

State of New Mexico
Energy, Minerals and Natural Resources Department

Michelle Lujan Grisham
Governor

Sarah Cottrell Propst
Cabinet Secretary

Todd E. Leahy, JD, PhD
Deputy Cabinet Secretary

Adrienne Sandoval Director
Oil Conservation Division



June 08, 2022

To:
American Oversight
Ms. Marwah Adhoob & Mr. Taylor Stoneman
1030 15th St. NW
Suite B255
Washington, D.C. 20005
Ph 202.848.119 Email: records@americanoversight.org

RE: New Mexico Inspection of Public Records Act Request

Ms. Marwah Adhoob & Mr. Taylor Stoneman,

Pursuant to the Inspection of Public Records Act NMSA 1978, Chapter 14, Article 2., the Oil Conservation Division (OCD) received your request for records via email on; 05-25-22.

Requesting:

“All email communications (including emails, email attachments, complete email chains, calendar invitations, and calendar invitation attachments) between (a) any of the officials listed below, and (b) anyone communicating from or on behalf of the external entities listed below (including, but not limited to, at the listed email addresses and/or domains). Oil Conservation Division Officials:

- i. Adrienne Sandoval, Director, or anyone communicating on her behalf, such as an assistant or scheduler*
- ii. Tiffany Polak, Deputy Director*
- iii. Brandon Powell, Engineering Bureau Chief*
- iv. Rosa Romero, Environmental Bureau Chief*
- v. Leigh Barr, Permitting Group Supervisor*
- vi. Cory Smith, Projects Group Supervisor*

External Entities:

- a. New Mexico Oil and Gas Association (nmoga.org)*
- b. Interstate Oil and Gas Compact Commission, including, but not limited to, Lori Wrotenbery (iogcc.state.ok.us)*
- c. Independent Petroleum Association of New Mexico (ipanm.org)*
- d. FTI Consulting (fticonsulting.com)*
- e. Jeff Murray*

- f. *535 Group, LLC (535group.com)*
- g. *Diamondback Energy Inc. (diamondbackenergy.com)*
- h. *Chevron USA Inc. (chevron.com)*
- i. *ExxonMobil/XTO Energy Inc. (exxonmobil.com)*
- j. *Marathon Oil Corporation or Marathon Petroleum Corporation (marathonoil.com, marathonpetroleum.com)*
- k. *EOG Resources (eogresources.com)*
- l. *Devon Energy (dvn.com)*
- m. *ConocoPhillips Co. (conocophillips.com)*
- n. *Occidental Petroleum (oxy.com)*
- o. *Mewbourne Oil Co. (mewbourne.com)*
- p. *Matador Production Co. (matadorresources.com)*
- q. *Cimarex Energy Co. (cimarex.com)*
- r. *APA Corporation/Apache Corporation (apachecorp.com)*”

Pursuant to the Inspection of Public Records Act NMSA 1978, Chapter 14, Article 2., Oil Conservation Division (OCD) provided response on; May 25, 2022.

Due to the broad and burdensome nature of your request, OCD will need additional time to respond. OCD has already identified numerous potentially responsive records and continues to compile additional records. OCD intends to produce the records on a rolling basis, beginning today, June 8, 2022.

No records have been withheld as of today’s date.

Respectfully,
Oil Conservation Division
Anna Squires, Administrative Svcs. Coordinator
OCD IPRA CONTACT
Ph. 505.490.2162
Anna.Squires@state.nm.us

May 17, 2022

New Mexico Oil Conservation Division
Director Adrienne Sandoval
Santa Fe, NM

Re: ***County Line Seismicity Pressure-Connectivity Test***

Director Sandoval,

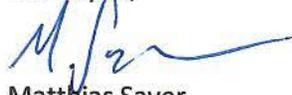
As part of its ongoing efforts, the County Line Collaborative Response Working Group (Group) conducted various pressure-connectivity tests in 2021, all of which returned data that has been critical to enhancing the Group's collective understanding. As discussed with the Oil Conservation Division (Division) on May 11, 2022, the Group is proposing and hereby requests authorization to conduct an additional pressure-connectivity test.

Specifically, the Group proposes to initiate a pulse of injection at the NGL Striker 2 (API# 300154441600) and Mesa Verde (API# 300154467600) SWD wells of up to a combined total of 45,000 BPD for up to 60 days¹. Consistent with the Division's Seismicity Response Protocol (Nov. 23, 2021) (Protocol) and because the Striker 2 and Mesa Verde wells both lie greater than 6 but less than 10 miles distant from the July 19, 2021 ML4.0 seismic event, both wells are presently subject to and operating at or below 75% of their respective previous 6-month daily injection average (applying the Protocol's 25% reduction). To implement the pressure-connectivity test, deviation from the Protocol's 25% reduction is necessary.

In conjunction with the test, in addition to the pressure gauge operating at the NGL Paduca 6 SWD well, a similar gauge would be placed at an XTO SWD to the southwest of the Striker 2 and Mesa Verde wells. As operator of the two SWD wells in question, NGL would provide notice to the Division at least 24 hours prior to test commencement and would continue to report daily injection rates via Division Daily Injection Reports.

In sum, the Group hereby requests that the Division suspend the 25% curtailment as applied to the NGL Striker 2 and Mesa Verde SWD wells for a period of up to 60 days, which 60-days would begin to run upon commencement of increased injection activity at the two NGL SWDs identified.

Thank you,

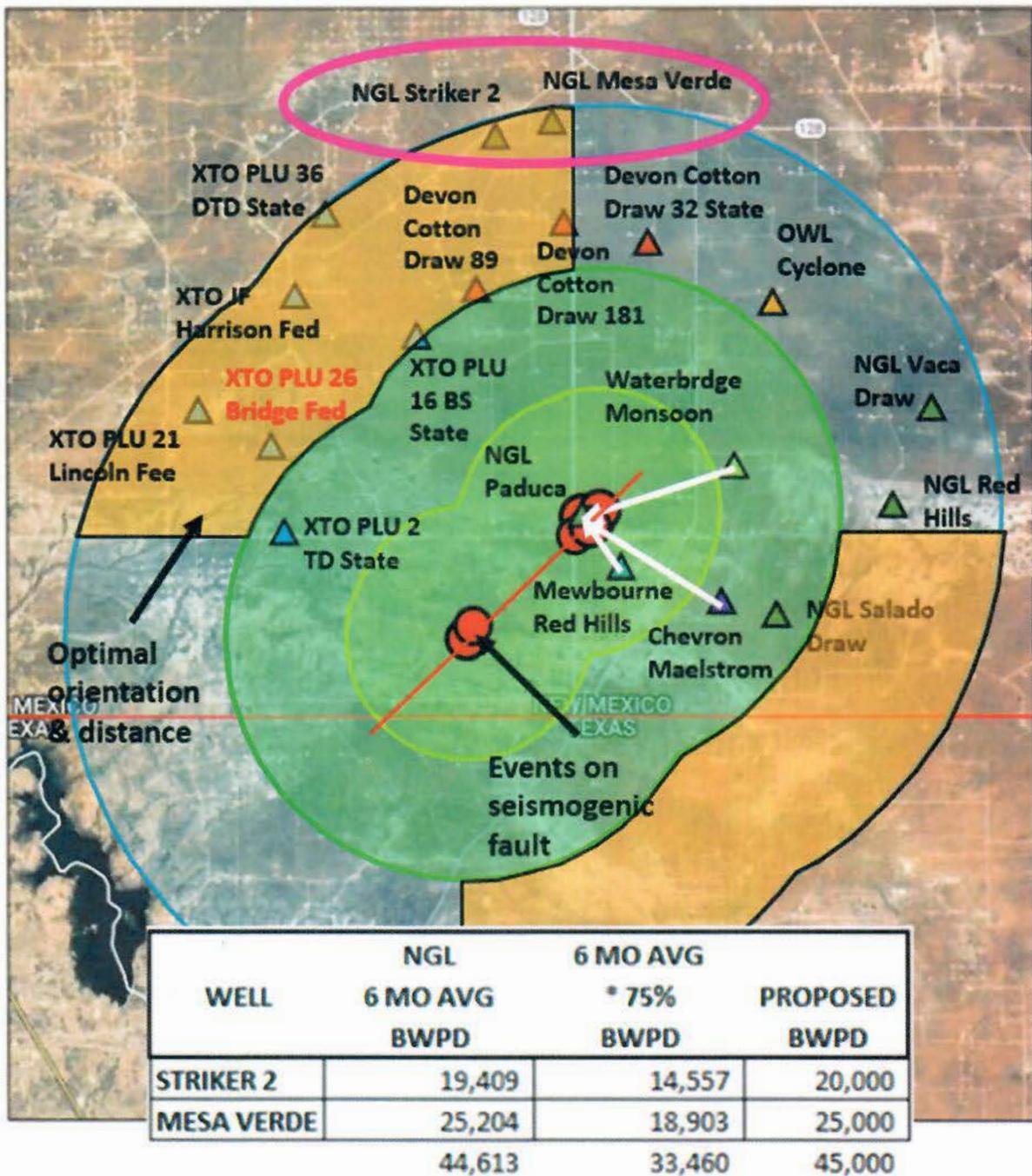


Matthias Sayer

SVP Legal, NGL Energy Partners, LP

¹ See Attachment A for approximate well locations / distance from Paduca 6

County Line Seismicity Pressure-Connectivity Test
Attachment A



From: [Sandoval, Adrienne, EMNRD](#)
To: [Kathy Ytuarte](#)
Cc: [Winchester, Jim](#); [Propst, Sarah, EMNRD](#); [Leahy, Todd, EMNRD](#)
Bcc: [Fuge, Dylan, EMNRD](#)
Subject: RE: Revised Email with Attachments -Form C-129 "single event" reporting under 19.15.27.8(G)(1) of the newly enacted Venting and Flaring Rules, Attachment A - Case No. 21528 Transcription, and Attachment B - OCD Presentation Slide
Date: Friday, May 28, 2021 11:55:00 AM
Attachments: [image001.png](#)
Sensitivity: Confidential

Messrs. Winchester and Gould-

The OCD is in receipt of your letter dated May 24th regarding C-129 "single event" reporting under 19.15.27.8(G)(1). The OCD has addressed these questions in the notice titled [Release of Final C-129 and Natural Gas Management Plan Forms](#) that was released on May 21, 2021. Based on your letter, we do wish to explain that for purpose of assessing reportability, the OCD consider a 24 hour period to be a calendar day, not a rolling time period. This means no more than calendar day reports for recurring activities that exceed the rule's thresholds.

As explained in the notice, the OCD will be monitoring "the frequency and nature of Form C-129s being submitted... to evaluate whether the reporting period should be adjusted." We look forward to continuing dialogue regarding the implementation of our new rules on this or other provisions.

Thanks

Adrienne Sandoval
Oil Conservation Division Director
1220 S. St. Francis Dr.
Santa Fe, NM 87505
505-476-3441
Adrienne.Sandoval@state.nm.us

From: Kathy Ytuarte <Kathy@nmoga.org>
Sent: Monday, May 24, 2021 5:35 PM
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Cc: Winchester, Jim <jimwinchester@ipanm.org>; Propst, Sarah, EMNRD <Sarah.Propst@state.nm.us>; Leahy, Todd, EMNRD <Todd.Leahy@state.nm.us>
Subject: [EXT] Revised Email with Attachments -Form C-129 "single event" reporting under 19.15.27.8(G)(1) of the newly enacted Venting and Flaring Rules, Attachment A - Case No. 21528 Transcription, and Attachment B - OCD Presentation Slide
Sensitivity: Confidential

Dear Ms. Sandoval,

Please see attached letter from NMOGA and IPANM regarding C-129“single event” reporting under 19.15.27.8(G)(1) of the newly enacted Venting and Flaring Rules including relevant documents.

Sincerely,

Leland Gould
NMOGA Chairman



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From: Gaucher, Michelle Michelle.Gaucher@bcogc.ca 
Subject: [EXTERNAL] Discuss SEG/SPE Regulatory session
Date: May 6, 2022 at 11:43 AM



To: Gaucher, Michelle Michelle.Gaucher@bcogc.ca, Colin.Brooks@occ.ok.gov, Todd Shipman Todd.Shipman@aer.ca, Venables, Stuart Stuart.Venables@bcogc.ca, Comiskey, Cody cody.comiskey@chevron.com, James.gonsiewski@dnr.ohio.gov, Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us, Paul.Dubois@rrc.texas.gov

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

I apologize for the delay in booking this meeting. I hope many of you can make this timing on the 10th. We will discuss the panel session content and flow and get some input from you; the panelists. For those unable to make this timing, I will summarize the key points and share in email format afterward. Alternatively, if necessary, I can book a 2nd meeting the following week.
Thanks
Michelle

Microsoft Teams meeting

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Phone Conference ID: 236 585 06#
[Find a local number](#) | [Reset PIN](#)

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Mail Attachment

From: Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us 

Subject: Agenda Setting

Date: March 11, 2022 at 6:26 PM

To: Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us, John Smitherman JRS@nmoga.org, Perez, Yolanda Yolanda_Perez@oxy.com

SE

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Phone Conference ID: 657 368 056#

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Mail Attachment

From: Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us 

Subject: Endangered Plants Outreach

Date: June 16, 2021 at 8:09 PM

To: Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us, Winchester, Jim jimwinchester@ipanm.org, John Smitherman JRS@nmoga.org, McCarthy, Laura, EMNRD Laura.McCarthy@state.nm.us, Fuge, Dylan , EMNRD Dylan.Fuge@state.nm.us, Bada, Cheryl, EMNRD cheryl.bada@state.nm.us

Cc: Perez, Yolanda Yolanda_Perez@oxy.com, Sinard, Karen Karen_Sinard@oxy.com, Rapp, Veronica G Veronica_Rapp@oxy.com

SE

Please feel free to include anyone in your organization who is appropriate

Microsoft Teams meeting

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Phone Conference ID: 656 616 704#

[Find a local number](#) | [Reset PIN](#)

[Learn More](#) | [Meeting options](#)



Mail Attachment

From: **Stuart Wittenbach** Stuart.Wittenbach@coterra.com 
Subject: [EXTERNAL] Amoco Federal Lease - Project/Summary Report
Date: February 22, 2022 at 10:28 AM
To: Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us
Cc: Stephen Flaherty sflaherty@cimarex.com, Martin, James jmartin@bwenergylaw.com

SW

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Adrienne

We hope you are staying warm and safe with this recent winter storm. We are going to be frigid cold, with snow/sleet, the next 3 days in Tulsa.

Attached is the summary report for the Amoco Federal Lease project located in Eddy County, New Mexico. We have sent the original copy via overnight mail to your office.

We are looking forward to visiting with you next month regarding this project.

Thanks for your time and support!



Stuart Wittenbach | Director of ESH

T: 918-560- 7257 | M: 918-404-1084 | swittenbach@cimarex.com | www.coterra.com

Coterra Energy Inc. | 202 S. Cheyenne Ave., Suite 1000 | Tulsa, OK 74103

Coterra Energy Inc. is the result of the merger of Cimarex Energy Co. and Cabot Oil & Gas Corporation on October 1, 2021.

This message may contain confidential and/or privileged information. If you are not the addressee or authorized to receive this for the addressee, you must not use, copy, disclose or take any action based on this message or any information herein. If you have received this message in error, please advise the sender immediately by reply e-mail and delete this message.



2572_001.pdf

Cimarex Energy Co.
202 S. Cheyenne Ave.
Suite 1000
Tulsa, Oklahoma 74103-4346
PHONE 918.560.7257
FAX 918.560.7184

Stuart Wittenbach
Director—Environmental Safety &
Health



February 22, 2022

Ms. Adrienne Sandoval
NM Oil Conservation Division
1220 South St. Francis
Santa Fe, New Mexico 87505

Re: Amoco Federal Project
Eddy County, New Mexico

Dear Director Sandoval:

As you requested, we are pleased to provide you with a summary of Cimarex's work at the Amoco Federal project in southwestern New Mexico.

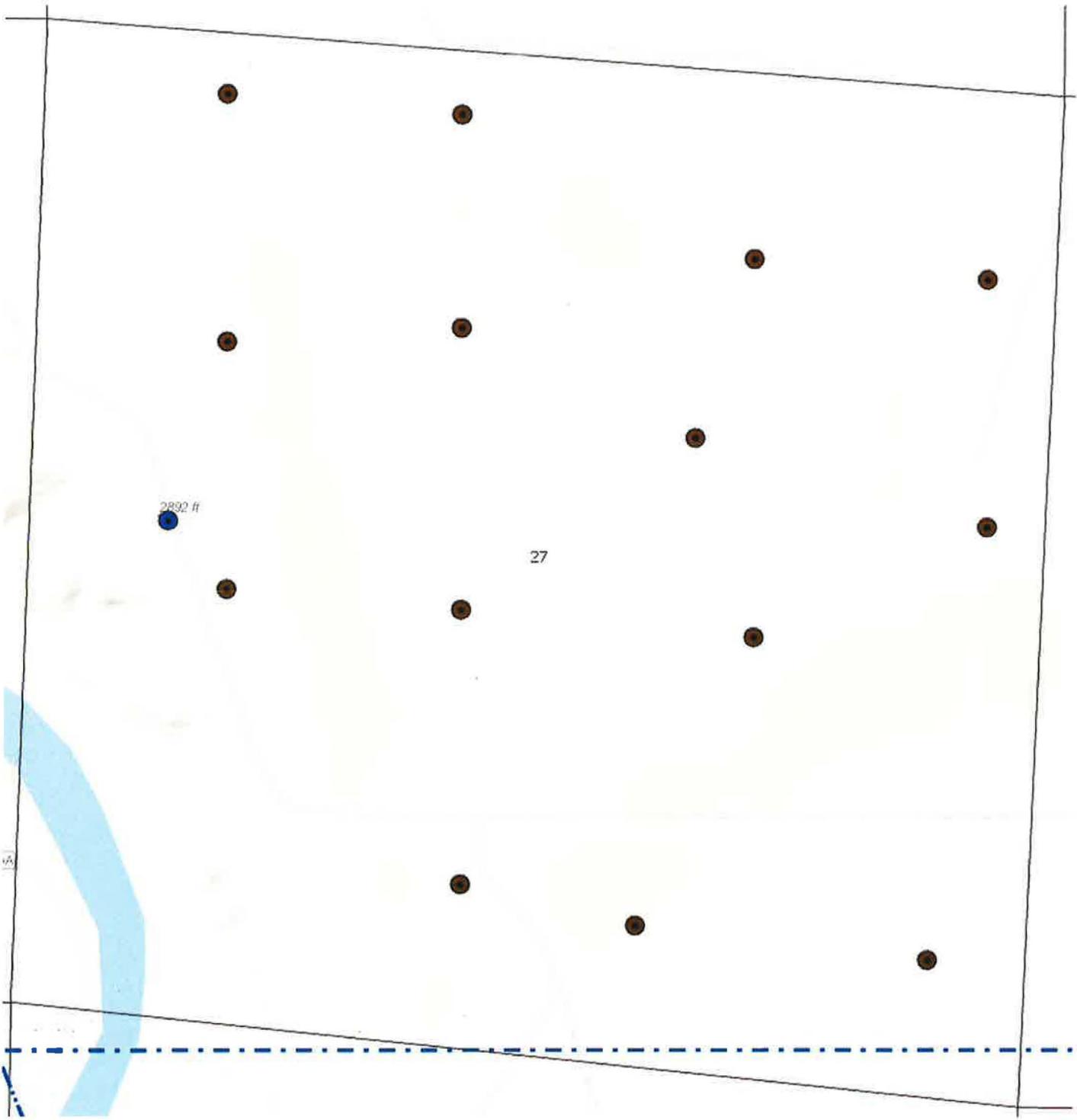
Cimarex Energy Co. is in the final stages of the remediation/reclamation phase of the Amoco Federal Lease that is located in Eddy County, New Mexico. Listed below are highlights of this project:

- The first well was drilled in 1983 and a total of 14 wells were drilled and completed. Refer to the attached map.
- Cimarex was the 4th owner of this lease (purchased from Gruy Petroleum in 2006)
- Began P&A work in 2012 and investigation of well sites and facility locations.
- Completed the P&A and reclamation on all well sites and tank battery location.
- The former Produced Water transfer facility required additional research and delineation.
- Status of the former Produced Water transfer facility:
 - o Drilled 6 monitoring wells
 - o Completed soil sampling and analysis
 - o Completed a detailed EMC survey of the site
 - o Completed a hydrology study
 - o Removed approximately 2100 cubic yards
 - o Installed a 40 ml. poly liner (4 to 5 ft. below grade)
- All work was completed with the approval and/or feedback from the NM-OCD and BLM.

Cimarex has developed a proposed final closure plan for this site. That plan will be the subject of our March 16, 2022 meeting.

We appreciate your time and support of this reclamation project and look forward to meeting with you to discuss our proposed pathway forward.

A handwritten signature in blue ink, consisting of several fluid, overlapping strokes that are difficult to decipher as specific text.



AMOCO FEDERAL LEASE

SOC 27-T265-R29E

Eddy County, New Mexico

From: Killen, Patrick patrickkillen@chevron.com
Subject: [EXTERNAL] Chevron announces \$250,000 donation to New Mexico wildfire relief efforts
Date: May 16, 2022 at 12:22 PM
To: Killen, Patrick patrickkillen@chevron.com

PK

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Chevron announces \$250,000 donation to New Mexico wildfire relief efforts

SAN RAMON, Calif., May 16, 2022 — Chevron Corporation (NYSE: CVX) today [announced](#) a contribution of \$250,000 from the Chevron Global Community Fund to the [All Together NM Fund](#) and [Taos Community Foundation](#) to support relief efforts for wildfires in New Mexico.

“Chevron is committed to supporting first responders, local governments, and non-profit organizations as they fight to contain fires across northern New Mexico,” said Mark Urfer, manager of Chevron's Questa Site in Questa, New Mexico, which has employees, contractors, and community partners affected by the situation. “The company's donations reflect our commitment to helping people in the communities where we do business.”

The All Together NM Fund and the Chevron Questa Grants for Good Fund at Taos Community Foundation will each receive a \$125,000 donation to support immediate relief efforts throughout the state. In addition, the company will match qualifying donations to wildfire relief efforts made by employees and retirees, as well as provide financial contributions to non-profit organizations where employees volunteer.

“Through our legacy companies, Chevron has been active in New Mexico since the early 1920s,” said Ryder Booth, vice president of Chevron North America Exploration & Production Company's Mid-Continent Business Unit, which includes the company's significant Permian Basin assets in New Mexico and Texas. “Our heartfelt thoughts are with every New Mexican affected by fires in the state, including the firefighters and other responders working tirelessly in challenging conditions.”

About Chevron

Chevron is one of the world's leading integrated energy companies. We believe affordable, reliable and ever-cleaner energy is essential to achieving a more prosperous and sustainable world. Chevron produces crude oil and natural gas; manufactures transportation fuels, lubricants, petrochemicals and additives; and develops technologies that enhance our business and the industry. We are focused on lowering the carbon intensity in our operations and seeking to grow lower carbon businesses along with our traditional business lines. More information about Chevron is available at www.chevron.com.

About the All Together NM Fund

The All Together NM Fund was established in 2020 by the New Mexico Coalition of Community Foundations in conjunction with the Office of Governor Michelle Lujan Grisham to help New Mexico respond to and eventually recover from the COVID-19 pandemic. Support from the All Together NM Fund is currently going to emergency

particular support from the All Together NM Fund and is currently going to emergency shelter, food and water distribution, and other critical services for New Mexicans affected by recent wildfire disasters across the state. Santa Fe Community Foundation, which serves as the fiscal agent for the All Together NM Fund, has awarded \$116 million in grants since 1981.

About Taos Community Foundation

Taos Community Foundation, home of the Chevron Questa Grants for Good Fund, is dedicated to serving the unique needs of the communities of Taos County and western Colfax County. The organization's philanthropic efforts seek to enrich the lives and opportunities of citizens and protect the environment. Taos Community Foundation is currently awarding grants to support direct assistance for those impacted by wildfires in northern New Mexico. The organization has awarded over \$9.3 million dollars in grants and scholarships since 1998.

Contact

Deena McMullen

Deena.McMullen@chevron.com

(432) 363-7085

May 17, 2022

New Mexico Oil Conservation Division
Director Adrienne Sandoval
Santa Fe, NM

Re: ***County Line Seismicity Pressure-Connectivity Test***

Director Sandoval,

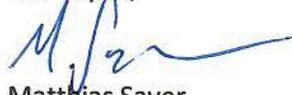
As part of its ongoing efforts, the County Line Collaborative Response Working Group (Group) conducted various pressure-connectivity tests in 2021, all of which returned data that has been critical to enhancing the Group's collective understanding. As discussed with the Oil Conservation Division (Division) on May 11, 2022, the Group is proposing and hereby requests authorization to conduct an additional pressure-connectivity test.

Specifically, the Group proposes to initiate a pulse of injection at the NGL Striker 2 (API# 300154441600) and Mesa Verde (API# 300154467600) SWD wells of up to a combined total of 45,000 BPD for up to 60 days¹. Consistent with the Division's Seismicity Response Protocol (Nov. 23, 2021) (Protocol) and because the Striker 2 and Mesa Verde wells both lie greater than 6 but less than 10 miles distant from the July 19, 2021 ML4.0 seismic event, both wells are presently subject to and operating at or below 75% of their respective previous 6-month daily injection average (applying the Protocol's 25% reduction). To implement the pressure-connectivity test, deviation from the Protocol's 25% reduction is necessary.

In conjunction with the test, in addition to the pressure gauge operating at the NGL Paduca 6 SWD well, a similar gauge would be placed at an XTO SWD to the southwest of the Striker 2 and Mesa Verde wells. As operator of the two SWD wells in question, NGL would provide notice to the Division at least 24 hours prior to test commencement and would continue to report daily injection rates via Division Daily Injection Reports.

In sum, the Group hereby requests that the Division suspend the 25% curtailment as applied to the NGL Striker 2 and Mesa Verde SWD wells for a period of up to 60 days, which 60-days would begin to run upon commencement of increased injection activity at the two NGL SWDs identified.

Thank you,

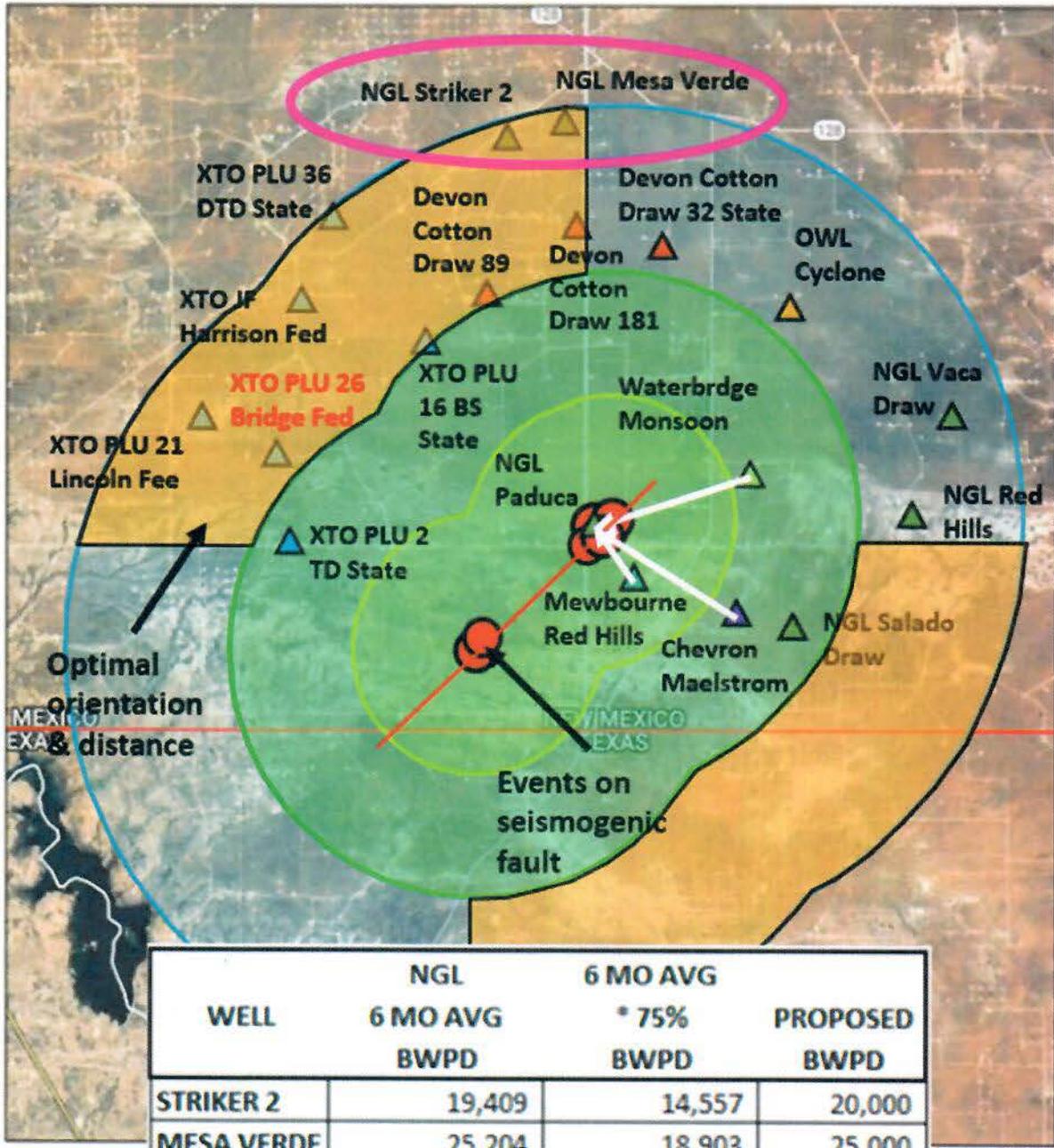


Matthias Sayer

SVP Legal, NGL Energy Partners, LP

¹ See Attachment A for approximate well locations / distance from Paduca 6

County Line Seismicity Pressure-Connectivity Test
Attachment A



From: John Smitherman JRS@nmoga.org
Subject: [EXTERNAL] Errors filing C-115s today
Date: May 11, 2022 at 5:38 PM
To: Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us
Cc: John Smitherman JRS@nmoga.org



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Director,

I have heard from several operators who have experienced massive errors when filing C-115s today. Some have said that files that were submitted successfully yesterday are failing today. I do not know the source of this but it seems that some change has been made within the OCD's data system that is now rejecting files.

If this was due to a change in the OCD system to align with the new gas lift guidance that was just recently issued, I believe that operators will need some time to make changes to their systems to be able to file C-115s without these errors. Recall that most operators use commercial software for production allocation and reporting so they cannot even make these changes to these systems themselves. In order to file this important data, it seems that we need to work out a pathway from where the system was yesterday to where it needs to be within a reasonable amount of time, perhaps within 60-90 days. There are several ways to address this and, of course, we can be flexible with whatever pathway you choose but I suspect that no operator of any size will be able to file correctly, on time, by the 15th of this month without some accommodation.

Thank you for your consideration.

