

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

**APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION,
THROUGH THE ENVIRONMENTAL BUREAU CHIEF, FOR ADOPTION OF
AN AMENDMENT TO 19.15.39 NMAC ADDING NEW SECTIONS TO BE
CODIFIED AT 19.15.39.9 AND 19.15.39.10 NMAC ADDRESSING SPECIAL
PROVISIONS FOR SANTA FE COUNTY AND THE GALISTEO BASIN; SANTA
FE, SANDOVAL AND SAN MIGUEL COUNTIES.**

CASE NO. _____

RECEIVED
2008 NOV 10 PM 4 25

APPLICATION FOR RULE AMENDMENT

The Oil Conservation Division (Division), through Environmental Bureau Chief Wayne Price, applies for an order amending 19.15.39 NMAC to add two new Sections setting out provisions applicable to Santa Fe County and the Galisteo Basin. The new Sections are to be codified at 19.15.39.9 and 19.15.39.10 NMAC.

BACKGROUND

1. Division records show 29 wells drilled in Santa Fe County. All of the wells drilled in Santa Fe County have been plugged except for one: the Black Ferrell #001, API 30-049-20022.
2. The Black Ferrell #001 was drilled in 1984-1985 by Black Oil Inc. Division records show that the Black Ferrell #001 has produced 801 barrels of oil. The Black Ferrell #001 is not currently reporting production.
3. No infrastructure currently exists in Santa Fe County to support oil and gas production, such as waste disposal facilities, transportation pipelines, or downstream facilities.

4. Tecton Energy Operating, LLC (Tecton) became operator of record of the Black Ferrell #001 September 1, 2006. Tecton Energy Operating, LLC became operator of record for the well August 26, 2008.

5. In December 2007 Tecton Energy LLC filed three applications for permits to drill (APDs) for wells to be located in the Santa Fe County.

6. The Black Ferrell #001 and the three proposed wells are located in the Galisteo Basin. The Galisteo Basin is defined as the surface water drainage area for the Galisteo River. The Galisteo Basin is located in the south half of Santa Fe County, with small portions of the basin extending into San Miguel County to the east, and Sandoval County to the west.

7. The filing of applications for permits to drill wells in the Galisteo Basin triggered public concern throughout Santa Fe County.

8. On January 24, 2008, Governor Bill Richardson issued Executive Order 2008-004, Imposing a Six Month Moratorium on New Oil and Gas Drilling in Santa Fe County and the Galisteo Basin. Executive Order 2008-004 directed the division to temporarily suspend the processing and granting of APDs in Santa Fe County and Galisteo Basin, and directed the Energy, Minerals and Natural Resources Department (EMNRD) to coordinate with other executive agencies in assessing existing laws, regulations, policies and planning documents to ensure that the State of New Mexico has fully and appropriately exercised its police powers to ensure that no oil and gas drilling activity occurs in the Santa Fe County and the Galisteo Basin that would be contrary to the interests of the State of New Mexico and its citizens.

9. Executive Order 2008-004 directed the executive agencies to work with other governmental entities, including affected tribal governments, and to receive and evaluate input from the public.

10. Executive Order 2008-004 further directed the executive agencies to report their findings to the Office of the Governor and to the Secretary of EMNRD by June 24, 2008.

11. In response to Executive Order 2008-004, participating executive agencies hosted an open house on March 29, 2008 at the Santa Fe Community College. The agencies provided notice of the event through local newspapers and posted notice of the meeting on EMNRD's website.

12. The open house format allowed the public to visit with each agency and provide comments, ask questions, and obtain general information about the agency. The following agencies staffed the open house: EMNRD, Office of the State Engineer (OSE), New Mexico Environment Department (NMED), Department of Game & Fish, Department of Cultural Affairs (DCA), Department of Indian Affairs (IAD), Department of Tourism, Department of Health, and Department of Agriculture.

13. Public comments were accepted until April 17, 2008. A total of 671 written comments were received by the participating agencies.

14. On May 2, 2008, the IAD and the DCA co-hosted a Tribal Information Session to address the issues raised in Executive Order 2008-004. The Pueblo of Tesuque, the Pueblo of San Ildefonso, the Pueblo of Santa Clara, the Pueblo of Sandia, the Pueblo of Picuris and the Navajo Nation participated in the session. The participating

agencies included the Department of Game and Fish, the Department of Tourism, NMED, EMNRD, and the Department of Health.

15. Each agency made a brief presentation regarding how the Executive Order related to the agency's statutory mandates and regulatory structure, and then participated in a question and answer panel with the Tribal participants. The Tribes were encouraged to submit written comments.

16. On June 24, 2008 the agencies submitted the Report on the Galisteo Basin, which includes individual reports and recommendations from EMNRD, IAD, NMED, OSE, DCA, the Department of Game and Fish, the Department of Health, the Department of Tourism, and the Department of Agriculture.

17. The report highlighted areas of concern, including but not limited to the impact of oil and gas development activities on: water resources, human health and the environment; the discovered and undiscovered archaeological sites in the area; Tribal cultural practices in the Galisteo Basin; and other land uses including residential uses, ranching and tourism.

