

<b>TECHNICAL TESTIMONY</b>	
<b>BEFORE THE PUBLIC SERVICE COMPANY OF NEW MEXICO</b>	
<b>OIL CONSERVATION COMMISSION</b>	
Santa Fe, New Mexico	
Case No. _____	Exhibit No. _____
Submitted by <u>PNM</u>	by <b>Toni K. Ristau</b>
Hearing Date _____	<b>Director, Environmental Services Department</b>
<b>Submitted for the Record</b>	
<b>before the</b>	
<b>New Mexico Oil Conservation Commission</b>	
<b>November 14, 1996</b>	

IN THE MATTER OF CASE 11352 AND 11635:  
 PROPOSED NEW MEXICO OIL CONSERVATION COMMISSION  
 REGULATIONS AND AMENDMENTS

The purpose of this testimony is to provide general comments and suggested modifications to the proposed regulations and regulatory amendments under consideration in Case 11352 and Case 11635.

My name is Toni Ristau. I am currently serving as the Director of Environmental Services for the Public Service Company of New Mexico (PNM). I am representing PNM, including its subdivisions, subsidiaries, and operating divisions (including PNM Gas Services) that may be affected by the policies and regulations of the Oil Conservation Commission and its constituent agency, the Oil Conservation Division.

My current duties as Director of Environmental Services at PNM include oversight of environmental compliance, remediation, and other environmental matters for PNM. I have twenty-four years of experience in conservation and environmental fields. I hold degrees in Architecture (B.A., University of Minnesota, 1971), Environmental Health Engineering (M.S., Northwestern University, 1979), and law (J.D., University of Denver, 1984). I have had experience working for the federal government (National Park Service, Bureau of Land Management), state government (states of Utah and Arizona), for architectural/engineering consulting firms, and for industry. I also serve as an adjunct professor for the Civil Engineering

Department at the University of New Mexico, teaching courses in solid/hazardous waste management and environmental law and regulation.

I served on the rulemaking Committee of the Oil Conservation Commission during the drafting of new rules (Rule 116 and Rule 19) and modification of existing rules (Rule 7). First of all, PNM wishes to commend the Commission, the Division, and staff regarding the thoroughness of these regulatory amendments and for the effort that went into reconciling diverse viewpoints and concerns.

I am testifying on behalf of PNM today in support of this regulatory initiative. PNM is a major business entity in the State of New Mexico, and our customers and employees both live and work in New Mexico. We recognize the importance of conserving our resources and protecting the environment in which we all live and operate. Groundwater is a finite resource that is being subjected to increasing demand as a resource, as well as to increasing threats due to pollution. PNM believes it is in our best interests, both as a business and as citizens of this state, to provide mechanisms for conserving and protecting this important resource. On the other hand, this is a world of finite resources and infinite resource demands, and it is important to us, both as a company and as citizens of the state of New Mexico, to assure that policy and regulatory initiatives within the state address "real" environmental and public health problems, and that the resources required to respond to such initiatives are deployed in the most cost-effective manner possible.

The proposed regulatory amendments will serve to update the regulatory framework to make it consistent with the provisions of the Water Quality Act and the Oil and Gas Act; to clarify existing regulations; and to codify the process (which already exists in part) for preventing and abating water pollution resulting from oil and gas industry activities. PNM feels that the proposed rules and amendments do, in large measure, achieve those objectives. We wish to provide some additional suggestions regarding these amendments, together with discussions of why the suggested changes and additions are appropriate. Our testimony in support of the proposed regulations, as well as proposed changes and additions, are therefore respectfully offered to supplement the information placed address the above concerns.

**General Considerations:**

Our concern is that any proposed regulations be based upon generally accepted scientific/engineering principles, and that the regulations as proposed will, when implemented, actually achieve the objectives of prevention of water pollution and abatement of existing or threatened water pollution.

For example, groundwater contamination occurring as a result of oil and gas industry activities often is, based upon risk factors, a lesser threat to public health and the environment than is groundwater contamination occurring as a result of other types of activities. This is not to say that the impacts are not real, and do not need addressing in the interests of protection of public health and the environment. The reality is that the magnitude of the problem is oftentimes much less, because the activities are relatively small in scale, and they occur in relatively remote areas. These are areas where there is not a large affected population, or where groundwater is at a great depth, or where groundwater already contains relatively high concentrations of naturally occurring deleterious substances. In such a setting, establishment of extremely stringent cleanup standards for in situ groundwater, based upon unrealistically high potential exposure scenarios, is "regulatory overkill." A much more effective approach in such a setting may be to establish stricter discharge/source control requirements, and to specify point-of-use treatment standards for areas where extraction of groundwater for human use will occur, rather than to impose the enormous costs of treating in-situ groundwater to drinking water standards upon industry (and ultimately upon us all).

