

GALLEGOS LAW FIRM

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MICHAEL J. CONDON

April 1, 1996

HAND-DELIVERED

William J. LeMay, Director
New Mexico Oil Conservation Division
2040 South Pacheco Street
Santa Fe, NM 87505

Re: Administrative Order NSL-3633; Application of Hartman and Davidson for De Novo Review of that Order

Dear Mr. LeMay:

I am writing to request clarification on the procedure we will follow at the hearing in the above-referenced matter, and to request that the Division assign a hearing examiner other than Mr. Michael E. Stogner to conduct the hearing. As you know, Hartman's and Davidson's Application seeks withdrawal of Administrative Order NSL-3633 due to procedural and due process irregularities in the issuance of that Order. The Order has been stayed but not withdrawn.

Mr. Stogner was the hearing examiner assigned to Meridian's December 21, 1995 application, and the Examiner who prepared the Order at issue. Mr. Stogner may be a witness. With all due respect to Mr. Stogner, it would be improper for Mr. Stogner to decide this matter. Due process violations would only be compounded if Mr. Stogner is put in the position of ruling on whether his prior conduct did or did not comport with OCD's rules and regulations and due process requirements.

The Commission remanded this matter to the Division for a hearing on the merits rather than conducting a de novo hearing itself under NMSA 1978 § 70-2-13 (1995 Repl.) by Order dated March 19, 1996. Under the circumstances, we would respectfully request that the Division assign this matter to a hearing examiner other than Mr. Stogner.

Very truly yours,

GALLEGOS LAW FIRM, P.C.

By


MICHAEL J. CONDON

MJC:sa

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cc: W. Thomas Kellahin
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Leslyn Swierc
James A. Davidson
Michael E. Stogner
David Catanach
Rand Carroll
Jerry Sexton
fxc: Doyle Hartman
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