All the best,

John R. Smitherman

New Mexico Oil & Gas Association

Senior Advisor - Petroleum Engineer



From: Gahr, Jason Z jason.z.gahr@exxonmobil.com

Subject: [EXTERNAL] February 23, 2022 JITC Executive Committee Meeting

Date: January 6, 2022 at 1:57 PM

To: Gahr, Jason Z jason.z.gahr@exxonmobil.com, addi@chevron.com 'addi@chevron.com', Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us, Albert.Gonzales@conocophillips.com 'Albert.Gonzales@conocophillips.com', bhall@marathonoil.com 'bhall@marathonoil.com', blake@coveyenergy.com 'blake@coveyenergy.com', BLM - Jim Rutley jrutley@blm.gov, Bramsey@taprk.com 'Bramsey@taprk.com', Brian.Stone@intrepidpotash.com 'Brian.Stone@intrepidpotash.com', Cade.LaBolt@matadorresources.com 'Cade.LaBolt@matadorresources.com', ccombs@taprk.com 'ccombs@taprk.com', CHahn@matadorresources.com 'CHahn@matadorresources.com', Chando, Jesse M jesse.m.chando@exxonmobil.com, cmitchell@mewbourne.com 'cmitchell@mewbourne.com', Cody Layton (clayton@blm.gov) clayton@blm.gov, cwalls@blm.gov 'cwalls@blm.gov', Dan.Morehouse@MosaicCo.com 'Dan.Morehouse@MosaicCo.com', Daniel_Holderman@oxy.com 'Daniel_Holderman@oxy.com', Edward.Blair@chevron.com 'Edward.Blair@chevron.com', Garrett_Granier@oxy.com 'Garrett_Granier@oxy.com', Greg.Bruce@IntrepidPotash.com 'Greg.Bruce@IntrepidPotash.com', Gregory_Caraway@oxy.com 'Gregory_Caraway@oxy.com', Hall, James A james.hall@exxonmobil.com, James Clark james@pbex.com, James_Griffin@eogresources.com 'James_Griffin@eogresources.com', Jason South Jason@primerockresources.com, Jeff.Walla@dvn.com 'Jeff.Walla@dvn.com', John.Anderson@mosaicco.com 'John.Anderson@mosaicco.com', jrs@nmoga.org 'jrs@nmoga.org', jstovall@blm.gov 'jstovall@blm.gov', jtimmmons@blm.gov 'jtimmmons@blm.gov', kelvin@pbex.com 'kelvin@pbex.com', kshiple@novoo.com 'kshiple@novoo.com', kyle.smith@intrepidpotash.com 'kyle.smith@intrepidpotash.com', Laci_Stretcher@eogresources.com 'Laci_Stretcher@eogresources.com', Lpatrick@novoo.com 'Lpatrick@novoo.com', mbmurphy@stratanm.com 'mbmurphy@stratanm.com', mkrakauskas@stratanm.com 'mkrakauskas@stratanm.com', mszudera@marathonoil.com 'mszudera@marathonoil.com', Parker.Simmons@conocophillips.com 'Parker.Simmons@conocophillips.com', Patrick_Padilla@eogresources.com 'Patrick_Padilla@eogresources.com', Paul.Gill@mosaicco.com 'Paul.Gill@mosaicco.com', rdelong@titusoil.com 'rdelong@titusoil.com', Ric.Bell@mosaicco.com 'Ric.Bell@mosaicco.com', Robert Baldridge (robert.baldridge@intrepidpotash.com) robert.baldridge@intrepidpotash.com, SHajar@btaoil.com 'SHajar@btaoil.com', skelley@stratanm.com 'skelley@stratanm.com', Skylar.Fast@cdevinc.com 'Skylar.Fast@cdevinc.com', susan.b.maunder@conocophillips.com 'susan.b.maunder@conocophillips.com', T Bryson tbryson@blm.gov, tcude@mewbourne.com 'tcude@mewbourne.com', Polak, Tiffany, EMNRD Tiffany.Polak@state.nm.us, Travis.McBain@IntrepidPotash.com 'Travis.McBain@IntrepidPotash.com', Walls, Christopher Walls, Christopher cwalls@blm.gov, Will Fenley will.fenley@intrepidpotash.com, Stan Wagner Stan.S.Wagner@conocophillips.com, Parker Simmons psimmons@colgateenergy.com

Cc: Hall, Brian (MRO) bhall@marathonoil.com, Bell, Ric Ric.Bell@mosaicco.com, Brian Stone Brian.Stone@intrepidpotash.com, Travis McBain travis.mcbain@intrepidpotash.com, John Smitherman JRS@nmoga.org, Granier, Garrett E Garrett_Granier@oxy.com, Gonzales, Albert Albert.Gonzales@conocophillips.com, Corey Mitchell cmitchell@Mewbourne.com, Jeff Trlica jtrlica@taprk.com, Kurt Shipley kshiple@novoo.com, Cade LaBolt cade.labolt@matadorresources.com, Stovall, James K jstovall@blm.gov, Goetze, Phillip, EMNRD Phillip.Goetze@state.nm.us, Christian Combs ccombs@taprk.com, Gill, Paul Paul.Gill@mosaicco.com, Patrick Padilla Patrick_Padilla@eogresources.com, James Griffin James_Griffin@eogresources.com, Tim Smith tsmith@titusoil.com, James Clark james@pbex.com, Kelvin Fisher kelvin@pbex.com, Ryan DeLong rdelong@titusoil.com, Blake O'Donnel blake@coveyenergy.com, Giffin, David R David.R.Giffin@conocophillips.com, Skylar Fast Skylar.Fast@cdevinc.com, Blair, Ed S. Edward.Blair@chevron.com, Schellenbach, William William.Schellenbach@conocophillips.com, Walla, Jeff Jeff.Walla@dvn.com, Schwartz, Kenneth M. addi@chevron.com, Caraway, Gregory A Gregory_Caraway@oxy.com, Larry Patrick LPatrick@novoo.com, Holderman, Daniel P Daniel_Holderman@oxy.com, Baker, Tim Tim.Baker@conocophillips.com, Bennett, Andy Andy.Bennett@dvn.com

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JITC Meeting Agenda
23 Feb 2021

Venue: XTO Office, 6401 Holiday Hill Road, Midland Tx. 79707
Start Time: 09:00 hrs; Lunch: 11:45; Planned Adjourn: 13:15 hrs

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Mail Attachment



From: Gahr, Jason Z jason.z.gahr@exxonmobil.com

Subject: [EXTERNAL] February 23, 2022 JITC Executive Committee Meeting

Date: January 6, 2022 at 1:57 PM

To: Gahr, Jason Z jason.z.gahr@exxonmobil.com, addi@chevron.com 'addi@chevron.com', Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us, Albert.Gonzales@conocophillips.com 'Albert.Gonzales@conocophillips.com', bhall@marathonoil.com 'bhall@marathonoil.com', blake@coveyenergy.com 'blake@coveyenergy.com', BLM - Jim Rutley jrutley@blm.gov, Bramsey@taprk.com 'Bramsey@taprk.com', Brian.Stone@intrepidpotash.com 'Brian.Stone@intrepidpotash.com', Cade.LaBolt@matadorresources.com 'Cade.LaBolt@matadorresources.com', ccombs@taprk.com 'ccombs@taprk.com', CHahn@matadorresources.com 'CHahn@matadorresources.com', Chando, Jesse M jesse.m.chando@exxonmobil.com, cmitchell@mewbourne.com 'cmitchell@mewbourne.com', Cody Layton (clayton@blm.gov) clayton@blm.gov, cwalls@blm.gov 'cwalls@blm.gov', Dan.Morehouse@MosaicCo.com 'Dan.Morehouse@MosaicCo.com', Daniel_Holderman@oxy.com 'Daniel_Holderman@oxy.com', Edward.Blair@chevron.com 'Edward.Blair@chevron.com', Garrett_Granier@oxy.com 'Garrett_Granier@oxy.com', Greg.Bruce@IntrepidPotash.com 'Greg.Bruce@IntrepidPotash.com', Gregory_Caraway@oxy.com 'Gregory_Caraway@oxy.com', Hall, James A james.hall@exxonmobil.com, James Clark james@pbex.com, James_Griffin@eogresources.com 'James_Griffin@eogresources.com', Jason South Jason@primerockresources.com, Jeff.Walla@dvn.com 'Jeff.Walla@dvn.com', John.Anderson@mosaicco.com 'John.Anderson@mosaicco.com', jrs@nmoga.org 'jrs@nmoga.org', jstovall@blm.gov 'jstovall@blm.gov', jtimmmons@blm.gov 'jtimmmons@blm.gov', kelvin@pbex.com 'kelvin@pbex.com', kshiple@novoo.com 'kshiple@novoo.com', kyle.smith@intrepidpotash.com 'kyle.smith@intrepidpotash.com', Laci_Stretcher@eogresources.com 'Laci_Stretcher@eogresources.com', Lpatrick@novoo.com 'Lpatrick@novoo.com', mbmurphy@stratanm.com 'mbmurphy@stratanm.com', mkrakauskas@stratanm.com 'mkrakauskas@stratanm.com', mszudera@marathonoil.com 'mszudera@marathonoil.com', Parker.Simmons@conocophillips.com 'Parker.Simmons@conocophillips.com', Patrick_Padilla@eogresources.com 'Patrick_Padilla@eogresources.com', Paul.Gill@mosaicco.com 'Paul.Gill@mosaicco.com', rdelong@titusoil.com 'rdelong@titusoil.com', Ric.Bell@mosaicco.com 'Ric.Bell@mosaicco.com', Robert Baldridge (robert.baldridge@intrepidpotash.com) robert.baldridge@intrepidpotash.com, SHajar@btaoil.com 'SHajar@btaoil.com', skelley@stratanm.com 'skelley@stratanm.com', Skylar.Fast@cdevinc.com 'Skylar.Fast@cdevinc.com', susan.b.maunder@conocophillips.com 'susan.b.maunder@conocophillips.com', T Bryson tbryson@blm.gov, tcude@mewbourne.com 'tcude@mewbourne.com', Polak, Tiffany, EMNRD Tiffany.Polak@state.nm.us, Travis.McBain@IntrepidPotash.com 'Travis.McBain@IntrepidPotash.com', Walls, Christopher Walls, Christopher cwalls@blm.gov, Will Fenley will.fenley@intrepidpotash.com, Stan Wagner Stan.S.Wagner@conocophillips.com, Parker Simmons psimmons@colgateenergy.com

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Joint Committee Meeting Agenda

Date & Time:

Wednesday,
March 30th, 2022
2:30-4:30(CST)
1:30-3:30 (MT)

Conference Call:
RSVP to Kathy
Ytuarte
For Call-in
Information

Co-Chairs

Yolanda Perez
Ocean Munds-Dry
Lisa Winn
Mike Smith
Tim Baker
Bradley Bishop
Chuck Creekmore
Anita Ashland

Next Meeting
TBD

1. Introductions
2. Agency Updates:
 - a. OCD – Director Sandoval
 - b. BLM – Sheila Mallory, Cody Layton, Tye Bryson
 - i. Royalty Rate Reductions vs. August 8th determinations
 - ii. WEG Lease sale litigation and the proposed path forward
 - iii. CFO specific issues
 - c. SLO – Greg Bloom & Allison Marks
 - i. Various issues of concern from the SLO
3. NMOGA Updates – Doug Ackerman, Aimee Barabe, & John Smitherman
 - a. NMOGA Update (Doug)
 - b. Legislative Update (Aimee)
 - c. NMPWRC update (John)
4. Committee Updates
 - a. RPC – Ocean/Yolanda
 - i. OCD -
 1. V&F Rules General Discussion
 - a. First Quarterly Report filed – 02/15
 - b. OCD Analysis show anomalies
 - c. Public Portal going live soon
 - ii. Deep Disposal Workgroup Update
 1. Induced Seismicity Guidance & Protocol
 - iii. EMNRD – Endangered Plant Rule Hearing held Nov. 2nd – no update
 - iv. State Land Office – Cultural Rule Hearing held Oct. 22nd – no update
 1. Other issues to be addressed? If so please send to John Smitherman and co-chairs.
 - b. EAC – Lisa/Mike
 - i. NMED Ozone Rule Status & Timeline Update



Joint Committee Meeting Agenda

- ii. NMED RCB NORM Update
- iii. Quad Oa/b/c Update
- c. Public Lands
 - i. Statewide
 - 1. DOI Report on the Federal Oil & Gas Leasing Program
 - 2. APD Extension Approvals
 - 3. Communitization Agreements
 - a. Delayed approvals/denials
 - ii. SENM – Tim/Bradley
 - 1. Pecos District 1st Qtr Lease Sale EA
 - 2. Carlsbad RMP
 - 3. APDs associated with WEG lawsuits update. How many are affected? (John).
 - iii. NW – Chuck/Anita
 - 1. Mancos RMP
 - 2. Chaco Canyon 10-Mile Buffer
- 5. Other Business
- 6. Next Operator’s forum (OCD reporting) April 13th.
- 7. Next Joint Committee meeting June 28th in person in Santa Fe (with virtual option). Hosted at the Inn at Loretto.

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Ytuarte
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Ocean Munds-Dry
Lisa Winn
Mike Smith
Tim Baker
Bradley Bishop
Chuck Creekmore
Anita Ashland

Next Meeting
TBD

From: Kathy Ytuarte Kathy@nmoga.org
Subject: [EXTERNAL] NMOGA Joint Committee Meeting
Date: March 30, 2022 at 12:16 PM



To: Kathy Ytuarte Kathy@nmoga.org, andrew@abadieschill.com, jason.mcgin@altamira-us.com, sgraham@bwenerylaw.com, TSauer@bwenerylaw.com, bsumner@bwenerylaw.com, jparrot@bwenerylaw.com, lgarvis@burnettoil.com, sarah.ferreyros@cdevinc.com, megan.twele@cdevinc.com, alexandra.fleming@chevron.com, Verner, Frederick C fredverner@chevron.com, kegan.boyer@chevron.com, priscillayelvington@chevron.com, kerry.mceniry@chevron.com, beverlyallen@chevron.com, patrickkillen@chevron.com, jennifer.knowlton@conocophillips.com, tim.baker@conocophillips.com, Beth.Ryan@conocophillips.com, TINA.M.TIFFANY@CONOCOPHILLIPS.COM, ocean.munds-dry@conocophillips.com, Gerholt, Gabrielle A Gabrielle.A.Gerholt@conocophillips.com, louis.c.salazar@conocophillips.com, brittany.sewell@coterra.com, Matt.comeaux@crestwoodlp.com, Bond.Hopkins@crestwoodlp.com, nena.honaker@crestwoodlp.com, mollie.schall@crestwoodlp.com, moshe.wolfe@crestwoodlp.com, katie.schroder@dgslaw.com, jlbritain@dcpmidstream.com, KRMicha@dcpmidstream.com, debbie.watson@dvn.com, heather.glaze@dvn.com, rebecca.deal@dvn.com, chelsey.green@dvn.com, john.alexander@duganproduction.com, jennifer@edlc.org, eric.tiemeyer@energytransfer.com, kerry.egan@energytransfer.com, mike.luckett@enlink.com, Wray.Heidi heidi.wray@enstorinc.com, Crabtree, Gregory gcrabtree@envirotech-inc.com, jordan_kessler@eogresources.com, sarah_mitchell@eogresources.com, angie.repka@exxonmobil.com, kyle.littrell@exxonmobil.com, violav@forl.com, addisong@forl.com, jimmyc@forl.com, wcc@four-one-three.com, bpickett@fmellc.com, Moellenberg, Dalva L. dlm@gknet.com, tyler.bridgeman@ghgsat.com, aesparza@ghgsat.com, mltextor mltextor@globalessinc.com, jsutton@gmecwy.com, pshorty@hilcorp.com, jfarrell@hilcorp.com, ccreekmore@hilcorp.com, mfeldewert@hollandhart.com, wendy.austin@intrepidpotash.com, tholcomb@jw.com, dmanus@blackhawkenergycorp.com, ryan@kairosaerospace.com, aarond@kfoc.net, tstathem@legacyreserves.com, nick@lhoperaing.com, shall@logosresourcesllc.com, meales@lucid-energy.com, msanjari@marathonoil.com, mygaillour@marathonpetroleum.com, brett.jennings@matadorresources.com, berman@matadorresources.com, Christopher Norfleet christopher.norfleet@matadorresources.com, pthompson@merrion.bz, bbishop@mewbourne.com, Tim Harrington tharrington@mewbourne.com, eed@modrall.com, lrose@montand.com, mdegenfelder@mspartners.com, Fayth Franzoy faythF@nmoga.org, marcelle.fiedler@nmgco.com, Aimee Barabe barabe@nmoga.org, Perez, Yolanda Yolanda_perez@oxy.com, karen_sinard@oxy.com, kathleen_mowery@oxy.com, kelley_montgomery@oxy.com, leslie_reeves@oxy.com, escostello@paalp.com, mdchastant@paalp.com, klparker@paalp.com, mesparza@platinumcontrol.com, rmiller@pvt.net, Joan.Harris@SCmid.com, tflume@sanmateomidstream.com, jbailey@sanmateomidstream.com, schapman@spurenergy.com, Roberts, Melanie A. MRoberts@targaresources.com, adavanzo@tascosaep.com, mcelente@trinityconsultants.com, aerenstein@trinityconsultants.com, jessica.high@h2obridge.com, brooke.herb@wsp.com, Reed, Jennifer F jennifer.f.reed@exxonmobil.com, adrian.baker@exxonmobil.com, stephanie.rabadue@exxonmobil.com
Cc: Doug Ackerman Doug@nmoga.org, John Smitherman JRS@nmoga.org, Smith, Mike Mike.smith@dvn.com, Winn, Lisa Lisa_winn@xtoenergy.com, Anita Ashland aashland@enduringresources.com, amarks@slo.state.nm.us, gbloom gbloom@slo.state.nm.us, Hussenoeder, Stefan hussenoeder@exxonmobil.com, jbordegaray@slo.state.nm.us, ebaca@slo.state.nm.us, blamkin@slo.state.nm.us, James_Laning@oxy.com, Mallory, Sheila smallory@blm.gov, Hardin, Greg Greg_Hardin@oxy.com, jrrios@blm.gov, Ross Klein (rklein@blm.gov) rklein@blm.gov, Clayton@blm.gov, TBryson@blm.gov, Nicholas_Bouterie@oxy.com, Bates, Charles cbates@targaresources.com, Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us, Polak, Tiffany, EMNRD Tiffany.Polak@state.nm.us

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Updated agenda.

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NMOGA JCM
March...rs.docx



Joint Committee Meeting Agenda

Date & Time:

Wednesday,
March 30th, 2022
2:30-4:30(CST)
1:30-3:30 (MT)

Conference Call:
RSVP to Kathy
Ytuarte
For Call-in
Information

Co-Chairs

Yolanda Perez
Ocean Munds-Dry
Lisa Winn
Mike Smith
Tim Baker
Bradley Bishop
Chuck Creekmore
Anita Ashland

Next Meeting
TBD

1. Introductions
2. Agency Updates:
 - a. OCD – Director Sandoval
 - b. BLM – Sheila Mallory, Cody Layton, Tye Bryson
 - i. Royalty Rate Reductions vs. August 8th determinations
 - ii. WEG Lease sale litigation and the proposed path forward
 - iii. CFO specific issues
 - c. SLO – Greg Bloom & Allison Marks
 - i. Various issues of concern from the SLO
3. NMOGA Updates – Doug Ackerman, Aimee Barabe, & John Smitherman
 - a. NMOGA Update (Doug)
 - b. Legislative Update (Aimee)
 - c. NMPWRC update (John)
4. Committee Updates
 - a. RPC – Ocean/Yolanda
 - i. OCD -
 1. V&F Rules General Discussion
 - a. First Quarterly Report filed – 02/15
 - b. OCD Analysis show anomalies
 - c. Public Portal going live soon
 - ii. Deep Disposal Workgroup Update
 1. Induced Seismicity Guidance & Protocol
 - iii. EMNRD – Endangered Plant Rule Hearing held Nov. 2nd – no update
 - iv. State Land Office – Cultural Rule Hearing held Oct. 22nd – no update
 1. Other issues to be addressed? If so please send to John Smitherman and co-chairs.
 - b. EAC – Lisa/Mike
 - i. NMED Ozone Rule Status & Timeline Update



Joint Committee Meeting Agenda

- ii. NMED RCB NORM Update
- iii. Quad Oa/b/c Update
- c. Public Lands
 - i. Statewide
 - 1. DOI Report on the Federal Oil & Gas Leasing Program
 - 2. APD Extension Approvals
 - 3. Communitization Agreements
 - a. Delayed approvals/denials
 - ii. SENM – Tim/Bradley
 - 1. Pecos District 1st Qtr Lease Sale EA
 - 2. Carlsbad RMP
 - 3. APDs associated with WEG lawsuits update. How many are affected? (John).
 - iii. NW – Chuck/Anita
 - 1. Mancos RMP
 - 2. Chaco Canyon 10-Mile Buffer
- 5. Other Business
- 6. Next Operator’s forum (OCD reporting) April 13th.
- 7. Next Joint Committee meeting June 28th in person in Santa Fe (with virtual option). Hosted at the Inn at Loretto.

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Cc: Doug Ackerman Doug@nmoga.org, John Smitherman JRS@nmoga.org, Smith, Mike Mike.smith@dnv.com, Winn, Lisa Lisa_winn@xtoenergy.com, Anita Ashland aashland@enduringresources.com, amarks@slo.state.nm.us, gbloom gbloom@slo.state.nm.us, Hussenoeder, Stefan hussenoeder@exxonmobil.com, jbordegaray@slo.state.nm.us, ebaca@slo.state.nm.us, blamkin@slo.state.nm.us, James_Laning@oxy.com, Mallory, Sheila smallory@blm.gov, Hardin, Greg Greg_Hardin@oxy.com, jrrios@blm.gov, Ross Klein (rklein@blm.gov) rklein@blm.gov, Clayton@blm.gov, TBryson@blm.gov, Nicholas_Bouterie@oxy.com, Bates, Charles cbates@targaresources.com, Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us, Polak, Tiffany, EMNRD Tiffany.Polak@state.nm.us

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Updated agenda.

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NMOGA JCM
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From: Kathy Ytuarte Kathy@nmoga.org 
Subject: [EXTERNAL] NMOGA Joint Committee Meeting
Date: December 7, 2021 at 1:33 PM



To: Kathy Ytuarte Kathy@nmoga.org, John Smitherman JRS@nmoga.org, Tim Baker Tim.Baker@conocophillips.com, Bradley Bishop bbishop@mewbourne.com, jrfournier@marathonpetroleum.com, lisa.winn@exxonmobil.com, lakesha.radford@westernmidstream.com, lee.m.dula@exxonmobil.com, jennifer.f.reed@exxonmobil.com, shall@logosresourcesllc.com, ejmesser19@gmail.com, megan.twele@cdevinc.com, barry.riley@blackbuckresources.com, montgomery.floyd@cdevinc.com, ccombs@taprk.com, bmoore@montand.com, rvalverde@montand.com, karen_sinard@oxy.com, nicky.fitzgerald@matadorresources.com, ocean.munds-dry@conocophillips.com, Jbruner@logosresourcesllc.com, jlbritain@dcpmidstream.com, heather.glaze@dvn.com, Leslie_Reeves@oxy.com, daubs.thompson@crestwoodlp.com, jennifer.knowlton@conocophillips.com, Tyra.Feil@duganproduction.com, abergen@cimarex.com, ccardoza@hilcorp.com, Moellenberg, Dalva L. dlm@gknet.com, granth@forl.com, chelsey.green@dvn.com, violav@forl.com, addisong@forl.com, kyle.littrell@exxonmobil.com, heidi.wray@enstorinc.com, mdchastant@paalp.com, escostello@plains.com, ruth.shockency@conocophillips.com, wcc@four-one-three.com, kegan.boyer@chevron.com, pshorty@hilcorp.com, dmanus@blackhawkenergycorp.com, moshe.wolfe@crestwoodlp.com, pthompson@merrion.bz, mltextor@globalessinc.com, louis.c.salazar@conocophillips.com, mfeldewert@hollandhart.com, DAndersen@selectenergy.com, bwilley@matadorresources.com, Joan.Harris@SCmid.com, dmallory@legacyreserves.com, john.alexander@duganproduction.com, bpickett@fmellc.com, melanie.vargas@crestwoodlp.com, angie.repka@exxonmobil.com, aashland@enduringresources.com, jeanette.barron@conocophillips.com, sshaheen@montand.com, lkramer@taprk.com, fredverner@chevron.com, ryan@kairosaerospace.com, jefields@eprod.com, petermueller@ecovaporr.com, agrankin@hollandhart.com, rebecca.deal@dvn.com, sarah.ferreyros@cdevinc.com, kschlichting@cimarex.com, zach.robbins@rxsoil.solutions, mollie.schall@crestwoodlp.com, yolanda_perez@oxy.com, MRoberts@targaresources.com, lrose@montand.com, KARI.GIBSON@CONOCOPHILLIPS.COM, priscillayelvington@chevron.com, Gabrielle.A.Gerholt@conocophillips.com, rob.kirk@solarismidstream.com, klparker@paalp.com, eric.tiemeyer@energytransfer.com, kerry.egan@energytransfer.com, ckillion@modrall.com, lgraham@zngc.com, patrickkillen@chevron.com, adrian.baker@exxonmobil.com, schapman@spurenergy.com, mike.smith (mike.smith@dvn.com) mike.smith@dvn.com, cwalls@blm.gov, Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us, thallen@blm.gov, TByron@blm.gov, tshughes@blm.gov, Ariana Solis Ariana.Solis@cdevinc.com, brett.jennings@matadorresources.com
Cc: Chuck Creekmore ccreekmore@hilcorp.com, Leland Gould Leland@nmoga.org, Fayth Franzoy faythF@nmoga.org, gloria@nmoga.org, Aimee Barabe barabe@nmoga.org, Robert McEntyre robert@nmoga.org

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Joint Committee Meeting Agenda

Date & Time:

Wednesday,
December 8th, 2021
2:00-4:00(CST)
1:00-3:00 (MT)

Conference Call:
RSVP to Kathy
Ytuarte
For Call-in
Information

Co-Chairs

Yolanda Perez
Ocean Munds-Dry
Lisa Winn
Mike Smith
Tim Baker
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Chuck Creekmore
Anita Ashland

Next Meeting
TBD

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2. Agency Updates:
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 - b. BLM – Tye Bryson, Ty Allen & Tracy Hughes
3. NMOGA Updates – Leland Gould, Robert McEntyre, and John Smitherman
 - a. Fueling New Mexico (Robert)
 - b. NMPWRC Update (John)
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 - i. OCD -
 1. V&F Rules General Discussion
 - a. Nov. 29th – ALARM Guidance & Forms Finalized & C-115B Update Issued
 - b. Dec. 7th Operator Forum
 - c. Dec. 17th OCC Hearing to amend Part 28
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 - ii. Deep Disposal Workgroup Update
 - iii. EMNRD – Endangered Plant Rule Hearing held Nov. 2nd
 - iv. State Land Office – Cultural Rule Hearing held Oct. 22nd
 - b. EAC – Lisa/Mike
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 - iii. NW – Chuck/Anita
 1. Mancos RMP
 2. Chaco Canyon 10-Mile Buffer
5. Other Business

From: Kathy Ytuarte Kathy@nmoga.org 
Subject: [EXTERNAL] NMOGA Joint Committee Meeting
Date: December 7, 2021 at 1:33 PM



To: Kathy Ytuarte Kathy@nmoga.org, John Smitherman JRS@nmoga.org, Tim Baker Tim.Baker@conocophillips.com, Bradley Bishop bbishop@mewbourne.com, jrfournier@marathonpetroleum.com, lisa.winn@exxonmobil.com, lakesha.radford@westernmidstream.com, lee.m.dula@exxonmobil.com, jennifer.f.reed@exxonmobil.com, shall@logosresourcesllc.com, ejmesser19@gmail.com, megan.twele@cdevinc.com, barry.riley@blackbuckresources.com, montgomery.floyd@cdevinc.com, ccombs@taprk.com, bmoore@montand.com, rvalverde@montand.com, karen_sinard@oxy.com, nicky.fitzgerald@matadorresources.com, ocean.munds-dry@conocophillips.com, Jbruner@logosresourcesllc.com, jlbritain@dcpmidstream.com, heather.glaze@dvn.com, Leslie_Reeves@oxy.com, daubs.thompson@crestwoodlp.com, jennifer.knowlton@conocophillips.com, Tyra.Feil@duganproduction.com, abergen@cimarex.com, ccardoza@hilcorp.com, Moellenberg, Dalva L. dlm@gknet.com, granth@forl.com, chelsey.green@dvn.com, violav@forl.com, addisong@forl.com, kyle.littrell@exxonmobil.com, heidi.wray@enstorinc.com, mdchastant@paalp.com, escostello@plains.com, ruth.shockency@conocophillips.com, wcc@four-one-three.com, kegan.boyer@chevron.com, pshorty@hilcorp.com, dmanus@blackhawkenergycorp.com, moshe.wolfe@crestwoodlp.com, pthompson@merrion.bz, mltextor@globalessinc.com, louis.c.salazar@conocophillips.com, mfeldewert@hollandhart.com, DAndersen@selectenergy.com, bwilley@matadorresources.com, Joan.Harris@SCmid.com, dmallory@legacyreserves.com, john.alexander@duganproduction.com, bpickett@fmellc.com, melanie.vargas@crestwoodlp.com, angie.repka@exxonmobil.com, aashland@enduringresources.com, jeanette.barron@conocophillips.com, sshaheen@montand.com, lkramer@taprk.com, fredverner@chevron.com, ryan@kairos aerospace.com, jefields@eprod.com, petermueller@ecovaporr.com, agrankin@hollandhart.com, rebecca.deal@dvn.com, sarah.ferreyros@cdevinc.com, kschlichting@cimarex.com, zach.robbins@rxsoil.solutions, mollie.schall@crestwoodlp.com, yolanda_perez@oxy.com, MRoberts@targaresources.com, lrose@montand.com, KARI.GIBSON@CONOCOPHILLIPS.COM, priscillayelvington@chevron.com, Gabrielle.A.Gerholt@conocophillips.com, rob.kirk@solarismidstream.com, klparker@paalp.com, eric.tiemeyer@energytransfer.com, kerry.egan@energytransfer.com, ckillion@modrall.com, lgraham@zngc.com, patrickkillen@chevron.com, adrian.baker@exxonmobil.com, schapman@spurenergy.com, mike.smith (mike.smith@dvn.com) mike.smith@dvn.com, cwalls@blm.gov, Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us, thallen@blm.gov, TByron@blm.gov, tshughes@blm.gov, Ariana Solis Ariana.Solis@cdevinc.com, brett.jennings@matadorresources.com
Cc: Chuck Creekmore ccreekmore@hilcorp.com, Leland Gould Leland@nmoga.org, Fayth Franzoy faythF@nmoga.org, gloria@nmoga.org, Aimee Barabe barabe@nmoga.org, Robert McEntyre robert@nmoga.org

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 - a. Delayed approvals/denials
 - ii. SENM – Tim/Bradley
 1. Pecos District 1st Qtr Lease Sale EA
 2. Carlsbad RMP
 - iii. NW – Chuck/Anita
 1. Mancos RMP
 2. Chaco Canyon 10-Mile Buffer
5. Other Business