We are concerned that any regulatory standards or requirements imposed by regulation will result in real environmental benefit, but not at an unreasonable cost to PNM and its customers. Within the regulatory arena, it appears that, on many fronts, we have reached the point of diminishing return in imposing additional "command and control" type of requirements. In most instances, the additional standards or requirements being proposed by regulatory authorities at the federal, state, tribal, and local levels are imposing significant additional outlays of monies by the entities required to comply, without any concomitant improvement in protection of public health or the environment.

There should be recognition by the public and the regulatory bodies whose job it is to accommodate the public interest that pursuit of the holy grail of a zero-risk, impact-free resource development and utilization is not a fruitful pursuit. The reality is that every policy decision, including a decision to not allow certain types of activities or to discourage those activities through imposition of burdensome requirements, has potentially significant impacts to some (or several) aspects of the environment or public welfare. For purposes of environmental protection, then, regulators and policymakers should consider not merely whether a particular set of impacts is tolerable at a particular site, but should also balance whether minimizing of impacts at one location or from one activity may cause additional adverse impacts overall.

Somehow, the public, as well as some of the regulatory agencies, have gotten the notion that as long as a regulatory requirement falls upon industrial or commercial interests, the costs of compliance are "free", or do not fall upon the public. The reality, of course, is that the costs do fall upon all of us. If the requirement is imposed upon a particular industry segment, then the costs must be passed along by that industry to its consumers, as no business can afford to simply absorb the costs and sell its products at a loss. If the requirement is one that must be implemented and enforced by some governmental body, again, the costs fall upon all of us who pay taxes. If the implementation and enforcement program is funded by taxes or fees imposed upon a certain industry segment, again, the cost of the tax is passed along to that industry's consumers.

There should be a positive economic incentive (or at the very least a cost avoidance or cost minimization incentive) built into any new regulatory requirements that are brought on line. New regulatory initiatives should not be promoted at all unless a showing can be made that the particular regulatory approach is, when analyzed globally, the least-cost option for obtaining the maximum results in terms of enhanced environmental protection and minimization of impacts to public health and the environment.

We are also concerned that any proposed policy or regulatory initiatives avoid duplication of effort, and refrain from creating additional jurisdictional overlap or "dual regulation" problems for us, as well as the rest of the regulated community. One area of particular concern is remediation or abatement activities that may be occurring under one of several regulatory

frameworks. The newly promulgated abatement regulations (promulgated by the Water Quality Control Commission, WQCC, effective December 1, 1995), are an example. PNM actively participated in the development of these regulations, and is in general supportive of the public policy and environmental protection goals of these regulations. The problem, however, is that these are "one size fits all" regulations that are not tailored to any particular situation based upon the risk to public health and the environment from that situation.

### **Specific Concerns:**

We understand that the Oil Conservation Division (OCD) supports the interpretation that the Commission has the authority to regulate the prevention and abatement of water pollution at both "upstream" (e.g., exploration and production facilities) and "downstream" (e.g., transportation, processing, distribution, and other similar activities), commonly referred to as "B.21" and "B.22" facilities. We support this interpretation as well. As noted above, any interpretation of Commission authorities that allows for prevention and abatement to proceed under two different regulatory schemes (i.e., one set of abatement provisions under the Water Quality Control Commission (WQCC), and another under the Oil Conservation Commission) raises the specter of dual regulation and/or inconsistent regulation at some facilities and for some companies. All such activities should be conducted under either one or the other of the regulatory frameworks at any given facility. As the proposed Rule 19 abatement requirements are much more suited to oil and gas industry activities than are the WQCC abatement rules, our preference is that both "upstream" and "downstream" activities and facilities fall under the purview of the OCC rather than the WQCC.

### **Specific Language/Wording Suggestions and Rationale:**

Marathon Oil Company (Marathon) has offered revisions and recommendations regarding wording of specific sections of the Rule 116 Committee's proposed amendments to OCD Rules 7, 19 and 116. Some of these suggestions are minor and are editorial in nature, and should be made to assure that appropriate cross-referencing is provided between related sections in the Rules. We support making such changes, and will not offer additional comments on those changes at this time.

