

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

**APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION,
THROUGH THE ENVIRONMENTAL BUREAU CHIEF, FOR ADOPTION OF
AN AMENDMENT TO 19.15.39 NMAC ADDING NEW SECTIONS TO BE
CODIFIED AT 19.15.39.9 AND 19.15.39.10 NMAC ADDRESSING SPECIAL
PROVISIONS FOR SANTA FE COUNTY AND THE GALISTEO BASIN; SANTA
FE, SANDOVAL AND SAN MIGUEL COUNTIES.**

CASE NO. 14255

EXHIBITS SUBMITTED BY THE OIL CONSERVATION DIVISION

1. Testimony of Daniel Sanchez
2. Testimony of Brad A. Jones
3. Testimony of Will Jones
4. Testimony of Glenn von Gonten
5. Wells in Santa Fe County and the Galisteo Basin
6. Map of Santa Fe County and the Galisteo Basin showing well locations
7. C-104 for the Black Ferrell #001
8. Production summary for the Black Ferrell #001
9. APD filed by Tecton Energy, LLC.
10. APD filed by Tecton Energy, LLC
11. APD filed by Tecton Energy, LLC
12. Operator change forms showing transfer from Tecton Energy, LLC to Tecton Energy Operating, LLC
13. Map of the Galisteo Surface Water Drainage Boundary
14. Santa Fe County Ordinance No. 2007-14
15. Santa Fe County Ordinance No. 2008-03
16. Summary of county activity, from Santa Fe County website
17. Status report from Santa Fe County website
18. Executive Order 2008-004
19. Comments received by EMNRD/OCD
20. Report on the Galisteo Basin
21. Executive Order 2008-038
22. Red-line version of Sections 9 and 10, showing proposed modifications
23. Galisteo Basin Archaeological Sites Protection Act, PL 108-208
24. NMSA 1978, Section 18-6-8.1
25. 4.10.7 NMAC
26. NMSA 1978, Section 18-6-11.2
27. NMSA 1978, Section 30-12-12
28. NMSA 1978, Section 18-6-11.1
29. Subsection W of 19.15.2.7 NMAC
30. Attorney General Opinion No. 87-64
31. Executive Order No. 2005-003

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32. State of New Mexico Executive Department Policy Regarding Tribal Consultation on the Protection of Sacred Places and Repatriation
33. NMSA 1978, Section 70-2-11(A)
34. NMSA 1978, Section 70-2-12
35. Subsection F of 19.15.17.13 NMAC
36. Subsection A of 19.15.2.7 NMAC
37. Letter, dated July 10, 1985 from the State Engineer to the OCD
38. Subsection F of 19.15.2.7 NMAC
39. Galisteo Basin Report, Executive Order 2008-004 Assessment, Office of the State Engineer, June 2008
40. Fresh Water Resources in the Galisteo Basin, Executive Order 2008-038 Assessment, Office of the State Engineer, December 1, 2008
41. Wellbore diagram for the Black Ferrill #1
42. Powerpoint to illustrate casing and cementing issues
43. Affidavit of Notice

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TESTIMONY OF DANIEL SANCHEZ

Since November 22, 2004, I have been the Compliance and Enforcement Manager of the Oil Conservation Division (OCD) of the Energy, Minerals, and Natural Resources Department (EMNRD).

I am also the Program Director for the Environmental Protection Agency's ("EPA") underground injection control program.

(1) The history of oil and gas development in Santa Fe County and the Rio Basin; and

(2) The development of the proposed rules for Santa Fe County and the Galisteo Basin.

HISTORY OF OIL AND GAS DEVELOPMENT
IN SANTA FE COUNTY AND THE GALISTEO BASIN

The OCD's records in its RBDMS (Risk Based Data Management System) database show 32 wells drilled in Santa Fe County and the Galisteo Basin. All of the 32 wells have been plugged except for one: the Black Ferrell #001, API 30-049-20022. **OCD Ex. 5** is a list identifying the 32 wells. The first page of Ex. 5 was generated by a search of RBDMS records for wells in Santa Fe County. The second page of Ex. 5 was generated by a search of RBDMS records for those townships and ranges in Sandoval and San Miguel Counties that are included in the Galisteo Basin. **OCD Ex. 6** is a map showing the well locations. It was prepared using the latitude and longitude for each of the 32 identified wells. Some of the wells are located close together. Because of the scale of the map, some of the orange dots reflect the location of more than one well.

