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March 11, 2003

**TELECOPY COVER SHEET**

**TO:** Oil Conservation Division  
Mr. Thomas Kellahin  
Mr. J. Scott Hall

**TELEFAX NO:** (505) 476-3462  
**TELEFAX NO:** (505) 982-2047  
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**FROM:** Paul R. Owen, Esq.

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**TOTAL PAGES TO FOLLOW:** 5

*Message: Application of the New Mexico Oil Conservation Division through the Environmental Bureau Chief, for an Order Determining the Responsible Party or Parties and Ordering the Responsible Party or Parties to Conduct Division-Approved Corrective Action with Respect to Hydrocarbon Release, Lea County, New Mexico, OCD Case No. 13004*

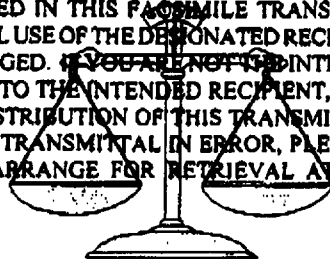
**ATTACHED PLEASE FIND ATTACHED MOTION FOR RECONSIDERATION OF MOTION FOR CONTINUANCE, WHICH I WOULD LIKE YOU TO FAX FILE TODAY. PLEASE CALL IF YOU HAVE ANY QUESTIONS. THANK YOU.**

This fax is being sent from (505) 982-4289

**CLIENT NAME:** Samedan

**CLIENT NO.:** 12674-03-01

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

**APPLICATION OF THE NEW MEXICO  
OIL CONSERVATION DIVISION,  
THROUGH THE ENVIRONMENTAL  
BUREAU CHIEF, FOR AN ORDER  
DETERMINING THE RESPONSIBLE  
PARTY OR PARTIES AND ORDERING  
THE RESPONSIBLE PARTY OR PARTIES  
TO CONDUCT DIVISION-APPROVED  
CORRECTIVE ACTION WITH RESPECT  
TO A HYDROCARBON RELEASE; LEA  
COUNTY, NEW MEXICO.**

**CASE NO. 13004**

**MOTION FOR RECONSIDERATION OF  
MOTION FOR CONTINUANCE**

Samedan Oil Corporation ("Samedan"), by and through counsel, MONTGOMERY & ANDREWS, P.A., Paul R. Owen, Esq., moves for reconsideration of its Motion for Continuance of the hearing in this matter, which Motion was denied by electronic mail message from Division Examiner Michael Stogner on March 11, 2003. In support of this Motion, Samedan states:

1. After extensive discussions with the Division's Environmental Bureau staff and the Division's attorney, those parties agreed that this case should be continued to the May 8, 2003 Examiner docket.
2. The requested continuance is necessitated by a tentative agreement between the Division's Environmental Bureau, which accepted Samedan's offer to submit a workplan, consisting of a site evaluation plan, within fourteen days of the initial Motion to Dismiss. The Division also accepted Samedan's offer to conduct the sampling and work contemplated by the workplan within thirty days of the Division's approval of the workplan submitted by Samedan.
3. On Monday, March 9, 2003, Occidental Permian Ltd. ("Oxy") filed a prehearing

statement in which Oxy represented that it had not determined its witnesses and could not do so until the Division ruled on Oxy's Motion to Dismiss, which in turn appears to have been filed on March 5, 2003.

4. In a telephone conversation between counsel for Oxy and counsel for Samedan, counsel for Oxy indicated that the proposed continuance was acceptable, but asked that the matter be continued until the May 22, 2003 Examiner docket to accommodate the schedule of counsel for Oxy.

5. Despite not knowing who its witnesses were, and despite having tacitly agreed to the requested continuance, and in fact having requested a longer period of continuance, Oxy sent an electronic mail message after 5:00 p.m. on March 10, 2003, in which Oxy stated its unqualified opposition to the requested continuance. In addition, despite its contention, in its prehearing statement, that it did not know who its witnesses are, Oxy now contends that those unknown witnesses are en route to Santa Fe for the March 13, 2003 hearing.

6. Other cases for Oxy are pending on the March 13, 2003 docket, and the witnesses' travel to Santa Fe for those cases should not be used to prejudice the Division or Samedan in their attempts to work toward a solution of this problem short of an adversarial proceeding.

7. Counsel for Samedan discussed this matter with counsel for Shell on March 10, 2003. At that time, counsel for Shell voiced no opposition to the requested continuance.

8. The length of the continuance is necessitated by the practical steps involved in formulating a workplan, securing its approval by the Division's Environmental Bureau, performing the work outlined in the workplan, and securing test results from independent

laboratories. A shorter continuance will simply not allow the above steps to be taken.

9. If this matter is not continued, the Division will be forced to take an adversarial position with respect to all parties, and will lose the opportunity to resolve this matter in an amicable manner.

10. The factual matters to be investigated through Samedan's proposed course of action should be of interest to all parties, and have the potential of shedding light on the genesis of the problem. Certainly, the investigation will result in information which will add to the parties' ability to assess who the responsible party or parties are, if the parties are not able to resolve this matter prior to the next hearing date.

11. If it is forced to take an adversarial role with respect to the Division, Samedan will no longer be able to continue its proposed course of working with the Division to fully assess the scope of the alleged hydrocarbon release without any determination of which party is or is not a responsible party.

12. This continuance satisfies all criteria for a continuance as set forth in the June 17, 2002 Memorandum from Lori Wrotenbery, Director of the Division. Specifically, this is only the second continuance requested by the parties, and unusual and cogent reasons for the continuance are set forth herein.

Therefore, because the hearing of this case on the March 13, 2003 docket will be detrimental to the resolution of this case, and because of Oxy's contradictory statements regarding the identity of its witnesses and the availability of those unknown witnesses, Samedan requests that the Division reconsider its ruling on Samedan's Motion for Continuance and continue this matter

until the May 8, 2003 Examiner docket.

Respectfully submitted,

MONTGOMERY & ANDREWS, P.A.

By:



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ATTORNEYS FOR SAMEDAN OIL  
CORPORATION

**CERTIFICATE OF SERVICE**

I hereby certify that on this 11th day of March, 2003, I have caused a copy of Samedan's Motion for Reconsideration of Motion for Continuance in the above-captioned case to be served via facsimile upon the following:

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Paul R. Owen