In addition to minor, editorial changes, Marathon has recommended substantive additions or changes to wording of OCD rules 7, 19, and 116. I wish to provide some observations and suggestions regarding those more substantive changes. In the following discussion, proposed additions are shown with underlining, and deletions with strike-through:

**RULE 7:**

***Proposed Change:***

DIRECTOR shall mean the Director of the Oil Conservation Division of the New Mexico Energy, Minerals and Natural Resources Department.

***PNM Response:***

This definition clarifies the provisions of the proposed Rules, and should be added.

***Proposed Change:***

HAZARD TO PUBLIC HEALTH exists when water which is used or is reasonably expected to be used in the future as a human drinking water supply exceeds at the time and place of such use, one or more of the numerical standards of 20 NMAC 6.2.3103.A., or the naturally occurring concentrations, whichever is higher, or if any toxic pollutant as defined at 20 NMAC 6.2.1101 affecting human health is present in the water. In determining whether a release would cause a hazard to public health to exist, the Director shall investigate and consider the purification and dilution reasonably expected to occur from the time and place of release to the time and place of withdrawal for use as human drinking water.

***PNM Response:***

The only change currently proposed is to correct the cross-reference to the appropriate 20 NMAC section. This is indeed a correction that should be made. In addition, we wish to suggest the following change to this definition:

"HAZARD TO PUBLIC HEALTH exists when water which is used or is reasonably expected to be used in the future as a human drinking water supply exceeds at the time and place of such use, one

or more of the numerical standards of 20 NMAC 6.2.3103.A., or the naturally occurring concentrations, whichever is higher, or if any toxic pollutant as defined at 20 NMAC 6.2.1101 affecting human health is present in the water. In determining whether a release would cause a hazard to public health to exist, the Director shall investigate and consider the purification and dilution reasonably expected to occur from the time and place of release to the time and place of withdrawal for use as human drinking water and taking into account the feasibility of treatment of the water to drinking water standards at the time and place of such use."

This addition to the language would conform the hazard definition to the language of the Water Quality Act, which states (at 74-6-4(D), "Duties and powers of commission"):

The commission:

\* \* \*

D. shall adopt, promulgate and publish regulations to prevent or abate water pollution in the state . . . Regulations shall not specify the method to be used to prevent or abate water pollution but may specify a standard of performance for new sources . . . In making regulations, the commission shall give weight it deem appropriate to all relevant facts and circumstances, including:

\* \* \*

(5) feasibility of a user or a subsequent user treating the water before a subsequent use; . . .

Our concern, again, is for "regulatory overkill." If treatment at the point of use, if and when the groundwater is ever withdrawn for use as human drinking water, is feasible and achieves the same goal (reduction or elimination of hazard to public health) at a much lesser cost than cleaning up the in situ ground water to drinking water standards prior to a withdrawal for potable use, which may in fact never happen, then such treatment should explicitly be recognized as a valid approach within the definitions.

***Proposed Change:***

REMEDATION PLAN shall mean a written ~~document~~ description of a program to address ~~reportable unauthorized releases that will not with reasonable probability reach ground water or surface water, and that will likely not be remedied within one (1) year~~ which endanger public health or the environment. ~~When ground water is affected, a remediation plan may be required for releases~~

~~that will be remedied within one (1) year.~~ The plan may include appropriate information, including assessment data, health risk demonstrations, and corrective action(s). The plan may also include an alternative proposing no action beyond the submittal of a spill report.

***PNM Response:***

This substantive change conforms the language to my recollection of the Committee's intent. My notes show that we, the Committee, deliberated on this section and proposed several alternative ways of phrasing the above definition, but that we reached no consensus as a Committee on the exact wording. The proposed wording changes appear to achieve the aims of the Committee, and we urge that they be adopted as proposed.

**RULE 19:**

***Proposed Change:***

At 19.B.(6)(a), Marathon has proposed the following additional language:

(6) Alternative Abatement Standards

(a) At any time during or after the submission of a Stage 2 abatement plan, the responsible person may file a petition seeking approval of alternative abatement standard(s) for the standards set forth in Paragraphs (1) and (2) above. The petition may include an analysis of the feasibility of point-of-use treatment, a transport, fate and risk assessment in accordance with accepted methods, and other information as the petitioner deems necessary to support the petition. The Division may approve alternative abatement standard(s) if the petitioner demonstrates that:

\* \* \*

***PNM Response:***

At the Committee's last meeting prior to preparation of the Committee's draft Rules and supporting report, the Committee members agreed that the "point-of-use treatment" concept should be incorporated into the proposed Rule 19.

