

CASE NO. 14292
OCD EXHIBIT No. 4



Brooks, David K., EMNRD

From: Duran-Saez, Theresa, EMNRD
Sent: Monday, March 02, 2009 9:34 AM
To: (ballen@sesi-nm.com); Perrin, Charlie, EMNRD; (cheryls@ypcnm.com); (ccarter@pvtnetworks.net); (dale@capstoneoil.com); (dboneau@pvtnetworks.net); (dexterh@forl.com); Diane Ellenburg (Diane_Ellenburg@blm.gov); (dneeper@earthlink.net); (ekendrick@montand.com); elizabeth_bush@oxy.com; Macquesten, Gail, EMNRD; Wink, Gary, EMNRD; J. Scott Hall (shall@montand.com); (hawkinj2@bp.com); Bailey, Jami C.; (jan.wooldridge@dvn.com); (jtportwood@mindspring.com); Jimmy D. Carlile (jimmyc@forl.com); (jlevine@pnm.com); John_Matis@blm.gov; Karin V. Foster (fosterassociates2005@yahoo.com); Roberts, Kelly G, EMNRD; Lisa Curry Gray (lisa@lcgraylaw.com); Marita Blakeman; (markm@forl.com); Brown, Maxey G, EMNRD; Altomare, Mikal, EMNRD; Bratcher, Mike, EMNRD; (rel@dfn.com); Jankowitz, Rachel J., DGF; (rtupman@hess.com); Ezeanyim, Richard, EMNRD; Inge, Richard, EMNRD; (Rick_Foppiano@oxy.com); (bwatson@trailnet.com); shane@spearbrothersgroup.com; Swazo, Sonny, EMNRD; (stan.phillips@apachecorp.com); (syahney@heyco.org); Gum, Tim, EMNRD; Tony Herrell (toni_herrell@blm.gov); (tyrafeil@duganproduction.com); (baizelb@earthlink.net); (rrmiles@cablone.net); (read@lookingglass.net); (myoung@mewbourne.com); (land@marbob.com); (jbyrom@djsimmonsinc.com); (dgirand@mackenergycorp.com); (csecows@aol.com); (bganter@br-inc.com); (aalexandcer@br-inc.com); (WDeedler@aol.com); (walker@kfoc.net); (sallyk@forl.com); (rhodge@northstarop.com); (namebored@aol.com); (llrb@austin.rr.com); (lcgraysf@earthlink.net); (kahlinaa@ypcnm.com); (jdewbre@swn.com); (ddrdmidland@aol.com); (ccw@spinn.net); (BRANA1223@aol.com); Adan Trujillo (adantrujillo@gmail.com); (ballen@sesi-nm.com); Perrin, Charlie, EMNRD; (cheryls@ypcnm.com); (chris.wyatt@bp.com); (ccarter@pvtnetworks.net); (dan_mccright@eogresources.com); (dboneau@pvtnetworks.net); (dexterh@forl.com); (DonAdams@hess.com); (dneeper@earthlink.net); (ekendrick@montand.com); elizabeth_bush@oxy.com; Elizabeth Taylor (etaylor@wtmlawfirm.com); Macquesten, Gail, EMNRD; (huffaker@handmlc.com); J. Scott Hall (shall@montand.com); (hawkinj2@bp.com); Bailey, Jami C.; (jan.wooldridge@dvn.com); (jtportwood@mindspring.com); JD Steven M. Feisal (sfeisal@chkenegy.com); (jlevine@pnm.com); John Tull (john.tull@state.nm.us); Jolene McCaleb (jmccaleb@wtmlawfirm.com); Karin V. Foster (fosterassociates2005@yahoo.com); (kristen.howell@williams.com); (gandy2@leaco.net); (markm@forl.com); (mjc@gallegoslawfirm.net); Altomare, Mikal, EMNRD; (omundsdry@hollandhart.com); (ppearce@br-inc.com); (rtupman@hess.com); Ezeanyim, Richard, EMNRD; (Rick_Foppiano@oxy.com); (bwatson@trailnet.com); (shane@spearbrothersgroup.com); (boyds_enm@zianet.com); Swazo, Sonny, EMNRD; (stan.phillips@apachecorp.com); Bemis, John H.; Hayden, Steven, EMNRD; (syahney@heyco.org); Gum, Tim, EMNRD; (tony_herrell@blm.gov); (tyrafeil@duganproduction.com); (van.barton@state.nm.us); (wcarr@hollandhart.com); (yolanda.perez@conocophillips.com); Patricia Clugston
Cc: Brooks, David K., EMNRD; Davidson, Florene, EMNRD
Subject: April 2, 2009 OCC Special Meeting
Attachments: 4-2 OCC MEETING special.pdf; 4-2 OCC MEETING special.docx

