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

APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION FOR THE AMENDMENTS OF 19.15.14.8 AND 19.15.16 NMAC

CASE NO.: 14744

JALAPENO CORPORATION AND HARVEY E. YATES COMPANY'S PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

Jalapeno Corporation and Harvey E. Yates Company submit the following proposed Findings of Fact and Conclusions of Law in the above-referenced case.

A. PROPOSED FINDINGS OF FACT.

1. This case came before the New Mexico Oil Conservation Commission on the Application of the New Mexico Oil Conservation Division for the amendment of Commission Rules 19.15.14.8 and 19.15.16 NMAC. In general, the proposed amendments require an operator to obtain mineral owner or lessee consent or a compulsory pooling order prior to obtaining a permit to drill and prior to commencing drilling operations, define terms either not previously included in the rules or redefine terms and to revise rules fixing the spacing and allowable production from horizontal wells.

2. Proper public notice has been given of the hearing on this matter and the Commission has jurisdiction of this case and its subject matter.

3. A public hearing was held on October 20-21, 2011. Parties who appeared at the hearing included the Division, the New Mexico Oil and Gas Association, the Independent Petroleum Association of New Mexico, Lynx Petroleum Consultants, Inc., Jalapeno Corporation and Harvey E. Yates Company.

4. Larry Scott, President of Lynx Petroleum Consultants Inc., a small, independent producer that has operated in New Mexico for approximately 30 years, testified in opposition to provisions in the proposed amendments concerning compulsory pooling for project areas for horizontal wells. Mr. Scott has previously testified before the Oil Conservation Commission on multiple occasions. (*See* Hearing Transcript, Vol. 1, p. 88, lines 1-25; p. 89, lines 1-9.)

5. Mr. Scott testified that proposed Rule 19.15.16.15, Subsections A and F, will impair the correlative rights of the operator of existing proration unit that will be traversed by project areas for horizontal wells. Under the proposed rule, an applicant who has no interest in a producing proration unit can file an application for compulsory pooling for a horizontal well based on a "project area" which includes this producing proration unit. In order to defend his development decisions on acreage and mineral leases that the operator owns, the operator of the producing proration unit is required to hire an attorney and travel to Santa Fe for hearings. (Tr., Vol. 1, p. 89, lines 14-25; p. 90, lines 1-25; p. 91, lines 1-25; p. 92, lines 1-10.)

6. Mr. Scott gave an example where correlative rights would be impaired where an operator has a producing Morrow well where compulsory pooling for a horizontal well is ordered covering the Bone Springs Formation, which, in Eastern Eddy County, is approximately 3,000 vertical feet of section where the pooling applicant's target is the Second Bone Springs Sand. A horizontal well will be developed is approximately 100 feet of vertical interval as a result of that horizontal well being drilled. If the operator of the existing Marrow well wants to try to protect his Bone Springs interests, it is required under the terms of his joint operating agreement to have 100 percent approval from the other working interest owners, usually, to plug back out of an economic Morrow well to recomplete to recover his Bone Springs reserves. (Tr. Vol. 1, p. 89, lines 14-25; p. 90, lines 1-25; p. 91, lines 1-25; p. 92, lines 1-23.)

7. An economic Morrow gas well is unlikely to be as productive after being plugged back and reentered after production of the Bone Springs formation. A compulsory pooling order for the Bone Springs would depth segregate the minerals under the operator's previously clean lease and could have significant adverse impacts regarding development in deeper horizons. The availability of back-up zones in the event of primary targets are not productive is an important factor for small producers and the value of the operator's acreage will be diminished by the awarding of that compulsory pooling order, impairing its

correlative rights causing waste of this Morrow gas reserve. (Tr., Vol. 1, p. 89, lines 14-25; p. 90, lines 1-25; p. 91, lines 1-25; p. 92, lines 1-25; p. 93, lines 1-13.)

8. Where an operator owning acreage interests in a tract which would support the establishment of a spacing unit for a vertical well seeks to combine less productive acreage with productive acreage and a pooling order is entered which allocates production on an acreage basis in accordance with NMSA 1978, §70-2-17(C), the correlative rights of the owner of the more productive acreage will be impaired. (Tr., Vol. 1, p. 89, lines 14-25; p. 90, lines 1-25; p. 91, lines 1-25; p. 92, lines 1-25; p. 93, lines 1-25; p. 94, 1-9).

