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June 9, 2016

**HAND-DELIVERED**

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

**Re: Application of Dominion Production Company – Case No. 15379 *De Novo***

Dear Ms. Davidson:

Enclosed please find for filing the original and six copies of Applicant's Pre-Hearing Statement. Also enclosed are six sets of exhibits for the hearing on June 16, 2016 in the above matter.

Thank you.

Very truly yours,

J. Scott Hall

Enclosures  
cc (w/encs.): Keith W. Herrmann, Esq. (via hand-delivery)

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**REPLY TO:**

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Santa Fe, New Mexico 87501  
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Post Office Box 2307  
Santa Fe, New Mexico 87504-2307

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

RECEIVED OCD

2016 JUN -9 P 4: 30

**IN THE MATTER OF THE APPLICATION OF  
THE NEW MEXICO OIL CONSERVATION  
DIVISION ("OCD") COMPLIANCE AND  
ENFORCEMENT MANAGER FOR A  
COMPLIANCE ORDER AGAINST DOMINION  
PRODUCTION COMPANY LLC**

**CASE NO. 15379 *De Novo***

**PRE-HEARING STATEMENT**

Dominion Production Company, LLC ("Dominion") provisionally provides this Pre-Hearing Statement as required by the rules of the Division.

**APPEARANCES**

DOMINION PRODUCTION  
COMPANY, LLC

DOMINION PRODUCTION COMPANY  
LLC'S ATTORNEY

J. Scott Hall, Esq.  
Seth C. McMillan, Esq.  
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APPLICANT

APPLICANT'S ATTORNEY

OCD COMPLIANCE AND  
ENFORCEMENT OFFICER

Keith W. Herrmann  
Assistant General Counsel  
Energy, Minerals and Natural Resources  
Department of the State of New Mexico  
1220 South St. Francis Drive  
Santa Fe, NM 87505  
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## STATEMENT OF THE CASE

Applicant Compliance and Enforcement Manager seeks a compliance order against Dominion Production Company, LLC finding that the operator is in violation of Agreed Compliance Order 285, the Oil and Gas Act and the Division's rules, requiring the operator to return to compliance with Division rules by a date certain, and in the event of non-compliance, request additional sanctions.

Dominion Production Company, LLC is the operator of 165 wells it acquired in October, 2012, all in McKinley County, New Mexico. Prior to that time, over many decades in fact, numerous wells were allowed to fall out of compliance. Several wells, as many as 121 at once, were the subject of previous compliance orders. (*See* Order No. R-13166 (September 15, 2009); Nacogdoches Oil and Gas). In order to obtain the Division's approval for the transfer of the wells and operations from Nacogdoches Oil and Gas to it, Dominion entered into an agreed compliance order which scheduled the restoration or plugging of twelve inactive wells (ACOI-266). At the time of the transfer to Dominion, WTI oil was trading near \$100 per barrel.

Dominion completed the work under ACOI-266 on schedule, but was not allowed to report swabbed oil as C-115 production, although the Division's regulations do not restrict operators from doing so. As a consequence, numerous wells which would have otherwise qualified as producers were transferred to the inactive well list. Other wells were identified as needing additional financial assurance. It was determined that a number of injection wells had gone without inspections and mechanical integrity tests as far back as 2000. Injection operations into one well occurred without an injection permit. Other wells needed new location signs and some lacked sundry notices. The accumulation of these items of non-compliance prompted the Division and Dominion to enter into a new compliance order, executed in January of 2015 (ACO-285). By then, crude prices had declined and oil was trading from approximately \$45 to \$55 per barrel. Dominion was able to make significant progress and completed a significant

number of compliance items. Some field work was delayed by weather and lease access issues, but more importantly work was slowed by reduced project cash flow caused by the collapse in commodity prices. After transportation and royalty, Dominion was then netting only \$28 per barrel. Despite this, Dominion has expended nearly \$900,000.00 on corrective actions, including at the Division's request the remediation of a nearby land-farm that Dominion doesn't even own or operate.

The Division's Aztec office and the Enforcement Bureau in Santa Fe were provided with periodic progress reports. Those reports noted that the deteriorating market for oil was making it difficult to achieve the timelines for performance under ACO-285. Because the compliance order made express provision for adjustment of the timeline for good cause shown (ACO-285, ¶9), Dominion proposed that the schedule for compliance be adjusted to reflect the new economic reality. This, the Enforcement Bureau declined to do, opting instead to file its Application for Compliance Order and seek a hearing before a Division Examiner.

At the Examiner hearing, the Enforcement Bureau's witnesses agreed that a decline in market conditions could constitute good cause for extending the time for completing the work. But more significantly, the Division disregarded the evidence presented establishing that the persistently poor market for crude oil constitutes a *force majeure* event, or at least good cause for establishing a reasonable and achievable schedule for accomplishing compliance. The Division also failed to perform the Division's statutory duty to act to prevent waste by giving no consideration to whether its compliance and enforcement actions in this matter would result in economic waste or a reduction in otherwise recoverable reserves.

Throughout, the Division has acted without regard for the effect of changed market conditions on the Operator's ability to perform corrective actions under the previous schedule set out in ACO-285, although nothing prohibits the Division from doing so. At the hearing before the Commission, Dominion

will provide an update of project economics and will propose a more realistic timetable for obtaining additional financial assurance, performing plugging and abandonment operations and completion of mechanical integrity tests. Dominion will also inform the Commission of its plans for further development of the field.

**PROPOSED EVIDENCE**

DOMINION PRODUCTION COMPANY, LLC

<u>OPPONENT</u>	<u>EST. TIME</u>	<u>EXHIBITS</u>
<u>WITNESSES</u>		
David Burns, President Dominion Production Company, LLC	30 minutes	12

OCD COMPLIANCE AND  
ENFORCEMENT BUREAU

WITNESSES

**PROCEDURAL MATTERS**

The Application, legal notice for publication, or other notice that may have been provided in this matter do not comply with the requirements of 19.15.4.8 and 19.15.4.9.A(7) NMAC of the Division’s rules. Although Dominion Production Company provisionally provides this Pre-Hearing Statement, it waives no rights with respect to these omissions.

Respectfully submitted,

MONTGOMERY & ANDREWS, P. A.

By: J. Scott Hall

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*Attorneys for Dominion Production Company*

### **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served on the following  
counsel of record by hand delivery on June 9, 2016:

Keith W. Herrmann  
Assistant General Counsel  
Energy, Minerals and Natural Resources  
Department of the State of New Mexico  
1220 South St. Francis Drive  
Santa Fe, NM 87505

J. Scott Hall

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