The message is ready to be sent with the following file or link attachments:

4-2 OCC MEETING special
4-2 OCC MEETING special

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

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

The State of New Mexico, through its Oil Conservation Commission hereby gives notice pursuant to law and Commission rules of the following special meeting and public hearing to be held at 9:00 A.M. on **April 2, 2009**, in Porter Hall at 1220 South St. Francis Drive, Santa Fe, New Mexico, before the Oil Conservation Commission. This public hearing concerns the amendment of 19.15.17 NMAC (the "Pit Rule"). If additional time is needed, the hearing may continue at a later date announced by the Commission. If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter or any other form of auxiliary aid or service to attend or participate in the hearing please contact Commission Clerk Florene Davidson at (505) 476-3458 or through the New Mexico Relay Network (1-800-659-1779) by **March 22, 2009**. Public documents can be provided in various accessible forms. Please contact Ms. Davidson if a summary or other type of accessible form is needed. A preliminary agenda will be available to the public no later than two weeks prior to the meeting. A final agenda will be available no later than 24 hours preceding the meeting. Members of the public may obtain copies of the agenda by contacting Ms. Davidson at the phone number indicated above. Also, the agenda will be posted on the Oil Conservation Division website at www.emnrd.state.nm.us.

STATE OF NEW MEXICO TO:

**All named parties and persons
having any right, title, interest
or claim in the following cases
and notice to the public.**

CASE 14292: Application of the New Mexico Oil Conservation Division for Adoption of Amendments to Rule 19.15.17 (the "Pit Rule"); Statewide. The State of New Mexico, through its Oil Conservation Commission, hereby gives notice that the Commission will conduct a public hearing at 9:00 A.M. on Thursday, April 2, 2009, in Porter Hall at 1220 South St. Francis Drive, Santa Fe, New Mexico, concerning the Oil Conservation Division's proposal to adopt amendments to 19.15.17 NMAC (the "Pit Rule"). The proposed amendments will (a) allow an operator of a below-grade tank existing on June 16, 2008, that has side walls entirely open for visual inspection, but which does not conform to the design and construction requirements of the Pit Rule as adopted on that date, to continue operating that tank until a sale or transfer of the tank or facility, so long as the tank maintains demonstrated integrity; (b) require that any below-grade tank that does not conform to the design and construction requirements adopted on June 16, 2008, (non-conforming tank) be either closed or retrofitted to conform to those standards prior

to sale or transfer of the tank or facility; (c) extend the retention requirement for below-grade tank inspection records from five years to the life of the tank; (d) require an operator of a non-conforming tank, if the tank's integrity fails, to comply with applicable tank closure requirements prior to replacing the tank; (e) require an operator who retrofits or replaces a non-conforming below-grade tank to inspect the area underneath the tank, report any evidence of contamination to the Division, and, if the Division determines that the contamination poses an imminent danger to the environment, to comply with applicable tank-closure requirements prior to retrofitting or replacing the tank; (f) extend the time for an operator to request a permit or permit modification for an existing, lined permanent pit, or for an existing below-grade tank, to two years from June 16, 2008, provided that the operator complies with registration requirements set forth in these amendments; and (g) increase the chloride waste standard for closure of temporary pits or drying pads by on-site trench burial from 250 mg/l to the greater of 3000 mg/l or background. Copies of the text of the proposed amendments are available from Commission Clerk Florene Davidson at (505)-476-3458 or from the Division's web site at <http://www.emnrd.state.us/ocd/rules/>. Proposals for alternatives to the proposed amendments must be received by the division no later than 5:00 P.M. on Thursday, March 19, 2009. Written comments on the proposed new rule must be received no later than 5:00 P.M. on Thursday, March 26, 2009. Persons intending to offer technical testimony at the hearing must file a Pre-hearing Statement (six copies) conforming to the requirements of 19.15.3.11 NMAC, including six copies of all exhibits the person will offer in evidence at the hearing, no later than Thursday, March 26, 2009. Proposed alternatives and written comments may be hand-delivered or mailed to Ms. Davidson at 1220 South St. Francis Drive, Santa Fe, New Mexico 87505, or may be faxed to Ms. Davidson at (505)-476-3462. Pre-hearing statements must be hand-delivered or mailed to Ms. Davidson at the above address. If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing, please contact Ms. Davidson at (505)-476-3458 or through the New Mexico Relay Network (1-800-659-1779) as soon as possible.