Operator Follow-Up
with OCD
on County Line Seismicity

March 14, 2022

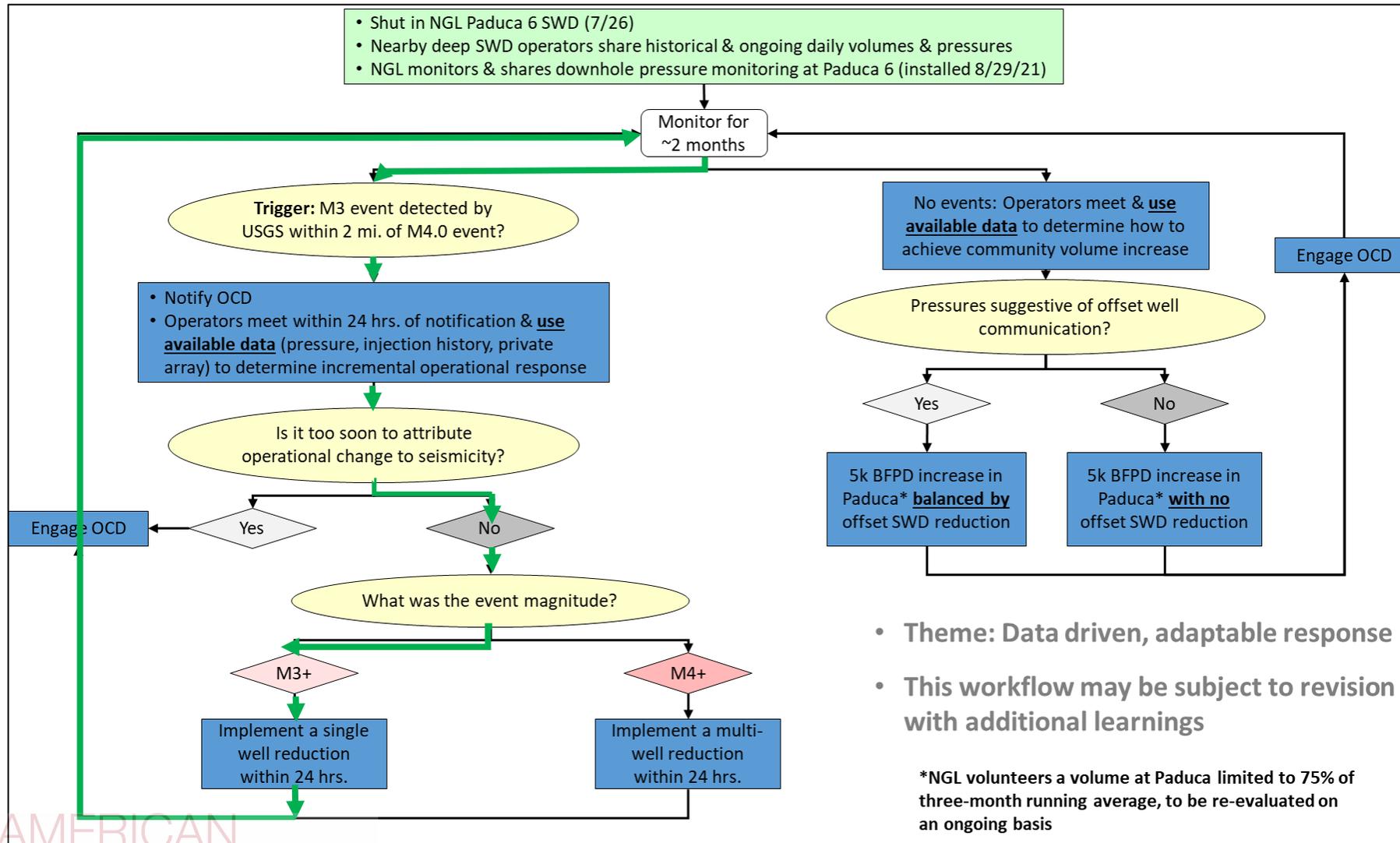
Agenda

- Operator & OCD response
- Update on County Line seismicity
- Proposed next steps

County Line Response Timeline

<u>Event</u>	<u>Action/Result</u>	<u>Response Plan In Place</u>
2020: Two ML2.5+ events in area		
3/19/2021: ML3.4 event in area	Inter-operator & OCD-operator discussions	Ad-hoc
7/19: ML4.0 event in area	Response Group formed & nearest well shut in	
8/15: ML3.2 event near ML4.0	Discussed at upcoming OCD meeting	Operator-Led Response Plan
8/18: Meeting with OCD (Santa Fe)	OCD revisions to proposed operator response	
9/13: Meeting with OCD (Zoom)	No further revisions requested by OCD	
9/21: ML3.2 event near ML4.0	Second nearest well shut in per response plan	
11/23: OCD Protocol issued	Result of industry-OCD collaboration Oct-Nov	
1/6/2022: CL ISA letters Issued	Issued to SWD operators within 10 mi. of seismicity	OCD
1/6 – 1/28: Period of clarification	Sought clarity on expected operational response	
1/28: OCD response letter	Advised adherence to OCD response protocol	
1/28 onward: Curtailment implementations	All deep SWD operators in compliance with rate reductions	

Operator-Led Response Tree



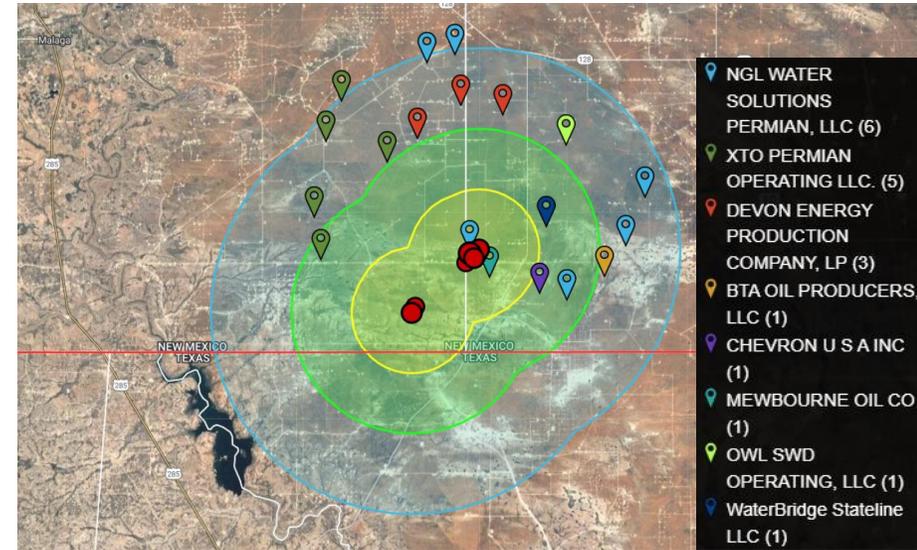
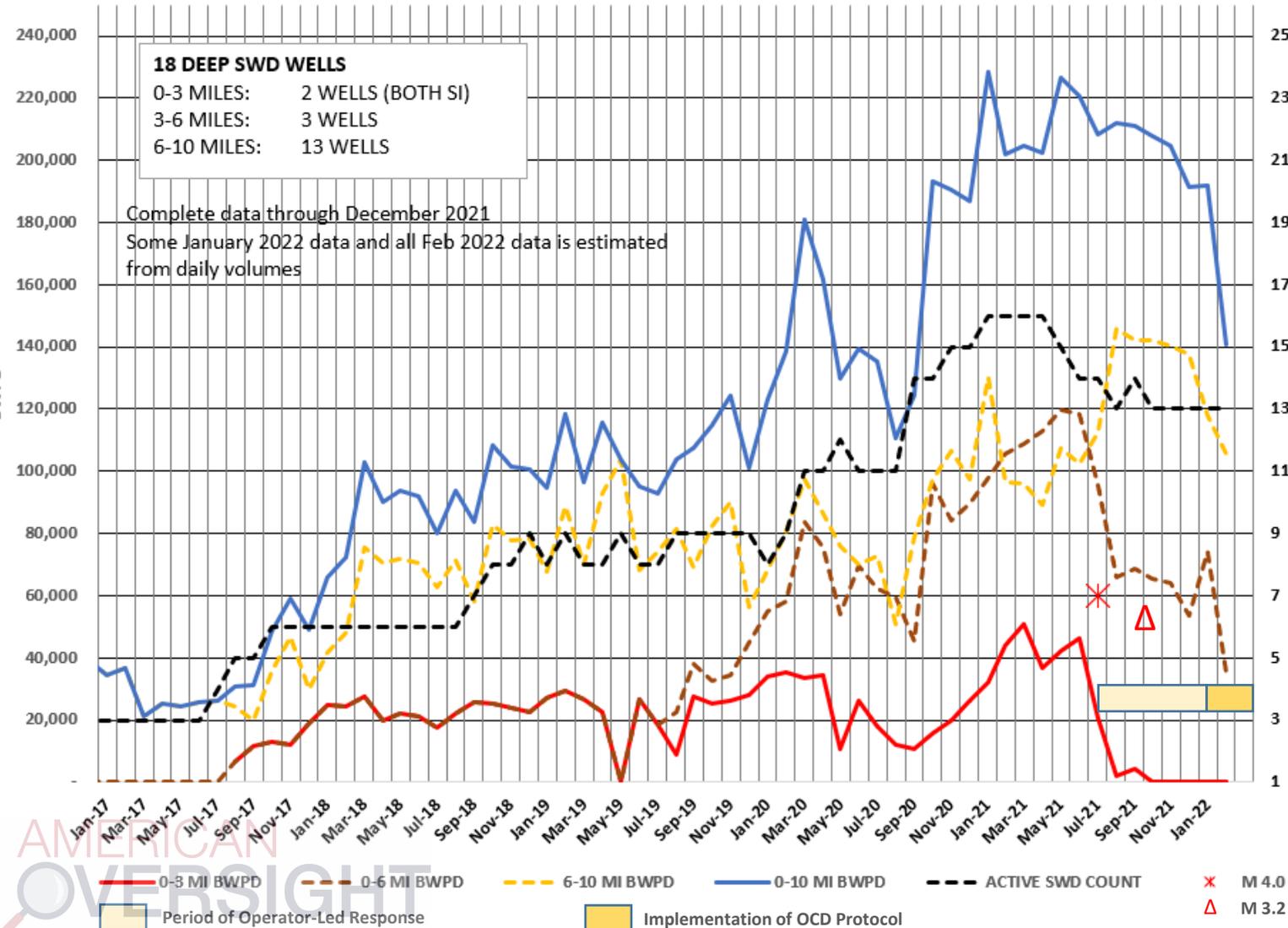
- NGL Paduca well shut-in almost immediately
- Response tree developed by 8/18 and finalized with OCD feedback on 9/13
- In effect the first several months, while working with OCD on state-wide response protocol
- Left side triggered once, with ML3.5 on 9/21/2021, resulting in Mewbourne Red Hills well shut-in

Currently operating under NMOCD
Seismicity Response

NM-EMNRD-22-0512-A-000038

OCD Induced Seismicity Response Protocol

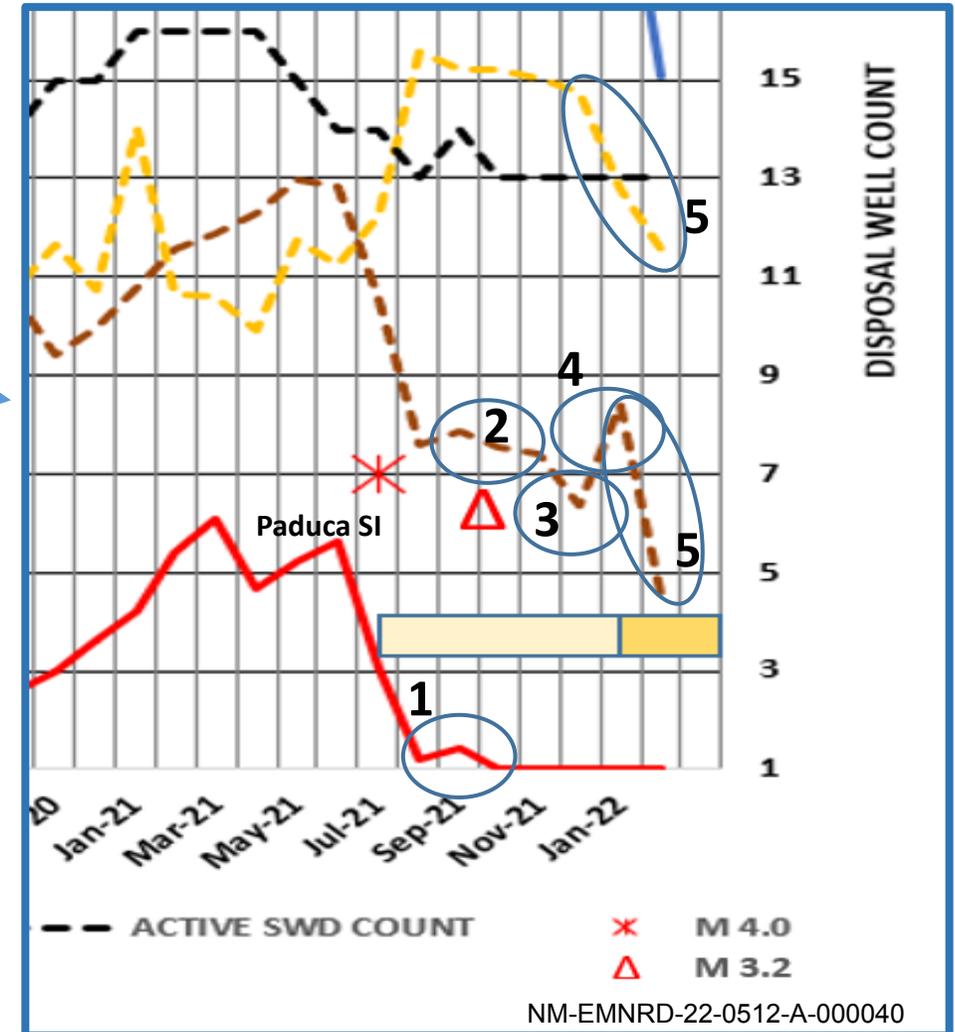
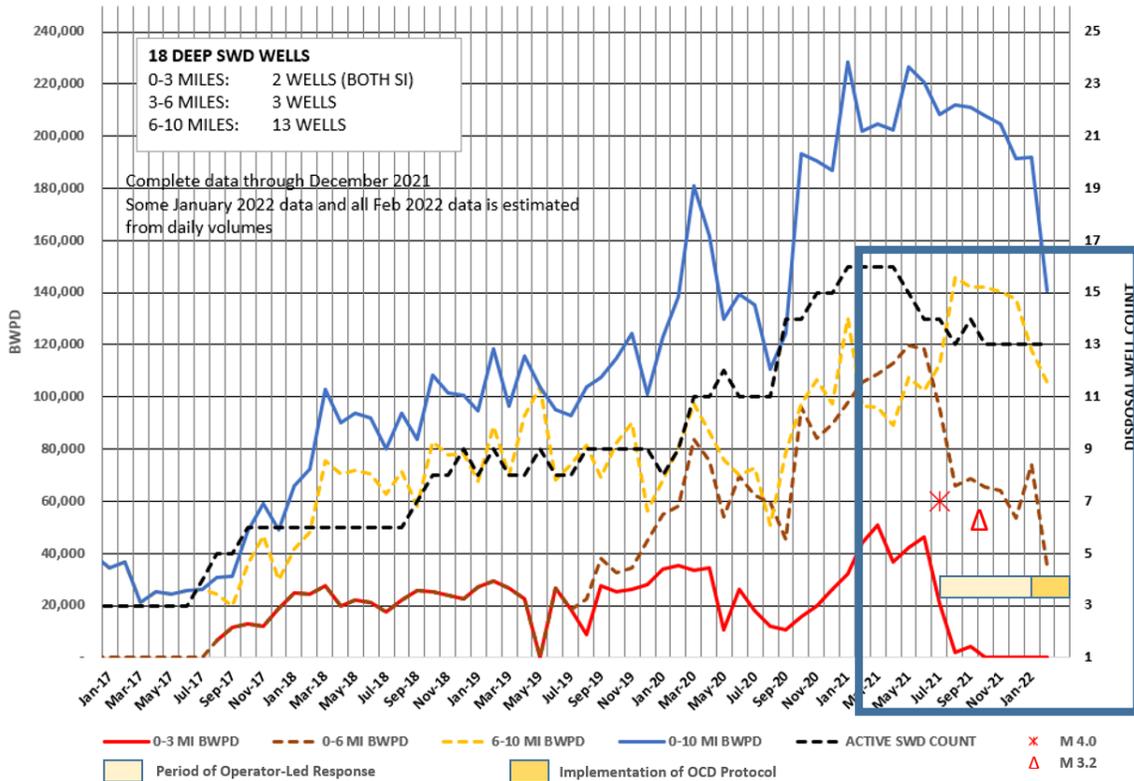
COMPOSITE DEEP DISPOSAL INJECTION WITHIN 10 MILES OF COUNTY LINE M 4.0



- Total bbl reduction within 10 miles ~ 70,000 bbls / day
- Deep SWD wells within 10 mi. radius in compliance with OCD rate reduction protocol

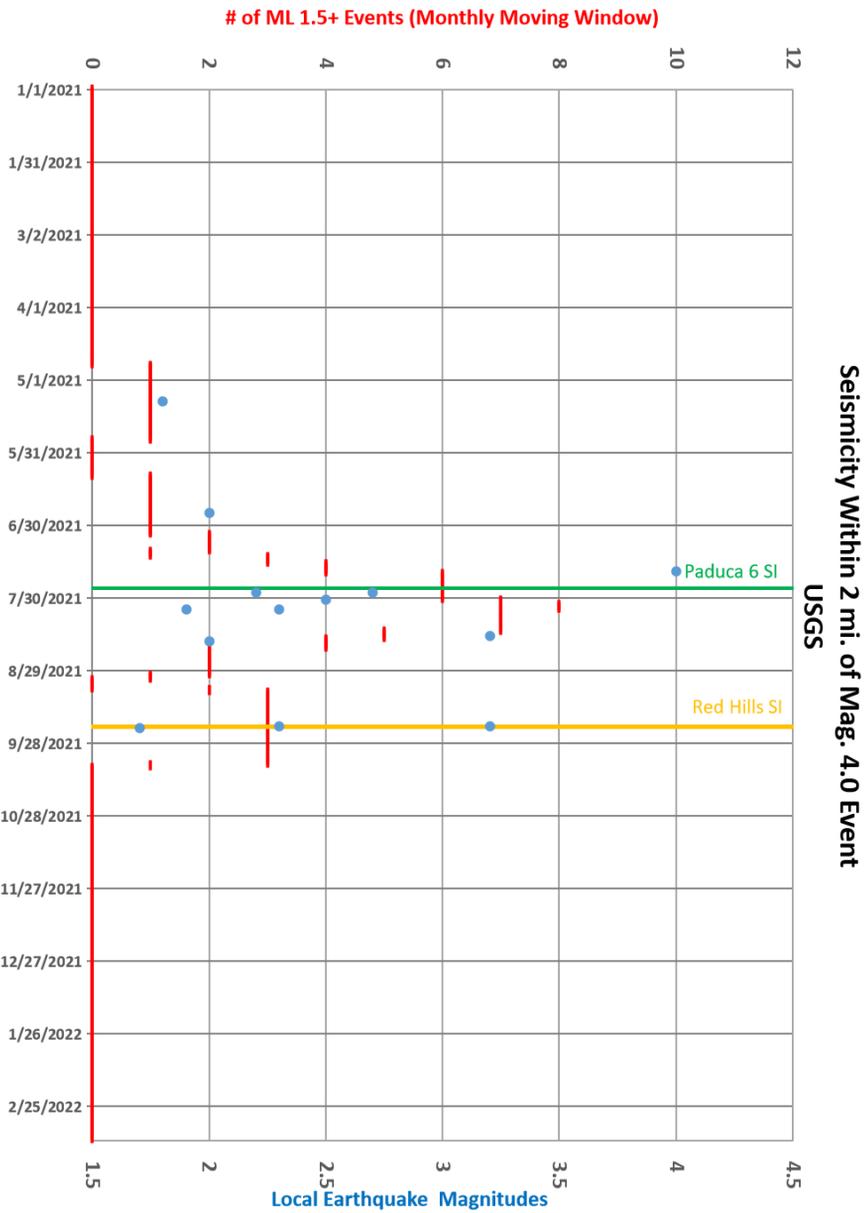
OCD Induced Seismicity Response Protocol – Detailed Actions

COMPOSITE DEEP DISPOSAL INJECTION WITHIN 10 MILES OF COUNTY LINE M 4.0



Seismicity History Near Mag. 4.0 Event

- Increase in seismic event frequency & magnitude leading up to M 4.0 on 7/19
- Sharp decrease in frequency & magnitude of seismicity since response, with no M 1.5+ events since 9/26/2021
- No M 2.5+ events since 9/21/21



M 2.5+ Events in County Line Sequence



County Line Seismicity Response Group Proposal

Status & Results

- 6-month mark since an ML2.5+ event is approaching (3/21/2022)
- All events within 2 mi. of the ML4.0 event on 7/19/21 have been <ML1.5 during that 6-month period
- Operator response showing a positive correlation with reduced EQ events in County Line Response Area
- Industry and OCD cooperative response to seismicity

Proposal: Stay the course and begin more frequent dialog

- Keep OCD induced seismicity protocol in place and monitor seismicity & pressure response
- Begin periodic County Line technical meetings between Seismicity Response Group & OCD to share learnings and propose possible changes in curtailment

Proposed Dates	Topic
March 11, 2022	Alignment prior to 6-month anniversary of ML2.5+ seismicity
May 11, 2022	Share seismicity & pressure learnings prior to 8-month anniversary
August 10, 2022	Share seismicity & pressure learnings prior to 1-year anniversary
November 9, 2022	Continued dialog as warranted

From: Perez, Yolanda Yolanda_Perez@oxy.com 
Subject: [EXTERNAL] NMOGA Waste Rule Forum_03.15.22_OCD.pptx
Date: March 14, 2022 at 6:29 PM
To: Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us
Cc: John Smitherman JRS@nmoga.org



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Adrienne,
As discussed, please see attached slides for tomorrow's discussion.

Sincerely,

Yolanda Perez

Sr. Regulatory Affairs Consultant



Occidental Oil & Gas

5 Greenway Plaza Suite 110 Houston, TX 77046

Room 11.023

Office (713) 497-2069

Cell (281) 793-1680

yolanda_perez@oxy.com



NMOGA Waste
Rule Fo...D.pptx



Waste Rule Operator Forum

March 15, 2022

Quarterly Reports Anomalies

- Director Sandoval wants to discuss:
 - Anomalies of volumes reported on first quarterly report
 - Public portal of V&F data opening in approximately 2 weeks

Operator Questions to OCD

- If operators are still having trouble submitting quarterly report, who should they reach out to?
- Are all the V&F volumes reported on C-115B expected to make it to the V & F codes on C-115?
 - For example, pneumatics and storage tanks
- What is the process to reconcile well/facility data?
 - For example, wells/facilities that operator no longer owns.
 - Wells were transferred and OCD shows new operator but not on facilities.

Operator Questions to OCD

- How long do operators have to amend Quarterly/C-115B/C-115 reports?
- If well status is “Plugged, Not Released”, why should they continue to be reported on C-115B reports?
 - Site reclamation, to reach “Plugged, Site Released” status, can take up to a year or longer

Quarterly Reports & C-115B Data Layout Issues

- Operators receiving error messages when uploading txt file with no explanation of error

The screenshot shows a web application interface for a 'Jpstream Natural Gas Waste Report (308587)'. At the top, a red banner displays an error message: 'There is a Problem! Invalid file format: there was an issue(s) that prevent lines 1-500 from being saved.' Below the banner is a progress bar with five steps: 1. General Information (active), 2. Volumes, 3. Methods, 4. Review, and 5. Close. The 'General Information' section includes a 'Reporting Period' dropdown menu set to 'October 2021 (first required quarterly report)', an 'Amendment' checkbox (unchecked), and an 'Optional File Upload' section. The file upload section contains a text box with the file name 'NM_C115_TestFile_192493_3.txt (1214.6) (X2)' and a 'Reimport' button. A small note below the button states: 'The reimport functionality (which is only available after a file has been imported) will delete all existing waste volume entries and reload the waste volume entries in the attached file.'

- Causing a lot of time and effort to try to figure out by trial and error what the issue is

Errors

- **Duplicate records**
- **Formatting:**
 - Spaces, blanks, etc.
 - Wanting wells listed first, then facilities, then beneficial use
- **Fatal Errors:**
 - Missing Wells/Facilities
 - Wells/Facilities not needing to be reported
 - Wells/Facilities not owned by Operator
 - V&F Volumes lower than reported on C-129/C-141

From: Gahr, Jason Z jason.z.gahr@exxonmobil.com
Subject: [EXTERNAL] October 6, 2021 JITC Meeting - Santa Fe
Date: September 22, 2021 at 10:22 AM



To: Gahr, Jason Z jason.z.gahr@exxonmobil.com, cwalls@blm.gov, jtimmmons@blm.gov, BLM - Jim Rutley jrutley@blm.gov, jstovall@blm.gov, SHajar@btaoil.com, Skylar.Fast@cdevinc.com, Edward.Blair@chevron.com, addi@chevron.com, Albert.Gonzales@conocophillips.com, Parker.Simmons@conocophillips.com, susan.b.maunder@conocophillips.com, Jeff.Walla@dvn.com, James_Griffin@eogresources.com, Laci_Stretcher@eogresources.com, Patrick_Padilla@eogresources.com, Hall, James A james.hall@exxonmobil.com, Chando, Jesse M jesse.m.chando@exxonmobil.com, Brian.Stone@intrepidpotash.com, Greg.Bruce@IntrepidPotash.com, kyle.smith@intrepidpotash.com, Travis.McBain@IntrepidPotash.com, Will_Fenley@IntrepidPotash.com, bhall@marathonoil.com, mszudera@marathonoil.com, CHahn@matadorresources.com, Cade.LaBolt@matadorresources.com, cmitchell@mewbourne.com, tcude@mewbourne.com, Dan.Morehouse@MosaicCo.com, John.Anderson@mosaicco.com, Paul.Gill@mosaicco.com, Ric.Bell@mosaicco.com, jrs@nmoga.org, Lpatrick@novoog.com, kshiple@novoog.com, Daniel_Holderman@oxy.com, Garrett_Granier@oxy.com, Gregory_Caraway@oxy.com, kelvin@pbex.com, mike@primerockresources.com, mbmurphy@stratanm.com, mkrakauskas@stratanm.com, skelley@stratanm.com, Bramsey@taprk.com, ccombs@taprk.com, rdelong@titusoil.com, blake@coveyenergy.com, Dula, Lee M lee.m.dula@exxonmobil.com, tbryson@blm.gov
Cc: Covarrubias, Adrian (MRO) acovarrubias@marathonoil.com, James Clark james@pbex.com, Bradfute, Jennifer (MRO) jbradfute@marathonoil.com, Jason South jason@primerockresources.com, Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us

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Please join us for the third JITC meeting of 2021, to be held at the Mew Mexico Oil and Gas Association office in Santa Fe following the NMOGA meeting. Zoom details below for remote participants. We will start at 0900 hrs Mountain Time and adjourn around 1300 hrs.

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Look forward to seeing you all in Santa Fe.

[Directions to the Venue](#)

Jason Gahr and Robert Baldrige
JITC Co-Chairs

Zoom

Meeting Invite

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Meeting](#)

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<https://exxonmobil.zoom.us/j/91659237671>

Meeting ID: 916 5923 7671

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(Houston) [+1 669 900 9128](tel:+16699009128), [91659237671#](tel:+13017158592)
[US](tel:+13017158592) (San Jose)

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9128 US (San Jose) +1 253 215 8782 US
(Tacoma) +1 312 626 6799 US (Chicago)
+1 646 558 8656 US (New York) +1 301
715 8592 US (Washington DC)

Find your local number:

<https://exxonmobil.zoom.us/j/ahvudK9Uj>

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Netherlands)
213.244.140.110 (Germany)
103.122.166.55 (Australia Sydney)
103.122.167.55 (Australia Melbourne)
209.9.211.110 (Hong Kong SAR)
149.137.40.110 (Singapore)
64.211.144.160 (Brazil)
149.137.68.253 (Mexico)
69.174.57.160 (Canada Toronto)
65.39.152.160 (Canada Vancouver)
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East)

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Mail Attachment

From: Gahr, Jason Z jason.z.gahr@exxonmobil.com
Subject: [EXTERNAL] October 6, 2021 JITC Meeting - Santa Fe
Date: September 22, 2021 at 10:22 AM



To: Gahr, Jason Z jason.z.gahr@exxonmobil.com, cwalls@blm.gov, jtimmmons@blm.gov, BLM - Jim Rutley jrutley@blm.gov, jstovall@blm.gov, SHajar@btaoil.com, Skylar.Fast@cdevinc.com, Edward.Blair@chevron.com, addi@chevron.com, Albert.Gonzales@conocophillips.com, Parker.Simmons@conocophillips.com, susan.b.maunder@conocophillips.com, Jeff.Walla@dvn.com, James_Griffin@eogresources.com, Laci_Stretcher@eogresources.com, Patrick_Padilla@eogresources.com, Hall, James A james.hall@exxonmobil.com, Chando, Jesse M jesse.m.chando@exxonmobil.com, Brian.Stone@intrepidpotash.com, Greg.Bruce@IntrepidPotash.com, kyle.smith@intrepidpotash.com, Travis.McBain@IntrepidPotash.com, Will_Fenley@IntrepidPotash.com, bhall@marathonoil.com, mszudera@marathonoil.com, CHahn@matadorresources.com, Cade.LaBolt@matadorresources.com, cmitchell@mewbourne.com, tcude@mewbourne.com, Dan.Morehouse@MosaicCo.com, John.Anderson@mosaicco.com, Paul.Gill@mosaicco.com, Ric.Bell@mosaicco.com, jrs@nmoga.org, Lpatrick@novoog.com, kshiple@novoog.com, Daniel_Holderman@oxy.com, Garrett_Granier@oxy.com, Gregory_Caraway@oxy.com, kelvin@pbex.com, mike@primerockresources.com, mbmurphy@stratanm.com, mkrakauskas@stratanm.com, skelley@stratanm.com, Bramsey@taprk.com, ccombs@taprk.com, rdelong@titusoil.com, blake@coveyenergy.com, Dula, Lee M lee.m.dula@exxonmobil.com, tbryson@blm.gov
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Jason Gahr and Robert Baldrige
JITC Co-Chairs

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213.244.140.110 (Germany)
103.122.166.55 (Australia Sydney)
103.122.167.55 (Australia Melbourne)
209.9.211.110 (Hong Kong SAR)
149.137.40.110 (Singapore)
64.211.144.160 (Brazil)
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Mail Attachment

From: Comiskey, Cody cody.comiskey@chevron.com
Subject: [EXTERNAL] RE: Proposed Times in Aug
Date: May 13, 2022 at 3:14 PM
To: Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us



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Adrienne – I will get with the group and either Stefan or myself will get back you with a date.

Thank you again to you and your staff for the meeting this week.

Have a great weekend.

-Cody

Cody.comiskey@chevron.com

Phone 806-544-3161

From: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>

Sent: Thursday, May 12, 2022 15:45

To: Comiskey, Cody <cody.comiskey@chevron.com>

Subject: [**EXTERNAL**] Proposed Times in Aug

Be aware this external email contains an attachment and/or link.

Ensure the email and contents are expected. If there are concerns, please submit suspicious messages to the Cyber Intelligence Center using the Report Phishing button.

Hi Cody-

Below are some proposed time blocks in August, let me know what works and I can send out an invite.

