

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

**IN THE MATTER OF THE APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION FOR REPEAL OF EXISTING RULE 50 CONCERNING PITS AND BELOW GRADE TANKS AND ADOPTION OF A NEW RULE GOVERNING PITS, BELOW GRADE TANKS, CLOSED LOOP SYSTEMS AND OTHER ALTERNATIVE METHODS TO THE FOREGOING, AND AMENDING OTHER RULES TO CONFORMING CHANGES STATEWIDE.**

**CASE NO. 14015**

**Request for Alternative Dispute Resolution**

COME NOW the Independent Petroleum Association of New Mexico a party of record in this case, hereinafter referred to as "IPANM," and pursuant to §12-8A-3(A) NMSA 1978, The Governmental Prevention and Resolution Act, request a continuance to compel the New Mexico Oil Conservation Division ("Division") to participate in alternative dispute resolution procedures to resolve issues pertaining to case no. 14015 and in support of this Motion, state:

1. On September 21 2007, the New Mexico Oil Conservation Division ("Division") filed an Application for Rulemaking seeking an order repealing Rule 50 of the General Rules and Regulations of the Division and adopting proposed new rules governing pits, below grade tanks, closed loop systems and other alternative methods to the foregoing. The proposed amendments, if adopted, would ban all unlined pits absent a special exception, adopt new requirements for the closure of pits and below-grade tanks, otherwise substantially change the Commission's existing requirements concerning the permitting, design, construction and operation of pits and below-grade tanks (and operation of sumps) used in oil and gas operations, and require the permitting of, and prescribe rules concerning design, construction and closure of closed loop systems or alternative methods that may be proposed for use in lieu of pits or below-grade tanks. In addition, the Division proposes conforming changes to rules 7[19.15.1.7 NMAC], 21[19.15.1.21 NMAC], 52 [19.15.2.52 NMAC], 114 [19.15.3.114 NMAC], 202 [19.15.4.202NMAC] and 1103 [19.15 .13.1103 NMAC]. For the purpose of this motion, these rules will hereinafter be referred to as the "Pit Rules."

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2. The Division's first draft of the Pit Rules was released in March 2006 after an industry presentation to the OCD and subsequently all parties to the case, including IPANM, issued comments. In March 2007, the OCD announced that a Governor appointed taskforce was convened to advise the OCD on the complex issues involved in the Pit Rule. Mr. Reese Fullerton was appointed 'facilitator' for the taskforce meetings. No written document outlining conflicts of interest or intent that the meetings be some form of dispute resolution was ever discussed with the taskforce members.

3. The Task Force met during April, May and June 2007 and, on July 10, 2007 released a report identifying items which the Task Force had reached agreement and other issues where there was no consensus. At the time of issuance of the final proposed rule on September 21, 2007, several other issues were added to the rule that were not part of the consensus report or discussed at any time during the previous taskforce meetings. At no time during the taskforce meetings, was the issue of cost or economic viability or impact on small businesses formally discussed.

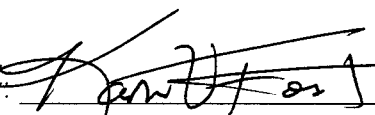
4. IPANM is a not-for-profit §501(c)(3) membership association comprising of approximately 245 members from the exploration and production segment of the oil and gas industry. The average IPANM member company employs 25 individuals, and is based in New Mexico. The proposed Pit rule will impact the smallest exploration and production or 'upstream' producers the most severely due to basic market driven supply and demand of hardware for closed-loop systems, trucking, rig availability and disposal facilities. With an estimated cost increase of at least 10% per well location, most small operators, who operate marginal wells will either stop production or sell their businesses. Either action, which will be a direct result of promulgation of the proposed pit rule will result in loss of production of oil and gas resources to the State and associated revenues. As such, IPANM is a valid interested party to the issue before the Commission.

5. IPANM would respectfully request access to alternate dispute resolution procedures to resolve the issue of promulgation of the proposed pit rule which will result in waste related to oil and gas resources in the State of New Mexico. In addition, since the

statutory mandates of the Small Business Regulatory Relief Act §14-4A NMSA 1978, were not considered by the prior taskforce or the NMOCD in creating the Pit rule, dispute resolution is necessary to resolve small business concerns in the NMOCD rulemaking.

WHEREFORE, IPANM moves the Oil Conservation Commission for an Order compelling the NMOCD to discontinue Case No. 14015 to conduct alternate dispute resolution pursuant to §12-8A NMSA 1978 to resolve concerns in the proposed Pit rule pertaining to small business oil and gas production in New Mexico.

Respectfully submitted,  
Chatham Partners, Inc.

By:   
Karin V. Foster

ATTORNEY FOR THE INDEPENDENT  
PETROLEUM ASSOCIATION OF NEW  
MEXICO

#### **CERTIFICATE OF SERVICE**

I hereby certify that on this 22ND day of October 2007, I have caused a copy of the IPANM's Motion for Continuance in the above-captioned case to be delivered to the following:

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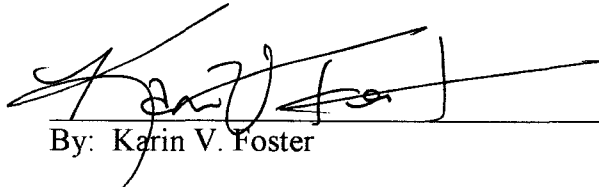
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