9. Harvey E. Yates, Jr., the president of Jalapeno Corporation, testified in opposition to provisions in the proposed amendments concerning compulsory pooling for project areas encompassing multiple spacing units. Mr. Yates is a retired attorney with training in geology who has been in the oil and gas business for approximately 45 years. Mr. Yates is very experienced with the compulsory or forced pooling rules for proration or spacing units for vertical wells in New Mexico and has experience with compulsory or forced pooling for horizontal wells as one who is being forced into the pool. (Tr., Vol. 2, p. 10, lines 17-25; p. 11, lines 1-25; p. 12, lines 1-6 , lines 22-25; p. 13, lines 1-25; p. 14, line 1.)

10. Mr. Yates testified that forced pooling has traditionally been used in New Mexico to combined acreage to create a spacing unit for a well to meet the

Division's well spacing rules where a required spacing or proration unit cannot be created by consent of the mineral interest owners. Kansas does not authorize compulsory pooling and left such matters to be resolved by negotiations between the parties. Texas has essentially not used compulsory pooling. (Tr. Vol. 2, p. 15, lines 20-25; p. 16, lines 1-21.

11. A statutory proration unit is the area that can efficiently and economically drain and develop a pool by one well. Superimposing a project area for a horizontal well by compulsory pooling by rule over a statutory proration unit is not authorized by statute and will cause a loss of property rights by mineral interest owners and lessees in the proration unit. (Tr. Vol. 2, p. 17, lines 13-25; p. 18, lines 1-14.

12. Mr. Yates proposed the following language should be added to the end of 19.15.16.15.A (2) in order to comply with limitations on the Division's compulsory pooling authority under the Oil and Gas Act: "which shall not be available outside a single proration unit which would be required for a vertical well drilled to the intended productive horizon at the same location." (Tr., Vol. 2, p. 18, lines 14-25; p. 19, lines 1-14).

13. Mr. Yates further testified that the reserves of the vertical well would further be impaired because the proposed changes would allow an unlimited number of horizontal wells to penetrate the vertical well's spacing unit. He further

testified that the proposed changes would diminish the owners of the vertical well spacing unit from protecting their reserves by drilling additional vertical wells to reach the allowable because the proposed changes would require the operator of the vertical well to gain approval from the participants of the horizontal well before drilling additional vertical wells - this even though the owners of the vertical well spacing unit and the owners of the horizontal well project area will have been adversarial parties because of the force pooling of the former by the latter. (Tr., Vol. 2, p. 20, lines 1-25; p. 21.)

14. Mr. Yates further testified that by compulsory pooling for a horizontal well based on a "project area," the reserves would have been impaired by the unlimited horizontal wells and the right to further exploit those reserves by the operator and those in the proration unit is impaired or taken away because the operator and those in the project area must give their permission to the operator and those in the proration unit to drill additional wells on the proration unit. But the operator and those in the project area will be adversarial parties to those requesting such permission. (Tr.,Vol. 2, p. 20, lines 11-25; p. 21, lines 1-13).

15. The Oil Conservation Commission lacks the statutory authority to promulgate rules for compulsory pooling for horizontal wells based on a "project area" which encompass multiple spacing units. (Tr., Vol. 2, p. 22, lines 1-25; p. 23, lines 1-25.)

16. If a horizontal well is drilled into the pool of a proration unit where there is either behind-the-pipe reserves or actually producing reserves, then the reserves, which are property of the operator and the other mineral interest owners and lessees in the proration unit, are being taken. (Tr., Vol. 2, p. 22, lines 1-25; p. 23, lines 1-25.) Small oil companies obtain loans from banks based on the valuation of their oil reserves. Allowing unlimited horizontal wells into a proration unit based on compulsory pooling for a horizontal well for a project area will impair the value of those reserves for which a loan has been obtained and thus impair the contract obligations for the loan in violation of the New Mexico Constitution. (Tr., Vol. 2, p. 27, lines 1-25; p. 28.)