We discussed several proposed points of insertion for the "point-of-use treatment" concept, but did not agree on exactly where, within the proposed Rule, the language should appear. We also agreed

that the various Committee members would think about the most appropriate location for this, and would propose something specific later. Marathon's proposed location for this concept, and proposed language for incorporating this concept, appear to be sound suggestions. We support inclusion of the suggested language at this point in Rule 19, and urge the Commission to adopt the above language change.

As we pointed out in our general discussion above, groundwater contamination occurring as a result of oil and gas industry activities often is, based upon risk factors, a lesser threat to public health and the environment than is groundwater contamination occurring as a result of other types of activities. This is not to say that the impacts are not real, and do not need addressing in the interests of protection of public health and the environment. The reality is that the magnitude of the problem is oftentimes much less, because the activities are relatively small in scale, and they occur in relatively remote areas. These are areas where there is not a large affected population, or where groundwater is at a great depth, or where groundwater already contains relatively high concentrations of naturally occurring deleterious substances. In such a setting, establishment of extremely stringent cleanup standards for in situ groundwater, based upon unrealistically high potential exposure scenarios, is "regulatory overkill." A much more effective approach in such a setting is to establish stricter discharge/source control requirements, and to specify point-of-use treatment standards for groundwater will be extracted for human use, rather than to impose the enormous costs of treating in-situ groundwater to drinking water standards. This approach achieves the same goal -- that of reducing or eliminating actual hazards to public health -- but at much less cost.

***Proposed Change:***

At 19.B.(7), Marathon has proposed the following changes:

(7) Modification of Abatement Standards. If applicable abatement standards are modified after abatement measures are approved, the abatement standards that are in effect at the time that the Stage 2 abatement plan is approved shall be the abatement standards for the duration of the abatement action, plan, unless the Director determines that compliance with those standards would create, on a site specific basis, a present or future hazard to public health or undue damage to property or the environment. additional action is necessary to protect public health and the

environment. In any appeal of the Director's determination that additional actions are necessary, the Director shall have the burden of proof.

*PNM Response:*

This provision was discussed by the Committee, and agreed to by Committee members. The suggested rewording conforms this section more closely with the wording of other sections, and should be adopted.

The reason for including this provision, however worded, is to address the "moving target" problem. If abatement of groundwater contamination is required, and the hazard to public health or the environment is relatively great, the responsible party will likely need to make substantial investments in remediation or treatment technology. Active remediation of groundwater contamination (e.g., through use of a pump-and-treat system or through use of in-situ techniques such as air sparging) is not only costly to design, install, and operate, it also may take several years of operation to achieve remedial objectives. If the cleanup standards change during the operational period of such systems, an entirely different approach may be needed to achieve those standards. In many cases, the newer standard may not provide much, if any, incremental increased benefit to public health or the environment at that particular site. Thus, large investments in treatment technologies may be lost.

This provision indicates that the abatement standards that are established at the beginning of a remediation project will remain in effect throughout the conduct of the project, unless there is reasonable probability that adhering to the old standard will cause a present or future hazard to public health or the environment. In such a case, the Director may determine that additional actions are necessary, but the Director bears the burden of proof in establishing that different standards are necessary to protect public health or the environment.

***Proposed Change:***

Marathon has proposed the following changes to Section 19.D.(1)(f) and (g):

D. EXEMPTIONS FROM ABATEMENT PLAN REQUIREMENT.

(1) Except as provided in Subparagraph (2) below, Paragraphs C and E do not apply to a person who is abating water pollution: [ - -96]

\* \* \*

(f) under the authority of a Letter of Understanding, Settlement Agreement or Administrative Order on Consent or other agreement signed by the Director or his designee prior to **(insert effective date of Rule)**, 1996, provided that abatement is being performed in full compliance with the terms of the Letter of Understanding, Settlement Agreement or Administrative Order on Consent or other agreement; and

(g) on an emergency basis, or while abatement plan approval is pending, or in a manner that will likely result in compliance with the standards and requirements set forth in Paragraph B within one year after notice is required to be given pursuant to 19 NMAC 15.C.116.B provided that the Division does not object to the abatement action.

