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September 22, 1997
(Our Files 97-252.00)

JASON E. DOUGHTY*

VIA HAND DELIVERY

Mr. William J. LeMay, Director
Ms. Marilyn Hebert, Commission Counsel
New Mexico Oil Conservation Commission
2040 South Pacheco
Santa Fe, New Mexico 87505

RE: NMOCC Case 11856
Application of Burlington Resources Oil and Gas Co. to amend Division
Rule 1105.C to expand and extend the confidentiality provisions of said
Rule

Dear Mr. LeMay and Ms. Hebert:

On behalf of Timothy B. Johnson, Trustee for Ralph A. Bard, Jr. Trust U/A/D February
12, 1983 et al., , please find enclosed our pre-hearing statement in the referenced
case.

Very truly yours,

GALLEGOS LAW FIRM, P.C.

By: 
JASON E. DOUGHTY

cc: W. Thomas Kellahin, Attorney for Burlington Resources Oil & Gas Co via hand
delivery
J. Scott Hall via fax
ioc: J. E. Gallegos
J. Hall/file

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

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

RECEIVED
SEP 29 1997
Oil Conservation Division

CASE NO. 11856

PREHEARING STATEMENT

This Pre-Hearing Statement is submitted by Timothy B. Johnson, Trustee for Ralph A. Bard, Jr. Trust U/A/D February 12, 1983 et al. (hereinafter "GLA-66 Owners", See Exhibit "A" for names and addresses of all GLA-66 Owners) by and through their attorneys, GALLEGOS LAW FIRM, P.C.

APPEARANCES OF PARTIES

APPLICANT

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Attn: Alan Alexander

ATTORNEYS

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OPPOSITION OR OTHER PARTY

Timothy B. Johnson, Trustee for
Ralph A. Bard, Jr. Trust U/A/D
February 12, 1983 et al.
(See Exhibit "A" for names
and addresses of all GLA-66 Owners)

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To the GLA-66 Owners' knowledge, no other party has entered an appearance or filed opposition in this matter.

PROPOSED EVIDENCE

At the time the GLA-66 Owners filed their pre-hearing statement, the applicant, Burlington Resources Oil and Gas Company ("Burlington"), had not yet served its pre-hearing statement.

OPPOSITION OR OTHER PARTY

The GLA-66 Owners intend to make a statement of their position to the Commission, but do not anticipate presenting any witnesses nor exhibits. The GLA-66 Owners reserve the right to present witnesses and exhibits depending upon the proof offered by Burlington in support of its Application.

STATEMENT OF THE CASE

Burlington has filed its application in this case seeking to "enlarge the scope of the confidentiality provisions [of OCD Rule 1105.C] and to provide for multiple extensions of the 90-day 'confidentiality period'" of Rule 1105.C. (See Burlington Application, p. 1.) In summary, the salient features of Burlington's proposed amended Rule 1105.C are that it:

- (a) expands the coverage of Rule 1105.C from (i) dealing only with the geophysical data reported on Form C-105 to (ii) including virtually everything that a party wants kept confidential;
- (b) expands the coverage of Rule 1105.C from (i) dealing only with Form C-105 submittals to (ii) all appearances -- required forms, rule-making proceedings, adjudications -- "before the Division . . .";
- (c) is so poorly-worded as to arguably contain two separate confidentiality provisions, as presented by Burlington's application;¹ and
- (d) completely eliminates what had been one saving aspect of Rule 1105.C, i.e., that the Form C-105 "data may, when pertinent, be

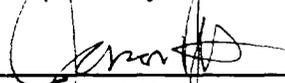
¹ The first paragraph of Burlington's rule simply allows a party to mark any information "confidential," and adds that "[d]ata so marked shall be kept confidential by the Division," without qualification. The second paragraph is more specific. If the information is a trade secret, etc., it is kept confidential for 90 days or longer. One could argue that the first paragraph is an absolute confidentiality provision for anything so marked by a submitting party, and the second paragraph is another provision that requires a separate finding by the OCD that the data is, e.g., a trade secret, at which point the data must be kept secret for 90 days.

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." See Rule 1105.C.

Burlington's proposed amendment is not merely a new "tight hole rule." It is a rule that would fundamentally change the practice before the OCD.

Burlington's present application does not stand alone. On June 5, 1997 pursuant to an application by Burlington, the Oil Conservation Commission issued Order R-10815 amending OCD Rule 104, which had provided for 160-acre gas spacing and proration units in the San Juan Basin, to allow 640-acre proration and spacing units for deep gas wells in the San Juan Basin. Under the previous 160-acre spacing rule, far fewer parties were affected by drilling operations than would now be affected under the 640-acre spacing rule. Yet, this increased number of affected parties will have diminished access to information. By then force-pooling interests, Burlington can compel uninformed interest owners to bear a disproportionate share of the costs and expenses of Burlington's deep gas exploration program.

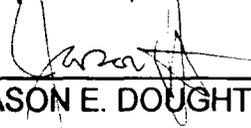
Respectfully submitted,



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CERTIFICATE OF SERVICE

I certify that I have caused a true and correct copy of the foregoing to be hand delivered to counsel of record on this 22nd day of September, 1997



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