Aug 2nd: 1-3

Aug 16th: 1-3

Aug 17th: 1-3

Aug 19th: 9-11

Aug 23rd: 1-3

Aug 24th: 9-11, 1-3

Aug 26th: 9-11

Thanks

Adrienne Sandoval

Oil Conservation Division Director

1220 S. St. Francis Dr.

Santa Fe, NM 87505

505-476-3441

Adrienne.Sandoval@state.nm.us

From: **Comiskey, Cody** cody.comiskey@chevron.com

Subject: [EXTERNAL] RE: Seismic Response Protocol

Date: March 14, 2022 at 6:47 PM

To: Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us

Cc: Polak, Tiffany, EMNRD Tiffany.Polak@state.nm.us, Powell, Brandon, EMNRD Brandon.Powell@state.nm.us, dylan.fuge@stane.nm.us

CC

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

All – thank you again for the time today, great discussion!

I have attached the slides we went over today, the TRRC endorsement of the N. Culberson / Reeves operator led response plan (OLRP)

- TRRC seismicity response (<https://www.rrc.texas.gov/oil-and-gas/applications-and-permits/injection-storage-permits/oil-and-gas-waste-disposal/injection-disposal-permit-procedures/seismicity-review/seismicity-response/>)

- Northern Culberson / Reeves OLRP (

https://www.rrc.texas.gov/media/hc5jvpwu/ncr-sra-olrp_final_web.pdf) – And

I would be happy to discuss this in more detail anytime. Was a great effort amongst industry and TRRC on putting this together.

Finally, I have also attached a recent paper from CISR (UT – Austin) on deep, basement rooted faults in the Delaware Basin of NM and TX (

<https://reader.elsevier.com/reader/sd/pii/S0191814121000845?token=400A7A74967CAC730ACCDE26BD013E7FFBC4417886D44EFDA326A7990B2EA74D249AB98CDF8E98459D2421BB047764E7&originRegion=us-east-1&originCreation=20220314223727>) this research was supported by the CISR

research consortium. It notes updated work looking at stress states in the Delaware Basin, how stress states play a huge role in fault kinematics and acts as a good review of the current pore pressure perturbations modeled for fault stability in different zones. Happy to discuss further as well. But work like this is really important when trying to model and understand disposal related seismicity and is being incorporated in out the county line response.

Thank you again. Please don't hesitate to reach out.

-Cody

Cody.comiskey@chevron.com

Phone 806-544-3161

-----Original Appointment-----

From: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>

Sent: Friday, February 25, 2022 16:22

To: Sandoval, Adrienne, EMNRD; Polak, Tiffany, EMNRD; Powell, Brandon, EMNRD; Fuge, Dylan, EMNRD; Tremaine, Jesse K, EMNRD; matthias.sayer@nglep.com

Cc: Doug White; Hussenoder, Stefan; Jessica High; Doug Klepacki; Nick Hines; rick.johnston@swbell.net; Comiskey, Cody; Tim Harrington; Christian Holcomb; Michael Reitz; Mathews, Gregory S.; Dula, Lee M; Verner, Frederick C; Martin, Jacob; Winn, Lisa; John C Webb; Langton, David

Subject: Seismic Response Protocol

When: Monday, March 14, 2022 3:00 PM-4:00 PM (UTC-07:00) Mountain Time (US & Canada).

Where: 1220 S. St Francis (third floor)

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Follow_Up_NMO
CD_Ma...22.pdf

Operator Follow-Up
with OCD
on County Line Seismicity

March 14, 2022

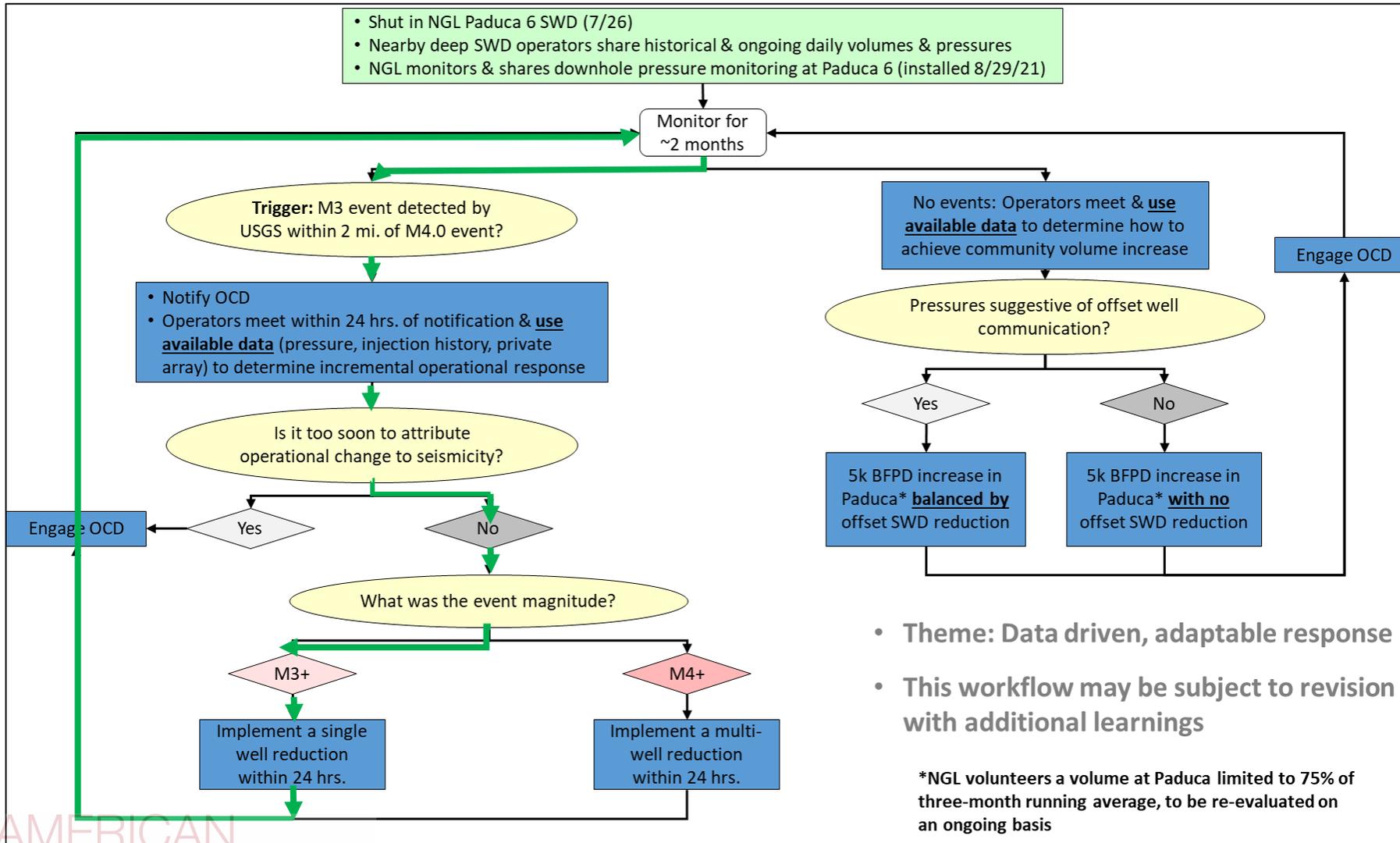
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Operator-Led Response Tree



- NGL Paduca well shut-in almost immediately
- Response tree developed by 8/18 and finalized with OCD feedback on 9/13
- In effect the first several months, while working with OCD on state-wide response protocol
- Left side triggered once, with ML3.5 on 9/21/2021, resulting in Mewbourne Red Hills well shut-in

- Theme: Data driven, adaptable response
- This workflow may be subject to revision with additional learnings

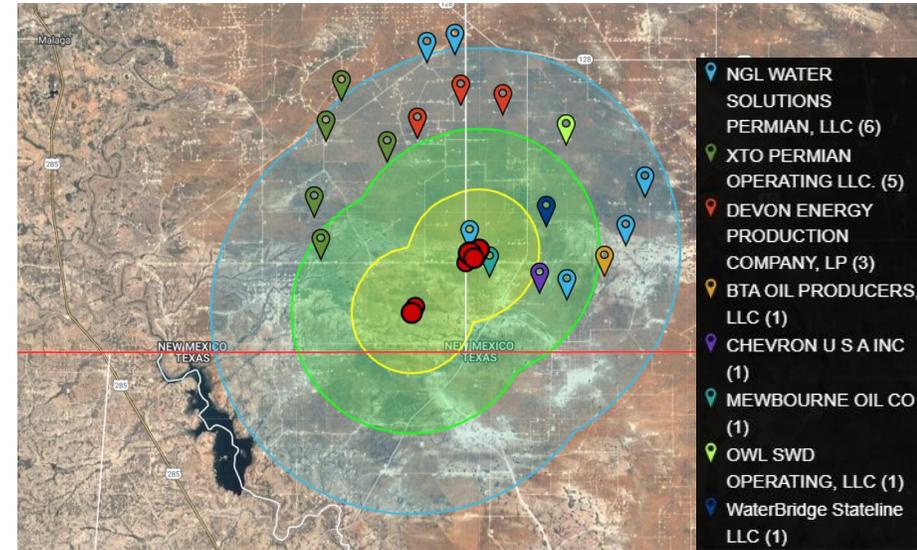
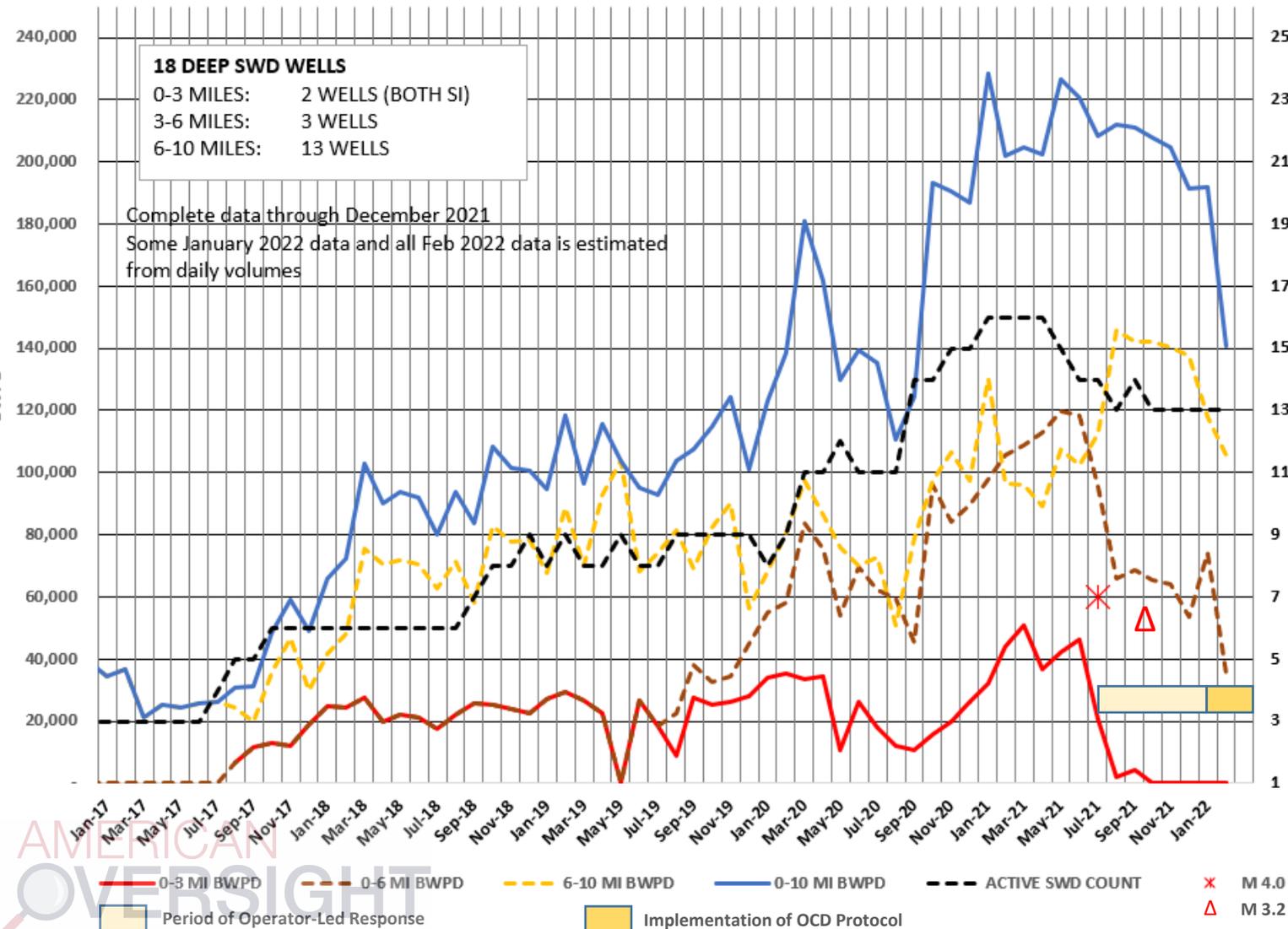
*NGL volunteers a volume at Paduca limited to 75% of three-month running average, to be re-evaluated on an ongoing basis

Currently operating under NMOCD
Seismicity Response

NM-EMNRD-22-0512-A-000062

OCD Induced Seismicity Response Protocol

COMPOSITE DEEP DISPOSAL INJECTION WITHIN 10 MILES OF COUNTY LINE M 4.0

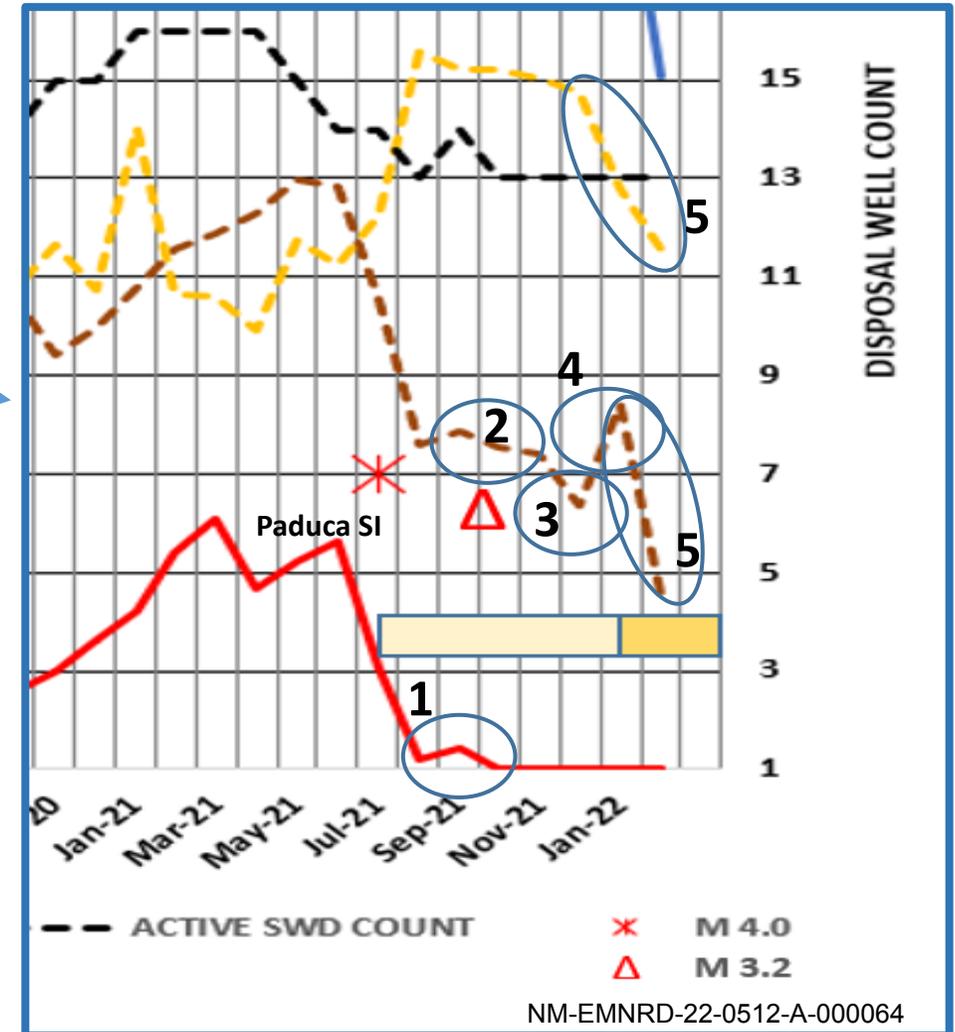
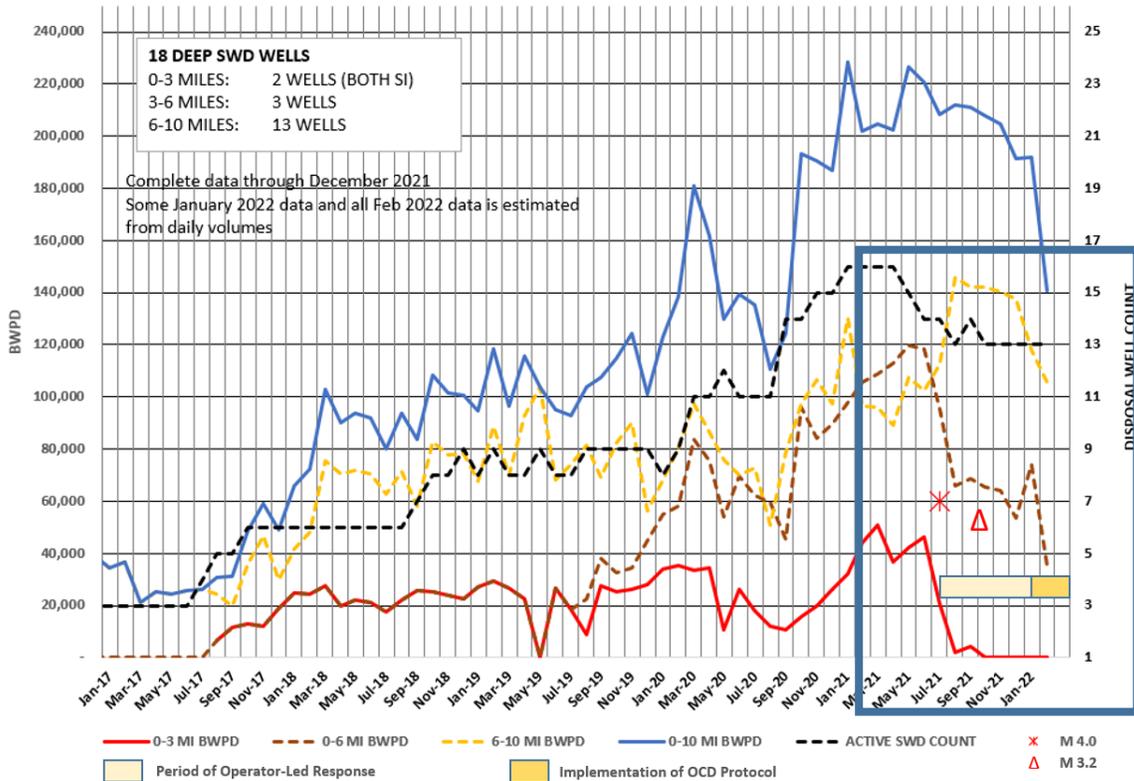


Map of deep SWD wells within 10 miles of M4.0 event
 AOI's from NMOCD
 EQ data from USGS

- Total bbl reduction within 10 miles ~ 70,000 bbls / day
- Deep SWD wells within 10 mi. radius in compliance with OCD rate reduction protocol

OCD Induced Seismicity Response Protocol – Detailed Actions

COMPOSITE DEEP DISPOSAL INJECTION WITHIN 10 MILES OF COUNTY LINE M 4.0

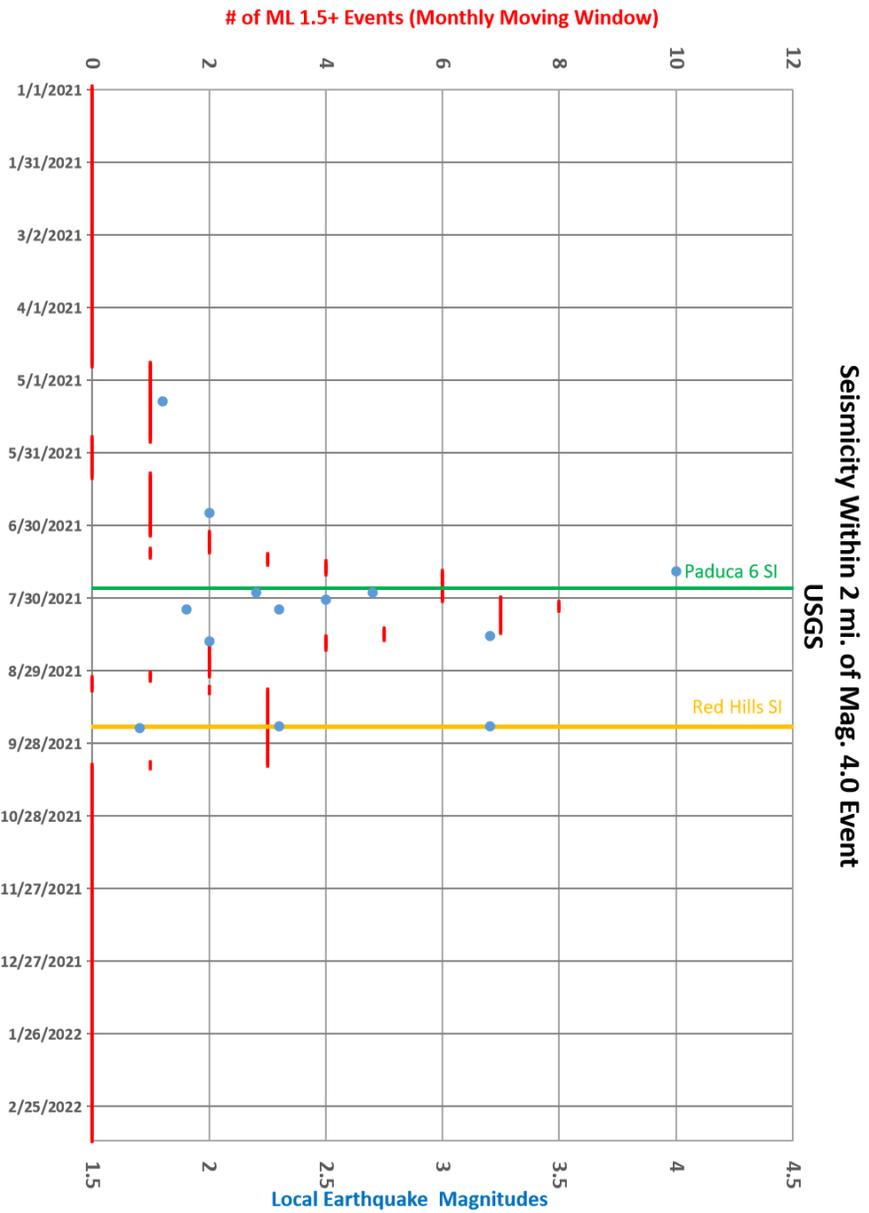


Operator Actions:

1. Red Hills Test & Shut In (SI)
2. Monsoon curtailment (10K bbls / day)
3. Maelstrom SI (30 – days – 25K bbls / day)
4. Maelstrom pulse test
5. OCD Protocol Implemented

Seismicity History Near Mag. 4.0 Event

- Increase in seismic event frequency & magnitude leading up to M 4.0 on 7/19
- Sharp decrease in frequency & magnitude of seismicity since response, with no M 1.5+ events since 9/26/2021
- No M 2.5+ events since 9/21/21



M 2.5+ Events in County Line Sequence



County Line Seismicity Response Group Proposal

Status & Results

- 6-month mark since an ML2.5+ event is approaching (3/21/2022)
- All events within 2 mi. of the ML4.0 event on 7/19/21 have been <ML1.5 during that 6-month period
- Operator response showing a positive correlation with reduced EQ events in County Line Response Area
- Industry and OCD cooperative response to seismicity

Proposal: Stay the course and begin more frequent dialog

- Keep OCD induced seismicity protocol in place and monitor seismicity & pressure response
- Begin periodic County Line technical meetings between Seismicity Response Group & OCD to share learnings and propose possible changes in curtailment

Proposed Dates	Topic
March 11, 2022	Alignment prior to 6-month anniversary of ML2.5+ seismicity
May 11, 2022	Share seismicity & pressure learnings prior to 8-month anniversary
August 10, 2022	Share seismicity & pressure learnings prior to 1-year anniversary
November 9, 2022	Continued dialog as warranted

From: Verner, Frederick C fredverner@chevron.com 
Subject: [EXTERNAL] Update on Statutory Authority and Response Plan
Date: September 27, 2021 at 12:17 PM



To: Verner, Frederick C fredverner@chevron.com, Winn, Lisa lisa.winn@exxonmobil.com, Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us, Fuge, Dylan , EMNRD Dylan.Fuge@state.nm.us, Polak, Tiffany, EMNRD Tiffany.Polak@state.nm.us, matthias.sayer@nglep.com, Hussenoeder, Stefan hussenoeder@exxonmobil.com, Comiskey, Cody cody.comiskey@chevron.com, Doug Klepacki dklepacki@cimarex.com, Perez, Yolanda Yolanda_Perez@oxy.com, Ocean.Munds-Dry@conocophillips.com, John Smitherman jrs@nmoga.org, Denard, Melissa Marie melissa.m.denard@exxonmobil.com

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Adrienne, Dylan and Tiffany,
Lisa and I would like some time to talk about your position regarding the previously proposed authority you have to initiate action in response to IS and to set up time to share our “Immediate Response” framework. If this time is not good please propose an alternative. Lisa and I are very free on Monday.
Fred

—

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Date: September 27, 2021 at 12:17 PM



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Mail Attachment

From: Kathy Ytuarte Kathy@nmoga.org 
Subject: [EXTERNAL] Waste Rule Operator Forum - "Operators Only"
Date: March 14, 2022 at 11:46 AM

To: Kathy Ytuarte Kathy@nmoga.org, jteew@aecn.com, sutton@aecn.com, lgarvis@burnettoil.com, hdisssmore@burnettoil.com, vhatley@burnettoil.com, sarah.ferreyros@cdevinc.com, Troy.Driller@cdevinc.com, eag.cb@cdevinc.com, fredverner@chevron.com, jerry.harrington@chevron.com, morgan@chevron.com, sowen@chevron.com, ruth.shockency@conocophillips.com, jennifer.knowlton@conocophillips.com, jeremy.norton@conocophillips.com, leslie.d.sanders@cop.com, luke.wittenbach@coterra.com, mollie.schall@crestwoodlp.com, moshe.wolfe@crestwoodlp.com, dblack@mspartner.com, nikkimiller21@yahoo.com, Caitlin.ohair@dv.com, rebecca.deal@dv.com, chelsey.green@dv.com, erin.aas@duganproduction.com, sheilas@forl.com, roverbey@fmellc.com, sgomez@logosresourcesllc.com, mcox@logosresourcesllc.com, kmcwilliams@logosresourcesllc.com, jwiggins@logosresourcesllc.com, mattbuckles@mec.com, k davidson1@marathonoil.com, lrucker@marathonoil.com, pthompson@merrion.bz, savarello@mspartner.com, mdegenfelder@mspartner.com, dtadlock@mustangresourcesllc.com, John Smitherman JRS@nmoga.org, Robert McEntyre robert@nmoga.org, yolanda_perez@oxy.com, jbailey@sanmateomidstream.com, schapman@spurenergy.com, steve.kahn@wsp.com, lisa.winn@exxonmobil.com, tiffany.yancey@exxonmobil.com, lance.abbott@exxonmobil.com, eric.m.young@exxonmobil.com, Lynn Collier Lynn.Collier@duganproduction.com, Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us, Jason Conway jason.conway@matadorresources.com, MErnest@matadorresources.com, ocean.munds-dry@conocophillips.com, john.alexander (john.alexander@duganproduction.com) john.alexander@duganproduction.com, Matt Henderson mhenderson@hilcorp.com

Cc: Doug Ackerman Doug@nmoga.org

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Subject: [EXTERNAL] Waste Rule Operator Forum - "Operators Only"
Date: March 14, 2022 at 11:46 AM



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Cc: Doug Ackerman Doug@nmoga.org

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Mail Attachment

From: John Smitherman JRS@nmoga.org 
Subject: [EXTERNAL] Waste Rule workshop follow up
Date: March 18, 2022 at 6:07 PM
To: Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us
Cc: Perez, Yolanda Yolanda_perez@oxy.com



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Director Sandoval,
Please find attached some follow-up questions for you and your staff. We thank you again for the time on Tuesday to discuss reporting issues. We stand ready to help with the continued roll-out of these new reporting requirements.
Please feel free to reach out to me with any questions.
All the best,
John R. Smitherman
New Mexico Oil & Gas Association
Senior Advisor - Petroleum Engineer



March Operator
Forum...p.docx

NMOGA

NEW MEXICO OIL AND GAS ASSOCIATION

P.O. Box 1864, Santa Fe, New Mexico 87505

March 18, 2022

Director Sandoval,

NMOGA really appreciate your and your staff's time during the NMOGA hosted operator forum on March 15th. NMOGA also really appreciates the offer to have companies volunteer to work with the OCD to audit their filings and we will do what we can to encourage our members to take advantage of that offer.

Industry continues to think about some of the issues that were brought up during the meeting and, considering the short time we all must get this right before the public portal opens, we thought it best to bring some of the issues to your attention now so you/your staff can address them as needed. Industry feels the rules regarding how gas volumes are filed should leave as little room for interpretation as practical.

- 1) As per our conversation, Industry seeks guidance and clarity regarding how to report volumes on both the C115 and the C115B. Such clarity will benefit all parties as reported volumes will ultimately be used to calculate both the total Production volume and the Lost Gas volume. These are, of course, essential to calculating the Gas Capture Percentage. Some of the discussion surrounding how to file certain categories of gas at our meeting on March 15th caused significant concern. There seemed to be a lack of clarity as to how or whether some gas volumes that will be reported on the C115B, but have not historically been reported on the C115, will be included in the gas volumes to be reported on the C115 under this new Waste Rule. In particular:
 - a. Pneumatics – clearly gas volumes exhausted from pneumatic devices that are subsequently vented will be reported on the C115B. It seemed very unclear whether these same volumes should be added to the volumes reported on the C115 and, if reported, which category should be used. It almost seemed like it was an operator option to include these volumes on the C115. While we agree that such volumes, if included in the C115 reported volumes, should be reported under the “U” code (Used on Property), having this be an option seems likely to lead to confusion and unreliable data. Not including these volumes in volumes reported on the C115 would keep the C115 conceptually unchanged as seemed to be OCD's preference expressed during the hearing. NMOGA urges clear guidance on this important aspect.
 - b. Stock tank vapors – similarly, it seemed unclear whether these gas volumes, which will be reported on the new C115B, should be also added to the volumes reported on the C115. Again, not including these volumes would leave the C115 conceptually unchanged. If they are to be reported, we seek guidance as to which category to use on the C115.
- 2) NMOGA would like some clarification on how the category of “G” Gas lift on the C115 will be used. For many years gas lift was an artificial lift technique that was rarely used in SENM. Now it is almost universally used for new horizontal wells. We have been having a detailed discussion

of how gas lift volumes should be accounted for and reported within our operator group. It is trickier than it first appears, and it can really make a mess of gas capture calculations if not done correctly. Please clarify what OCD's expectations are for gas volumes reported under the "G" code on the C115. Is a volume reported under the "G" category on C-115 included to determine total Produced Gas volume? Is this gas that is purchased to use for gas lift? Is it gas from a production facility that is redirected back to wells on the same property for gas lift? Is it gas sold between an operator's facilities to be able to use for gas lift? This has not been as important an issue until now that these reported volumes could cause errors in total Produced Gas volumes or Lost Gas volumes. Your guidance is requested on this important issue.