17. Aggressive operators in Southeast New Mexico are utilizing the existing rules and regulations not to protect correlative rights, but rather as a pure acreage acquisition strategy. (Tr., Vol. 1, p. 95, lines 2-13.) There are companies that seem to have moved into the state of New Mexico and utilize forced pooling as a means of gathering leases. (Tr., Vol. 2, p. 33, lines 9-25; p. 34, lines 1-8.) With the easy availability and advantages of forced pooling, negotiations to obtain consent are often not conducted in good faith since these companies will seek to force pool the mineral interest owners and lessees if they do not take the deal they were offered. (Tr., Vol. 2, p. 14, lines 15-25; p. 33, lines 9-25; p. 34, lines 1-8.)

18. In one negotiation involving Jalapeno Corporation the drilling proposal letter came in July 8th, a proposed JOA came in July 17th, a revised JOA with correct interest figures came in July 25th, and the forced pooling application was filed July 28th. (Tr., Vol. 2, p. 33, lines 9-25; p. 34, lines 1-8.)

19. The Division has consistently assessed a 200 percent risk penalty in compulsory pooling cases which means that everywhere the risk is essentially the same, or that the risk is at least 200 percent or more. (Tr., p. 29, lines 3-25; p. 30, lines 1-7.) The advantages of forced pooling for horizontal wells in New Mexico in which a 200% risk penalty is assessed are substantial and provide advantages that set limits on the voluntary agreements. (Tr., Vol. 2, p. 33, lines 9-25; p. 34, lines 1-8.)

20. The correlative rights of the operator and those in a proration unit are not being protected when being subjected to what has become an automatic 200% charge for risk imposed by the Division for drilling a horizontal well in a project area established by compulsory pooling. (Tr. Vol. 2, p. 25, lines 15-25; p. 26, lines 1-15.)

21. Waste is caused when a borehole in a proration unit is not fully utilized for production of reserves when a horizontal well in a compulsory pooled project area produces the reserves from the same proration unit. (Tr., Vol. 2, p. 26, lines 16-25.)

22. If the risk penalty for a charge for risk exceeds the actual geologic risk, then the operator is overcompensated. (Tr., Vol. 2, p. 29, lines 3-25; p. 30, lines 1-15.)

23. Without a risk assessment of the geologic risk upon which the Division can determine the actual geologic risk, then the Oil Conservation Division has violated state law which requires the that the Commission shall afford to the owner or owners of each tract or interest in the unit the opportunity to recover or receive without unnecessary expense his just and fair share of the oil and gas below. (Tr., Vol. 2, p. 29, lines 3-25; p. 30, lines 1-15.)

24. In a 2008 forced pooling case before the Texas Railroad Commission which is considered to be Texas' first forced pooling case, the Commission decided that in drilling the Barnett Shale, there was zero geologic risk and allocated a zero geologic risk. (Tr., Vol. 2, p. 30, lines 16-25; p. 31, lines 1-17)

25. Applications for compulsory pooling for horizontal wells in project areas are proposed to be drilled into shale zones, which have been penetrated over and over and over, and, consequently, the thickness of those shale zones and the nature of those shale zones are known. The geologic risk is generally much, much less because of the earlier information. (Tr. , Vol. 2, p. 32, lines 1-25; p. 33, lines 1-8.) As demonstrated by the success rate of horizontal wells drilled within the last five years, these wells are being drilled into zones that have been penetrated by a

number of wells and where seismic testing and geophysical logs+ have revealed the extent of producing zones with high degrees of certainty, the geologic risk being taken by an operator drilling a horizontal well, in most cases, is much lower than that of a Wildcat well. Consequently, the reward for taking such a risk should be adjusted downward. (Tr., Vol. 1, p. 104, lines 12-20.)

26. The Oil and Gas Act requires the Division to adopt a plan of development agreed to by working interest owners so long as it has the effect of preventing waste and is fair to royalty owners of the pool. Under this provision where working interest owners have already agreed to a JOA which includes the target zone of a proposed project area of a horizontal well, that the Division has no authority to force pool acreage to form a project area which embraces acreage previously committed to joint development, which is adequate to form a spacing unit or multiple spacing units for a well in the target formation. In those circumstances the joint plan of development must be adopted by the Division under the pooling statute if prevents waste and it is fair to the royalty owners. (Tr. Vol. 1, p. 101, lines 13-25; p. 102, lines 1-2.)