The Black Ferrell #001 was drilled in 1984-1985 by Black Oil Inc. **OCD Ex. 7** is a copy of the *C-104, Request for Allowable and Authorization to Transport Oil and Natural Gas*, from the OCD well file for the Black Ferrell #001 showing when it was drilled by Black Oil Inc. OCD records show that the Black Ferrell #001 has reported production of approximately 880 barrels of oil. **OCD Ex. 8** is a summary of reported production of oil, gas and water, to date, from the Black Ferrell #001. The Black Ferrell #001 is not currently reporting production.

No infrastructure currently exists in Santa Fe County to support oil and gas production in the county, such as waste disposal facilities, transportation pipelines, or downstream facilities.

58 Tecton Energy, LLC, OGRID 240497, became operator of record of the Black
59 Ferrell #001 September 1, 2006. In December 2007 Tecton Energy, LLC filed three
60 applications for permits to drill (APDs) for wells to be located in the Santa Fe County.
61 **OCD Exs. 9, 10 and 11** are the applications filed by Tecton Energy, LLC. The orange
62 diamonds on Ex. 5 show the proposed locations for the Tecton Energy, LLC wells.

63 Tecton Energy Operating, LLC, OGRID 261973, became operator of record for
64 the well August 26, 2008, taking over from Tecton Energy, LLC. **OCD Ex. 12** shows
65 the forms from the OCD well file for the Black Ferrell #001 on the operator change.

66 The Black Ferrell #001 and the three proposed wells are located in the Galisteo
67 Basin. The Galisteo Basin is defined as the surface water drainage area for the Galisteo
68 River. The Galisteo Basin is located in the south half of Santa Fe County, with small
69 portions of the basin extending into San Miguel County to the east, and Sandoval County
70 to the west. **OCD Ex. 13** is a map of the Galisteo Surface Water Drainage Boundary.

71 The filing of applications for permits to drill wells in the Galisteo Basin triggered
72 public concern throughout Santa Fe County. On November 27, 2007, Santa Fe County
73 adopted Ordinance No. 2007-14, placing a moratorium on the acceptance and processing
74 of applications to drill an oil or gas well for a period of three months, or until the 28th day
75 of February 2008. **OCD Ex. 14** is a copy of Ordinance No. 2007-004. Santa Fe County
76 subsequently issued Ordinance No. 2008-03 on February 27, 2008, extending the
77 moratorium until February 27, 2009, with a possible extension for six additional months.
78 **OCD Ex. 15** is a copy of Ordinance No. 2008-03. Since enacting the ordinances, Santa
79 Fe County has scheduled public meetings, hired consultants, drafted a proposed regulator
80 ordinance governing oil and gas drilling, and drafted oil and gas specific amendments to

81 the county general plan. **OCD Ex. 16** is a page from the Santa Fe County website
82 summarizing the county's public meeting schedule on the oil and gas drilling ordinance.
83 **OCD Ex. 17** is a page from the Santa Fe County website summarizing the county's
84 actions on the oil and gas regulatory ordinance and the amendments to the county general
85 plan. The Santa Fe County Board of County Commissioners is currently scheduled to
86 hear the proposed oil and gas ordinance on December 9, 2008.

87 DEVELOPMENT OF THE PROPOSED RULES

88 On January 24, 2008, Governor Bill Richardson issued Executive Order 2008-
89 004, "Imposing a Six Month Moratorium on New Oil and Gas Drilling in Santa Fe
90 County and the Galisteo Basin." **OCD Ex. 18** is a copy of Executive Order 2008-004.

