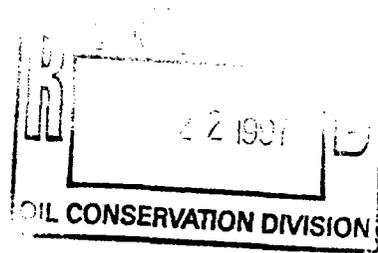


**BEFORE THE  
OIL CONSERVATION COMMISSION  
NEW MEXICO DEPARTMENT OF ENERGY, MINERALS  
AND NATURAL RESOURCES**

**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**



**CASE NO. 11856**

**PREHEARING STATEMENT**

This Pre-Hearing Statement is submitted by Cinco General Partnership ("Cinco") by and through their attorneys, GALLEGOS LAW FIRM, P.C.

**APPEARANCES OF PARTIES**

**APPLICANT**

Burlington Resources Oil and Gas Co.  
P.O. Box 4289  
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Attn: Alan Alexander

**ATTORNEYS**

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**OPPOSITION OR OTHER PARTY**

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To Cinco's knowledge, the only other party who has entered an appearance or filed opposition in this matter is Timothy B. Johnson, Trustee for Ralph A. Bard, Jr. Trust U/A/D February 12, 1983 et al.

## PROPOSED EVIDENCE

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

## OPPOSITION OR OTHER PARTY

Cinco intends to make a statement of its position to the Commission, but does not anticipate presenting any witnesses nor exhibits. Cinco reserves 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;<sup>1</sup> 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 introduced in any public hearing before the Division or its examiners or in

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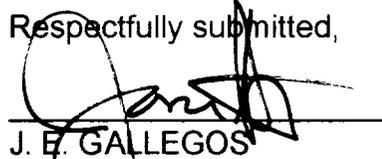
<sup>1</sup> The first paragraph of Burlington's rule simply allows a party to mark any information "confidential," and adds that "[d]ata so marked shall be kept confidential by the Division," without qualification. The second paragraph is more specific. If the information is a trade secret, etc., it 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.

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.

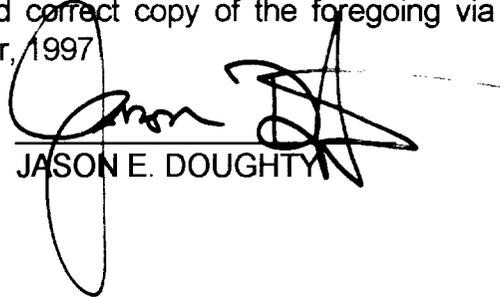
Respectfully submitted,



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**CERTIFICATE OF SERVICE**

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



JASON E. DOUGHTY