

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

**IN THE MATTER OF THE HEARING CALLED BY THE
OIL CONSERVATION DIVISION FOR THE PURPOSES
OF CONSIDERING:**

MAY 24 2018 PM02:42

**APPLICATION OF HILCORP ENERGY
COMPANY TO AMEND THE WELL
DENSITY REQUIREMENTS AND
ADMINISTRATIVE EXCEPTIONS OF THE
SPECIAL RULES FOR THE BLANCO-
MESAVERDE GAS POOL TO PERMIT
ADMINISTRATIVE APPROVAL FOR WELL
DENSITY EXCEPTIONS, RIO ARRIBA AND
SAN JUAN COUNTIES, NEW MEXICO.**

CASE NO. 16193

**MOTION TO STRIKE SAN JUAN CITIZENS ALLIANCE'S
NOTICE OF INTERVENTION**

Hilcorp Energy Company, ("Hilcorp") (OGRID No. 372171), through undersigned counsel, hereby files this motion to strike the intervention of San Juan Citizens Alliance, the Oil and Gas Accountability Project, and Don Schreiber and to preclude each of them from being a party to this case and from filing motions for continuance. For the reasons stated, the notices of intervention are legally deficient. In support, Hilcorp states:

1. Pursuant to 19.15.4.11 NMAC, San Juan Citizens Alliance, the Oil and Gas Accountability Project, and Don Schreiber (collectively "Intervenors") each filed separate notices of intervention in this case on May 23, 2018.

2. The Division's rule governing intervention provides that "a person with standing with respect to the case's subject matter may intervene by filing a written notice of intervention[.]" 19.15.4.11(A) NMAC (emphasis added). It also provides that the

person giving notice of intervention “shall” state “the nature of the intervenor’s interest in the application,” and “the extent to which the intervenor opposes issuance of the order applicant seeks.” 19.15.4.11(A)(3)-(4) NMAC (emphasis added).

3. Intervenor’s notices are legally deficient for at least three reasons and thus fail to meet the Division’s mandatory requirements necessary to establish the right to intervene and to seek a continuance. *See Marbob Energy Corp. v. New Mexico Oil Conservation Comm’n*, 2009-NMSC-013, ¶ 22, 206 P.3d 135 (“‘shall’ indicates that the provision is mandatory”).

4. *First*, the rule requires, as a condition precedent, that putative intervenors have standing with respect to the case’s subject matter. Intervenor’s have not established this threshold element necessary for intervention.

5. Hilcorp’s application seeks an order to amend the well density requirements and administrative exceptions of the Special Rules and Regulations for the Blanco-Mesaverde Gas Pool (72319) to permit administrative approval of applications for well density exceptions. That is, Hilcorp seeks to change the pool rules to allow administrative approval for well density exceptions where it can be established that existing well spacing does not permit sufficient drainage of remaining gas reserves. The subject matter of this case thus relates to the effective and efficient drainage of the Blanco-Mesaverde Gas Pool.

6. Intervenor’s uniformly state that they are each “an interested party,” but allege no basis to establish standing with respect to the effective and efficient drainage of the Blanco-Mesaverde Gas Pool. Nor do they establish how the interest they seek to protect—whatever that is—may be redressed by the Division. *See San Juan Agr. Water*

Users Ass'n v. KNME-TV, 2011-NMSC-011, ¶ 42, 257 P.3d 884 (identifying “redressability” as an element of standing under New Mexico law).

7. Having failed to establish this threshold legal element—a condition precedent to intervention—Intervenors’ notice must be stricken.

8. *Second*, Intervenors are required to state “the nature of the intervenor’s interest in the application.” 19.15.4.11(A)(3) NMAC. Intervenors flatly assert, without factual support or further allegation, that they are each “an interested party,” but do not explain the “nature” of their interest as mandated. Fundamentally, Hilcorp’s application implicates the Division’s statutory authority and obligation to prevent waste and protect correlative rights. Intervenors fail to establish how they each have an interest that could possibly relate to Hilcorp’s application or implicate the Division’s statutory charge to prevent waste and protect correlative rights.

9. *Third*, the intervention notice is required to state “the extent to which the intervenor opposes issuance of the order applicant seeks.” 19.15.4.11(A)(4) NMAC. Intervenors’ notices also uniformly omit this mandatory element.

10. Intervenors’ notices are uniformly deficient as to these three mandatory legal elements. All three notices must be stricken pursuant to the Division’s rules governing intervention.

11. Moreover, having failed to establish the right to be a party in the case, each Intervenor should be precluded from filing a motion for a continuance. *See* 19.15.4.10 NMAC (defining “parties” to an adjudicatory proceeding). Only “parties” are permitted by Division rule to file a motion for continuance. *See* 19.15.4.13(C) NMAC.

Hilcorp should not be required to bear the undue burden and expense of responding to a motion for continuance filed by individuals or entities not a party to the case.

WHEREFORE, Hilcorp Energy Company respectfully requests that the notices of intervention filed by San Juan Citizens Alliance, the Oil and Gas Accountability Project, and Don Schreiber be stricken as legally deficient and for lack of standing. Further, each of them should be precluded from filing a motion for continuance on the grounds that they have not established the legal requirements necessary to be parties to this case.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on May 24, 2018, I served a copy of the foregoing document to the following counsel of record via Electronic Mail to:

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A handwritten signature in black ink, appearing to read 'AG Rankin', is written over a horizontal line.

Adam G. Rankin