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RECEIVED

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OIL CONSERVATION
DIVISION

November 21, 2003

Ms. Florene Davidson
New Mexico Oil Conservation Division
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

Re: Comments Regarding Proposed Changes to Notice Rules

Dear Ms. Davidson:

The New Mexico Oil and Gas Association's (NMOGA) Regulatory Practices Committee has reviewed and discussed the proposed amendments for Rule 1201, 1202, 1204, 1205, 1207, 1208, 1209 and 1221. NMOGA has no objections to the proposed rules, except for the proposed changes to 1208. For Rule 1208.B, we offer the following comments and suggestions

Current rule 1208.B requires that parties to an adjudicatory proceeding must file a pre-hearing statement three days in advance of a scheduled hearing before the Division or the Commission. The statement must include: the names of the parties and their attorneys; a concise statement of the case; the names of all witnesses the party will call to testify at the hearing; the approximate time the party will need to present its case; and identification of any procedural matters that are to be resolved prior to the hearing. The Divisions proposed changes to 1208.B would increase the time period from three to four days. Our recommendation is to increase it even longer, clarify exactly what is required, and bar participation in the hearing to those parties who fail to comply.

NMOGA believes that the current rule should be changed to require that parties to a Commission or Division hearing or any adjudicatory proceeding, who receive actual notice pursuant to Rule 1207, and who intend to present contravening evidence at the hearing on the matter, shall file a pre-hearing statement no later than seven business days in advance of a scheduled hearing before the Division or the Commission. Such party(ies) shall serve a copy thereof on all counsel of record and on any other party timely filing

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a pre-hearing statement, as provided in subsection A of this section, at least five business days prior to the first hearing date on the matter. The statement must include: 1) the names of the parties and their attorneys; 2) a concise statement of the case to be presented by such party; 3) the names of all witnesses the party will call to testify at the hearing ; 4) the approximate time the party will need to present its case; and 5) identification of any procedural matters that are to be resolved prior to the hearing. Any party that does not timely file a pre-hearing statement with the Commission or Division, or a copy thereof to counsel of record and other parties filing a pre-hearing statement in accordance with this rule, will be barred from presenting evidence at the hearing on the matter. In the event that a dispute arises the Commission or Division shall determine whether or not a pre-hearing statement has been timely filed.

The intent of this proposed change is to eliminate hearing by ambush or spending a significant amount of effort preparing for a hearing and traveling to Santa Fe, only to have your case continued at the last minute by a late-filed motion. Adoption of these changes will improve the efficiency of the hearing process.

We would like to extend our sincere gratitude to Mr. David Brooks for his efforts to help us understand these proposed changes and the reasons for their adoption.

Sincerely,


Bob Gallagher

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