27. The terms of an existing operating agreement may be changed. There will be no impairment of contract obligations for a proration unit if the change complies with the terms of the operating agreement. (Tr., Vol. 2, p. 27, lines 1-25; p. 28, lines 1-15.)

28. To apply for compulsory pooling for a horizontal well in a project area, an applicant will only need to acquire one percent of the mineral interest. (Tr., Vol. 2, p. 28, lines 16-25; p. 29, lines 1-2.)

29. If the Oil and Gas Act is amended to provide the Division with authority to allow for compulsory pooling for a horizontal well based on a "project area, then it should be in the form of unitization where compensation for existing wellbores and behind-pipe reserves become a factor, geological considerations with regard to pay, quality, thickness becomes a factor. The vertical extents of that pooled acreage in a unitization situation typically are defined very closely by log section data and do not include the entire interval or formation of Bone Springs. These compulsory pooling orders have the potential to significantly impact existing joint operating agreements, as in this last case, the operator had an existing JOA with all of its partners that covered the interval in question. (Tr., Vol. 1, p. 89, lines 14-25; p. 90, lines 1-25; p. 91, lines 1-25; p. 92, lines 1-25; p. 93, lines 1-25; p. 94, lines 1-25; p. 95, lines 1, 14-21.)

30. With some legislative amendments the Statutory Unitization Act can cover extended areas where development of a pool has already been established, and allocation of production is based on factors other than acreage. The Statutory Unitization Act provides the best basis for horizontal well development. (Tr., Vol. 1, p. 112, lines 4-23).

31. David Brooks, a hearing officer for the Division, former counsel for the Division and a member of the Working Committee that drafted the proposed amendments testified in support of the proposed amendments. Mr. Brooks expressed the view that proposed Rule 19.15.16.15.F is only intended to make certain very limited procedural provisions by importing from 19.15.13 the provision that establishes a rebuttable presumption that a 200 percent risk penalty is appropriate for an operator to recover out of a pooled party's interest and another provision that provides that after a unit is pooled, an operator may propose additional wells to be drilled on the spacing established by that unit without the necessity of another hearing before the OCD unless a hearing is specifically requested by somebody, into any compulsory pooling proceeding that involves the pooling of a project area. Although that was the Committee's intent proposed Rule 19.15.16.15.F does not explicitly provide its limited application. (Tr., Vol. 1, p. 70, lines 22-25; p. 71, lines 1-13)

32. It was not the intention of the Working Committee in drafting 19.15.13 to commit the Commission or the Division to the proposition that all or even any project areas are subject to compulsory pooling. (Tr., Vol. 1, p. 71, lines 14-17.)

33. It is the belief of the Working Committee that the Division and the industry should seek an appropriate modification of the Oil and Gas Act to define

the Division's authority to compulsory pool project areas encompassing multiple spacing units so it can then proceed to apply that authority or not on a uniform basis that everybody will understand. (Tr., Vol. 1, p. 73, lines 12-16.)

34. Because of the lack of statutory authority, the Division's proposal 19.15.16.15.F only states that the compulsory pool rule 19.15.13 is applicable [and not mandatory] to horizontal wells in project areas. (Tr., Vol. 1, p. 75, lines 4-7.)

B. CONCLUSIONS OF LAW.

1. Section 70-2-17(C) of the New Mexico Oil and Gas Act provides:

> When two or more separately owned tracts of land are embraced within a spacing or proration unit, the owner or owners thereof may validly pool their interests and develop their lands as a unit. Where such owner or owners have not agreed to pool their interests, and where one such separate owner, or owners, who has the right to drill has drilled or proposes to drill a well on said unit to a common source of supply, the division, to avoid the drilling of unnecessary wells or to protect correlative rights, or to prevent waste, shall pool all or any part of such lands or interests or both in the spacing or proration unit as a unit.

NMSA 1978, §70-2-17(C).

2. The New Mexico Oil and Gas Act does not mention the term "project area."

3. A "spacing unit" has been defined by the Commission rules as "the acreage assigned to a well under a well spacing order or rule." NMAC 19.15.2.7(S)(9).

4. A project area which consists of a combination of complete, contiguous spacing units is not a non-standard spacing unit.

5. Combining complete spacing units is the nature of unitization.

6. When unitizing lands for primary production, voluntary agreement is required for an interest owner to be included in the unit.