Given under the Seal of the State of New Mexico Oil Conservation Commission at Santa Fe, New Mexico on this 2nd day of March, 2009.

**STATE OF NEW MEXICO
OIL CONSERVATION DIVISION**

**Mark E. Fesmire, P.E.
Director, Oil Conservation Division**

S E A L

Brooks, David K., EMNRD

From: Duran-Saenz, Theresa, EMNRD
Sent: Monday, March 02, 2009 3:13 PM
To: Fesmire, Mark, EMNRD; Bailey, Jami C.; Olson, Bill, NMENV; ballen@sesi-nm.com; Perrin, Charlie, EMNRD; (cheryls@ypcnm.com); (ccarter@pvtnetworks.net); (dale@capstoneoil.com); (dboneau@pvtnetworks.net); (dexterh@forl.com); Diane Ellenburg (Diane_Ellenburg@blm.gov); (dneeper@earthlink.net); (ekendrick@montand.com); elizabeth_bush@oxy.com; Macquesten, Gail, EMNRD; Wink, Gary, EMNRD; J. Scott Hall (shall@montand.com); (hawkinj2@bp.com); Bailey, Jami C.; (jan.wooldridge@dvn.com); (jtportwood@mindspring.com); Jimmy D. Carlile (jimmyc@forl.com); (jlevine@pnm.com); Karin V. Foster (fosterassociates2005@yahoo.com); Roberts, Kelly G, EMNRD; Lisa Curry Gray (lisa@lcgraylaw.com); Marita Blakeman; (markm@forl.com); Brown, Maxey G, EMNRD; Altomare, Mikal, EMNRD; Bratcher, Mike, EMNRD; (el@dfn.com); Jankowitz, Rachel J., DGF; (rtupman@hess.com); Ezeanyim, Richard, EMNRD; Inge, Richard, EMNRD; (Rick_Foppiano@oxy.com); (bwatson@trailnet.com); shane@spearbrothersgroup.com; Swazo, Sonny, EMNRD; (stan.phillips@apachecorp.com); (syahney@heyco.org); Gum, Tim, EMNRD; Tony Herrell (toni_herrell@blm.gov); (tyrafeil@duganproduction.com); (baizelb@earthlink.net); (rrmiles@cableone.net); (read@lookingglass.net); (myoung@mewbourne.com); (land@marbob.com); (jbyrom@djsimmonsinc.com); (dgirand@mackenergycorp.com); (csecows@aol.com); (bganter@br-inc.com); (aalexandcer@br-inc.com); (WDeedler@aol.com); (walker@kfoc.net); (sallyk@forl.com); (rhodge@northstarop.com); (namebored@aol.com); (llrbw@austin.rr.com); (lcgraysf@earthlink.net); (kahlinaa@ypcnm.com); (jdewbre@swn.com); (ddrdmidland@aol.com); (ccw@spinn.net); (BRANA1223@aol.com); Adan Trujillo (adantrujillo@gmail.com); (ballen@sesi-nm.com); Perrin, Charlie, EMNRD; (cheryls@ypcnm.com); (chris.wyatt@bp.com); (ccarter@pvtnetworks.net); (dan_mccright@eogresources.com); (dboneau@pvtnetworks.net); (dexterh@forl.com); (DonAdams@hess.com); (dneeper@earthlink.net); (ekendrick@montand.com); elizabeth_bush@oxy.com; Elizabeth Taylor (etaylor@wtmlawfirm.com); Macquesten, Gail, EMNRD; (huffaker@handmlc.com); J. Scott Hall (shall@montand.com); (hawkinj2@bp.com); Bailey, Jami C.; (jan.wooldridge@dvn.com); (jtportwood@mindspring.com); JD Steven M. Feisal (sfeisal@chkenergy.com); (jlevine@pnm.com); Jolene McCaleb (jmccaleb@wtmlawfirm.com); Karin V. Foster (fosterassociates2005@yahoo.com); (kristen.howell@williams.com); (gandy2@leaco.net); (markm@forl.com); (mjc@gallegoslawfirm.net); Altomare, Mikal, EMNRD; (omundsdry@hollandhart.com); (ppearce@br-inc.com); (rtupman@hess.com); Ezeanyim, Richard, EMNRD; (Rick_Foppiano@oxy.com); (bwatson@trailnet.com); (shane@spearbrothersgroup.com); (boys_enm@zianet.com); Swazo, Sonny, EMNRD; (stan.phillips@apachecorp.com); Bemis, John H.; Hayden, Steven, EMNRD; (syahney@heyco.org); Gum, Tim, EMNRD; (tony_herrell@blm.gov); (tyrafeil@duganproduction.com); (van.barton@state.nm.us); (wcarr@hollandhart.com); (yolanda.perez@conocophillips.com); Patricia Clugston
Cc: Brooks, David K., EMNRD; Davidson, Florene, EMNRD
Subject: Application of the Oil Conservation Division for Rule Amendment to 19.15.17 NMAC (the "Pit Rule") - PROPOSED RULE
Attachments: Application 030209 Web Posting.pdf