- 3) 19.15.27.8.G(4) requires submission of the C115B to the SLO. I don't believe that we know what form that submission is supposed to be in (Excel or EDI format like OCD). When the C115B was first envisioned, Industry's expectation was that it would be first submitted as an Excel spreadsheet. Now that an EDI flat file is to be used, if the SLO is not prepared to process that data, the data will be unusable for SLO staff. Has your staff been working with SLO staff to prepare them for receiving the new data?
- 4) If we understand correctly, OCD is going to "lockdown" the ability to modify the C115 after May 2022 without administrative approval (notice?). Will the amended reports after that period be the full amended report (like current protocol) or only the amended information, i.e. line item changing? If it is the second case, companies need advance notice to change their processes. Any feedback on this would be helpful.
- 5) Believe it or not, rounding can be a really important issue when reporting, especially small volumes. We missed the opportunity to ask about that on Tuesday. Apparently, the C115 requires rounding UP in all instances but there is no guidance on rounding for the C115B. The preference is normal rounding rules (\Rightarrow 0.5 rounds up, $<$ 0.5 rounds down). When we look at how this will affect thousands of low volume gas wells in NWNM, operators may be erroneously reporting a value that is an order of magnitude greater than actual venting numbers if they actually vent 0.1 mcf but are required to report "1". I believe that will cause a lot of misinterpretation and poor optics, all based on inaccurate reporting due to the rounding requirements. Can we get this clarified from OCD before we submit too many reports?

We would greatly appreciate being able to discuss some of these issues with your staff so we can work through them together quickly. You might be surprised at the amount of discussion that we have had to try to comply as we have discovered some non-intuitive realities as respects proper calculation of gas capture percentage. It is more complicated than it first appears but if we get the reporting right and all understand how to process the results, we will have a really solid number that we can all defend.

Thank you for your time and attention to these important issues.

All the best,

John Smitherman

Senior Advisor – Petroleum Engineer

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

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

**APPLICATION OF COLGATE OPERATING, LLC
FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO**

**Commission Case No. 21744
Division Case No. 21629
Order No. R-21575**

CIMAREX ENERGY CO.'S CLOSING BRIEF

Cimarex Energy Co., and its affiliate Magnum Hunter Production Inc. (collectively “Cimarex”), submit their Closing Brief to the Oil Conservation Commission (“Commission”) providing the legal and regulatory basis establishing that Cimarex has standing to seek a *de novo* hearing in this proceeding. In support of its position, Cimarex states the following:

A. Introduction

Cimarex recognizes that its request to be defined as a “party of record adversely affected” pursuant to NMSA 1978 §70-2-13 is a question of first impression under the particular facts and circumstances of this case. Cimarex also acknowledges that the Commission must craft a decision that provides the proper relief to Cimarex without establishing a precedent that other parties could abuse, that would cause inefficiencies in the Commission’s regulatory process, or that would adversely affect the need for applicants to obtain finality of decisions issued by the Oil Conservation Division (“Division”). As explained herein, Cimarex respectfully submits that the Commission can craft a narrowly-tailored decision that will both protect the Commission’s interests while setting a precedent that will be a desirable and necessary option for the Commission to implement under proper circumstances.

B. Procedural Background

The present case arises from a unique set of facts and circumstances; it is distinguishable from situations of general oversight or neglect that do not satisfy the criteria to qualify as a “party of record adversely affected” by a decision of the Division.

The touchstone for obtaining a compulsory pooling order pursuant to the New Mexico Oil and Gas Act (“Act”) is the statutory obligation to seek a voluntary agreement with working interests owners as required by NMSA 1978 §70-2-17(C) and related regulations.¹ At a minimum, an applicant is required to provide “evidence of *attempts* the applicant made to gain voluntary agreement including but not limited to copies of relevant correspondence.” NMAC 19.15.4.12A(b)(vi) (Emphasis added). The obligation to engage in good-faith “negotiations” during the time prior to filing an application for a compulsory pooling order, and leading up to the hearing is illustrated by recent decisions of both the Division and the Commission in Order Nos. R-20223 and R-21416-A, respectively.

Colgate Operating, LLC (“Colgate”) did not have standing to apply for, let alone receive, a pooling order because it ignored its statutory and regulatory obligations – it never made an attempt to enter a voluntary agreement, let alone engage in good-faith negotiations to reach such an agreement. To make matters worse, Colgate made material misrepresentations to the Division falsely claiming that it had met these obligations. Colgate does not dispute that it failed to satisfy its obligation, nor does it provide evidence to the contrary, but states only that its failure “should have been litigated in a contested hearing before the Division.” *See* Colgate’s Reply to Cimarex’s Response to Colgate’s Motion to Dismiss Cimarex’s Application for a *De Novo* Hearing (“Colgate’s Reply”), p. 1. Thus, Colgate wrongfully obtained its pooling order

¹ NMSA 1978 Sec. 70-2-17(C) states that a force pooling is allowed when “owners have not agreed to pool their interests.” Online Meriam Webster dictionary defines agree as “to concur” or “to consent.” Therefore, the proper interpretation of the statute is that parties must have attempted but failed to reach an agreement prior to a forced pooling, a requirement of the statute codified in NMAC 19.15.12A(b)(vi).

through false claims and misrepresentations and thereby undermined both the legitimacy of the proceedings and the validity of the order itself.

Moreover, Colgate failed to submit a complete application to the Division. The C-102 form for Colgate's Meridian well was not submitted to the Division for review, as required by the rules and the Division's pooling checklist. Colgate did not satisfy this requirement until January 27, 2021, after Cimarex made an appearance.

The Division held a hearing in this case on January 7, 2021. Cimarex, the second largest owner in the unit, made its entry of appearance in the case on January 19, 2021, before Colgate completed its application on January 27, 2021, with the filing of its C-102. The Division issued its Order on Colgate's application on January 19, 2021, before Colgate had completed its application.

The issue before the Commission is whether it has the authority under existing law and rules, given the circumstances and facts specific to this case, to grant Cimarex a *de novo* hearing pursuant to §70-2-13. Cimarex respectfully submits that the Commission does have such authority and that there is good cause and justification to exercise it in a judicious and measured manner in order to not only uphold the integrity of the pooling proceeding, but also to rectify the adverse effects of Colgate's misfeasance on Cimarex. The Commission can craft an order that addresses these important issues when they arise under the specific, narrow circumstances as presented in this case. Such a narrowly-tailored approach would not open a floodgate of *de novo* appeals and therefore would not burden either the Commission or future applicants who adhere to the proper procedures for seeking a pooling order.

C. Legal Arguments:

I. The language of the Act and related regulations provides the Commission with the authority to grant Cimarex a *de novo* hearing.

In *Nmma v. N.M. Water Quality Control Comm.*, 2007 NMCA 10, 141 N.M. 41, the court enunciated the baseline rules of statutory construction: "When construing a statute, we begin with the plain language, and we assume that the ordinary meaning of the words expresses the legislative

purpose.” *Nmma*, at ¶ 12 (citations omitted). “Our main goal is to give effect of the legislature’s intent.” *Id.* (citation omitted). “We also consider the history and background of the statute, as we harmonize the language in a manner that facilitates the operation of the statute and the achievement of its goals.” *Id.* (citation omitted). “Agency rules are construed in the same manner as statutes,” that is, by the plain language of the rules themselves. *See Nmma*, at ¶ 12 (citation omitted).

Section 70-2-13 is the sole statute that governs the requirements for a *de novo* hearing. This statute broadly provides, in pertinent part, that “*any party* of record adversely affected shall have the right to have the matter heard *de novo* before the commission” upon the filing of a timely application. (Emphasis added). However, the term “party of record” is neither defined nor addressed in §70-2-13, or elsewhere in the Act or regulations.

Because neither the Act nor the regulations provide a definition of the term “party of record,” its meaning for purposes of seeking a *de novo* hearing before the Commission under §70-2-13 can be discerned by examining both the text of the statute and the Commission’s regulations. First, §70-2-13 does not require a “party of record” to have been present at the hearing when testimony is taken; the statute specifically separates “transcript of testimony” and “record.” Second, NMAC 19.15.4.10A(2) provides that “[a] person to whom statute, rule, or order requires notice...*who has entered an appearance in the case;*” qualifies as a party to “an adjudicative proceeding.” (Emphasis added). Finally, NMAC 19.15.4.10B allows a person who is entitled to notice to “enter an appearance at *any time.*” (Emphasis added). Thus, in order to be a “party of record” that is authorized to file an application for a *de novo* hearing under §70-2-13, that party only has to qualify as a party who has the right to file an entry of appearance and did, in fact, enter an appearance in the case. There is no requirement that the party had to have presented evidence at the hearing or to have made any type of argument at the hearing in favor or opposed to the application or to even have attended the hearing.

In the present case, Cimarex had the unquestionable right to file an entry of appearance. While it filed that appearance after the hearing was held, the entry of appearance was submitted prior to the record in the proceeding being complete. The plain language of §70-2-13 requires that before the Division can render a decision in the matter, the Division “shall cause a complete record of the proceeding to be made” which must include the “receiving of...exhibits offered in evidence.” (Emphasis added). Cimarex made its entry of appearance prior to the completion of the record because at the time of Cimarex’s entry of appearance, January 19, 2021, Colgate had not yet submitted all the documents and exhibits required by the Division for completion and closure of the case. Colgate did not satisfy this requirement until January 27, 2021, well after Cimarex made its entry of appearance. This fact alone qualifies Cimarex as a party of record under §70-2-13.

In *New Energy Economy, Inc. v. Vanzi*, 2012-NMSC-5, 274 P.3d 53, on which the Commission relied in Order No. R-14097-A, the court determined that what constitutes a “party,” or in this case “party of record,” in an administrative hearing is not set by statute when the statute does not specify a meaning and that the agency may determine the scope of what constitutes a party without input from the New Mexico Supreme Court or the Legislature. *See New Energy*, at ¶ 35. Thus, the Commission is authorized to “broaden or constrain the term ‘party.’ ” *Id.* Accordingly, since “party of record” is not defined in §70-2-13, the Commission has full discretion to decide what is fair and just in this case with respect to whether Cimarex should be designated as a party of record when the request falls within the purview of the statutory and regulatory language.

This interpretation of §70-2-13 is fully supported by the Commission’s analysis in Order No. R-14097-A in which the Commission recognized that not only is the term “party of record” not defined anywhere in the statute, it is not defined anywhere in the Act. *See Order No. R-14097-A* at ¶ 10. By exercising its discretion to grant Cimarex a *de novo* hearing, the Commission will ensure that applicants do not take the Division or its statutory requirements for granted and will

provide the necessary incentive for applicants to be conscientious and diligent throughout the pooling process, including the fundamental requirement of attempting to seek a voluntary pooling agreement before seeking the Commission's intervention.

II. Granting Cimarex a *de novo* hearing will not open the floodgates to excessive *de novo* hearings and will not burden the Commission.

The scope of what constitutes a party of record adversely affected that could qualify for a *de novo* hearing is clear under the regulations and Act. On the one end of the spectrum, filing an entry of appearance prior to the actual hearing secures a party's right to a *de novo* hearing. This incentive will remain in place if the Commission grants Cimarex the relief it is seeking. On the other end of the spectrum, it is clear under the Commission's decision in Order No. R-14097-A, discussed below, when a party fails to qualify for a *de novo* hearing. The Commission can quickly determine the lack of standing on the face of any such request. Within this spectrum, Cimarex respectfully requests that the Commission provide, in conformity with the Act, an additional, but limited and narrowly tailored, option for a party to qualify as a party of record adversely affected when substantial justice and fairness is at stake and when, absent this option, the legitimacy of the proceedings is undermined.

Order No. R-14097-A provides a blueprint for the Commission to make an efficient determination whether a party is a party of record. Under this Order, a party who seeks a *de novo* hearing when making an entry of appearance after the actual hearing must demonstrate its participation in the case "in a legally significant manner." See Order No. R-14097-A at ¶ 13. This requirement is satisfied when a party (1) makes an entry of appearance that satisfies NMAC 19.15.4.10(A) and (B) and that demonstrates the party's diligence; (2) submits evidence and arguments in writing that demonstrate the validity of a party's claims of wrongdoing for which the applicant is not able to provide sufficient evidence to the contrary;² (3) provides valid reasons for

² This factor (2) would facilitate the efficient determination whether a party is a party of record adversely affected. If after the moving party submitted evidence that wrongs were committed and the applicant countered with sufficient

not making an entry of appearance prior to the hearing; and (4) demonstrates, as part of its application for a *de novo* hearing, that there is a justification for the record to be reopened on the basis of new evidence. *See* Order No. R-14097-A at ¶ 15. As shown in its pleadings, Cimarex has satisfied all the threshold criteria described in Order No. R-14097-A to demonstrate that it participated in the case in a legally significant manner and therefore should be granted a *de novo* hearing.

With respect to factor (4), which Cimarex submits is dispositive in the present case, there was no need to reopen the record in order to accept Cimarex’s entry of appearance because it was filed before the record was completed. The completion of the record prior to a pooling order being issued is a requirement of §70-2-13. Colgate did not complete the record until January 27, 2021, and did so in direct response to Cimarex making an entry of appearance prior to its completion. Other factors, such as elements of excusable neglect described in Cimarex’s Response to Colgate’s Motion to Dismiss, may be considered to the extent they inform the criteria for a *de novo* hearing under the Act.

During oral arguments, a question was raised whether, under NMAC 19.15.4.10(C), a party who has not entered an appearance prior to the pre-hearing statement filing date should be able to present technical evidence at the hearing. Cimarex respectfully submits that the new evidence contemplated in factors (2) and (4) above would be presented not at the original hearing but should be considered by the Commission as one of the threshold criteria for granting a *de novo* hearing. This consideration is consistent with the language of NMAC 19.15.4.10(C) which also provides that the Commissioner Chair can direct the submission of evidence “for good cause.”

By implementing the four factors derived from Order No. R-14097-A as strict criteria for the appeal, the Commission will be able to receive the benefits of the option for granting a *de novo*

evidence to demonstrate otherwise, the Commission could quickly dismiss the moving party’s application without the burden of further consideration.

hearing under the circumstances described herein without imposing additional burdens on the Commission or prejudicing parties who have submitted pooling applications that meet all of the statutory and regulatory requirements.

III. A carefully considered option for granting a *de novo* hearing upholds the integrity of the pooling process and promotes the goals of the Act.

Final considerations in the overall equation for granting a party's request for a *de novo* hearing should include relevant and important questions of (1) substantial justice and fundamental fairness; (2) weighing the potential harm and prejudice to both the moving and non-moving parties; and (3) fulfilling the intent and mission of the Act and related regulations, all three of which have been addressed by New Mexico case law. The *New Energy* court allowed three parties, who otherwise would have been excluded from an appeal, to participate based on the parties' stake in the appeal: "As a matter of common sense and fundamental fairness, one would expect our appellate procedures to provide for their participation as parties to their appeals on equal footing with their opponents." *Id.* at ¶ 27; *see also Thriftway Mktg. Corp. v. State*, 1990-NMCA-115, 111 N.M. 763 (creating an exception for a party to intervene for the first time on appeal, when the party had not been involved in the district court proceeding); *Wilson v. Massachusetts Mut. Life Ins. Co.*, 2004-NMCA-051, ¶ 11, 135 N.M. 506 (holding that while the timely filing of a notice of appeal may be a mandatory precondition to jurisdiction, it is "not an absolute jurisdictional requirement," and the court will recognize certain narrow exceptions to untimely filing when warranted by the circumstances).

With 25% working interest, Cimarex is the second largest owner in the unit, the first being Colgate with a 27% working interest. Thus, Cimarex has a considerable stake, on par with Colgate, in the outcome of the case and had every intention of participating in the hearing but for the extenuating circumstances, as explained by Cimarex, for missing its opportunity. Given the requirements under the Act and related regulations for an applicant to seek in good-faith a voluntary agreement and engage in negotiations, if Colgate had adhered to its statutory and

regulatory obligations, Cimarex would have been fully aware of Colgate's efforts to pool and develop the unit prior to the hearing, notwithstanding the missed notice letter. In fact, given the framework of the Act taken as a whole, if the applicant performs its statutory duties and obligations, there is no reason for an owner of substantial interest not to be aware of a pooling effort prior to the hearing. Cimarex's request provides the necessary incentive for ensuring such duties and obligations are met.

Interested parties have a fundamental right to receive notice of forced pooling proceedings. However, a prerequisite to providing such notice is affording interested parties with their right to good-faith negotiations of a voluntary pooling agreement. Colgate clearly failed to afford Cimarex its right to good-faith negotiations. The purpose of the Act and regulations is to ensure that owners have the opportunity to fully negotiate and work out their concerns prior to the state imposing its police powers to force private parties to yield their ownership to the applicant in a forced pooling order. If the applicant violates the purpose and provisions of the Act, then the applicant's privilege to use state power is not legitimate.

Finally, by not having an option narrowly tailored to address these circumstances as they arise, the Commission risks not being able to fulfill its mission under the Act to prevent waste and protect correlative rights to the full extent available under the law. An owner who has a right to drill but misses, for a valid reason, a hearing may have been able to offer a superior development plan that would have prevented waste and protected correlative rights better than the applicant's plan. If the Commission has the authority under such circumstances to consider the merits of the alternative plan, as it does in this case, it should do so in order to uphold the purpose of the Act.

D. Conclusion:

Cimarex has standing to request a *de novo* hearing because it filed its entry of appearance before Colgate's application was complete and the record was closed. Even absent this dispositive fact, Colgate failed to meet its statutory and regulatory obligation to engage in good-faith

negotiations with Cimarex to enter into a voluntary pooling agreement, thus undercutting the entire rationale for seeking Commission intervention to issue a pooling order.

Cimarex respectfully submits that under the unique facts of this case, to the extent that it needs to rely on its discretion, *see, i.e.*, NMSA 1978 70-2-6(B), the Commission should grant Cimarex's request for a *de novo* hearing. Granting Cimarex's request will maintain the integrity of pooling proceedings, without creating an undue burden on the Commission or prejudicing applicants who follow the rules. Finally, granting Cimarex's application will ensure that the development plan it ultimately approves for the subject lands is the best plan to prevent waste and protect correlative rights, thus satisfying the Commission's obligation to the public. For the foregoing reasons, Cimarex respectfully requests that the Commission grant Cimarex a *de novo* hearing and deny Colgate's Motion to Dismiss the Application in Case No. 21744.

Respectfully Submitted,

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Hunter Production, Inc., an affiliate of Cimarex
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was filed with the New Mexico Oil Conservation Commission and was served on counsel of record, or on the party of record, if no counsel was provided, via electronic mail on April 5, 2021:

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From: Davidson, Florene, EMNRD florene.davidson@state.nm.us 
Subject: FW: Cimarex's Closing Brief: OCC Case 21744, Order R-21575, OCD Case 21629
Date: April 5, 2021 at 7:00 PM
To: Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us, Thomas Engler (Thomas.engler@nmt.edu)
Thomas.engler@nmt.edu, gbloom@gbloom@slo.state.nm.us, Moander, Christopher cmoander@nmag.gov

DE

From: Darin Savage <darin@abadieschill.com>
Sent: Monday, April 5, 2021 4:48 PM
To: Hearings, OCC, EMNRD <OCC.Hearings@state.nm.us>
Cc: Davidson, Florene, EMNRD <florene.davidson@state.nm.us>; Ernest Padilla <padillalawnm@outlook.com>; Moander, Christopher <cmoander@nmag.gov>; Bill Zimsky <bill@abadieschill.com>; Andrew Schill <andrew@abadieschill.com>; brent.mcdonald@prosperitybankusa.com
Subject: [EXT] Cimarex's Closing Brief: OCC Case 21744, Order R-21575, OCD Case 21629

Good afternoon,
Please find attached for filing Cimarex Energy Co.'s Closing Brief in support of the Commission's granting Cimarex a de novo hearing.
Thank you,
Darin

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

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

**APPLICATION OF COLGATE OPERATING, LLC
FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO**

**Commission Case No. 21744
Division Case No. 21629
Division Order No. R-21575
Commission Order Nos. R-21679,
R-21679-A & R-21679-B**

**CIMAREX ENERGY CO.'S MOTION TO INVALIDATE AND VACATE
COLGATE OPERATING, LLC'S ORDER NO. R-21575**

Cimarex Energy Co., and its affiliate Magnum Hunter Production Inc. (collectively “Cimarex”), submit to the Oil Conservation Commission (“Commission”) its Motion to Invalidate and Vacate Colgate Operating, LLC’s (“Colgate”) Order No. R-21575 (“Motion”) pursuant to New Mexico statutory and case law, in particular, *Property Tax Department v. Molycorp, Inc.*, 1976-NMSC-72, 89 N.M. 603; and NMSA 1978 §§70-2-13 and 39-3-1.1.

In support of its Motion, Cimarex states the following:

I. Essential facts and procedural background relevant to this motion.

1. On March 25, 2021, the Parties made oral arguments before the Commission on both Cimarex’s Application *De Novo* and Colgate’s Motion to Dismiss. Given the complexity of the legal interpretations involved, the Commission requested supplemental briefs from the Parties.

2. On April 15, 2021, the Parties continued oral arguments at the Commission. The Commission ruled in favor of Cimarex, addressing defects in the application process and

granting Cimarex a hearing *de novo* before the Commission. Colgate indicated it would consider an appeal of the decision in district court.

3. The Parties reconvened before the Commission on May 13, 2021, for a Status Conference, setting dates for pleadings and the subsequent filing of Cimarex’s competing applications, that would have been included in the hearing before the Oil Conservation Division (“Division”) absent Colgate’s mishandling of its statutory obligations preceding the hearing. At the Status Conference, questions were raised by both Parties regarding the proper procedure and forum for hearing Cimarex’s competing applications. Colgate argued that it was improper to remove Cimarex’s application back to the Division, as this would constitute a collateral attack on a standing Division order. Cimarex agreed with Colgate’s assessment, that removing the application back to the Division-level without first invalidating or vacating Order No. R-21575 on proper grounds would constitute a collateral attack on the order subject to appeal in district court.

4. At the Status Conference, counsel for Cimarex expressed that it is in the best interest of both Parties to have the Commission evaluate and determine the proper procedural posture for hearing Cimarex’s applications to ensure that any final order issued would be secure, to the extent possible, from appeal.

5. To date, a question of collateral attack of a standing order, if a case challenging such order is removed to the Division for hearing pursuant to the proceedings of a *de novo* hearing under §70-2-13, has not been addressed by the courts, and thus, it would be a question of first impression upon appeal.

II. The Commission, to secure an order to the extent possible under the facts of these proceedings, should be fully satisfied with its position on the question of collateral attack of a standing order both within the context of New Mexico case law and industry standards.

6. It is clear that the Division and Commission have broad authority under NMSA 1978 §§ 70-2-6 and 70-2-11 to address issues of conservation of oil and gas and to do whatever may be reasonably necessary to carry out the purpose of the New Mexico Oil and Gas Act (“Act”), such broad authority being important to the mission of the two agencies, but it is equally clear that the Division and Commission are agencies bound by statute. *See Continental Oil Co. v. Oil Conservation Commission*, 1962-NMSC-062, ¶ 11, 70 N.M. 310 (stating: “The [OCC] is a creature of statute, expressly defined, limited and empowered by the laws creating it.”). This limitation is codified in §70-2-6 of the Act, which shows that the concurrent jurisdiction the Commission has with the Division is not absolute, but is permitted “to the extent necessary for the [C]ommission to perform its duties as required by law.”

7. New Mexico case law has demonstrated instances in which the Commission’s broad authority has been curtailed for the proper operation of specific, limiting statutes in relation to broader statutes of the Act such as §§70-2-6 and 70-2-11. *See Marbob v. Oil Conservation Com’n*, 2009-NMSC-013, ¶ 13, 146 M.M. 24. In *Marbob*, the court held that the Commission cannot ignore the plain language of a specific statute. *See id.* at ¶ 14. Doing so creates a contradiction in the Act, *see id.*, and “[a]s a general rule of statutory construction, . . . general language is limited by specific language.” *Id.* at ¶ 15 (*citing Lubbock Steel & Supply, Inc., v. Gomez*, 1987-NMSC-025, ¶ 6, 105 N.M. 516).

8. In the present case, the concern would be whether the specific statute, §70-2-13, allows the Commission to re-litigate at the Division-level a standing order issued by the Division. The hermeneutics of statutory construction rely heavily on the precision of the statutory language, and counsel for Colgate asserted in discussions before the Commission on May 13, 2021, that a *de novo* hearing should not go backward to the Division-level, which would

result in a collateral attack on the standing order, but must go forward with the *de novo* hearing at the appellate-level of the Commission. Although Cimarex would benefit, in the short term, from a return to the Division to hear its competing application, a successful challenge of such procedure in district court would not benefit Cimarex in the long term, and therefore, counsel for Cimarex would tend to agree with Colgate’s assessment, that as long as Colgate’s final pooling order remains in place, a return to the Division would constitute a re-litigation of the matter and an improper collateral attack under the Act and case law.

III. Under the facts of this case, the cleanest and safest way to avoid challenge or appeal is to invalidate and vacate Order No. R-21575.

9. In the present case, there is opportunity, consistent with case law and statutory language, to avoid the issues of re-litigation and collateral attack. Under *Molycorp, Inc.*, 1976-NMSC-072, ¶ 11, *res judicata* applies “to rulings of administrative bodies under the proper circumstances,” a holding which would likely be applicable to the Division as an administrative body. Cimarex is concerned that this precedent may have traction in district court.

10. However, the *Molycorp* court noted that an agency has the inherent power to cancel and revoke an order that is found to be “issued in conflict with the statutes governing and limiting the issuance thereof.” *Id.* In Order No. R-21679, the Commission properly focused on Cimarex’s allegations of Colgate’s material misrepresentations, concluding that they were “not only compelling but concerning given that misrepresentations in pleadings undermine both the administrative and judicial legal systems, specifically as to the integrity of any particular case.” Order No. R-21679 at § II.i.

11. Based on such misrepresentations, it is clear that Order No. R-21575 was issued in conflict with the statutes governing and limiting the issuance thereof, specifically §70-2-17(C), which became apparent after Cimarex “supplied evidence previously unseen by the

Division.” See Order No. R-21679 at §II.j. Thus, there are proper grounds to invalidate and vacate Order No. R-21575, not because the Division improperly issued the order at the time, but because, in retrospect, given the new evidence, the order should be invalidated and vacated; otherwise, at this point in the proceedings, the order could be viewed as unauthorized and ultra vires. See *Molycorp*, 1976-NMSC-072, ¶ 12 (holding that the agency in issuing its order in violation of its rules “was unauthorized and ultra vires”). Thus, the invalidation of Order No. R-21575 would allow the Division to properly hear Cimarex’s completing applications to determine whether its plan would better prevent waste and protect correlative rights, thereby avoiding a challenge of collateral attack in district court.

12. Cimarex realizes that the Division and Commission have recently given consideration to whether *res judicata* is applicable to the re-litigation of a matter previously litigated by the Division and final order issued. See, *i.e.*, Division Order No. R-21675 at ¶¶ 2-3 (ruling that *res judicata* does not bar the Division’s consideration of Apache’s application in Case Nos. 21489, 21490 and 21491 or Mewbourne’s applications in Case Nos. 21362 and 21364). Cimarex respectfully submits that further consideration of this issue would be beneficial to obtain the perspective of a party, Cimarex, who faces the prospect of a challenge in district court to any order it might receive from the Commission under the facts of the present case. Cimarex reasonably desires to avoid, to the extent possible, any challenge alluded to by Colgate. Since this issue would be a question of first impression in district court, Cimarex remains uncertain of the final outcome.

13. The courts will generally defer to the agency’s interpretation in resolving ambiguities in the statutes or regulations which an agency is charged with administering, if it implicates the agency’s technical expertise. See *Sierra Club v. New Mexico Mining Com’n* 2003-

NMSC-5, ¶ 17, 133 N.M. 97. However, if the question involves only a matter of law, the appellate court “will not defer to the Commission’s or the district court’s statutory interpretation,” as a matter of law is reviewed *de novo*. *See id.*; *see also* NMSA 1978 §39-3-1.1(D)(3) (proper basis of appeal is that the agency did not act in accordance with the law).

14. The strongest argument for not applying *res judicata*, and not having concern that a re-litigation of a standing order at the Division-level is a collateral attack, is the view that a Division order is not final because a *de novo* hearing at the Commission-level is still available. Recent arguments before the Division for the inapplicability of *res judicata* have relied on *Ruyle v. Continental Oil Company*, 44 F.3d 837 (10th Cir. 1994), a case which made a passing reference to the potential effect of a subsequent *de novo* hearing, but which ultimately ruled that the agency’s order does provide preclusive effect pursuant to collateral estoppel and *res judicata*. *See id.* at 846. The *Ruyle* court raised the possibility that a pending *de novo* hearing might negate the finality of an agency order by referencing Wright & Cooper, Federal Practice & Procedure, §4433, at 308 (1981) followed by the court’s reference to Restatement (Second) of Judgments §83 cmt. at (1980). *See id.* However, the statement in Wright’s Federal Practice & Procedure provides: “The Supreme Court long ago seemed to establish the rule that a final judgment retains all of its *res judicata* consequences pending decision of the appeal, apart from the *virtually nonexistent* situation in which the ‘appeal’ actually involves a full trial *de novo*.” Federal Practice & Procedure (Wright & Miller) §4433 (3rd ed.) (emphasis added). Thus, such reference does not apply to the type of *de novo* hearing contemplated at the Commission-level.

15. In order for *res judicata* to be inapplicable, and a collateral attack avoided, the *Ruyle* court’s references regarding the potential effect of a *de novo* hearing must apply to the Division’s order in New Mexico; in effect, they must negate the finality of the order. However,

under current New Mexico law, this is not the case. In *Alarcon v. Albuquerque Pub. Sch. Bd. of Educ.*, 2018-NMCA-021, ¶ 32, 413 P.3d 507, Albuquerque Public Schools attempted to argue that a teacher could not apply for a writ of mandamus, which requires a final order by an administrative body, because under the statute, the teacher “could appeal an adverse decision from a discharge hearing conducted by the superintendent to an independent arbitrator who hears the case *de novo*....” *Id.* The *Alarcon* court rejected this argument, illustrating that the *de novo* hearing does not supplant the initial hearing for purposes of finality, nor does the opportunity to have a subsequent or pending hearing *de novo* preclude the establishment of finality of the initial order. *See id.* at ¶¶ 32-33

16. The Commission’s *de novo* hearing was not envisioned by the original drafters to be a *tabula rasa* proceeding completely divorced from the findings at the Division’s hearing. *See* Commission Case No. 903 at p. 24 (showing that for reasons of constitutionality and due process, the form of *de novo* hearing favored by the drafters was one in which “the record [from the Division] will be considered and you can introduce additional evidence”). This reflects New Mexico case law which consistently shows, as does case law from other oil producing states, that when an administrative body, such as the Division, makes a decision after opportunity for a full and fair adjudication, the decision is final and *res judicata* applies.¹

¹ *See Property Tax Dept. v. Molycorp, Inc.*, 1976-NMSC-72, 89 N.M. 603 (holding *res judicata* does apply to rulings of administrative bodies); *Amoco Production Co. v. Heimann*, 904 F.2d 1405, 1419 (10th Cir. 1990) (holding that where a state agency in a judicial capacity, resolves facts before it during which the parties had opportunity to litigate, the agency’s decision has the same preclusive effect to which it would be entitled in state’s courts); *Ruyle v. Continental Oil Co.*, 44 F.3d 837, 846 (10th Cir. 1994)(agency order provides preclusive effect pursuant to collateral estoppel and *res judicata*); *City of Socorro v. Cook*, 1918-NMSC-072, 24 N.M. 202 (showing that courts have uniformly held decisions of administrative adjudications, when rendered by an officer or a board, have the preclusive force and effect of a judgement); *Hystad v. Mid-Con Exploration Co. Exeter*, 489 N.W.2d 571, 574-576 (N.D. 1992)(holding that when the Industrial Commission of ND issues a spacing order, after a full and fair agency hearing, it has preclusive effect, and a challenge of such order constitutes a collateral attack); *Trahan v. Superior Oil Company*, 700 F.2d 1004, 1024-25 (5th Cir. 1983)(holding that a challenge to the agency’s order, absent fraud, or other comparable exception, constitutes an impermissible attack on the order); *Leck v. Continental Oil Co.*, 971 F.2d 604 (10th Cir. 1992)(holding that Appellants are collaterally estopped from attacking the Oklahoma Corp. Commission’s order because the order found no basis for Appellants’ claim of drainage).

