



NEW MEXICO ENERGY, MINERALS and NATURAL RESOURCES DEPARTMENT

BILL RICHARDSON

Governor

Joanna Prukop
Cabinet Secretary

Lori Wrotenbery

Director

Oil Conservation Division

MEMORANDUM

To: Counsel, Case No. 12,888

From: Stephen C. Ross, Assistant General Counsel

Date: January 16, 2003

Re: **Case No. 12,888, *de novo***, Application of the Fruitland Coalbed Methane Study Committee to amend Rules 4 and 7 of the Special Rules and Regulations of the Basin-Fruitland Coal (Gas) Pool and for the termination of the Cedar Hill-Fruitland Basal Coal Pool and the concomitant expansion of the Basin-Fruitland Coal (Gas) Pool, Rio Arriba, San Juan, McKinley and Sandoval Counties, New Mexico, before the New Mexico Oil Conservation Commission.

Dear Counsel,

Thank you for participating in yesterday's pre-hearing conference in this matter. Because it appears that this could be a very long hearing, I anticipate scheduling another pre-hearing conference about two weeks prior to the date set for the hearing to address any remaining procedural matters.

As we discussed, the date for the hearing has not been set. As a practical matter, it will not be set before March 22. The hearing will take place in Santa Fe.

Please file entries of appearance as soon as possible and specify whom you represent.

With respect to San Juan's Motion for Stay of the order of the Division, please be advised that the Chair intends to issue an order on the motion in the near future. At this time, no response to the motion has been received except for an objection filed by Mr. Kellahin to the Commission hearing the motion during its meeting of December 13, 2002. Mr. Dean, on behalf of Dugan Production Corp., will file a response shortly. Other parties desiring to file responses should do so as soon as possible, but no later than January 22, so that an order on this issue may be issued.

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Any party desiring to present testimony to the Commission during the hearing of this matter must file a pre-hearing statement by February 14, 2003. The pre-hearing statement should be filed with Florene Davidson and a copy served on all counsel of record.

The pre-hearing statement must provide the party's position on the application at issue.

Judging from the discussion during the pre-hearing conference, it may be problematic to separate issues related to the under-pressured area from the so-called fairway. Also San Juan Coal Company, Dugan Production Corp. and Richardson Operating Co. have a dispute concerning certain areas of the under-pressured area on the western edge of the Basin; these matters were not addressed in Case No. 12734, and consist of sections 17 and 18 of Range 14W and sections 23, 24, 25, 26, 35 of Range 15W and the S/2 of section 13 and the S/2 of section 14 of Range 15W. Nevertheless, if it is possible to simplify matters presented to the Commission, the under-pressured area may be a candidate. It may also be possible to bifurcate and hear separately the issues between San Juan Coal Company, Dugan Production Corp. and Richardson Operating Co., as suggested. Please identify your party's position on this issue in the pre-hearing statement or in a separate motion, if appropriate.

The pre-hearing statement must include a list of witnesses. You may identify the witness at by category (e.g. "petroleum engineer, landman, geologist, geophysicist"), but you should estimate how long direct and cross-examination of each witness will take. The witness list must be accompanied by a summary of each witnesses' expected testimony. The pre-hearing statement should also identify any evidentiary issues expected during the hearing. (Serious evidentiary issues should be addressed also by way of a motion in limine.)

Once the pre-hearing statements are submitted, the Chair and I will attempt to determine how many days of testimony will be needed to present the matter, and use that information to set the date (or dates) for the evidentiary hearing.

A detailed witness list must be submitted prior to the date set for the hearing, as is customary. Any motions related to the witness list must be filed no later than one week prior to the date set for the hearing. Other motions should be submitted no later than two weeks prior to the date set for the hearing. Please respect the current practice of submitting five copies of exhibits to the Commission Secretary no later than one week prior to the date set for the hearing. If you wish, the set used by witnesses at the witness table may become the Court Reporter's set. I will confirm specific due dates for these submission in writing once a date for the hearing is set.

Please e-mail suggested hearing dates (sross@state.nm.us) as soon as possible, but in any event no later than February 14. From information I have before me at this time, it appears that a hearing in April after April 4 may be problematic, so I would suggest that

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you focus on May 2003 for potential dates. If the issues can be simplified and the hearing time reduced, earlier dates may be available.

Any other matters that need to be considered should be presented by way of letter to myself or by written motion. For example, I understand that Conoco/Phillips may file a motion seeking to amend the application in this case.

If I can be of assistance to the parties, please do not hesitate to contact me at (505) 476-3451.

Sincerely,



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