91 Executive Order 2008-004 directed the OCD to temporarily suspend the
92 processing and granting of applications for permits to drill (APDs) in Santa Fe County
93 and the Galisteo Basin, and directed the Energy, Minerals and Natural Resources
94 Department (EMNRD) to coordinate with other executive agencies in assessing existing
95 laws, regulations, policies and planning documents to ensure that the State of New
96 Mexico has fully and appropriately exercised its police powers to ensure that no oil and
97 gas drilling activity occurs in the Santa Fe County and the Galisteo Basin that would be
98 contrary to the interests of the State of New Mexico and its citizens.

99 Executive Order 2008-004 directed the executive agencies to work with other
100 governmental entities, including affected tribal governments, and to receive and evaluate
101 input from the public.

102 Executive Order 2008-004 further directed the executive agencies to report their
103 findings to the Office of the Governor and to the Secretary of EMNRD by June 24, 2008.

104 In response to Executive Order 2008-004, participating executive agencies hosted
105 an open house on March 29, 2008 at the Santa Fe Community College. The agencies
106 provided notice of the event through local newspapers and posted notice of the meeting
107 on EMNRD's website. I participated in providing the notice, and participated in the open
108 house itself.

109 The open house format allowed the public to visit with each agency and provide
110 comments, ask questions, and obtain general information about the agency. The
111 following agencies staffed the open house: EMNRD, Office of the State Engineer (OSE),
112 New Mexico Environment Department (NMED), Department of Game & Fish,
113 Department of Cultural Affairs (DCA), Department of Indian Affairs (IAD), Department
114 of Tourism, Department of Health, and Department of Agriculture.

115 Public comments were accepted until April 17, 2008. A total of 671 written
116 comments were received by the participating agencies including 126 written comments
117 submitted to OCD/EMNRD. **OCD Ex. 19** is a copy of the comments received by
118 OCD/EMNRD.

119 On June 24, 2008 the agencies submitted the Report on the Galisteo Basin, which
120 includes individual reports and recommendations from EMNRD, IAD, NMED, OSE,
121 DCA, the Department of Game and Fish, the Department of Health, the Department of
122 Tourism, and the Department of Agriculture. **OCD Ex. 20** is a copy of the Report on the
123 Galisteo Basin released by the Office of the Governor.

124 The report highlighted areas of concern, including but not limited to the impact of
125 oil and gas development activities on: water resources, human health and the
126 environment; the discovered and undiscovered archaeological sites in the area; tribal

cultural practices in the Galisteo Basin; and other land uses including residential uses, ranching and tourism.

EMNRD's recommendations focused on actions that could be taken by the Division, acting within its statutory authority to protect fresh water, and to protect human health and the environment from the adverse effects of oilfield waste. See pages 23-26 of OCD Ex. 20. Those recommendations included adopting rules:

(a) Allowing the OCD to evaluate and permit by area, rather than by individual project, so that the Division can better address the cumulative impact of development;

(b) Providing for notice and public input on applications;

(c) Allowing for increased participation from relevant governmental entities, including sister agencies and divisions, local governmental entities, and tribes, pueblos and nations;

(d) Addressing needs specific to the Galisteo Basin, with the focus on identifying, delineating and protecting fresh water sources.

On July 14, 2008, Governor Richardson issued Executive Order 2008-038, "Extending the Moratorium on New Oil and Gas Drilling in Santa Fe County and the Galisteo Basin." **OCD Ex. 21** is a copy of Executive Order 2008-038.

Executive Order 2008-038 extended the moratorium by six additional months, until January 24, 2009, and directed the executive agencies that participated in preparing the Report on the Galisteo Basin to take specific actions.

Executive Order 2008-038 directed the OCD as follows:

"The Oil Conservation Division shall investigate and begin drafting, if appropriate, rules, regulations and statutory changes, including but not limited to permitting by area, the allowance of notice and public input for all applications for permits to drill, and the adoption of special rules concerning the Galisteo Basin, all in an effort to protect this fragile and ecologically sensitive area."

160 I, Daniel Sanchez, swear that the foregoing is true and correct.

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164 Daniel Sanchez
165 Compliance and Enforcement Manager
166 Oil Conservation Division
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169 Subscribed and sworn to before me this 2nd day of December 2008, by Daniel Sanchez.
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171 
172
173 Notary Public
174

175 My commission expires:

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177 1-09-2012
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