17. Thus, the only way to secure with any modicum of certainty that a competing application returned to the Division-level for hearing would not constitute a collateral attack of a standing order is to invalidate and vacate the order prior to the Division hearing, and in the present case, there are sufficient grounds for invalidating Colgate's pooling order.

IV. An order, if left standing and not invalidated, can be properly reconsidered at the Commission-level concomitant with hearing a competing application under §70-2-13.

18. Should the Commission decide to leave Colgate's order standing, then Cimarex respectfully submits that the proper procedure would be to move forward with Cimarex's competing application at the Commission-level as part of the *de novo* proceedings, a procedural posture that is endorsed by counsel for both Cimarex and Colgate. Since the Commission's decision was made in part to restore Cimarex to its unharmed status that existed prior to the Division's original hearing, and since its competing development plan would have been heard at the original hearing had Colgate fulfilled its statutory obligations, it would be reasonable for Cimarex's plan to be reviewed as a "matter" of the original hearing, pursuant to §70-2-13. Thus, Cimarex, adversely affected, has a "right to have the *matter* heard *de novo* before the [C]ommission." See NMSA 1978 §70-2-13 (emphasis added).

19. Cimarex would prefer to have its application heard at the Division-level to receive the benefit of the Division's technical expertise, but Cimarex is fully satisfied with the level of technical expertise and background currently embodied at the Commission for making determinations of waste, protection of correlative rights, and optimal production. If a pooling order is left standing as valid, then the remaining forum for review of a party's application, one that was not presented at the original hearing, should be the hearing *de novo* at the Commission. This may be one of the inherent consequences of a party missing its opportunity to present its

development plan at the original hearing, that since returning to the Division would constitute a collateral attack, the proper procedure is to move forward, allowing the party to receive its remaining opportunity to demonstrate that its development plan is preferable.

V. Observance and application of *res judicata* and collateral estoppel to prevent an improper collateral attack on a standing order establishes policies of efficiency, due process, and fundamental fairness in the proceedings.

20. When a party decides to present its development plan to the Division, the underlying assumption should be that the party has made a good-faith effort to devise a plan for optimal development of the unit lest it waste the Division's time and resources reviewing a substandard plan. A lack of accountability in this regard places a substantial burden on all operators and applicants, large and small alike. A company that invests significant resources and risk in the development of its plan, both for the benefit of the company and the state of New Mexico, deserves a level of security and confidence that it can rely on the Division's final order without threat of collateral attack. *Res judicata* and collateral estoppel are the principles of proper civil procedure that provide this security. If a party has any objections to an order as issued, the appellate process under §70-2-13 provides a fair and proper procedure for addressing such objections, by moving forward with a *de novo* hearing, and not subjecting the applicant to the burden of re-litigating the matter at the Division.

21. Being subject to re-litigation is especially burdensome on smaller operators, placing a strain on limited financial resources to defend against such collateral attacks. Without protective measures such as *res judicata*, an operator could face two, three, perhaps more challenges at the Division-level before an order is finally secure.² Smaller operators, who

² Theoretically, without the protections provided by *res judicata* and collateral estoppel, an operator could face multiple collateral attacks at the Division-level, a loophole inviting gamesmanship and abuse of process that the Commission should consider closing.

historically have played a vital role in developing the natural resources of New Mexico during market downturns, as a result of their greater agility, should be free of such hardships through proceedings that are fair, predictable and reliable.

22. It is true that the practical considerations of high costs, time constraints, and other burdens involved with appealing a decision to district court provide a general deterrence against most appeals. However, such deterrence should not be relied on as a substitute for clean and secure proceedings under the Act and case law, when a safer, more secure and procedurally proper option for avoiding appeals is available, based on the law, through a valid interpretation of the statutes in harmony with current legal precedent.

VI. Conclusion:

For the foregoing reasons, Cimarex respectfully requests that the Commission invalidate and vacate Division Order No. 21575, on the grounds that, since new evidence shows Colgate failed to meet its statutory obligation under §70-2-17(C), the order issued by the Division, should be viewed, retrospectively, as an invalid order. This request would avoid a claim of collateral attack of a standing order and allow the Division to hear Cimarex's development plan with a significantly reduced risk of challenge in district court.

In the alternative, should the Commission maintain the validity of Colgate's pooling order, Cimarex respectfully requests that the Commission exercise its authority under §§ 70-2-13, 70-2-6, and 70-2-11, to include Cimarex's competing applications as a "matter" to be reviewed during the Commission's hearing *de novo* to ensure, to the extent necessary under the law, the prevention of waste and protection of correlative rights.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was filed with the New Mexico Oil Conservation Commission and was served on counsel of record, or on the party of record, if no counsel was provided, via electronic mail on June 2, 2021:

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/s/ Darin C. Savage

Darin C. Savage

From: Davidson, Florene, EMNRD florene.davidson@state.nm.us 

Subject: FW: Cimarex's Motion in OCC Case No. 21744

Date: June 2, 2021 at 3:24 PM

To: Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us, gbloom gbloom@slo.state.nm.us, twarnell@att.net, Moander, Christopher cmoander@nmag.gov

DE

From: Darin Savage <darin@abadieschill.com>

Sent: Wednesday, June 2, 2021 12:56 PM

To: Hearings, OCC, EMNRD <OCC.Hearings@state.nm.us>

Cc: Davidson, Florene, EMNRD <florene.davidson@state.nm.us>; Ernest Padilla <padillalawnm@outlook.com>; brent.mcdonald@prosperitybankusa.com; Bill Zimsky <bill@abadieschill.com>; Andrew Schill <andrew@abadieschill.com>; Moander, Christopher <cmoander@nmag.gov>

Subject: [EXT] Cimarex's Motion in OCC Case No. 21744

Good afternoon,

Please find attached below for filing the Motion from Cimarex Energy Co. regarding procedural matters in OCC Case No. 21744.

Thank you,

Darin

DARIN SAVAGE

Abadie | Schill P.C.

214 McKenzie Street, Santa Fe, New Mexico 87501

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Cimarex's
Motion...21.pdf

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

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

**APPLICATION OF COLGATE OPERATING, LLC
FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO**

**Commission Case No. 21744
Division Case No. 21629
Order No. R-21575**

REPLY TO RESPONSE TO MOTION TO STAY DIVISION ORDER NO. R-21575

Cimarex Energy Co. and its affiliate Magnum Hunter Production Inc. (collectively “Cimarex”), submit their Reply to the Response to Motion to Stay Division Order No. R-21575 filed by Colgate Operating, LLC (“Colgate”).

A. Introduction

1. Colgate attempts to obfuscate its malfeasance in seeking Division approval of its proposed development plan with colorful but inaccurate descriptions of Cimarex’s participation in this pooling process. Colgate accuses Cimarex of “ineptitude,” claims that it lacked diligence, that one of its arguments is “absurd,” and that Cimarex “was asleep at the wheel.” *See* Response at p. 1, 2 and 3. In concluding its Introduction, Colgate unironically asserts that “[i]f Cimarex had done things right . . . then it might have standing to ask for a stay . . .” *Id.* at p. 2.

2. However, if Colgate had “done things right,” *i.e.*, fulfilled its statutory and regulatory obligation to seek a voluntary pooling agreement with Cimarex before filing its pooling application that sought the Division’s intervention to force pool Cimarex’s working interest, and significantly, if Colgate had submitted a complete application, including the missing

Form C-102, prior to hearing, then Colgate’s attempt to claim the mantle of protector of the application process might resonate, but it does not. Colgate was “asleep at the wheel” for 20 days after it assured the Division at the January 7 hearing that it would complete the record with its submission of final exhibits the very next day, January 8. But, it failed to do this until Cimarex woke Colgate from its slumber, and even then, Colgate still did not fulfill this statutory requirement until January 27. Colgate should not be rewarded for its lack of regard in the fulfillment of its statutory obligations. Under NMSA 1978 Section 70-2-13, the Division is required have in place a complete record before it can issue a valid decision, otherwise the decision, and ensuing order, are invalid.

3. While Colgate’s failure to submit a complete application falls well within the realm of “ineptitude,” “lack of diligence,” and being “asleep at the wheel” that it ascribes to Cimarex, its misrepresentation to the Division that it fulfilled its fundamental statutory duty to reach a voluntary pooling agreement with Cimarex is a much more critical concern since it eviscerates the purpose of evoking the assistance of the Division to enter a pooling order under NMSA 1978 §70-2-17(C). Thus, it is “absurd” for Colgate to castigate Cimarex when its actions, including its misrepresentations to its own counsel, precipitated the chain of events, including the gross negative consequences, that justify staying the Division’s Order that granted Colgate its fundamentally deficient application.

B. Colgate has failed to demonstrate a real world effect granting a stay will have on the *status quo*

4. Colgate’s reliance on *Legacy Church, Inc. v. Kunkel*, 455 F. Supp. 3d 1100, 1145 (D.N.M. 2020) is misplaced. *See* Response at pp. 3-4. As a threshold matter, while the Response makes the vague assertion that “Colgate is very much ahead with its drilling program,” it provides no details in support of this claim. *Id.* at 3. Nor does Colgate challenge summation of

its activities set forth in the Motion, which shows that Colgate has not filed for an APD with the BLM, but has only sent out election letters, that can be easily re-sent if the Commission rules in its favor. See Motion at ¶ 14. Thus, the Commission cannot determine what real world effect granting a stay will have on Colgate’s actual drilling of the proposed wells. In other words, granting a relatively short stay of Order R-21575 until the outcome of the *de novo* hearing would, in effect, maintain the actual *status quo* since Colgate has not shown it would have any substantial effect on its drilling program. Furthermore, the Commission should weigh any nominal delay in Colgate’s proposed operations against the very real risk that if Colgate proceeds as planned, it may be acting upon an invalid order. The Commission should take every precaution, including the granting of the stay to avoid such risks.

5. Moreover, the decision in *Legacy Church* did not involve the issue of whether an administrative agency should issue a stay of one of its own orders. Instead, that decision involved a motion for a preliminary injunction seeking to enjoin the enforcement of a public health order issued by the New Mexico Department of Public Health. While it is true that a preliminary injunction seeking to alter the *status quo* between the parties is “disfavored,” there are no “disfavored” categories for requests made to an administrative agency to stay one of its own orders pending completion of the administrative process. Instead, the Commission has the discretion to grant a stay “if granting the stay would prevent waste, protect correlative rights, protect public health or the environment or present gross negative consequences to an affected party.” *Id.*

C. Conclusion

6. Cimarex respectfully requests that the order to stay be granted. In its Conclusion, Colgate expresses concern about the consequences of granting a stay opening the doors to filing competing applications *after valid* orders and *valid* hearings have been conducted. See Response

at p. 4. Those concerns are misplaced under the facts of this case because Colgate failed to submit a complete application to the Division prior to Cimarex entering its appearance in this case and, more importantly, it not only ignored its statutory and regulatory duty to attempt to obtain a voluntary pooling agreement, it misrepresented this fundamental fact in order to obtain the force pooling order that Cimarex is seeking to stay.

Respectfully Submitted,

ABADIE & SCHILL, PC

/s/ William E. Zimsky

William E. Zimsky

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**Attorneys for Cimarex Energy Co., and
Magnum Hunter Production, Inc., an affiliate of
Cimarex Energy Co.**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was filed with the New Mexico Oil Conservation Commission and was served on counsel of record, or on the party of record, if no counsel was provided, via electronic mail on April 9, 2021:

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Brent McDonald
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/s/ William E. Zimsky

William E. Zimsky

From: Davidson, Florene, EMNRD florene.davidson@state.nm.us 
Subject: FW: Cimarex's Replay to Response to Motion to Stay Order No. R-21575
Date: April 12, 2021 at 9:50 AM
To: Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us, Thomas Engler (Thomas.engler@nmt.edu) Thomas.engler@nmt.edu, gbloom gbloom@slo.state.nm.us, Moander, Christopher cmoander@nmag.gov

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From: Bill Zimsky <bill@abadieschill.com>
Sent: Friday, April 9, 2021 3:58 PM
To: Hearings, OCC, EMNRD <OCC.Hearings@state.nm.us>
Cc: Davidson, Florene, EMNRD <florene.davidson@state.nm.us>; Ernest Padilla <padillalawnm@outlook.com>; brent.mcdonald@prosperitybankusa.com; Darin Savage <darin@abadieschill.com>; Andrew Schill <andrew@abadieschill.com>
Subject: [EXT] Cimarex's Replay to Response to Motion to Stay Order No. R-21575
Good afternoon,
Please find attached for filing of record, and for consideration, Cimarex's Reply to Response to Motion to Stay Division Order No. R-21575.
Thank you,
Bill Zimsky

WILLIAM E. ZIMSKY

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Cimarex's Reply
Stay Or...nal.pdf

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

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

**APPLICATION OF COLGATE OPERATING, LLC
FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO**

**Commission Case No. 21744
Division Case No. 21629
Division Order No. R-21575
Commission Order Nos. R-21679,
R-21679-A & R-21679-B**

**CIMAREX ENERGY CO.'S REPLY TO COLGATE OPERATING, LLC'S RESPONSE
TO CIMAREX'S MOTION TO INVALIDATE AND VACATE ORDER NO. R-21575**

Cimarex Energy Co., and its affiliate Magnum Hunter Production Inc. (collectively "Cimarex"), submit to the Oil Conservation Commission ("Commission") its Reply to Colgate Operating, LLC's ("Colgate") Response to its Motion to Invalidate and Vacate Colgate's Order No. R-21575 ("Reply"). In support of its Reply, Cimarex states the following:

I. Summary of Argument.

1. The Division issued Order No. R-21575 based on its understandable reliance¹ on Colgate's misrepresentation that it fulfilled the primary statutory prerequisite mandated by 1978 NMSA §70-2-17(C) for being able to file a compulsory pooling application, *viz.*, Colgate negotiated in good faith but was unable to reach a voluntary pooling agreement.

¹ The Division's reliance on Colgate's misrepresentation is understandable since it was presented as sworn testimony and the Division affords such testimony a presumption that the representations made under oath are true and accurate on which the Division should be able to rely. If an applicant is found to have violated this trust, proper consequences should ensue.

2. In its Motion to Invalidate, Cimarex argued that the Commission should not let the Division's compulsory pooling Order stand since Colgate's application was defective as filed, vitiating the basis for conducting a hearing in the first instance. Exercising its authority to invalidate Colgate's Division Order would allow the Commission to remand Cimarex's applications to the Division for hearing along with the re-submission of Colgate's applications; thus, Cimarex would be restored to its original position prior to the harm caused by Colgate, and Colgate would receive the benefit of a truly "new" hearing and "fresh" start by satisfying its statutory obligations at the Division-level, which Colgate should have done in the first instance.

3. In its Response, Colgate suggests that the Commission has already decided not to invalidate Order No. R-21575 since it granted Cimarex's Motion to Stay that Order and did not, *sua sponte*, invoke its inherent power to invalidate the Order. However, since Cimarex only requested a stay of the Order at that point in the proceedings and only recently requested that the Commission invalidate the Order, Colgate's argument in this regard lacks merit.

4. In addition, Colgate glosses over the fundamental and disturbing defect in its application that nullifies the legitimacy of Order No. R-21575. Colgate instead suggests that a *de novo* review will wash away its sins by allowing the Commission to try "anew" the issue of whether Colgate conducted good faith negotiations for a voluntary pooling agreement, ignoring the fact that the Commission has already offered its conclusions on Colgate's transgressions which, along with other conclusions, established grounds for denying Colgate's motion to dismiss the application for a hearing *de novo*. See Order No. R-21679, at §II.i. What remains is for Colgate to rectify and remediate the harm it caused at the Division-level, and this is best accomplished by Colgate's re-submitting its application to the Division where it can satisfy its statutory obligations.

5. Finally, Cimarex submits that it should receive the benefit of having its applications remanded to the Division for hearing, a benefit extended to other parties before the Commission, but remanded in a manner that is within the parameters of, and consistent with, the proper requirements of §70-2-13. In the present case, not only is there a proper procedure available for remanding Cimarex's cases by invalidating Colgate's Order, but as shown below, the invalidation of Colgate's Order is fully warranted and justified under the facts and findings. The decision to invalidate Colgate's Order would afford Cimarex the same benefit of remand to the Division allowed other parties, but under procedures that avoid risk of challenge or appeal.

II. The Commission's inherent power to invalidate and vacate Colgate's Order No. R-21575 was not diminished by its decision to grant Cimarex's application for a *de novo* hearing and should be exercised, and the Order invalidated, under its findings and conclusions.

6. In its Response, Colgate suggests that because the Commission has the inherent power to dismiss Order No. R-21575, but only issued a stay of that Order, that the Commission determined that Order R-21575 should not be dismissed. *See* Colgate's Response at p.1 (Section A, Introduction). The fact that the Commission did not, *sua sponte*, exercise its inherent authority to invalidate a Division order does not mean that it should never consider the issue and certainly does not bar a party from specifically requesting that the Commission actually make such a determination.

7. After the final motion hearing on April 15, 2021, the Commission denied Colgate's motion to dismiss Cimarex's application for a hearing *de novo*. *See* Order No. R-21679, §III. Since the only motion before the Commission at the time was Colgate's motion to dismiss the *de novo* application, the Commission rightly denied the motion in accordance with its findings and conclusions.

8. However, the findings and conclusions, once determined, raised other issues, which were not available for consideration by the Commission prior to the issuance of Order No. R-21679, and contrary to Colgate's assertions, the Commission's decision to deny Colgate's motion to dismiss does not strip the Commission of its authority to rule on subsequent issues that arise from the Order. Thus, Cimarex properly raised the remaining issues in its Motion to Invalidate, and the Commission clearly has the authority and jurisdiction to grant Cimarex's request.

9. Among the remaining issues is whether Colgate deserves to have its order maintained as valid and to qualify for the privilege of defending it in a *de novo* hearing. Given the gravity of Colgate's false representations before the Division, Cimarex urges that Colgate has not earned such privilege and should not be allowed to retain possession of an order that, under New Mexico case law, should be deemed invalid in light of the new evidence received by the Commission. *See Property Tax Department v. Molycorp, Inc.*, 1976-NMSC-072 ¶ 11, 89 N.M. 603 (holding that an administrative agency has inherent power to cancel and revoke an order that *is found to be issued* in conflict with the statutes governing and limiting the issuance thereof) (emphasis added).

10. The Commission discovered, upon the presentation of evidence not available to the Division, that the Division issued Order R-21575 in conflict with the governing statutes rendering the Order invalid. *See id.* at ¶ 12 (holding that if an agency issues an order in violation of its rules, such an order is "unauthorized and *ultra vires*."") If the validity of Colgate's Order is maintained, the harm to the judicial process caused by Colgate's false representations remains un-remediated and would infiltrate the remainder of the proceedings.

III. Colgate cannot invoke the nature of a *de novo* hearing to absolve it of its past misdeeds committed before the Division when new evidence highlighting such deeds is now of record before the Commission.

11. Colgate cleverly, but wrongly, urges that the history of Colgate’s misdeeds before the Division has no consequence and should be erased and the case tried anew before the Commission, apparently based on its misplaced belief in the cleansing powers of a *de novo* hearing. *See* Colgate’s Response, at its Conclusion, ¶ 2.

12. Colgate cites *Doe v. United States*, 821 F.2d 694 (D.C. Cir. 1987) in an attempt to show that the Commission should include Colgate’s order in the *de novo* hearing and review it “from a fresh and independent standpoint.” *See* Colgate’s Response, Section B, at ¶ 3.

However, the *Doe* court did not determine that a *de novo* hearing should automatically be a *tabula rasa* proceeding, but first looked to the nature of the *de novo* hearing -- the specific meaning of *de novo* -- contemplated by the statute. *See Doe v. United States*, 821 F.2d at 697. There are various forms of *de novo* hearings, some which consider findings of prior proceedings and others which do not. “To pare this controversy down to its core,” asserted the *Doe* court, “we address first the question whether the term ‘*de novo*’ in the [statute] means something less than what that expression generally signals.” *Id.* Similarly, Cimarex respectfully submits that the Commission should review and make a determination of the meaning of “*de novo*” in §70-2-13.

13. Such review should consider the following factors: first, a *de novo* hearing before the Commission can, and often does, include the record of the Division, upon a party’s request to include the Division’s record in the Commission’s appellate proceedings, and upon its admission, the Division’s record becomes part of the “whole record” before the Commission. Second, review of the legislative history of §70-2-13 clearly shows that the original drafters

intended that the record of the Division be considered along with additional evidence, including new evidence, presented at the *de novo* hearing. *See* Commission Case No. 903, at p. 24.² Third, the new evidence in this case provided by Cimarex, showing that Colgate’s Order is invalid under the criteria of *Molycorp*, is already of record before the Commission for proper determination of the Order’s final status, and this evidence cannot be eradicated from the record by erasure pursuant to a hearing *de novo* before the Commission.³

14. Therefore, the Commission can, and should, conclude based on the facts and evidence in the existing record that Colgate’s original Order is invalid. Such ruling would be proper and consistent with legal precedent; it would be a decision supported by review of the whole record; and it is necessary for remediating the harm caused by Colgate to the adjudicatory process and Cimarex’s rights under the New Mexico Oil and Gas Act. Colgate’s Response advocates for Colgate to enter the *de novo* hearing with black marks against it, the existing evidence that Colgate did not conduct good faith negotiations. *See* Colgate’s Response, at its Conclusion, ¶ 2. The Commission should not proceed with a hearing under such clouds of

² *See also* additional discussion in Commission Case No. 903, at p. 24-25, showing agreement among the drafters that the proper form of *de novo* hearing in §70-2-13 would consider the Division’s record but allow for new evidence:

GOVERNOR SIMMS: I think Bill is interpreting it as really *de novo* and not *de novo* on the record [*de novo* on the record meaning limited just to the record of the Division].

MR. KITTS: I feel that way. Is that the way you feel about it?

MR. KELLAHIN: Yes. I think you ought to consider the record before the [Division] Examiner.

MR. KITTS: Then we are in agreement.

³ *See Bass Enters. Prod. Co. v. Mosaic Potash Carlsbad Inc.*, 2010-NMCA-065, a case relied heavily upon by Colgate, shows that the Commission should make its decision to invalidate Colgate’s Division Order upon the whole record before it, which includes new evidence of Colgate’s misrepresentations provided by Cimarex: “For purposes of reviewing administrative decisions, the substantial evidence rule is modified to include whole record review.” *Mosaic*, 2010-NMCA-065, ¶ 28 (emphasis added). “Under whole record review, evidence is viewed in a light most favorable to upholding the agency’s determination, but favorable evidence is not viewed in a vacuum that disregards contravening evidence.” *Id.* (citing *Santa Fe Exploration Co. v. Oil Conservation Comm’n of N.M.*, 114 N.M. 103, 114, 835 P.2d 819, 830 (1992)). “The reviewing court needs to find evidence that is credible in light of the whole record and that is sufficient for a reasonable mind to accept as adequate to support the conclusion reached by the agency.” *Id.*

misconduct but should require Colgate to re-submit its application to the Division in order to clear its tarnished record.

15. Finally, by ruling the Order invalid, the Commission would allow the Division to fully review Cimarex's development plan, now docketed by the Division as Case Nos. 22018 and 22019, on equal footing with Colgate's development plan in a manner that adheres to procedural requirements regarding the proper forum for review. The importance of following the correct procedural path cannot be overstated. As the New Mexico Supreme Court has long recognized:

The essence of justice is largely procedural. Procedural fairness and regularity are of the indispensable essence of liberty.

Uhden v. New Mexico Oil Conservation Com'n, 112 N.M. 528, 530-531, 817 P.2d 721, 723-724 (N.M. 1991).

IV. Conclusion:

For the foregoing reasons, Cimarex respectfully maintains its request that the Commission invalidate and vacate Division Order No. R-21575 on grounds that, as demonstrated by new evidence, Colgate failed to meet its statutory obligation under §70-2-17(C) and consequently caused harm to both the judicial process and Cimarex which warrants a proper response. Therefore, in light of the new evidence of record, and legal precedent established by *Molycorp*, Cimarex requests that Colgate's Order be ruled an invalid order.

Respectfully Submitted,

ABADIE & SCHILL, PC

/s/ Darin C. Savage

Darin C. Savage

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**Attorneys for Cimarex Energy Co., and
Magnum Hunter Production, Inc., an affiliate of
Cimarex Energy**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was filed with the New Mexico Oil Conservation Commission and was served on counsel of record, or on the party of record, if no counsel was provided, via electronic mail on June 29, 2021:

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/s/ Darin C. Savage

Darin C. Savage

From: Davidson, Florene, EMNRD florene.davidson@state.nm.us 
Subject: FW: Cimarex's Reply to Colgate re Procedure Case 21744
Date: June 29, 2021 at 12:03 PM
To: Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us, gbloom gbloom@slo.state.nm.us, Terry Warnell twarnell@att.net

DE

From: Darin Savage <darin@abadieschill.com>
Sent: Tuesday, June 29, 2021 9:46 AM
To: Hearings, OCC, EMNRD <OCC.Hearings@state.nm.us>
Cc: Davidson, Florene, EMNRD <florene.davidson@state.nm.us>; Ernest Padilla <padillalawnm@outlook.com>; brent.mcdonald@prosperitybankusa.com; Bill Zimsky <bill@abadieschill.com>; Andrew Schill <andrew@abadieschill.com>; Moander, Christopher <cmoander@nmag.gov>
Subject: Cimarex's Reply to Colgate re Procedure Case 21744

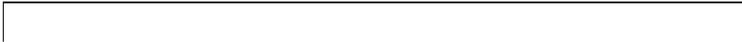
Good morning,

We are attaching for filing, see below, Cimarex's Reply re the motion to invalidate Colgate's Order No. 21575. After this submission, the Commission should have received all pleadings due for the July 8 motion hearing for Case 21744.

I reviewed the portal to see if there was a way to submit the Reply to the OCC, but the closest option I saw for filing through the portal was the "Other Motion" option, which looked liked it filed it with the OCD. Since I was uncertain, I decided to send it to the OCC email address to ensure receipt. If some guidance is available for using the portal for OCC submissions, I will be sure to follow for any future filings.

Thank you,

Darin



DARIN SAVAGE

Abadie | Schill P.C.

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Cimarex's Reply
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**STATE OF NEW MEXICO
DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES
OIL CONSERVATION COMMISSION**

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

**APPLICATION OF COLGATE OPERATING, LLC
FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO**

**Commission Case No. 21744
Division Case No. 21629
Order No. R-21575
Order No. R-21575-A
Order Nos. R-21679, R-21679-A,
and R-21679-B**

**CIMAREX ENERGY CO.’S RESPONSE TO COLGATE OPERATING, LLC’S
MOTION TO DISMISS CIMAREX’S APPLICATIONS**

In response to the Motion to Dismiss Cimarex’s Applications (“Motion to Dismiss”) submitted by Colgate Operating, LLC (“Colgate”) to the New Mexico Oil Conservation Commission (“Commission”), Cimarex Energy Co., and its affiliate Magnum Hunter Production Inc. (collectively “Cimarex”), respectfully request that Colgate’s Motion to Dismiss be denied. In support of its Response to Colgate’s Motion to Dismiss, Cimarex states the following:

I. Relevant Background and Procedural History.

1. On June 1, 2021, Cimarex filed its applications with the New Mexico Oil Conservation Division (“Division”) in Case Nos. 22018 and 22019 covering the N/2 of Sections 1 and 2, Township 20 South, Range 29 East; and the N/2 of Section 6, Township 20 South, Range 30 East, NMPM, Eddy County, New Mexico.

2. Cimarex filed these applications with the consent of the Commission to remediate the harm to the judicial process as well as to Cimarex caused by Colgate's misrepresentations in Case No. 21629. *See, i.e.*, Preliminary Order No. R-21679-B at ¶ 3 ("Cimarex shall file all competing pooling applications by 5:00 P.M. June 3, 2021").

3. Cimarex's applications should be reviewed because not only do they provide a superior development plan for optimal production, the prevention of waste, and protection of correlative rights than those proposed by Colgate, but these applications qualify as a "matter" related to the original hearing in Case No. 21629 under NMSA 1978 § 70-2-13."

4. In Order No. 21679, the Commission concluded that Cimarex meets the requirements under *New Energy Economy, Inc., v. Vanzi*, 2012-NMSC-5, to be deemed a party of record, and "likewise, meets the requirements found in... [NMSA 1978 §] 70-2-13. Order No. R-21679 § II.k. Therefore, under § 70-2-13, Cimarex has a right to have heard what the Commission deems to be a "matter" of the original hearing in Case No. 21629. Cimarex respectfully submits that the competing applications which Cimarex would have presented at the original hearing for the Division's review, absent Colgate's failure to fulfill its statutory obligations, should be included as part of the *de novo* review.

5. The Parties held a status conference with the Commission on May 13, 2021, setting dates for pleadings and subsequent filings, including the filing of Cimarex's competing applications, which were filed with the Division at the behest of the Commission on June 1, 2021, prior to the June 3 deadline. Cimarex asked the Commission to determine the proper forum for hearing the competing applications, whether before the Division or the Commission, pursuant to issues addressed in Cimarex's Motion to Invalidate and Vacate Colgate's Order No. R-21575 ("Motion to Vacate") filed with the Commission on June 2, 2021, in Case No. 21744.

II. Cimarex’s competing applications as filed in Case Nos. 22018 and 22019 are ripe for review and should not be dismissed.

6. The Bureau of Land Management (“BLM”) has delegated responsibilities for pooling oil and gas units involving federal lands and potash interests to the Division and Commission for determinations of waste and protection of correlative rights and relies on, and generally defers to, the agencies’ judgement for decisions that fall within the New Mexico Oil and Gas Act (“Act”). This remains true unless there are specific federal regulations or statutes that prohibit the state agencies from exercising their authority and jurisdiction.

7. In its Motion to Dismiss, Colgate fails to provide any federal regulations or statutes that prohibit the Division or Commission from reviewing and adjudicating Cimarex’s applications. Colgate’s assertions offer only unsubstantiated speculation whether the BLM would ultimately approve Cimarex’s development area, approval which Cimarex is currently working with the BLM to obtain. Colgate’s speculations could just as easily be applied to the risk that Colgate may not receive approval of its federal APDs, for which it has not applied, and for which the BLM is the lead agency for making the final determination whether to grant Colgate a federal APD. Absent extenuating circumstances, such as a specific federal rule or statute prohibiting the granting of a development area or APD, it is reasonable for the Commission to presume, as it does under its current practice, that the BLM will grant federal approval based on the Commission’s or Division’s decision and recommendations.