7. When a party seeks to unitize for secondary or tertiary recovery, the Statutory Unitization Act allows the Division to unitize lands. An applicant must show that the plan of unitization is "fair, reasonable and equitable." NMSA 1978, §70-7-5(D). The Division must then find that the participation formula is fair and reasonable. NMSA 1978, §70-7-6(A)(6). If the Division determines that the formula "does not allocate unitized hydrocarbons in a fair, reasonable and equitable basis" the Division may make its own determination about the relative value of each tract and how production should be allocated. NMSA 1978, §70-7-6(B).

8. Where tracts with diverse ownership are pooled to form spacing and proration unit utilizing the Division's compulsory pooling power, NMSA 1978, Section 70-2-17(C) only allows for allocation of production to occur on a straight acreage basis.

9. The Division and the Commission are required to find in its orders that each owner of property in a pool has "the opportunity to produce his just and

equitable share of the oil or gas, or both, in the pool, being an amount, so far as can be practically determined, and so far as such can be practically obtained without waste, substantially in the proportion that the quantity of the recoverable oil or gas, or both, under such property bears to the total recoverable oil or gas, or both, in the pool..." NMSA 1978, §70-2-17(A). Furthermore, all pooling orders "shall be upon such terms and conditions as are just and reasonable and will afford to the owner or owners of each tract or interest in the unit the opportunity to recover or receive without unnecessary expense his just and fair share of the oil or gas, or both." NMSA 1978, §70-2-17(C).

10. There is no statutory authority for compulsory pooling for a horizontal well based on a project area of multiple complete, contiguous spacing units for the Division's proposed amendments to 19.15.14.8 and 19.15.16 NMAC.

11. Any rule adopted by the Oil Conservation Commission without statutory authority would be unlawful.

12. Without an establishment of the geologic risk by an applicant for compulsory pooling, the Division has violated oil and Gas Act which permits, but does not require the determination of a risk charge up to a maximum of 200% and requires pooling orders afford to the owner or owners of each tract or interest in the unit the opportunity to recover or receive without unnecessary expense his just and fair share of the oil or gas, or both. NMSA 1978, §70-2-17(C).

13. Without statutory authority or the police power for compulsory pooling for horizontal wells in a project area, these rules involve a taking without just compensation which is a breach of the Fifth Amendment of the U.S. Constitution. (Tr., Vol. 2, p. 22, lines 1-25; p. 23, lines 1-25; pages 3-5 of the Exhibit entitled "Testimony of Harvey E. Yates, Jr. before the Commission, October 20, 2011".)

14. In order to protect correlative rights, prevent waste and comply with its statutory mandate the Commission adopts the following revisions to the Division's proposed amended Rule 19.15.16.15 NMAC:

19.15.16.15 SPECIAL RULES FOR HORIZONTAL WELLS:

A. Directional and horizontal well consent requirement. An operator shall not file an application for permit to drill nor commence drilling of a horizontal or directional well until the operator has either:

(1) received the consent of at least one lessee or owner of an unleased mineral interest in each tract (in the target pool or formation) in which any part of the well's completed interval will be located ***and in which each tract is not dedicated to an existing operating agreement or communitization agreement covering a proposed geologic interval***; or

(2) obtain a compulsory pooling order from the division ***which shall not be available outside a single proration unit which would be required for a vertical well drilled to the intended productive horizon at the same location***; ***and***

(3) If an existing operating agreement or communitization agreement is in place which covers any portion of the target zone which prevents waste and is fair to royalty owners, the Division may not issue an order for compulsory pooling without obtaining the consent of the working interest owners required to amend the terms of the agreement. In the absence of language in the existing operating agreement which sets the percentage of ownership required to amend the operating agreement, the Division may consider compulsory pooling with the consent of two or more parties owning 75 percent or more of the working interest ownership governed by an existing operating agreement.

B. Well dedication and acreage plat. If the project area to be dedicated to a horizontal well includes one or more spacing units that the well bore will not penetrate the operator shall file with the application for permit to drill two well dedication and acreage plats form C-102 one of which shall depict the outer boundaries of the project area, and the other of which shall depict the spacing unit or units the well bore will penetrate.

