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08 April 2009

Mark Fesmire, Chairman  
Oil Conservation Commission  
1220 South St Francis Drive  
Santa Fe, NM 87505

RE: Case 14292: Application of the New Mexico Oil Conservation Division  
for Adoption of Amendments to Rule 19.15.17 (the "Pit Rule");  
Statewide.

Dear Commissioner Fesmire:

NMOGA would like to take this opportunity to thank the northwest and southeast legislators who spoke with Governor Richardson during the legislative session about Pit Rule relief for producers' in their area. Further, we would like to thank the Governor for acting on their request and the Secretary of Energy, Minerals and Natural Resources for bringing the matter to the attention of the Oil Conservation Division. While Governor Richardson asked Secretary Prukop to convene a producer working committee through Mr. Leland Gould, Western Refining, minimal vetting was made to the New Mexico producing community prior to his recommendations.

At the request of Secretary Prukop, the Division proposed several amendments to the Pit Rule that required action by the Commission re: extension of the application submittal dates for existing below grade tanks and lined permanent pits for two years, allowing most below-grade tanks that existed prior to June 2008 to be retrofitted or closed upon final closure, sale, or transfer; and to increase the waste burial standard for chlorides and allow a comparison to background concentrations at the site in regard to on-site trench burial closure methods.

In his opening statement, Mr. Brooks stated that there are aspects contained within the Pit Rule that "are stricter than need be", to which NMOGA agrees. While NMOGA members agree with the need to protect fresh water, public health and the environment, they disagree with administrative encumbrances, unwarranted burdens and excessive costs to the oil and gas industry that are not protective of fresh water, public health and the environment.

**President**  
**Bob Gallagher**

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NMOGA would hope that the Commission will approve the proposed changes to the Pit Rule's Design and Construction Specifications; Operation Requirements; and Permit Transfer Provisions, while denying the requirement for operators to maintain a written record of each monthly inspection of each below-grade tank for the life of the tank, which is not protective of fresh water, public health and the environment.

NMOGA additionally hopes the Commission approves the Division's amendment for on-site trench burial chlorides limits from 250 mg/l to 3,000 mg/l or the background concentrations which ever is greatest which still affords protection of fresh water, public health and the environment.

While perhaps not a full complement of changes to the Pit Rule, NMOGA is hopeful that this is a new start for the Division in a more balanced approach towards regulating the oil and gas industry in New Mexico in a manner that continues protect fresh water, public health and the environment.

Sincerely,



Deborah Seligman, VP  
Governmental Affairs