*PNM Response:*

The proposed additions to section (f) above reflect Committee discussions regarding the abatement plan exemptions and "grandfathering" of abatement actions that have already been initiated under other agreements at the time that the new Rule takes effect. The inclusion of section (f) again is a reflection of concern about the "moving target" problem, as discussed above.

The addition of the words "or his designee" confirms that agreements that are signed by other duly designated constituent agency representatives, as well as those actually signed by the Director of the Oil Conservation Division, will be honored after the new abatement regulations take effect. The addition of the words "or other agreement" clarifies that abatement actions undertaken under any type of pre-existing arrangement (such as a voluntary groundwater management plan or under workplans submitted pursuant to OCC Order R-7940-C related to the closure of wellhead pits in the San Juan Basin) would be "grandfathered" as well. This is consistent with Committee discussions of these exemptions and rationale for these exemptions, and reflects the consensus that actions that are already proceeding and are meeting environmental protection goals should not be forced into a new process simply because a new process now exists.

The proposed addition of the word "likely" to item (g) above better reflects the nature of this exemption, which provides that spills and releases of a minor nature (defined as those which are reportable under Rule 116, but that can be cleaned up within a relatively short period of time after occurrence) are not to be subject to the full-blown abatement process of Rule 19 unless the OCD objects to the exemption (presumably, on grounds that a hazard to public health will go unaddressed unless Rule 19 is applied). As the potential for reaching compliance will be evaluated on a prospective basis in these situations, the addition of the word "likely" reinforces the notion that absolute proof of prospective compliance, which would be difficult if not impossible to demonstrate, is not required in order to invoke this exemption. This, again, is consistent with the idea that the magnitude of regulatory agency action should be balanced with the degree of risk presented by particular situations, and that minor problems should not trigger overly elaborate abatement requirements.

***Proposed Change:***

Marathon has proposed the following changes to Section 19.G.:

G. PUBLIC NOTICE AND PARTICIPATION.

(1) Within thirty (30) days of filing of a Stage 1 abatement plan proposal, the Division's environmental bureau chief shall issue a news release summarizing:

(a) the source, extent, magnitude and significance of water pollution, as known at that time;

(b) the proposed Stage 1 abatement plan investigation; and

(c) the name and telephone number of the Division contact who can provide additional information.

(12) Prior to public notice, the applicant shall give written notice, as approved by the Division, of ~~Stage 1 and~~ Stage 2 Abatement Plans to the following persons:

\* \* \*

(23) After the Division determines that the ~~Stage 1 and~~ Stage 2 abatement plans ~~are~~ is administratively complete, the applicant will issue public notice in a form approved by the Division in a newspaper of general circulation in the county in which the facility is to be located. The public notice shall include, as approved in advance by the Director:

\* \* \*

[renumber succeeding paragraphs to reflect addition of new paragraph (1) above]

*PNM Response:*

These changes differentiate between the burden of public notification (and upon whom such burden lies) for Stage 1 abatement plans, which address site characterization issues such as the nature and extent of contamination, and Stage 2 abatement plans, which contain detailed descriptions of alternative methods and designs for cleaning up contamination at the site. The above addition and changes minimize the public notification burden placed upon the applicant for Stage 1 abatement plans, and places that burden upon the OCD. The burden of public notification related to Stage 2 abatement plans remains unchanged; such burden is placed primarily upon the applicant.

PNM supports the shifting of the burden of public notification for Stage 1 abatement plans from the applicant to the Division, but asks for some clarification of the notice requirements in the case where Stage 1 and Stage 2 abatement plans are submitted together (as is permitted under Section 19.E.).

Is the intent then, for situations where the Stage 1 and Stage 2 plans are submitted together, that the more elaborate public notification requirements listed in (renumbered) paragraph G.2. are triggered? If that is the intent, perhaps the first sentence of (renumbered) paragraphs G.2. and G.3. should read as follows:

(12) Prior to public notice, the applicant shall give written notice, as approved by the Division, of ~~Stage 1 and Stage 2 Abatement Plans~~ (or Stage 1 and Stage 2 Abatement Plans, if submitted together) to the following persons:

\* \* \*

(23) After the Division determines that the ~~Stage 1 and Stage 2 abatement plans (or Stage 1 and Stage 2 Abatement Plans, if submitted together)~~ are administratively complete, the applicant will issue public notice in a form approved by the Division in a newspaper of general circulation in the county in which the facility is to be located. The public notice shall include, as approved in advance by the Director:

