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October 22, 2007

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

RE: BP Comments To The Proposed rule change Case No. 14015 (19.15.17 NMAC, Pit Rule amendments)

Dear members of the Oil Conservation Commission:

Pursuant to Order No. R-12819 and 19.15.14.1204 NMAC, BP is submitting comments on the proposed Pit Rule (Case No. 14015). BP is one of the largest operators in New Mexico with over 2700 wells in the San Juan Basin and the Permian Basin. We appreciate the opportunity to comment on the proposed Pit Rule.

BP has been an active participant in the New Mexico Industry Committee and we support their general comments to the proposed rule and specific recommended modifications to the language in the proposed rule. In addition to the comments submitted by the Industry Committee, BP wishes to submit the following additional general comments regarding the proposed changes to the rule.

BP believes the current pit rule adequately protects the environment and public health and safety and that the proposed modification, if adopted, will have a number of broader adverse impacts on safety and the environment due to factors such as increased traffic levels and impacts on wildlife. Finally we would note that the rule as drafted is likely to have a significant adverse financial impact on the industry's costs for drilling and completing wells in New Mexico and will likely impact future activity levels in the state.

#### **No Need For A Rule Change**

The most recent rule change to the pit rule (Rule 50) occurred three years ago in 2004. This rule was revised to further specify and provide appropriate environmental and public safety assurances regarding how pit contents were managed. BP supported this change. We have recently reviewed the OCD's Groundwater Impact Data Base on the agency website. This data base indicates in the category of "pits" that only two incidents to groundwater have been documented since the new rule went into effect. This could lead one to conclude that, applied appropriately, the existing Rule 50 is accomplishing the goal of protecting the environment and public safety and that a revision to the current pit rule is not needed.

### **Closure Requirements**

The proposed Pit Rule requires temporary pit contents to be excavated and transferred to a division approved facility for disposal and provides that the operator must demonstrate that a division approved facility or an out-of-state facility is not within 100 miles of the site in order to implement on-site management of the pit contents. As drafted, the rule would require every well drilled to have the cuttings and fluids removed from the reserve pit and hauled to an offsite division approved waste management facility. This would be the case even if a closed system were used since the drill cuttings would also need disposal. Assuming an approved waste site is even available, this will cause significant increased risks to the environment, the public, and workers in the industry as well as fiscal damage to the state and industry.

### **Central Waste Facility Capacity**

Should the proposed rule be adopted, we are concerned about the extent to which existing landfills would reach capacity in handling this material. There is also uncertainty that landfills or other waste facilities out of state would voluntarily accept New Mexico generated wastes, or if their state waste permit would allow them to do so. To assume this capacity would be readily available to our industry needs to be better understood by OCD staff. Further, the time needed to permit new facilities to keep up with anticipated demand must be assessed to ensure industry would have locations to take these materials.

### **Road Safety**

One risk with an increase in traffic will be a corresponding increase in miles driven by large multi-axle trucks in order to transport drill cuttings from well sites to central waste disposal facilities. A 2006 New Mexico Department of Transportation Programs Traffic Safety draft study on the agency's website found two trends that existed in the state: 1) Heavy trucks in crashes, involving at least one other vehicle, were at fault 56 percent of the time; and 2) 62 percent of all heavy truck crashes occurred between 8 a.m. and 5 p.m.. With the amount of additional miles that will need to be driven in New Mexico by large trucks to haul contents derived from both temporary pits and drill cuttings derived from closed loop systems to central waste facilities during daylight hours, both within and outside of New Mexico, this will place increased heavy traffic and safety risks on the road system in the state.

### **Road and Wildlife Impacts**

BP respectfully suggests the OCC ask OCD staff to consult with the Department of Transportation regarding road impacts to pavement and road surfacing in portions of the state that will be affected by the necessary increase in truck traffic from hauling temporary pit contents and cuttings from closed-loop drilling systems. According to the Mr. Robert S. Young, PE; Pavement Management Engineer for the New Mexico Department of Transportation, increased heavy multi-axle truck traffic will result in impacts to paved roads.

Studies have generally found that trends of increasing traffic volumes typically increase mortality rates of large mammals and other vertebrates. The New Mexico Game and Fish website has posted a group of presentations on wildlife and traffic impacts under the heading "Critical Mass: Solutions For Reconnecting Wildlife & Habitats Across

Highways". While there may be any number of factors that could influence wildlife mortality on roads such as season, time of day, and species specific behavior, increased traffic on roads, especially from heavy multi-axle trucks, is worthy of consideration.

In summary, BP appreciates the opportunity to review and comment upon the proposed pit rule and requests the OCC carefully reconsider the need to revise the existing pit rule. If changes are made, we urge the OCC to carefully consider and accept the recommendations from the New Mexico Industry Committee and conduct more detailed analysis of the implications of this rule on public safety, waste facility capacity (both within New Mexico and surrounding states), road quality and wildlife before making a final decision.

Thank you for considering our comments. Please do not hesitate to contact me at 303-830-3259 should you wish to discuss further.

Sincerely,

*James W. Hawkins*

James W. Hawkins  
BP San Juan Regulatory Consultant