8. Contrary to Colgate’s speculations about hypothetical restrictions on Cimarex’s development plan, the BLM has informed Cimarex that there are no potash restrictions undermining the feasibility of its plan as proposed. According to conversations with the BLM, the lateral in the N/2 N/2 (crossing from west to east, Sections 2, 1 and 6) does not require BLM approval of a development area, and 2 ½ miles of the lateral in the S/2 N/2 of said Sections can be

developed without approval, leaving a requirement of notice and final approval only for the remaining 140 acres in Section 6, which would be granted upon proper completion of the application process.

9. Cimarex’s development plan includes a mix of both federal and state lands. Order No. R-111-P, at ¶ 10, clearly empowers the Division, under the Act, to review Cimarex’s development plan, in order “to regulate and, where necessary, prohibit drilling or producing operations for oil and gas’ in areas which would cause waste as described in 70-2-3 F.” Thus, Order No. R-111-P does not preclude the Division or Commission from taking the lead performing its integral role in regulating the development of oil and gas in the potash areas, nor does it specify the order in which the review of a development plan by the Division, Commission, and BLM should occur. The interactive nature of this process, among the agencies, is reflected and endorsed by Secretarial Order No. 3324, which requires the BLM to consider the Division’s rules, regulations and orders: “In taking any action under Section 6.e. of this Order [Oil and Gas Drilling], *the Authorized Officer will take into consideration the applicable rules and regulations of the NMOCD.*” Order No. 3324 at ¶ 5(c) (emphasis added).¹

¹ Current practice of the Division and Commission provides examples where the state agencies took the primary lead to determine proper development of oil and gas involving federal lands when no preemptive federal rule or statute barred such lead. In Division Case Nos. 16481-82, for example, the applicant’s development area had not yet been approved by the BLM for the potash area at the time of the Division hearing. Counsel for an interested party submitted a Motion to Dismiss the application arguing the BLM had primary jurisdiction and therefore the application was premature. The Division denied the Motion and proceeded with the case, issuing the final order granting operatorship to the applicant. The BLM in reliance on the Division’s Order No. R-21258 approved the applicant’s plan in the potash area.

In Commission Case Nos. 21475 and 21276, the applicant, who received BLM approval of both its development area and drilling locations in the potash area, had its order challenged at the Commission in a *de novo* hearing. The Commission found, based on state criteria, that the appellant presented a superior development plan, and despite the BLM having approved the applicant’s development area and drilling islands, the Commission ruled against the applicant and awarded operatorship to the appellant. In accordance with Order No. R-111-P and Secretarial Order No. 3324, the BLM followed the Commission’s lead in upholding the appellant as the rightful operator.

10. Current practice by the Division and Commission provides no precedent or justification to dismiss Cimarex's applications which are ripe for review. *See* Footnote 1, below. The Commission has already granted Cimarex its application for a hearing *de novo*, in Case No. 21744, and has docketed and set aside time to hear whether Colgate's application in Case No. 21629 constitutes a proper plan. It will be an efficient use of the Commission's time and resources to utilize the time already allotted for the *de novo* hearing to compare Colgate's and Cimarex's plans to ensure that the Commission will select the best plan for development. Furthermore, if the Commission rules in favor of Cimarex on its Motion to Vacate Order No. R-21575, then the Division would be allowed to properly review Cimarex development plan without additional burden to the Commission.

III. Cimarex's proposed development plan does not strand Section 5, Township 20 South, Range 30 East, NMPM; does not create waste; and represents a feasible plan for development in the potash area.

11. The laterals of Cimarex's proposed Crest wells begin in Section 2 and extend to Section 6 in order to efficiently develop the Bone Spring formation. Colgate argues that Cimarex's plan will likely strand Section 5. *See* Colgate's Motion to Dismiss at p. 2. However, the Bone Spring formation in Section 5 is being produced by the Solution Federal Com 3H and 4H wells (API Nos. 30-015-43227 and 30-015-44011), through standup units that extend from Section 5 to Section 8. Cimarex's development plan for the Bone Spring extends into Section 6, adjacent to Section 5, which is as far as can be extended for optimal production. Therefore, Cimarex's plan does not waste or strand acreage. Finally, a review of wells already in place in Sections 1 through 5, Township 20 South, Range 30 East, show that oil and gas development is feasible in this potash area under federal rules and regulations. *See, i.e.*, Crazy Horse 0304 Fed Com 4H Well (API No. 30-015-45241) which traverses Sections 3 and 4.

Conclusion:

For the foregoing reasons, Cimarex respectfully requests that the Commission deny Colgate's Motion to Dismiss Cimarex's Applications. There is no justification for their dismissal under the Commission's rules and regulations. Moreover, Order No. R-111-P and Secretarial Order No. 3324 militate against their dismissal. Proceeding with the hearing of Cimarex's applications before the Commission would promote administrative efficiency and allow the Commission to decide which set of applications will best prevent waste and protect correlative rights. Thus, Cimarex requests that the Commission proceed with its review of Cimarex's applications in Case Nos. 22018 and 22019 as planned.

Respectfully Submitted,

ABADIE & SCHILL, PC

/s/ Darin C. Savage

Darin C. Savage

William E. Zimsky
Andrew D. Schill
214 McKenzie Street
Santa Fe, New Mexico 87501
Telephone: 970.385.4401
Facsimile: 970.385.4901
darin@abadieschill.com
andrew@abadieschill.com
bill@abadieschill.com

**Attorneys for Cimarex Energy Co., and
Magnum Hunter Production, Inc., an affiliate of
Cimarex Energy Co.**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was filed with the New Mexico Oil Conservation Commission and was served on counsel of record via electronic mail on June 11, 2021:

Ernest L. Padilla
P.O. Box 2523
Santa Fe, NM 87504
(505) 988-7577
PadillaLawNM@outlook.com
Attorney for Colgate Operating, LLC

/s/ Darin C. Savage

Darin C. Savage

From: Davidson, Florene, EMNRD florene.davidson@state.nm.us 

Subject: FW: Cimarex's Response to Colgate's MTD Case 21744

Date: June 14, 2021 at 11:53 AM

To: Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us, gbloom gbloom@slo.state.nm.us, Terry Warnell twarnell@att.net, Moander, Christopher cmoander@nmag.gov

DE

From: Darin Savage <darin@abadieschill.com>

Sent: Friday, June 11, 2021 1:47 PM

To: Hearings, OCC, EMNRD <OCC.Hearings@state.nm.us>

Cc: Davidson, Florene, EMNRD <florene.davidson@state.nm.us>; Ernest Padilla <padillalawnm@outlook.com>; Bill Zimsky <bill@abadieschill.com>; Andrew Schill <andrew@abadieschill.com>

Subject: [EXT] Cimarex's Response to Colgate's MTD Case 21744

Good afternoon,

Please find attached for filing the Response to Colgate's Motion to Dismiss Cimarex's Applications in Case No. 21744 that we are submitting on behalf of Cimarex Energy Co.

Thank you,

Darin

DARIN SAVAGE

Abadie | Schill P.C.

214 McKenzie Street, Santa Fe, New Mexico 87501

P | 970.385.4401 :: F | 970.385.4901 :: C | 970.764.8191

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Cimarex's
Respo...121.pdf

From: Davidson, Florene, EMNRD florene.davidson@state.nm.us 
Subject: FW: [EXTERNAL] Request for Subpoena for OCC Case 21744
Date: October 12, 2021 at 10:44 AM
To: Moander, Christopher cmoander@nmag.gov, Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us

DE

From: Darin Savage <darin@abadieschill.com>
Sent: Tuesday, October 12, 2021 8:06 AM
To: Davidson, Florene, EMNRD <florene.davidson@state.nm.us>
Cc: Paula Vance <paula@abadieschill.com>
Subject: Re: [EXTERNAL] Request for Subpoena for OCC Case 21744
Florene, good morning, sorry about that, thanks for letting me know. See attached. Darin

DARIN SAVAGE

Abadie | Schill P.C.

214 McKenzie Street, Santa Fe, New Mexico 87501

P | 970.385.4401 :: F | 970.385.4901 :: C | 970.764.8191

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On Oct 12, 2021, at 7:59 AM, Davidson, Florene, EMNRD <florene.davidson@state.nm.us> wrote:
Mr. Savage, I'm sorry but there was no attachment to the below e-mail.
Florene Davidson

From: Darin Savage <darin@abadieschill.com>
Sent: Monday, October 11, 2021 6:26 PM
To: Davidson, Florene, EMNRD <florene.davidson@state.nm.us>
Cc: Paula Vance <paula@abadieschill.com>
Subject: [EXTERNAL] Request for Subpoena for OCC Case 21744

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Florene, good evening,

I have attached a word document and pdf of a proposed Subpoena that we would like to issue to Mr. Brent McDonald. Mr. McDonald made an appearance in OCD Case No. 21629, as a participant and owner and filed a statement in said case, and we would like him to be available to address questions about his statement in the Evidentiary Hearing in OCC Case No. 21744 on Thursday, October 14, 2021. Please see attached.

Please let us know if you have any questions or need additional info,

Thank you,

Darin

[<~WRD0000.jpg>](#)

DARIN SAVAGE

Abadie | Schill P.C.

214 McKenzie Street, Santa Fe, New Mexico 87501

P | 970.385.4401 :: F | 970.385.4901 :: C | 970.764.8191

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Subpoena for
Brent...1.docx



Subpoena for
Brent...21.pdf

BEFORE THE NEW MEXICO OIL CONSERVATION COMMISSION

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

**APPLICATION OF COLGAGE OPERATING, LLC
FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO**

**Commission Case No. 21744
Division Case No. 21629
Division Order Nos. R-21575,
R-21575-A, & R-21575-B**

SUBPOENA

To: Brent McDonald,
Senior Vice President of
Prosperity Bank fka American State Bank,
1401 Avenue Q
Lubbock, TX 79401
Telephone: 806-741-2371
Email: brent.mcdonald@prosperitybankusa.com

Pursuant to NMSA 1978 §70-2-8 and NMAC 19.15.4.16, you are hereby ordered to appear at 9 a.m. on Thursday, October 14, 2021, at an Evidentiary Hearing in Commission Case No. 21744. Such hearing is typically held at the offices of the Oil Conservation Commission (“Commission”), 1220 South St. Francis Drive, Santa Fe, New Mexico 87505; however, under Covid-19 Public Health Emergency conditions, you may attend the Evidentiary Hearing online and remotely, from the convenience of your desktop at your current residence, office, or other convenient desktop location. Information regarding online access, connection, and status of the hearing can be found on the Commission website at: <https://www.emnrd.nm.gov/ocd/occ-info/>, or you can contact Florene Davidson, Commission Clerk, at (505) 470-5480 for access information. You are being asked as a witness to address questions counsel or the Commission may have during the proceedings of said Evidentiary Hearing pertaining to the contents of the Pre-

hearing Statement you filed in Case No. 21629 and received by the New Mexico Oil Conservation Division on January 11, 2021.

This subpoena is issued on the application for hearing *de novo* of Cimarex Energy Co., for the proceedings in Case No. 21744, including the Evidentiary Hearing described herein, through its attorney, Darin C. Savage, 214 McKenzie, Santa Fe, New Mexico, 87501.

Dated this 12th day of October 2021.

NEW MEXICO OIL CONSERVATION
COMMISSION

By: _____

From: Davidson, Florene, EMNRD florene.davidson@state.nm.us 
Subject: FW: OCC Case 21744 Motion to Dismiss Cimarex Applications
Date: June 2, 2021 at 6:02 PM
To: Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us, gbloom@state.nm.us, gbloom@slo.state.nm.us, twarnell@att.net

DE

From: Hearings, OCC, EMNRD <OCC.Hearings@state.nm.us>
Sent: Wednesday, June 2, 2021 4:01 PM
To: Davidson, Florene, EMNRD <florene.davidson@state.nm.us>
Subject: Fw: OCC Case 21744 Motion to Dismiss Cimarex Applications

From: Ernest Padilla <PadillaLawNM@outlook.com>
Sent: Wednesday, June 2, 2021 2:40 PM
To: Hearings, OCC, EMNRD <OCC.Hearings@state.nm.us>
Cc: Darin Savage <darin@abadieschill.com>
Subject: [EXT] OCC Case 21744 Motion to Dismiss Cimarex Applications

Ladies & Gentlemen:

Attached please find our Motion to Dismiss Cimarex Applications being filed on behalf of Colgate Operating, LLC. Please let us know if you require anything further. Thank You.

JoAnn B. Gallegos
Office Manager
Padilla Law Firm, P.A.
PO Box 2523
Santa Fe, NM 87504
505-988-7577
505-988-7592 (fax)

padillalaw@qwestoffice.net

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Motion to
Dismis...ed.pdf

Slides for SEG/SPE Regulator Session

Please provide info on the following:

- Your name, title, organization
- Map of your State/province with IS areas set out or identified
- Unique challenges for your jurisdiction
- One tip or success worth noting

From: Verner, Frederick C fredverner@chevron.com 

Subject: IS response

Date: August 18, 2021 at 6:52 PM

To: Verner, Frederick C fredverner@chevron.com, Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us, John Smitherman jrs@nmoga.org, Winn, Lisa lisa.winn@exxonmobil.com, matthias.sayer@nglep.com, Yolanda Perez - OXY () yolanda_perez@oxy.com, Munds-Dry, Ocean (LDZX) Ocean.Munds-Dry@conocophillips.com

Cc: Tremaine, Jesse K, EMNRD JesseK.Tremaine@state.nm.us, Fuge, Dylan , EMNRD Dylan.Fuge@state.nm.us, Polak, Tiffany, EMNRD Tiffany.Polak@state.nm.us, Goetze, Phillip, EMNRD Phillip.Goetze@state.nm.us

FV

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Mail Attachment

From: John Smitherman JRS@nmoga.org 
Subject: Meeting with NMOCD to discuss proper response to seismic events in New Mexico
Date: August 10, 2021 at 6:46 PM

JS

To: John Smitherman JRS@nmoga.org, Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us, Hussenoeder, Stefan hussenoeder@exxonmobil.com, Lisa Winn lisa.winn@exxonmobil.com, Ned Frost nfrost@matadorresources.com, Tara Flume tflume@matadorresources.com, Cody Comiskey cody.comiskey@chevron.com, Tim Harrington tharrington@mewbourne.com, Brian Schmit brian.schmit@dvn.com, John C Webb john.webb@nglep.com, Doug Klepacki dklepacki@cimarex.com, David Langton david.langton@dvn.com, matthias.sayer@nglep.com, Doug White doug.white@nglep.com, Christian Holcomb christian.holcomb@nglep.com, John Cheek john.a.cheek@exxonmobil.com, Vance Long vance.long@h2obridge.com, Frederick C Verner fredverner@chevron.com, Leland Gould Leland@nmoga.org, Suann Guthrie suann.guthrie@exxonmobil.com, CCalvert@matadorresources.com

CC: Polak, Tiffany, EMNRD Tiffany.Polak@state.nm.us, Goetze, Phillip, EMNRD Phillip.Goetze@state.nm.us, Tremaine, Jesse K, EMNRD JesseK.Tremaine@state.nm.us, Ames, Eric, EMNRD Eric.Ames@state.nm.us, Cannon, Rick E rick.e.cannon@exxonmobil.com, Patrick Padilla Patrick_Padilla@eogresources.com, Fuge, Dylan , EMNRD Dylan.Fuge@state.nm.us, Jessica High Jessica.High@h2obridge.com, Tyler Macfarlane Tyler_Macfarlane@eogresources.com, Sarah Mitchell Sarah_Mitchell@eogresources.com, Keller Bankston Keller.Bankston@h2obridge.com, Dula, Lee M lee.m.dula@exxonmobil.com, Rabadue, Stephanie K stephanie.rabadue@exxonmobil.com, Kenney, Janie R janie.r.kenney@exxonmobil.com, Hernandez, Emily, EMNRD Emily.Hernandez@state.nm.us, Conf-Den-537 Conf-Den-537@nglep.com

You are invited to a meeting with the NMOCD to discuss recent seismic events in SE NM that could potentially be associated with deep disposal. We intend to discuss data collected by operators in the area, possible responses through a shared practice, and next steps. Please be prepared to discuss analysis of the available data, steps already taken, proposed next steps for responding to this event, and ideas for a more long-term plan. A meeting location for those who can attend in person and an agenda will be forthcoming soon.

Please forward to those in your organization who should also attend.

Thank you very much,

John Smitherman

NMOGA

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From: John Smitherman JRS@nmoga.org 
Subject: Meeting with NMOCD to discuss proper response to seismic events in New Mexico
Date: August 10, 2021 at 6:46 PM

JS

To: John Smitherman JRS@nmoga.org, Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us, Hussenoeder, Stefan hussenoeder@exxonmobil.com, Lisa Winn lisa.winn@exxonmobil.com, Ned Frost nfrost@matadorresources.com, Tara Flume tflume@matadorresources.com, Cody Comiskey cody.comiskey@chevron.com, Tim Harrington tharrington@mewbourne.com, Brian Schmit brian.schmit@dvn.com, John C Webb john.webb@nglep.com, Doug Klepacki dklepacki@cimarex.com, David Langton david.langton@dvn.com, matthias.sayer@nglep.com, Doug White doug.white@nglep.com, Christian Holcomb christian.holcomb@nglep.com, John Cheek john.a.cheek@exxonmobil.com, Vance Long vance.long@h2obridge.com, Frederick C Verner fredverner@chevron.com, Leland Gould Leland@nmoga.org, Suann Guthrie suann.guthrie@exxonmobil.com, CCalvert@matadorresources.com

Cc: Polak, Tiffany, EMNRD Tiffany.Polak@state.nm.us, Goetze, Phillip, EMNRD Phillip.Goetze@state.nm.us, Tremaine, Jesse K, EMNRD JesseK.Tremaine@state.nm.us, Ames, Eric, EMNRD Eric.Ames@state.nm.us, Cannon, Rick E rick.e.cannon@exxonmobil.com, Patrick Padilla Patrick_Padilla@eogresources.com, Fuge, Dylan , EMNRD Dylan.Fuge@state.nm.us, Jessica High Jessica.High@h2obridge.com, Tyler Macfarlane Tyler_Macfarlane@eogresources.com, Sarah Mitchell Sarah_Mitchell@eogresources.com, Keller Bankston Keller.Bankston@h2obridge.com, Dula, Lee M lee.m.dula@exxonmobil.com, Rabadue, Stephanie K stephanie.rabadue@exxonmobil.com, Kenney, Janie R janie.r.kenney@exxonmobil.com, Hernandez, Emily, EMNRD Emily.Hernandez@state.nm.us, Conf-Den-537 Conf-Den-537@nglep.com

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John Smitherman

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Mail Attachment

From: NMOGA Member Services members@nmoga.org
Subject: New Mexico Oil & Gas Association - Thank you for your order
Date: August 27, 2021 at 1:50 PM
To: Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us

NS



Adrienne Sandoval,

Confirmation for the order placed on 8/27/2021.

[Click here](#) for a printable view of the order.

The following is a description of the order:

Order Number is: 505411461

Ordered 1 products (see below):

Product Number: X3D5C8
Product: Non-Member Registration
Quantity: 1
Price Each: \$700.00
Total Price: \$700.00

Sales Discount (PROMO CODE welcome21): (\$700.00)
Sales Discount (Early Bird Discount): (\$50.00)

Total: \$0.00

Thanks!

- New Mexico Oil & Gas Association

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From: Kathy Ytuarte Kathy@nmoga.org
Subject: NMOGA Joint Committee Meeting - August 25, 2021
Date: August 24, 2021 at 4:23 PM



To: Kathy Ytuarte Kathy@nmoga.org, Crabtree, Gregory gcrabtree@envirotech-inc.com, mike.smith@dvn.com, npiatek@hilcorp.com, Mroberts@targaresources.com, hussenoeder@exxonmobil.com, danny.nichols@energytransfer.com, ccreekmore@hilcorp.com, halvareztascosaep.com, emily_messer@oxy.com, sflaherty@cimarex.com, Bbishop@mewbourne.com, chad.macdonald@cdevinc.com, bpickett@fmellc.com, ashley.ager@wsp.com, mmcmillan@swca.com, jbradfute@marathonoil.com, shall@logosresourcesllc.com, jshuck@gmecnm.com, Polak, Tiffany, EMNRD Tiffany.Polak@state.nm.us, Clayton@blm.gov, chelsey.green@dvn.com, rvalverde@montand.com, bmoore@montand.com, kanicia.schlichting@cdevinc.com, ccardoza@hilcorp.com, dan.moir@wsp.com, Tyra.Feil@duganproduction.com, gbloom gbloom@slo.state.nm.us, david.grounds@pilotwater.com, amarks@slo.state.nm.us, rhillman@aecnm.com, kevin.smaka@duganproduction.com, acovarrubias@marathonoil.com, cberube@bwenergyllaw.com, kb noble@paalp.com, adrian.baker@exxonmobil.com, jfarrell@hilcorp.com, tflume@matadorresources.com, charlesross@chevron.com, moshe.wolfe@crestwoodlp.com, gmaanen@chevron.com, John Smitherman JRS@nmoga.org, bsumner@bwenergyllaw.com, pthompson@merrion.bz, mollie.schall@crestwoodlp.com, mfeldewert@hollandhart.com, jason.conway@matadorresources.com, Leland Gould Leland@nmoga.org, aayala@andium.com, sfleming@talonpe.com, violav@forl.com, ccallahan@bwenergyllaw.com, sshahen@montand.com, Jennifer.F.Reed@exxonmobil.com, jrweakslaw@gmail.com, kaluck@hollandhart.com, vdicosimo@targaresources.com, greg_hardin@oxy.com, alexandra.fleming@chevron.com, ryan@kairos aerospace.com, jenna.kennedy@chevron.com, dean.o.chumbley@conocophillips.com, matt.mathis@cehmm.org, john.durand@xriwater.com, Gabrielle.A.Gerholt@conocophillips.com, kyle.littrell@exxonmobil.com, karla.niemeier@cehmm.org, aashland@enduringresources.com, stephanie.rabadue@exxonmobil.com, jimmyc@forl.com, awalker@afpm.org, heidi.wray@enstorinc.com, klparker@paalp.com, ocean.munds-dry@conocophillips.com, DKennard@DurangoMidstream.com, eed@modrall.com, adavanzo@tascosaep.com, brett.jennings@matadorresources.com, eric.tiemeyer@energytransfer.com, pshorty@hilcorp.com, escostello@paalp.com, JENNY.HARMS@DVN.COM, petermueller@ecovaporrs.com, meales@lucid-energy.com, acarl@targaresources.com, jennifer_hanna@eogresources.com, yolanda_perez@oxy.com, john.alexander@duganproduction.com, kerry.egan@energytransfer.com, montgomery.floyd@cdevinc.com, rebecca.deal@dvn.com, jpabon@targaresources.com, tsauer@bwenergyllaw.com, Kperkins@matadorresources.com, heather.glaze@dvn.com, schapman@spurellc.com, wcc@four-one-three.com, mcelente@trinityconsultants.com, mike.luckett@enlink.com, mdegenfelder@mspartners.com, ccombs@taprk.com, sarah_mitchell@eogresources.com, mdchastant@paalp.com, emily.wirth@cehmm.org, psreinermann@eprod.com, tim.baker@conocophillips.com, leslie_reeves@oxy.com, priscillayelvington@chevron.com, santos_gonzales@eogresources.com, mjohnson4@marathonoil.com, msanjari@marathonoil.com, tstathem@legacyreserves.com, kegan.boyer@chevron.com, ben@cypressnr.com, aerenstein@trinityconsultants.com, mltextor@globalelessinc.com, shall@logosresources.com, sarah.ferreyros@cdevinc.com, Kathy Ytuarte Kathy@nmoga.org, stuart.butzier@modrall.com, fredverner@chevron.com, lrose@montand.com, Susan.B.Maunder@conocophillips.com, Lakesha.radford@westernmidstream.com, bsewell@cimarex.com, patrickkillen@chevron.com, karen_sinard@oxy.com, zach.robbs@rxsoil.solutions, Fayth Franzoy faythF@nmoga.org, Justin.Pratt@pilotwater.com, Aimee Barabe barabe@nmoga.org, Winn, Lisa (Lisa_Winn@xtoenergy.com) Lisa_Winn@xtoenergy.com, Brian Wood (brian@permitswest.com) brian@permitswest.com, kathleen_mowery@oxy.com, Musallam, Sandra C Sandra_Musallam@oxy.com, Jessica O'Brien jobrien@marathonpetroleum.com, Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us, bgchavez@blm.gov, Robert McEntyre robert@nmoga.org, nick@pogoresources.com, mszudera@marathonoil.com, Tacoma.Morrissey@wsp.com, Kalei.Jennings@wsp.com, Beth_Schenkel@oxy.com

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Mail Attachment

Date & Time:

Wednesday,
August 25th, 2021
1:30-4:00(CST)
12:30-3:00 (MT)

Conference Call:
RSVP to Kathy
Ytuarte
For Call-in
Information

Co-Chairs

Yolanda Perez
Ocean Munds-Dry
Lisa Winn
Mike Smith
Tim Baker
Bradley Bishop
Chuck Creekmore
Anita Ashland

Next Meeting
TBD



Joint Committee Meeting Agenda

1. Introductions
2. Agency Updates:
 - a. SLO – Allison Marks & Greg Bloom
 - b. OCD – Director Sandoval & Deputy Director Tiffany Polak
 - c. BLM – Jim Stovall, Cody Layton
3. NMOGA Updates – Leland Gould, Robert McEntyre, and John Smitherman
4. Legislative Update - Aimee Barabe
5. Update from Methane Rulemaking Leadership Team
 - a. NMED Rule
6. Committee Updates
 - a. RPC – Ocean/Yolanda
 - i. OCD -
 1. V&F Rules General Discussion
 2. Spill Rule prohibiting minor and major spills goes into effect August 24th
 3. Spill Remediation Plan Approvals
 4. C-104s & BLM Completions
 - ii. Deep Disposal Workgroup Update – Stefan Hussenoeder
 - iii. State Land Office
 1. Issues on expired leases and abandoned sites
 - b. EAC – Lisa/Mike
 - i. NMED RCD response to NMOGA NORM Letter
 - ii. ESA – Comments on Texas Hornshell Mussel and Lesser Prairie Chicken
 - iii. Quad Oa Policy and Technical Rule Update
 1. CRA Implications
 - c. Public Lands
 - i. Statewide
 1. Site Security & Measurement Rules – in limbo
 2. ROW Bonding
 - ii. SENM – Tim/Bradley
 1. Temporary Water Line Policy – Working to expand to Produced Water on hold
 2. Carlsbad RMP
 - iii. NW – Chuck/Anita
 1. Mancos RMP
7. Other Business

From: Polak, Tiffany, EMNRD Tiffany.Polak@state.nm.us 

Subject: NMOGA question follow up

Date: March 23, 2022 at 4:32 PM

To: Polak, Tiffany, EMNRD Tiffany.Polak@state.nm.us, Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us, Fuge, Dylan, EMNRD Dylan.Fuge@state.nm.us, Powell, Brandon, EMNRD Brandon.Powell@state.nm.us, Tremaine, Jesse K, EMNRD JesseK.Tremaine@state.nm.us

PE

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Mail Attachment

From: Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us 

Subject: NMOGA Regulatory Committee

Date: December 1, 2021 at 1:31 PM

To: Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us, Polak, Tiffany, EMNRD Tiffany.Polak@state.nm.us



Mail Attachment

From: Polak, Tiffany, EMNRD Tiffany.Polak@state.nm.us

Subject: NMOGA Touch Base

Date: September 29, 2021 at 12:20 PM

To: Polak, Tiffany, EMNRD Tiffany.Polak@state.nm.us, Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us, Powell, Brandon, EMNRD Brandon.Powell@state.nm.us, Smith, Cory, EMNRD Cory.Smith@state.nm.us, Garcia, John A, EMNRD JohnA.Garcia@state.nm.us, Perez, Yolanda Yolanda_Perez@oxy.com, Ocean Munds-Dry Ocean.Munds-Dry@conocophillips.com, Tremaine, Jesse K, EMNRD JesseK.Tremaine@state.nm.us

Cc: Iannuzzi, Morgan A morgan@chevron.com, Owen, Susan sowen@chevron.com

PE

Yolanda and Ocean have requested a meeting to address the following questions.
(Teams mtg link at the very bottom)

- Reporting Beneficial Use: 19.15.27.9.D(5)
 - This requirement seems to be limited to locations that do not have 100% gas takeaway. Additionally, it does not specify that we need to report each of these beneficial use categories on the C-115B on a well and facility basis. However, the [final version of the C-115B quarterly report](#) posted by the NMOCD on September 14, 2021 requires this reporting. Is it expected that only sites without 100% gas takeaway can report “beneficial use”? If beneficial use is limited to sites without 100% gas takeaway, the gas capture percentage will not be accurate as these beneficial use volumes would be excluded. Additionally, what is the relationship between beneficial use in the C-115B report to the disposition code “Used on Property” in the C-115 report? The [initial draft of C-115B quarterly report](#) released on August 13, 2021 seemed to indicate that we would use the “U” code to calculate the gas capture percentage on the General Information tab, but the final version sums the individual beneficial use volumes on the Venting and Flaring Volumes tab.
- What will the relationship be between C-115 V&F volumes and quarterly report/C-115B V&F volumes?
- Estimating Gas Volume – Relevant requirements: 19.15.27.8.F(2), (5) & (6)
 - Specifically, we are looking at requirement F(6). It is not clear to us where this requirement is applicable. Requirement 2 indicates that measuring equipment is only required on flares connected to equipment such as high pressure separators, heater treaters, or vapor recovery units. Typically, this type of equipment is found at facilities (e.g., central tank batteries), not wells. So, we are struggling to understand how to apply the phrase “for a well that does not require measuring equipment” in F(6). Also, should requirement F(6) only refer to estimated flared volumes because measured equipment is only required for flared volumes? Requirement F(5) seems to allow any estimation methods as long as they can be independently verified. Sometimes there are more accurate methods to estimate volumes, such as using average flowrate. We’re looking to clarify what methods we can use to estimate vented volumes and when we must use annual GOR test to calculate flared and/or vented volumes.
- Facility Registrations
 - As Cory had pointed out, historically Facility IDs were typically associated with releases, or physical location that had a permit or administrative order.
 - As we are registering facilities for the purposes of reporting venting and flared volumes, do we use a previous facility ID that was assigned for another purpose, e.g. releases?
 - When registering facilities that may be within 50’ of an existing facility, it ask to verify you are registering a different facility but it

won't allow you to verify.

Verification

- Does the operator have other facilities with a matching name No
- Are there other facilities located within approximately 50 feet

Correction: There is already a facility located within approximately 50 feet of your entry. Verify you are not trying to re-register an existing facility.

- Operators are busy trying to get facilities registered and have identified some efficiencies that would be helpful:
 - We do appreciate that we get an instant email with a facility ID but the email has only facility ID and no other information. It would be nice if the email would at least include the facility name but would be even better if it also include the location information. (I sent this request to Cory already)
 - When you are signed into OCD Online reviewing the registrations that have been approved, you click on the Action ID to look at the specifics but the specifics do not include location information.

