

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

**IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
COMMISSION FOR THE PURPOSE OF
CONSIDERING:**

**APPLICATION OF BURLINGTON
RESOURCES OIL AND GAS COMPANY
TO AMEND DIVISION RULE 1105.C
TO EXPAND AND EXTEND THE
CONFIDENTIALITY PROVISIONS OF
SAID RULES**

**CASE NO. 11856
Order No. R-10928**

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing at 9 o'clock a.m. on September 25, 1997 at Santa Fe, New Mexico, before the Oil Conservation Commission of New Mexico, hereinafter referred to as the "Commission."

NOW, on this 11th day of December, 1997, the Commission, a quorum being present, having considered the record and being fully advised in the premises,

FINDS THAT:

- (1) Due public notice having been given as required by law, the Commission has jurisdiction of this cause and the subject matter thereof.
- (2) Division General Rule 1105.A requires that "within 20 days following the completion or recompletion of any well, the operator shall file Form C-105 with the Division...accompanied by a summary of all special tests conducted on the well, including drill stem tests...and all electrical and radio-activity logs run on the well...".
- (3) Division General Rule 1105.C provides a limited "confidentiality" provision for the data, including logs, submitted pursuant to Rule 1105.A such that, at the operator's request:

...the Division will keep these data confidential for 90 days from the date of completion of the well, provided, however, that the report, log(s), and other attached data may, when pertinent, be introduced in any public hearing before the Division or its examiners or in any court of law, regardless of the request that they be kept confidential.

(4) Burlington Resources Oil and Gas Company (Burlington) requests that the Commission amend Rule 1105.C and adopt the following:

Operators, and parties appearing before the Division, submitting data and information including but not limited to the data submitted pursuant to Rule 1105.A that they believe to be exempt from disclosure shall, at the time of submittal shall [sic] clearly mark it “CONFIDENTIAL INFORMATION” and physically separate it from other portions of the submitted data. Data so marked shall be kept confidential by the Division.

Such information obtained from an operator or party that constitutes trade secrets, proprietary and other confidential information/data, including but not limited to geological, geophysical or financial information, shall be withheld by the Division from public disclosure and shall not be made available for public inspection or made public or disclosed without the written consent of the operator for a period of not less than 90-days and upon written request to and approval by the Director, without notice or hearing, the operator can obtain up to three (3) additional 90-day periods of confidentiality.

(5) In support of its application, Burlington testified that:

(a) Modern exploration efforts involve a high degree of economic risk and considerable capital investment in order to develop state of the art geological/geophysical data sufficient to justify exploratory drilling in New Mexico. Such data represents the “trade secrets” of operators which should be kept confidential for longer than 90 days if the operator so requests.

- (b) Both the Division and the BLM recognize that operators are entitled to maintain the confidentiality of certain data which affords protection to those operators who have expended considerable time, money and effort to acquire such data which gives them a competitive advantage over other operators who simply want to take advantage of “public” filings in order to obtain technical data for which they had not paid.
 - (c) The BLM has successfully maintained the confidentiality of certain proprietary data for a 12-month period, with the possibility of an additional 12-month period. Geological, geophysical or financial information which is not required under regulations is not released without consent of the operator.
 - (d) The current Division confidential rule is inadequate and in conflict with the BLM confidential rule.
 - (e) A longer confidentiality period would provide the economic justification to embark on high risk wildcat ventures because the operator of a successful venture would have exclusive use of data obtained by drilling the well to buy leases and obtain farmouts. Other companies did not make the initial investment and are not entitled to this knowledge which would make them competitors in lease and farmout acquisitions.
- (6) Burlington was supported in its application by letters from Conoco Inc., Bettis, Boyle and Stovall, Inc., Phillips Petroleum Company, and the Bureau of Land Management (BLM) Farmington District Office.
- (7) Burlington’s application was opposed by Cinco General Partnership (Cinco) and the Timothy B. Johnson, Trustee for Ralph A. Bard Jr. Trust et al., (hereinafter referred to as the GLA-66 Owners).
- (8) Cinco and the GLA-66 Owners presented written arguments and statements which challenged Burlington’s proposed rules as being poorly worded, too vague, and too inclusive of all information an operator deems confidential.
- (9) The Commission finds that Burlington did not present sufficient evidence to support a change in Division Rule 1105.C at this time.
- (10) Testimony did raise questions pertaining to what information should be considered proprietary. There were no definitive answers presented in testimony.

(11) There were opinions rendered pertaining to what economic parameters are necessary to justify a wildcat venture, but the case was not made that additional confidentiality time is necessary to justify a wildcat venture.

(12) Although the BLM has a longer confidentiality rule as does Louisiana, Oklahoma, Texas, and Utah, other states being Wyoming, North Dakota, South Dakota, Montana and Colorado have six months confidentiality rules similar to New Mexico's.

(13) There was no evidence that waste would be prevented or correlative rights protected by changing Division Rule 1105.C.

IT IS THEREFORE ORDERED THAT:

(1) The application of Burlington Resources Oil and Gas Company to amend Division Rule 1105.C to expand and extend the confidentiality provisions of said rule is hereby denied.

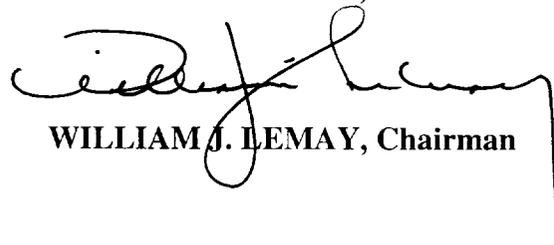
(2) Jurisdiction of this cause is retained for the entry of such further orders as the Commission may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinafter designated.

**STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION**


JAMI BAILEY, Member


WILLIAM W. WEISS, Member


WILLIAM J. LEMAY, Chairman



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