The message is ready to be sent with the following file or link attachments:

Application 030209 Web Posting

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

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



March 2, 2009

Small Business Regulatory Advisory Commission
Economic Development Department
Joseph M. Montoya Building
1100 S. St. Francis Drive, Suite 1060
Santa Fe, NM 87505

Via hand-delivered

Re: Application of the Oil Conservation Division for Rule Amendment

Dear Commissioners:

The Oil Conservation Division (OCD) is proposing to amend 19.15.17 NMAC (the "Pit Rule"), statewide.

The intended effect of the proposed rule changes is: (a) to allow an operator of a below-grade tank existing on June 16, 2008, that has side walls entirely open for visual inspection, but which does not conform to the design and construction requirements of the pit rule as adopted on that date, to continue operating that tank until a sale or transfer of the tank or facility, so long as the tank maintains demonstrated integrity; (b) to require that any below-grade tank that does not conform to the design and construction requirements adopted on June 16, 2008, (Non-conforming tank) be either closed or retrofitted to conform to those standards prior to sale or transfer of the tank or facility; (c) to extend the retention requirement for below-grade tank inspection records from five years to the life of the tank; (d) to require an operator of a non-conforming tank, if the tank's integrity fails, to comply with applicable tank closure requirements prior to replacing the tank; (e) to require an operator who retrofits or replaces a non-conforming below-grade tank to inspect the area underneath the tank, report any evidence of contamination to the Division, and, if the Division determines that the contamination poses an imminent danger to the environment, to comply with applicable tank-closure requirements prior to retrofitting or replacing the tank; (f) to extend the time for an operator to request a permit or permit modification for an existing, lined permanent pit, or for an existing below-grade tank, to two-years from June 16, 2008, provided that the operator complies with registration requirements set forth in these amendments; and (g) to increase the chloride waste standard for closure of temporary pits or drying pads by on-site trench burial from 250 mg/l to the greater of 3000 mg/l or background.

The Oil Conservation Commission has scheduled a hearing on the OCD's application for **April 2, 2009** in Porter Hall at the Wendell Chino Building, 1220 S. St. Francis Drive, in Santa Fe. If you have any questions, please do not hesitate to call.

Sincerely,


David Brooks
OCD Attorney
(505) 476-3450

Page 5

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

* Phone: (505) 476-3440 * Fax (505) 476-3462 * <http://www.emnrd.state.nm.us>

