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**VIA FACSIMILE AND EMAIL**

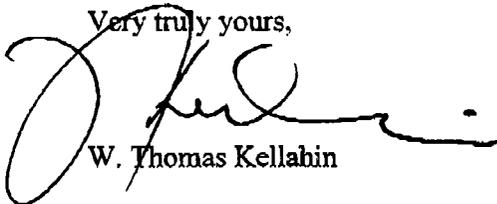
David Brooks, Esq.  
Oil Conservation Division  
1220 South Saint Francis Drive  
Santa Fe, New Mexico 87505

Re: Range Operating Inc's Reply to  
Targa's Response to  
Range's Motion to Dismiss  
NMOCD Case 14192

Dear Mr. Brooks:

On behalf Range Operating New Mexico Inc, please find enclosed for your consideration,  
my reply to Targa's response to the motion to dismiss.

Very truly yours,



W. Thomas Kellahin

fax: J. Scott Hall, Esq.  
Attorney for Targa

Range Operating,  
Attn: Deanna Poindexter

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

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

**APPLICATION OF TARGA MIDSTREAM SERVICES  
LIMITED PARTNERSHIP FOR APPROVAL OF AN  
ACID GAS INJECTION WELL  
LEA COUNTY, NEW MEXICO**

**CASE 14192**

**RANGE OPERATING NEW MEXICO, INC  
REPLY TO TARGA'S RESPONSE TO RANGE'S  
MOTION TO DISMISS**

Range Operating New Mexico, Inc. ("Range"), in Reply to Targa's Response states:

Targa, having failed to provide a form C-108 with its original application, claims that: (a) it is too burdensome to comply with Rule 701.B because the application was sent to some hundred plus affected parties; (b) compliance with Rule 701 is not a due process issue, and (c) the Division, by some unwritten process, has modified Rule 701 to excuse Targa from providing a C-108 with its original application.

Acid Gas Injection Wellbores are dangerous things posing risks to the environment, public safety, existing production and affecting property owners and operator in the area. Compliance with Rule 701, although difficult, is essential in order to provide those parties with some detail of the technical basis for the application.

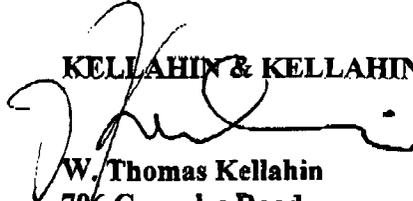
Range's right to due process is inherently entwined with Rule 701. By giving a copy of the form C-108 with the original application to the affected parties, the applicant affords them the opportunity to be informed and to review its impact upon them--what better way to implement due process than by avoiding "hearing by ambush" and requiring disclosure of technical data at the outset. In this case, Targa seeks to deny those parties their right to due process.

As a further matter of due process, Targa attempts to excuse itself, by contenting that the Division has changed Rule 701 by some new unwritten/unpublished process. Even Targa concedes there is no such rule change: "The Division has not yet undertaken a formal rulemaking proceeding to codify its new guidance for the process of acid-gas injection well applications."<sup>1</sup> Until it does, Targa has no choice but to comply with Rule 701. Under Targa's interpretation of Rule 701, an affected party receives more technical data and is better protected in the administrative process than when the Division requires that the case be set for an adjudicatory proceeding. However, it is not logical to think that the requirement for an adjudication processing would be less stringent than those for an administrative processing.

Range's right to due process should not be violated just because Targa chose to ignore the requirement of Rule 701. It is obviously unfair for Targa to shift its burden of disclosure to the affected parties by telling them that they can "conduct their own due-diligence evaluation of the proposal."<sup>2</sup> Range has a fundamental right to know exactly what Targa is trying to do and providing form C-108 with the original application is the correct method to begin to satisfy that right.

Finally, Targa invites the Examiner to continue the case is an effort to cure its mistake. Range contends that the mistake is not so easily sweeps away. By failing to comply with Rule 701, Targa opens the door for some of the affected parties to contend that their due process rights were violated.<sup>3</sup> There should be a consequence for noncompliance with Rule 701. Range argues that dismissal without prejudice is appropriate in this case.

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<sup>1</sup> See Targa's Response: first sentence of para one page 4

<sup>2</sup> See Targa's Response: last sentence of para two on page 3

<sup>3</sup> See *Udhen v. New Mexico Oil Conservation Commission*, 112 NM528(1991)

**CERTIFICATE OF SERVICE**

I certify that on October 9, 2008, I served a copy of the foregoing documents by:

- US Mail, postage prepaid
- Hand Delivery
- Facsimile
- email

to the following:

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