[UF-FAC] TB Registration (TB-REG) Application

Submission Information

Submission ID:	49851	Districts:	
Operator:	[157984] OCCIDENTAL PERMIAN LTD	Counties:	
Description:	OCCIDENTAL PERMIAN LTD [157984] YESO VIKING FED CTB IAPP2126047292 (Open: 01/01/1900, Active, Tank Battery - (TB),)		
Status:	APPROVED		
Status Date:	09/17/2021		
References (1):	IAPP2126047292		

Forms

No attachments found for this submission.

Questions

Facility Details

Please answer all of the questions in this group.

Name of the facility	YESO VIKING FED CTB
Date the facility was opened	Not answered
Depth to ground water, if known	Not answered

- You then would have to sign out of OCD Online and do a general

facility search that does include location information.

YESO VIKING FED CTB [fAPP2126047292]

General Facility Information

Operator:	[192463] OXY USA WTP LIMITED PARTNERSHIP	Type:	Tank Battery - (TB)
Status:	Active	Surface Owner:	
District:	Artesia		
County:	Eddy (15)		
Surface Location:	L-23-17S-27E Lot 0 FNL 0 FEL		
Lat/Long:	32.81863,-104.25677 NAD83		
Quarter-Quarter:			
Directions:			

Notes

This facility was registered on 09/17/2021 by yolandaperez for OCCIDENTAL PERMIAN LTD [157984] (action id: 49851).

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Date: September 29, 2021 at 12:20 PM

To: Polak, Tiffany, EMNRD Tiffany.Polak@state.nm.us, Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us, Powell, Brandon, EMNRD Brandon.Powell@state.nm.us, Smith, Cory, EMNRD Cory.Smith@state.nm.us, Garcia, John A, EMNRD JohnA.Garcia@state.nm.us, Perez, Yolanda Yolanda_Perez@oxy.com, Ocean Munds-Dry Ocean.Munds-Dry@conocophillips.com, Tremaine, Jesse K, EMNRD JesseK.Tremaine@state.nm.us

Cc: Iannuzzi, Morgan A morgan@chevron.com, Owen, Susan sowen@chevron.com

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Directions:			

Notes

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Mail Attachment

From: Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us 

Subject: NMOGA Updates

Date: August 6, 2021 at 1:24 PM

To: Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us, Polak, Tiffany, EMNRD Tiffany.Polak@state.nm.us, John Smitherman JRS@nmoga.org

SE

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Mail Attachment

From: Polak, Tiffany, EMNRD Tiffany.Polak@state.nm.us 

Subject: OCD/NMOGA Data Meeting

Date: April 5, 2022 at 5:51 PM

To: Polak, Tiffany, EMNRD Tiffany.Polak@state.nm.us, Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us, Powell, Brandon, EMNRD Brandon.Powell@state.nm.us, Tremaine, Jesse K, EMNRD JesseK.Tremaine@state.nm.us, Yolanda Perez (yolanda_perez@oxy.com) Yolanda_Perez@oxy.com, John Smitherman jrs@nmoga.org

PE

John and Yolanda – please forward along to your team.

Thank you,
Tiffany

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Mail Attachment

From: Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us 
Subject: Quick Update
Date: September 9, 2021 at 4:55 PM
To: Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us, John Smitherman JRS@nmoga.org
Cc: Michael Feldewert MFeldewert@hollandhart.com



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Mail Attachment

From: Hussenoeder, Stefan hussenoeder@exxonmobil.com
Subject: RE: [EXTERNAL] Next week's state line seismic response protocol discussion
Date: March 8, 2022 at 9:33 AM
To: Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us
Cc: matthias.sayer@nglep.com, Cody Comiskey cody.comiskey@chevron.com

SH

Adrienne, we've prepared a handful of slides on the following topics:

- Summary of operator response before & after implementation of OCD Induced Seismicity Protocol
- Update on County Line seismicity
- Proposed next steps

Stefan A. Hussenoeder

Geoscience Technology Advisor
Unconventional Development (XTO)

ExxonMobil Upstream Oil & Gas

EMHC, W4.5A.358
22777 Springwoods Village Parkway
Spring, TX 77389

(832) 624-9924 (office) ; (713) 208-7967 (mobile)

Mysite: <http://mysite.na.xom.com/Person.aspx?accountname=UPSTREAMACCTS%5Csahusse>

Linkedin: <https://www.linkedin.com/in/shussenoeder>

From: Sandoval, Adrienne, EMNRD [mailto:Adrienne.Sandoval@state.nm.us]

Sent: Monday, March 7, 2022 2:42 PM

To: Hussenoeder, Stefan <hussenoeder@exxonmobil.com>

Cc: matthias.sayer@nglep.com

Subject: RE: [EXTERNAL] Next week's state line seismic response protocol discussion

External Email - Think Before You Click

Can you please send me a proposed agenda?

Thanks

From: Hussenoeder, Stefan <hussenoeder@exxonmobil.com>

Sent: Friday, March 4, 2022 3:40 PM

To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>

Subject: [EXTERNAL] Next week's state line seismic response protocol discussion

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Adrienne,

I just wanted to give you a heads-up that I'm forwarding Friday afternoon's meeting notice to the rest of the State Line Seismicity Response Group. We've been meeting on a quasi-weekly basis since mid-2021, and at our last meeting all the operators expressed interest in attending. A few folks may elect to join in person (e.g., Matthias Sayer, Fred Verner, Lee Dula), but most will dial in remotely. Hopefully the room can accommodate a few visitors. Also, Cody Comiskey will likely lead the discussion on behalf of the state line operators this time.

Looking forward to our continued dialog,

Stefan A. Hussenoeder

Geoscience Technology Advisor
Unconventional Development (XTO)

ExxonMobil Upstream Oil & Gas

EMHC, W4.5A.358
22777 Springwoods Village Parkway
Spring, TX 77389

Spring, TX 77389

(832) 624-9924 (office) ; (713) 208-7967 (mobile)

Mysite: <http://mysite.na.xom.com/Person.aspx?accountname=UPSTREAMACCTS%5Csahusse>

Linkedin: <https://www.linkedin.com/in/shussenoeder>



April 18, 2022

Mr. John Smitherman
Senior Advisor
New Mexico Oil and Gas Association
P.O. Box 1884
Santa Fe, NM 87504

Dear Mr. John Smitherman,

Thank you for the opportunity to meet with the New Mexico Oil and Gas Association (NMOGA) concerning naturally occurring radioactive materials (NORM) in the Oil and Gas Industry on October 20, 2021. Before the meeting, you provided an agenda requesting clarity from New Mexico Environment Department (NMED or the Department) Radiation Control Bureau (RCB) regarding specific regulatory interpretation issues. NMED-RCB responses are as follows.

1. What is the justification for requiring operators to apply for an exemption?

The NMED-RCB will not require operators to apply for an exemption. NMED must review documentation and conduct inspections to determine if an exemption claimed by an oil and gas operator validly applies. Pursuant to 20.3.14.1403 NMAC, NMED understands that an operator claiming an exemption to the NORM licensing requirements bears the burden to demonstrate that the exemption applies or otherwise complies with all requirements of 20.3.14 NMAC. Paragraphs A, C, and D of 20.3.14.1403 NMAC set forth threshold values for several exemptions that require the operator seeking the exemption to collect and analyze samples and conduct surveys.

2. When must operators obtain specific licenses?

The following conditions require a specific license:

- a. The disposal and treatment of Regulated NORM (see 20.3.14.1411.C(1) NMAC).
- b. The transfer of Regulated NORM for long-term storage, treatment, or disposal (see 20.3.14.1411.C(2) NMAC).
- c. The storage* of Regulated NORM for greater than one-year (see 20.3.14.1409.D(1) and 20.3.14.1411.C(3) NMAC).
- d. Commercial or centralized facilities accepting Regulated NORM for treatment and/or disposal (see 20.3.14.1407.D(2) NMAC).
- e. The decontamination of equipment or facilities containing Regulated NORM (see 20.3.14.1411.C(1) NMAC).

*Storage does not include the accumulation of Regulate NORM in operating vessels (20.3.14.7.O NMAC).

3. What is the ability of operators to rely on third-party specific licensees to conduct the activities that require a specific license under NMAC 20.3.14.1411?

The specific licensed Operators can hire third-party contractors if the contractor's specific license allows them to perform the services required by the operator. The transfer of Regulated NORM for long-term storage, treatment, or disposal requires the operator to have a specific license (see 20.3.14.1411.C(2) NMAC).

4. What guidance does RCB have for operators?

Currently, our guidance to operators is limited to 20.3 NMAC and the compliance assistance spreadsheet located on our website. However, the RCB always welcomes the opportunity to collaborate with the industry to facilitate guidance concerning NORM in the Oil and Gas Industry. Relevant subparts of 20.3 NMAC include, but are not limited to, 20.3.3, 20.3.4, 20.3.13, and 20.3.14 NMAC.

5. When are surveys of equipment and piping required?

The regulations require surveys:

- a.) before work on facilities or equipment,
- b.) before transfer of equipment (see 20.3.14.1406 NMAC),
- c.) before equipment removal,
- d.) where the pipe has been cleaned, and
- e.) where materials are known to have been spread, spilled, or stockpiled (see 20.3.14.1408 NMAC).

As noted above, storage does not include the accumulation of Regulated NORM in operating vessels (20.3.14.7.O NMAC). NORM surveys must occur before maintenance for the operating vessels, at whatever frequency the operator performs the maintenance. Examples of maintenance that requires surveys before such activity include, but are not limited to, well workovers, tank bottom clean outs, filter exchanges, scale removal, and salvage. The NORM regulations also require surveys prior to transfer of equipment (see 20.3.14.1406, 20.3.14.1410.D and G, NMAC). Operators subject to the general license shall conduct radiation surveys of equipment and facilities in their control or possession and maintain that information on file (see 20.3.14.1408.A NMAC). The transfer regulated NORM for disposal is prohibited unless the operator possesses a specific license (see 20.3.14.1411.C(2) NMAC).

6. What are the recordkeeping requirements for general licensees that contract with third-parties?

Record keeping for NORM survey data must be maintained by the operator for inspection by the Department (see 20.3.14.1410.H NMAC). Operators subject to the general license shall conduct radiation surveys of equipment and facilities in their control or possession and maintain that information on file (see 20.3.14.1408.A NMAC). Records of survey meter calibrations shall be maintained for Department inspection five years after the calibration date (see 20.3.14.1404.D NMAC).

Radiation survey instruments used to determine exemptions pursuant to 1403.C shall be capable of measuring from 1 microrentgens per hour through at least 500 microrentgens per hour. Laboratory analytical instrumentation used in accordance with 20.3.14.1404 NMAC must have a radiation detection

system with an efficiency such that it is capable of measuring 1000 dpm/100 cm² on filter paper. The efficiency of portable survey instruments must be such that when cpm is equated to dpm, the 1000 dpm/100cm² limit is not exceeded

The RCB appreciates this opportunity to clarify specific regulatory interpretation issues that NMOGA has raised. NMED will continue to work with NMOGA's member companies. If any member companies have any further questions, they may contact:

Name: Thomas Collins, Environmental Scientist, NORM license coordinator
NMED-RCB, Montoya Building Suite 2022
Address: P.O. Box 5469
Santa Fe, NM 87502-5469
Email: Thomas.Collins@state.nm.us
Phone: 505-660-9108

Sincerely,

Santiago M. Rodriguez, Chief
Radiation Control Bureau

cc: Bruce Baizel, General Counsel, NMED
Dana Bahar, Acting Environmental Protection Division Director
Adrienne Sandoval, Oil Conservation Division Director
Mia Napolitano, Assistant General Counsel, NMED
Mr. Doug Ackerman, President and CEO, NMOGA

From: Rodriguez, Santiago, ENV Santiago.Rodriguez1@state.nm.us 

Subject: RE: [EXTERNAL] NORM meeting request

Date: April 19, 2022 at 10:18 AM

To: John Smitherman JRS@nmoga.org

Cc: Doug Ackerman Doug@nmoga.org, Baizel, Bruce, ENV Bruce.Baizel@state.nm.us, Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us, Bahar, Dana, ENV dana.bahar@state.nm.us, Napolitano, Mia, ENV Mia.Napolitano@state.nm.us, Ortiz, Michael, ENV michael.ortiz1@state.nm.us

RE

Good morning, John,

I am attaching the updated finalized response letter. Please discard the previous attachment. My apologies for any inconvenience.

Sincerely yours,

Santiago M. Rodriguez

Bureau Chief

Radiation Control Bureau

New Mexico Environment Department

O: (505) 476-8604

C: (505) 270-1930

F: (505) 476-8654

santiago.rodriguez1@state.nm.us

www.env.nm.gov

Twitter: @NMEnvDep | #IamNMED

“Innovation, Science, Collaboration, Compliance”



Please consider the environment before printing this email

From: Rodriguez, Santiago, ENV

Sent: Tuesday, April 19, 2022 7:03 AM

To: John Smitherman <JRS@nmoga.org>

Cc: Doug Ackerman <Doug@nmoga.org>; Baizel, Bruce, ENV

<Bruce.Baizel@state.nm.us>; Sandoval, Adrienne, EMNRD

<Adrienne.Sandoval@state.nm.us>; Bahar, Dana, ENV <dana.bahar@state.nm.us>;

Napolitano, Mia, ENV <Mia.Napolitano@state.nm.us>; Ortiz, Michael, ENV

<michael.ortiz1@state.nm.us>

Subject: RE: [EXTERNAL] NORM meeting request

Good morning, John,

First and foremost thank you for your patience. I am attaching the finalized letter addressing items discussed on our call. We look forward to reviewing the guidance once you have a draft available for comment.

Have a great morning.

Sincerely yours,

Santiago

Santiago M. Rodriguez

Bureau Chief

Radiation Control Bureau

New Mexico Environment Department

O: (505) 476-8604

C: (505) 270-1930

F: (505) 476-8654

santiago.rodriguez1@state.nm.us

www.env.nm.gov

Twitter: @NMEnvDep | #IamNMED

“Innovation, Science, Collaboration, Compliance”



From: Roose, Rebecca, ENV <Rebecca.Roose@state.nm.us>
Sent: Wednesday, March 30, 2022 3:31 PM
To: John Smitherman <JRS@nmoga.org>
Cc: Doug Ackerman <Doug@nmoga.org>; Conlon, Sydney, ENV <Sydney.Conlon1@state.nm.us>; Ely, Sandra, ENV <Sandra.Ely@state.nm.us>; Bahar, Dana, ENV <dana.bahar@state.nm.us>; Rodriguez, Santiago, ENV <Santiago.Rodriguez1@state.nm.us>; Vigil, Christopher J, ENV <ChristopherJ.Vigil@state.nm.us>
Subject: RE: [EXTERNAL] NORM meeting request

Hello John,

Thank you for reaching out last week. After connecting with our team and considering your meeting request, we believe a meeting to review the guidance is premature. We would appreciate it if you would send the final guidance to RCB Chief Santiago Rodriguez. He will review with his staff and legal counsel and then we'll evaluate whether follow-up discussion with you and others involved with the guidance development would be helpful.

Also, while I know several months have passed since our meeting last fall, we are finalizing some information to share with you as a result of a few action items/requests during that call. We expect to share that with you in the next week or two.

Regards,

Rebecca

Rebecca Roose

Deputy Cabinet Secretary of Administration

New Mexico Environment Department

Mobile: (505) 670-6852

Pronouns: she/her ([Why is this important?](#))

Science, Innovation, Collaboration, Compliance - #IamNMED

From: John Smitherman <JRS@nmoga.org>
Sent: Thursday, March 24, 2022 9:06 AM
To: Roose, Rebecca, NMENV <Rebecca.Roose@state.nm.us>
Cc: Doug Ackerman <Doug@nmoga.org>; Conlon, Sydney, NMENV <Sydney.Conlon1@state.nm.us>
Subject: RE: [EXTERNAL] NORM meeting request

Thank you, Director. I will work with your Special Assistant to find an acceptable date. I would value your presence so we will look for a date that works for you.

Best,

John R. Smitherman

New Mexico Oil & Gas Association

Senior Advisor - Petroleum Engineer

From: Roose, Rebecca, NMENV <Rebecca.Roose@state.nm.us>
Sent: Wednesday, March 23, 2022 4:58 PM
To: John Smitherman <JRS@nmoga.org>
Cc: Doug Ackerman <Doug@nmoga.org>; Conlon, Sydney, NMENV <Sydney.Conlon1@state.nm.us>
Subject: RE: [EXTERNAL] NORM meeting request

Hi John,

Thanks for reaching out with an update and to request a meeting with our team. Sydney Conlon, Special Assistant in the Office of the Secretary and copied here, can work with you directly to schedule the meeting. Please note that I will be out of state on

April 21. Please let Sydney know if you would prefer to meet on April 21 with our Environmental Protection Division and Radiation Control Bureau staff (without me) or if you'd prefer a date and time the following week or thereafter when I would be able to attend.

Please also let Sydney know what room capacity we'll need. Our options for groups larger than 10 are quite limited.

Thanks again,

Rebecca

Rebecca Roose

Deputy Cabinet Secretary of Administration

New Mexico Environment Department

Mobile: (505) 670-6852

Pronouns: she/her ([Why is this important?](#))

Science, Innovation, Collaboration, Compliance - #IamNMED

From: John Smitherman <JRS@nmoga.org>

Sent: Monday, March 21, 2022 3:06 PM

To: Roose, Rebecca, NMENV <Rebecca.Roose@state.nm.us>

Cc: Doug Ackerman <Doug@nmoga.org>; John Smitherman <JRS@nmoga.org>

Subject: [EXTERNAL] NORM meeting request

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Director,

When we were both at the NMPWRC year end meeting in Las Cruces in December, I mentioned that we were working on a guidance document for Industry and Agency use. We are close to finalizing that document and would like to schedule a meeting with you, your staff and RCB staff to discuss how to move forward. This meeting will be most effective if we can meet in person (with, perhaps, a virtual option) as the issues are complex.

I propose that we meet in about four weeks to give us time to finalize our documents and prepare an informative presentation on NORM to put all of us on the same footing as to the risks and as to how the industry and agencies in other jurisdictions manage such risks.

Can we meet at a place of your choice on Thursday, April 21st in the afternoon? An afternoon meeting will help with travel schedules for the out of town representatives who would like to attend. I do not have a count of how many want to attend yet but our workgroup consists of representatives from around twenty operators.

Thank you for your patience as we work through this important issue. Please let me know if you have any questions or other feedback.

All the best,

John R. Smitherman

New Mexico Oil & Gas Association

Senior Advisor - Petroleum Engineer



2022-04-18-
EPD R...al).pdf

From: Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us

Subject: RE: [EXTERNAL] Re: Data Audit Volunteering & JCM

Date: April 1, 2022 at 7:40 PM

To: John Smitherman JRS@nmoga.org, Perez, Yolanda Yolanda_perez@oxy.com

Cc: Polak, Tiffany, EMNRD Tiffany.Polak@state.nm.us, Powell, Brandon, EMNRD Brandon.Powell@state.nm.us

SE

John and Yolanda,

Thank you for working to convene the NMOGA working group and your willingness to work with us to address the potential anomalies we are seeing in the waste rule data submitted to date. As you know, NM has a large number of operators and we have received large amount of data. Our preliminary reviews have shown there are some anomalies in the data that need to be explained or at a minimum addressed.

Does NMOGA have an existing task force or workgroup that could sit down and analyze the data that OCD has (all of which is public) and identify and evaluate discrepancies? In particular, we want to understand any differences in volumes reported in C-115s, C-115Bs, and C-129s. This audit could be conducted by NMOGA or a third party. OCD would be willing to exercise discretion for any corrections reported as part of this process so long as they are adequately explained.

To help kick this process off, we would like to set up an initial call to talk through some initial thoughts, during that meeting we can discuss next steps and process. At a minimum, the audit will need to help us understand any potential differences in data submitted on the C-115s, C-115Bs, and C-129.

Please work with Tiffany and Brandon to schedule a time to meet.

Thanks

Adrienne

From: John Smitherman <JRS@nmoga.org>

Sent: Tuesday, March 29, 2022 8:26 AM

To: Perez, Yolanda <Yolanda_perez@oxy.com>

Cc: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>

Subject: [EXTERNAL] Re: Data Audit Volunteering & JCM

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Director,

Our Joint Committee Meeting tomorrow would be a nice opportunity for you to encourage operators to participate in a voluntary data audit. It would also afford an opportunity to give additional guidance on the operator questions that arose in and just after our forum on March 15th.

Can we reserve you some time to address our member representatives?

Thank you very much,

John R. Smitherman

Sent from my iPhone

On Mar 21, 2022, at 1:17 PM, Perez, Yolanda <Yolanda_Perez@oxy.com> wrote:

Happy Monday,

Operators are wanting to understand what the audit process would like if they

Operators are wanting to understand what the audit process would like if they volunteer to work with OCD on data discrepancies. Is it as much as, "Can you please explain why there is a discrepancy between your vent volume on C-115 vs vent volume reported on C-115B?" Or, is it a more complicated/aggressive process than that?

Also, NMOGA's next JCM is next Wednesday, March 30th, from 1:30-3:30 MT. Do you have any interest in addressing the group?

Sincerely,

Yolanda Perez

Sr. Regulatory Affairs Consultant



Occidental Oil & Gas

5 Greenway Plaza Suite 110 Houston, TX 77046

Room 11.023

Office (713) 497-2069

Cell (281) 793-1680

yolanda_perez@oxy.com

From: Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us 

Subject: Seismic Event Update

Date: November 16, 2021 at 9:56 AM

To: Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us, Hussenoeder, Stefan hussenoeder@exxonmobil.com, Cody Comiskey cody.comiskey@chevron.com, Polak, Tiffany, EMNRD Tiffany.Polak@state.nm.us, Powell, Brandon, EMNRD Brandon.Powell@state.nm.us

Cc: Goetze, Phillip, EMNRD Phillip.Goetze@state.nm.us, Rose-Coss, Dylan H, EMNRD DylanH.Rose-Coss@state.nm.us

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Mail Attachment

From: Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us 

Subject: Seismic Plan Comment Walk through

Date: October 25, 2021 at 12:20 PM

To: Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us, Polak, Tiffany, EMNRD Tiffany.Polak@state.nm.us, Powell, Brandon, EMNRD Brandon.Powell@state.nm.us, Fuge, Dylan, EMNRD Dylan.Fuge@state.nm.us, Tremaine, Jesse K, EMNRD JesseK.Tremaine@state.nm.us, Rose-Coss, Dylan H, EMNRD DylanH.Rose-Coss@state.nm.us, Verner, Frederick C fredverner@chevron.com, John Smitherman JRS@nmoga.org, matthias.sayer@nglep.com

Cc: Perez, Yolanda Yolanda_Perez@oxy.com, Munds-Dry, Ocean (LDZX) Ocean.Munds-Dry@conocophillips.com, Comiskey, Cody cody.comiskey@chevron.com, Doug Klepacki dklepacki@cimarex.com, Hussenoeder, Stefan hussenoeder@exxonmobil.com, Dula, Lee M lee.m.dula@exxonmobil.com, Ames, Eric, EMNRD Eric.Ames@state.nm.us, Ashley Bergen abergen@cimarex.com

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Mail Attachment

From: Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us 

Subject: Seismic Plan Comment Walk through

Date: October 25, 2021 at 12:20 PM

To: Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us, Polak, Tiffany, EMNRD Tiffany.Polak@state.nm.us, Powell, Brandon, EMNRD Brandon.Powell@state.nm.us, Fuge, Dylan, EMNRD Dylan.Fuge@state.nm.us, Tremaine, Jesse K, EMNRD JesseK.Tremaine@state.nm.us, Rose-Coss, Dylan H, EMNRD DylanH.Rose-Coss@state.nm.us, Verner, Frederick C fredverner@chevron.com, John Smitherman JRS@nmoga.org, matthias.sayer@nglep.com

Cc: Perez, Yolanda Yolanda_Perez@oxy.com, Munds-Dry, Ocean (LDZX) Ocean.Munds-Dry@conocophillips.com, Comiskey, Cody cody.comiskey@chevron.com, Doug Klepacki dklepacki@cimarex.com, Hussenoeder, Stefan hussenoeder@exxonmobil.com, Dula, Lee M lee.m.dula@exxonmobil.com, Ames, Eric, EMNRD Eric.Ames@state.nm.us, Ashley Bergen abergen@cimarex.com

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From: Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us 

Subject: Seismic Plan Walkthrough

Date: October 25, 2021 at 12:16 PM

To: Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us, Tremaine, Jesse K, EMNRD JesseK.Tremaine@state.nm.us, Fuge, Dylan, EMNRD Dylan.Fuge@state.nm.us, Polak, Tiffany, EMNRD Tiffany.Polak@state.nm.us, Powell, Brandon, EMNRD Brandon.Powell@state.nm.us, Rose-Coss, Dylan H, EMNRD DylanH.Rose-Coss@state.nm.us, Verner, Frederick C fredverner@chevron.com, John Smitherman JRS@nmoga.org, matthias.sayer@nglep.com

Cc: Perez, Yolanda Yolanda_Perez@oxy.com, Munds-Dry, Ocean (LDZX) Ocean.Munds-Dry@conocophillips.com, Comiskey, Cody cody.comiskey@chevron.com, Doug Klepacki dklepacki@cimarex.com, Hussenoeder, Stefan hussenoeder@exxonmobil.com, Stephen Flaherty sflaherty@cimarex.com, Ames, Eric, EMNRD Eric.Ames@state.nm.us

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From: Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us 

Subject: Seismic Plan Walkthrough

Date: October 25, 2021 at 12:16 PM

To: Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us, Tremaine, Jesse K, EMNRD JesseK.Tremaine@state.nm.us, Fuge, Dylan, EMNRD Dylan.Fuge@state.nm.us, Polak, Tiffany, EMNRD Tiffany.Polak@state.nm.us, Powell, Brandon, EMNRD Brandon.Powell@state.nm.us, Rose-Coss, Dylan H, EMNRD DylanH.Rose-Coss@state.nm.us, Verner, Frederick C fredverner@chevron.com, John Smitherman JRS@nmoga.org, matthias.sayer@nglep.com

Cc: Perez, Yolanda Yolanda_Perez@oxy.com, Munds-Dry, Ocean (LDZX) Ocean.Munds-Dry@conocophillips.com, Comiskey, Cody cody.comiskey@chevron.com, Doug Klepacki dklepacki@cimarex.com, Hussenoeder, Stefan hussenoeder@exxonmobil.com, Stephen Flaherty sflaherty@cimarex.com, Ames, Eric, EMNRD Eric.Ames@state.nm.us

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From: Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us 

Subject: Seismic Response Protocol

Date: February 25, 2022 at 5:12 PM

To: Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us, Polak, Tiffany, EMNRD Tiffany.Polak@state.nm.us, Powell, Brandon, EMNRD Brandon.Powell@state.nm.us, Fuge, Dylan, EMNRD Dylan.Fuge@state.nm.us, Tremaine, Jesse K, EMNRD JesseK.Tremaine@state.nm.us, matthias.sayer@nglep.com

Cc: Doug White Doug.White@nglep.com, Hussennoeder, Stefan hussennoeder@exxonmobil.com, Jessica High Jessica.High@h2obridge.com, Doug Klepacki Doug.Klepacki@coterra.com, Nick Hines nhines@oilfieldwaterlogistics.com, rick.johnston@swbell.net, Comiskey, Cody cody.comiskey@chevron.com, Tim Harrington tharrington@mewbourne.com, Christian Holcomb Christian.Holcomb@nglep.com, Michael Reitz Michael.Reitz@h2obridge.com, Mathews, Gregory S. GregMathews@chevron.com, Dula, Lee M lee.m.dula@exxonmobil.com, Verner, Frederick C fredverner@chevron.com, Martin, Jacob JacobMartin@chevron.com, Winn, Lisa lisa.winn@exxonmobil.com, John C Webb John.Webb@nglep.com, Langton, David David.Langton@dvn.com, John Smitherman JRS@nmoga.org

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From: Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us 
Subject: Seismic Response Protocol
Date: February 25, 2022 at 5:12 PM

To: Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us, Polak, Tiffany, EMNRD Tiffany.Polak@state.nm.us, Powell, Brandon, EMNRD Brandon.Powell@state.nm.us, Fuge, Dylan, EMNRD Dylan.Fuge@state.nm.us, Tremaine, Jesse K, EMNRD JesseK.Tremaine@state.nm.us, matthias.sayer@nglep.com
Cc: Doug White Doug.White@nglep.com, Hussenoder, Stefan hussenoder@exxonmobil.com, Jessica High Jessica.High@h2obridge.com, Doug Klepacki Doug.Klepacki@coterra.com, Nick Hines nhines@oilfieldwaterlogistics.com, rick.johnston@swbell.net, Comiskey, Cody cody.comiskey@chevron.com, Tim Harrington tharrington@mewbourne.com, Christian Holcomb Christian.Holcomb@nglep.com, Michael Reitz Michael.Reitz@h2obridge.com, Mathews, Gregory S. GregMathews@chevron.com, Dula, Lee M lee.m.dula@exxonmobil.com, Verner, Frederick C fredverner@chevron.com, Martin, Jacob JacobMartin@chevron.com, Winn, Lisa lisa.winn@exxonmobil.com, John C Webb John.Webb@nglep.com, Langton, David David.Langton@dvn.com, John Smitherman JRS@nmoga.org

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Mail Attachment

From: Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us 

Subject: Seismic Update

Date: September 10, 2021 at 5:15 PM

To: Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us, Winn, Lisa lisa.winn@exxonmobil.com, John Smitherman JRS@nmoga.org, Verner, Frederick C fredverner@chevron.com, Tremaine, Jesse K, EMNRD JesseK.Tremaine@state.nm.us, Polak, Tiffany, EMNRD Tiffany.Polak@state.nm.us, Powell, Brandon, EMNRD Brandon.Powell@state.nm.us

Cc: Fuge, Dylan , EMNRD Dylan.Fuge@state.nm.us, Denard, Melissa Marie melissa.m.denard@exxonmobil.com, Lamkin, Baylen, EMNRD Baylen.Lamkin@state.nm.us

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From: Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us 

Subject: Seismic Update Meeting

Date: March 22, 2022 at 4:52 PM

To: Sandoval, Adrienne, EMNRD Adrienne.Sandoval@state.nm.us, Polak, Tiffany, EMNRD Tiffany.Polak@state.nm.us, Fuge, Dylan, EMNRD Dylan.Fuge@state.nm.us, Tremaine, Jesse K, EMNRD JesseK.Tremaine@state.nm.us, Powell, Brandon, EMNRD Brandon.Powell@state.nm.us, Cody Comiskey cody.comiskey@chevron.com

Cc: Doug White Doug.White@nglep.com, Jessica High Jessica.High@h2obridge.com, Michael Reitz Michael.Reitz@h2obridge.com, Christian Holcomb Christian.Holcomb@nglep.com, Doug Klepacki Doug.Klepacki@coterra.com, Martin, Jacob JacobMartin@chevron.com, Verner, Frederick C fredverner@chevron.com, matthias.sayer@nglep.com, Hussenoeder, Stefan hussenoeder@exxonmobil.com, rick.johnston@swbell.net, John C Webb John.Webb@nglep.com, Tim Harrington tharrington@mewbourne.com, Dula, Lee M lee.m.dula@exxonmobil.com, Luck, Kaitlyn, EMNRD Kaitlyn.Luck@state.nm.us, Romero, RosaM, EMNRD RosaM.Romero@state.nm.us, Goetze, Phillip, EMNRD Phillip.Goetze@state.nm.us, Langton, David David.Langton@dvn.com, Conf-Den-535 Conf-Den-535@nglep.com

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