resources, LLC
c/o Orbit Petroleum, Inc.
720 West Wilshire, Suite 115
Oklahoma City, OK 73116

ERS Resources, LLC
c/o Tipton Oil
P.O. Box 1234
Lovington, NM 88260

U.S. Specialty Insurance Company
13403 NW Freeway
Houston, Texas 77040

Sonny Swazo

19.15.14.1211 PLEADINGS, COPIES; PRE-HEARING STATEMENTS, EXHIBITS AND MOTIONS FOR CONTINUANCE:

A. Pleadings. Applicants shall file two sets of pleadings and correspondence in cases pending before a division examiner with the division clerk and six sets of pleadings and correspondence in cases pending before the commission with the commission clerk. For cases pending before the commission, the commission clerk shall disseminate copies of pleadings and correspondence to the commission members. The party filing the pleading or correspondence shall at the same time serve a copy of the pleading or correspondence upon each party who has entered an appearance in the case on or prior to the business day immediately preceding the date when the party files the pleading or correspondence with the division or the commission clerk, as applicable. Parties shall accomplish service by hand delivery or transmission by facsimile or electronic mail to any party who has entered an appearance or, if the party is represented, the party's attorney of record. Service upon a party who has not filed a pleading containing a facsimile number or e-mail address may be made by ordinary first class mail. Parties shall be deemed to have made an appearance when they have either sent a letter regarding the case to the division or commission clerk or made an in person appearance at any hearing before the commission or before a division examiner. A written appearance, however, shall not be complete until the appearing party has provided notice to other parties of record. Any initial pleading or written entry of appearance a party other than the applicant files shall include the party's address or the address of the party's attorney and an e-mail and facsimile number if available.

B. Pre-hearing statements.

(1) Any party to an adjudicatory proceeding who intends to present evidence at the hearing shall file a pre-hearing statement, and serve copies on other parties or, for parties that are represented, their attorneys in the manner Subsection A of 19.15.14.1211 NMAC provides, at least four business days in advance of a scheduled hearing before the division or the commission, but in no event later than 5:00 pm mountain time, on the Thursday preceding the scheduled hearing date. The statement shall include:

- (a) the names of the party and the party's attorney;
- (b) a concise statement of the case;
- (c) the names of witnesses the party will call to testify at the hearing, and in the case of expert witnesses, their fields of expertise;
- (d) the approximate time the party will need to present its case; and
- (e) identification of any procedural matters that are to be resolved prior to the hearing.

(2) Any party other than the applicant shall include in its pre-hearing statement a statement of the extent to which the party supports or opposes the issuance of the order the applicant seeks and the reasons for such support or opposition. In cases to be heard by the commission, each party shall include copies of all exhibits that it proposes to offer in evidence at the hearing with the pre-hearing statement. The commission may exclude witnesses the party did not identify in the pre-hearing statement, or exhibits the party did not file and serve with the pre-hearing statement, unless the party offers such evidence solely for rebuttal or makes a satisfactory showing of good cause for failure to disclose the witness or exhibit.

(3) A pre-hearing statement filed by a corporation or other entity not represented by an attorney shall identify the person who will conduct the party's presentation at the hearing and include a sworn and notarized statement attesting that the corporation's or entity's governing body or chief executive officer authorizes the person to present the corporation or entity in the matter.

(4) For cases pending before the commission, the commission clerk shall disseminate copies of pre-hearing statements and exhibits to the commission members.

C. Motions for continuance. Parties shall file and serve motions for continuance no later than 48 hours prior to time the hearing is set to begin, unless the reasons for requesting a continuance arise after the deadline, in which case the party shall file the motion as expeditiously as possible after becoming aware of the need for a continuance.

[19.15.14.1211 NMAC - Rp, 19.15.14.1208 NMAC, 09/30/05]

19.15.14.1212 CONDUCT OF ADJUDICATORY HEARINGS:

A. Testimony. Hearings before the commission or a division examiner shall be conducted without rigid formality. The division or commission shall take or have someone take a transcript of testimony and preserve the transcript as a part of the division's permanent records. Any person testifying shall do so under oath. The division examiner or commission shall designate whether or not an interested party's un-sworn comments and observations are relevant and, if relevant, include the comments and observations in the record.

B. Pre-filed testimony. The division director may order the parties to file prepared written testimony in advance of the hearing for cases pending before the commission. The witness shall be present at the hearing and shall adopt, under oath, the prepared written testimony, subject to cross-examination and motions to strike unless the witness' presence at hearing is waived upon notice to other parties and without their objection. The parties shall number pages of the prepared written testimony, which shall contain line numbers on the left-hand side.

C. Appearances pro se or through an attorney. Parties may appear and participate in hearings either pro se (on their own behalf) or through an attorney. Corporations, partnerships, governmental entities, political subdivisions, unincorporated associations and other collective entities may appear only through an attorney or through a duly authorized officer or member. Participation in adjudicatory hearings shall be limited to parties, as defined in 19.15.14.1208 NMAC, except that a representative of a federal, state or tribal governmental agency or political subdivision may make a statement on the agency's or political subdivision's behalf. The commission or division examiner shall have the discretion to allow any other person present at the hearing to make a relevant statement, but not to present evidence or cross-examine witnesses. Any person making a statement at an adjudicatory hearing shall be subject to cross-examination by the parties or their attorneys.

[19.15.14.1212 NMAC - Rp, 19.15.14.1210 NMAC, 09/30/05]

SENDER: COMPLETE THIS SECTION

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ERS Resources, LLC
 Attn: Mike Hughes
 C/O Orbit Petroleum Inc.
 1131 East Britton Rd.
 Oklahoma City, OK 73131

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) **Kim Benne** B. Date of Delivery **5-14-08**
 C. Signature **[Signature]** Agent
 Addressee
 D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

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1. Article Addressed to:

ERS Resources, LLC
 Attn: Jim Frazier
 C/O Orbit Petroleum Inc.
 1131 East Britton Rd.
 Oklahoma City, OK 73131

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 C. Signature **[Signature]** Agent
 Addressee
 D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

2. Article Number (Copy from service label)

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1. Article Addressed to:

U.S. Specialty Insurance Company
 13403 NW Freeway
 Houston, Texas 77040

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) **[Signature]** B. Date of Delivery **5/15/07**
 C. Signature **[Signature]** Agent
 Addressee
 D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

2. Article Number (Copy from service label)

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