\* \* \*

The purpose of Section 19.E. provisions which allow for the Stage 1 and Stage 2 abatement plans together is to recognize common oil and gas industry types of abatement issues, where the site characterization and cleanup activities often occur simultaneously, and to not slow up such cleanups by requiring the applicant to first characterize the site, then wait for filing, acceptance, and public notification of the site characterization plan before proceeding with actual remediation. An example of such a situation would be where there has been a release to soils at a site, and where the preferred remedial approach is removal of the contaminated soils (source removal) and allowing the groundwater to clean up through natural attenuation processes, as verified by post-removal monitoring.

In such a situation, the determination of the nature and extent of contamination, which is the subject of a Stage 1 abatement plan, is typically done as a part of the source removal process, which is a remediation technique that normally would be the subject of a Stage 2 abatement plan. As long as Sections 19.E. and 19.G. both recognize that Stage 1 and Stage 2 abatement plan proposals may be filed simultaneously in certain situations, and the public notice requirements of 19.G. are consistent with the allowable practice of Section 19.E., these changes appear to be beneficial and should be adopted.

***Proposed Change:***

Marathon has proposed the following changes to Section 19.H.:

H. DIRECTOR APPROVAL OR NOTICE OF DEFICIENCY OF SUBMITTALS.

(1) The Director shall, within sixty (60) days of receiving a Stage 1 abatement plan proposal, a site investigation report, a technical infeasibility demonstration, or an abatement completion report, approve the document, or notify the responsible person of the document's deficiency, based upon the information available.

~~(2) The Director shall, within thirty (30) days of receiving a fact sheet, approve or notify the responsible person of the document's deficiency, based upon the information available.~~

\* \* \*

[renumber succeeding paragraphs to reflect deletion of paragraph (2) above]

*PNM Response:*

Marathon's proposal to strike paragraph H.2. above appears to be based upon a reading that paragraph (2) is not needed. Paragraph (2) appears to be a carryover from the WQCC abatement regulations, which provide for slightly different mechanisms for public notification than does Rule 19, which does not require submittal of a "fact sheet." We agree that paragraph (2) should be stricken.

***Proposed Change:***

Marathon proposes to strike all of Section 19.N., as follows:

~~———— N. ——— NOTIFICATION~~

~~———— (1) ——— With respect to any release from any facility of oil or other water  
contaminant, in such quantity as may with reasonable probability be detrimental to water or cause  
an exceedance of the standards in Sections B(1), B(2) or B(3), the following notification is required:~~

~~———— (a) ——— As soon as possible after learning of such a release, but in no event  
more than twenty-four (24) hours thereafter, any person in charge of the facility shall orally notify  
the Division's Environmental Bureau Chief of the occurrence. To the best of that person's  
knowledge, the following items of information shall be provided:~~

~~———— (i) ——— The name, address, and telephone number of the person or  
persons in charge of the facility, as well as the owner and/or operator of the facility;~~

~~———— (ii) ——— Land status;~~

~~———— (iii) ——— The date, time, location, and duration of the release;~~

~~———— (iv) ——— The source and cause of the release;~~

~~———— (v) ——— A description of the release, including its chemical  
composition;~~

~~———— (vi) ——— The estimated volume of the release;~~

~~———— (vii) ——— Any actions taken to mitigate immediate damage from the  
release.~~

~~———— (2) ——— Within fifteen (15) days after the release is discovered, the facility owner  
and/or operator shall send written notification to the same Division official, verifying the prior oral  
notification as to each of the foregoing items and providing any appropriate additions or corrections  
to the information contained in the prior oral notification.~~

*PNM Response:*

PNM agrees that this section should be stricken. It appears to be duplicative of the reporting and notification requirements specified in Rule 116. If these requirements are, in fact, meant to cover releases that are reportable under Rule 116, then these notification requirements should be placed in Rule 116 and not in Rule 19.

**Summary:**

The proposed rules and amendments, together with changes suggested above, appear to be consistent with the provisions of the Water Quality Act and the Oil and Gas Act; to clarify existing regulations; and to codify the process (which already exists in part) for preventing and abating water pollution resulting from oil and gas industry activities. PNM supports the promulgation of these proposed rules, together with suggested language changes, as the proposed rules and amendments achieve those objectives.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Toni K. Ristau", is written over a horizontal line.

Toni K. Ristau