C. Set backs.

(1) Horizontal wells drilled in project areas as defined in Subsection I of 19.15.16.17 NMAC shall have setbacks from the outer boundaries of the project area the same as if the well were drilled in a single spacing unit for the pool.
(2) Subject to the provisions of Paragraph (2) of Subsection B of 19.15.16.14 NMAC, every point of the completed interval must meet the minimum setback requirement from the outer boundaries of the project area, or an exception must be approved for a non-standard location.
(3) No internal setbacks are required within the project area.
(4) A horizontal well's surface location may be outside the setbacks or outside the project area provided, that the completed interval is entirely within the project area and complies with the applicable setback requirements.

D. Existing and subsequent wells in project areas.

(1) Existing wells in spacing units or project areas that are included in a newly designated project area remain dedicated to their existing spacing units or project areas and are not part of the new project area unless otherwise agreed by all working interest owners in the new project area.
(2) Subject to the terms of any applicable joint operating agreement, subsequent wells with a completed interval in a horizontal well's project area may be drilled only with the approval of all working interest owners in the project area, or by order of the division after notice to all working interest owners in the project area and opportunity for hearing.

E. Pool rules. Provision of statewide rules or special pool orders in effect on [effective date of this amendment] that limit the number of wells that may simultaneously produce from the portion of a pool or area underlying a spacing unit, or a particular portion of spacing unit, do not apply to horizontal wells. Without limitation of any other right or remedy, an owner or operator of a tract in the same pool as a project area, that is not included in the project area, who contends that a horizontal well in the project area is impairing, or will impair, the owner's or operator's correlative rights may file an application with the division. The division, after notice and hearing, may grant such relief as it determines to be necessary and appropriate, including, but not limited to, imposing a limitation on the rate or amount of production from the project area.

F. Compulsory pooling. The provision of 19.15.13 NMAC regarding compulsory pooling and proposal of additional wells in compulsory pooled units shall apply to horizontal wells and compulsory pooled project areas.

G. Formation of project areas:

(1) Except as provided in Paragraphs (2) and (3) of Subsection G of 19.15.16.15 NMAC, a project area may be formed by filing a form C-102 designating the proposed project area, and simultaneously mailing or delivering a copy thereof to the New Mexico state land office in the proposed project area includes state trust lands.

(2) Before designating a non-standard project area, the operator shall give 20-days notice by certified mail, return receipt requested, to affected persons, as defined in Subparagraph (a) of Paragraph (2) of Subsection A of 19.15.4.12 NMAC, in all spacing units that

(a) are excluded from the project area, if the project area would be a standard project area except for the exclusion of one spacing unit; or

(b) adjoin the project area, in all other cases.

(3) If within 20 days after mailing of notice as provided in Paragraph (2) of Subsection G of 19.15.16.15 NMAC, the operator receives a protest of the proposed non- standard project area, the operator shall promptly notify the division of the protest, and the division shall set the matter for hearing. Unless otherwise authorized by the division, the operator shall not commence drilling in the proposed non-standard project area until the protest has been determined by division order.

(4) No project area may be designated that lies partly within, and partly outside of, a state exploratory unit, or a federal exploratory unit or participating area if the project area includes state trust lands, without the written consent of the commissioner of public lands. ***Nor may a project area be designated which includes acreage dedicated to an existing operating or communitization agreement which prevents waste and is fair to royalty owners without obtaining the consent of the working interest owners, again required to amend the terms of the agreement. In the absence of language in the existing JOA, the Division may require two or more parties owning 75 percent or more of the working interest ownership governed by an existing operating agreement. Additionally, the forced pool interest may be limited to the common source of supply for the project area proposed.***

H. Consolidation of project area. If a horizontal well is dedicated to a project area in which there is more than one owner of any interest in the mineral estate, the operator of the horizontal well shall cause the project area to be consolidated by voluntary agreement or compulsory pooling before the division may approve a request for form C-104 for the horizontal well.

I. Any compulsory pooling order entered by the Division which includes a charge for risk in excess of 50% must be based upon evidence supporting the specific geologic risk involved in drilling the well in zone targeted by the applicant.

15. To ensure that property rights are not infringed upon, the amendments to Rules these rules shall only operate prospectively and shall not affect any APDs that have already been granted by the Division or any compulsory pooling cases filed prior to the date that these amendments become effective.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I certify that on November 21, 2011, I served a copy of the foregoing documents by U.S. Mail to the following:

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