



New Mexico  
Environmental Law Center

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2012 JUN 29 P 4: 04

Florene Davidson  
Commission Clerk  
Oil Conservation Division  
1220 South St. Francis Dr.  
Santa Fe, New Mexico 87505

June 29, 2012

RE: IN THE MATTER OF THE APPLICATION OF THE NEW MEXICO OIL AND GAS ASSOCIATION FOR AMENDMENT OF CERTAIN PROVISIONS OF TITLE 19, CHAPTER 15 OF THE NEW MEXICO ADMINISTRATIVE CODE CONCERNING PITS, BELOW GRADE TANKS, CLOSED LOOP SYSTEMS AND OTHER ALTERNATIVE METHODS TO THE FOREGOING, AND AMENDING OTHER RULES TO CONFORMING CHANGES STATEWIDE.

CASE NO. 14784  
CASE NO. 14785

Dear Ms. Davidson:

Please find enclosed New Mexico Environmental Law Center's Notice of Intent to Provide Rebuttal Testimony along with rebuttal exhibits 3-9 for the above-captioned case. Please do not hesitate to contact the Law Center if you have any questions

Sincerely,  
New Mexico Environmental Law Center

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

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2012 JUN 29 P 4: 05

**IN THE MATTER OF THE APPLICATION OF THE NEW MEXICO OIL AND GAS ASSOCIATION FOR AMENDMENT OF CERTAIN PROVISIONS OF TITLE 19, CHAPTER 15 OF THE NEW MEXICO ADMINISTRATIVE CODE CONCERNING PITS, BELOW GRADE TANKS, CLOSED LOOP SYSTEMS AND OTHER ALTERNATIVE METHODS TO THE FOREGOING, AND AMENDING OTHER RULES TO CONFORMING CHANGES STATEWIDE.**

**CASE NO. 14784**

**CASE NO. 14785**

**Notice of Intent to Present Rebuttal Testimony**

Pursuant to the Commission's verbal order, Earthworks' Oil & Gas Accountability Project ("OGAP") hereby gives notice that it intends to present rebuttal testimony at the hearing in the above-captioned consolidated case, scheduled to resume on August 28, 2012 on the proposed amendments of the rule governing regulation of pits, below grade tanks, closed loop waste systems and alternatives to those waste disposal methods ("Pit Rule").

OGAP opposes the New Mexico Oil and Gas Association's ("NMOGA") and the Independent Petroleum Association of New Mexico's ("IPANM") proposed revisions to the Pit Rule in their entirety.

**I. Party Presenting Rebuttal Testimony:** Earthworks' Oil & Gas Accountability Project.

**II. Name and Qualifications of Witnesses to be Presented:** OGAP intends to present Ms. Kathy Martin, P.E., as their rebuttal witness. Ms. Martin's *curriculum vitae* is attached hereto as OGAP Exhibit 3. Ms. Martin is a Professional Engineer in civil engineering (Oklahoma License Number 18254). Ms. Martin holds a Bachelor's of Science Degree in Petroleum Engineering and a Master's of Science degree in Civil Engineering. Ms. Martin's

academic training includes, but is not limited to, water and wastewater containment structures, contaminant fate and transport concepts and modeling, surface colloidal science, and groundwater monitoring and leak detection. Ms. Martin has extensive knowledge in the areas of liner materials, liner construction, and waste/liner compatibility as it relates to the efficacy of a liner system to protect groundwater.

Ms. Martin's professional experience includes advising governmental and public interest agencies in the areas of wastewater containment and disposal, oil and gas regulations, air quality permitting, and the design, operation and closure of wastewater surface impoundments. Ms. Martin's professional experience also includes writing permits for wastewater impoundments, overseeing closure and abatement of waste impoundments, regional and localized groundwater monitoring projects, assessing technical and regulatory deficiencies in waste disposal permit applications, land application of wastewater on crops, and environmental issues related to hydraulic fracturing. Ms. Martin also has experience drafting risk based regulations for governmental agencies.

**III. Summary of Testimony:** OGAP intends to offer Ms. Martin's testimony in rebuttal to the following witnesses offered by the New Mexico Oil and Gas Association:

1. Dr. Ben Thomas
2. Mr. Dan Arthur
3. Mr. Mike Lane
4. Dr. Bruce Buchanan

Ms. Martin will testify in rebuttal to the following Independent Petroleum Producers of New Mexico ("IPANM") witness:

1. Mr. Tom Mullins

Ms. Martin intends to rebut NMOGA and IPANM testimony in the following areas:

1. Multi-well Fluid Management Pits: Ms. Martin intends to discuss the paucity of technical testimony offered by NMOGA and IPANM on multi-well fluid management pits (“multi-well pits”). Additionally, Ms. Martin will address issues raised by Mr. Arthur and Mr. Lane in their direct testimony, including, but not limited to, the efficacy of leak detection systems for multi-well pits as explained by Mr. Lane and Mr. Arthur and the particular installation and operational problems that arise with liners in multi-well pits. Further, Ms. Martin will address Mr. Lane’s and Mr. Arthur’s testimony comparing multi-well pits with conventional temporary pits and conventional permanent pits.

2. Record of pit related groundwater contamination in New Mexico: Ms. Martin will testify about her review of Oil Conservation Division records on pit related groundwater contamination in New Mexico and address inaccuracies in Mr. Arthur’s and Mr. Mullins’ testimony regarding these records.

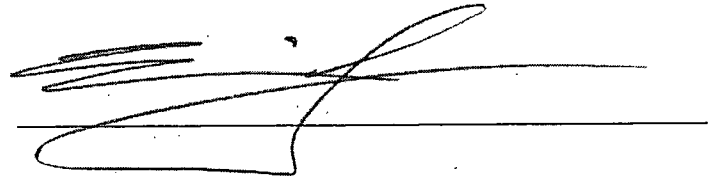
3. Contaminant transport: Ms. Martin will address Dr. Thomas’ testimony regarding transport of hydrocarbons in the subsurface and Dr. Buchanan’s testimony regarding chloride bulges. Ms. Martin will further address flaws in Mr. Mullins’ use of the HELP and MULTIMED modeling processes and his interpretation of the results.

4. Pit liner requirements: Ms. Martin will address design, installation and operational issues with liners in temporary and permanent pits as identified in Mr. Arthur’s and Mr. Mullins’ testimony.

**Anticipated Duration Of Testimony:** Approximately 2 hours, exclusive of cross-examination.

Dated: June 29, 2012

NEW MEXICO  
ENVIRONMENTAL LAW CENTER

A handwritten signature in black ink, appearing to read "Eric Jantz", written over a horizontal line.

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Attorneys for OGAP

## CERTIFICATE OF SERVICE

I hereby certify that on this 29<sup>th</sup> day of June, 2012, I have delivered a copy of the foregoing pleading in the above-captioned case via electronic mail and/or US Mail, First Class to the following:

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