18. EMNRD's recommendations focused on actions that could be taken by the Division, acting within its statutory authority to protect fresh water, and to protect human health and the environment from the adverse effects of oilfield waste. Those recommendations included adopting rules:

- (a) Allowing the Division to evaluate and permit by area, rather than by individual project, so that the Division can better address the cumulative impact of development;
- (b) Providing for notice and public input on applications;

(c) Allowing for increased participation from relevant governmental entities, including sister agencies and divisions, local governmental entities, and tribes, pueblos and nations;

(d) Addressing needs specific to the Galisteo Basin, with the focus on identifying, delineating and protecting fresh water sources.

19. On July 14, 2008, Governor Richardson issued Executive Order 2008-038, Extending the Moratorium on New Oil and Gas Drilling in Santa Fe County and the Galisteo Basin.

20. Executive Order 2008-038 extended the moratorium by six additional months, until January 24, 2009, and directed the executive agencies that participated in preparing the Report on the Galisteo Basin to take specific actions.

21. Executive Order 2008-038 directed the Division as follows:

“The Oil Conservation Division shall investigate and begin drafting, if appropriate, rules, regulations and statutory changes, including but not limited to permitting by area, the allowance of notice and public input for all applications for permits to drill, and the adoption of special rules concerning the Galisteo Basin, all in an effort to protect this fragile and ecologically sensitive area.”

OVERVIEW OF PROPOSED RULES

22. The goal of proposed rule 19.15.39.9 NMAC is to establish a new process for evaluating and regulating exploration and development in Santa Fe County and the Galisteo Basin that meets the directive of Executive Order 2008-038.

23. Under existing rules, the Division evaluates and approves individual applications for permits to drill. The applications are routinely handled administratively; no formal processes exist for public notice or input, or participation by other governmental entities.

24. Under proposed rule 19.15.39.9 NMAC, an operator intending to drill, re-enter or deepen a well in Santa Fe County or the Galisteo Basin must first obtain approval from the Division for its exploration and development plan, and then must operate the wells covered by the plan in accordance with the plan's requirements until the plan is specifically replaced by a special pool order.

25. To apply for approval, the operator must provide information designed to put the Division, other governmental entities and the public on notice of the operator's intentions. The operator must identify the area to be covered by the plan, including at a minimum the operator's best estimate of the productive area. The operator must identify the target zone or zones. The operator must identify the number of proposed exploratory wells, and the proposed locations for the wells and their related facilities. The operator must submit its proposed plans for drilling and mud-logging, its plans for minimizing pad size and consolidating facilities, its plans for installing monitor wells, its plans for handling wastes, its plan for development if the exploratory wells are successful, and its written contingency plan for addressing releases.

26. In addition, the operator must provide available information relevant to assessing the proposal. It must provide a topographic map, and maps plotting surface ownership, municipal and county boundaries, site boundaries of registered cultural properties, existing infrastructure, existing water wells and oil and gas wells, and the location of proposed wells and related facilities.

27. The operator must also submit a hydrogeologic and site report that provides sufficient information and detail on the area's topography, soils, geology,

surface hydrology and ground water hydrology to enable the Division to evaluate actual and potential effects on soils, surface water and ground water.

28. All applications for approval of an exploration and development plan will be set for public hearing. Notice will be posted on the Division's website and on the next available docket. The operator will be required to publish legal notice in the relevant newspapers, and mail notice to potentially affected mineral owners, surface owners, and governmental entities. In addition, the operator must mail notice to all tribes, pueblos and nations in New Mexico, the state historic preservation officer and the game and fish department, and provide written or electronic notice to those individuals or entities listed on the Division's contact list.

29. The Division may approve an exploration and development plan only if the operator provides the required information, gives the required notice, is in compliance with Subsection A of 19.15.5.9 NMAC (formerly known as Rule 40), and the plan will prevent waste, protect correlative rights, protect fresh water, and protect human health and the environment. The Division may impose conditions on its approval in order to meet those goals.

30. A plan may be approved for a period not to exceed five years. The operator may apply to renew its plan for additional periods not to exceed five years.

31. An operator must apply for an amendment to its plan if it wants to expand the area covered by its plan, increase the number of change the locations of proposed wells or related facilities, or change the terms of its plan.

32. To obtain a renewal or an amendment, the operator must file an application with updated information, and go through the same public notice process used in an original application. The division director may set the matter for public hearing.

33. An approved exploration and development plan remains in effect through operator transfers.

34. An approved exploration and development plan may be revoked, after notice and hearing, if the operator is out of compliance with the terms of the plan or is out of compliance with Subsection A of 19.15.5.9 NMAC. If the plan is revoked, the operator must shut-in the wells covered by the plan. The wells will be subject to the requirements of 19.15.25.8 NMAC, which requires wells to be plugged and abandoned or placed on approved temporary abandonment status after certain defined periods of inactivity.

35. Proposed rule 19.15.39.10 NMAC is a companion rule to 19.15.39.9 NMAC. It sets out "default" provisions that apply to APDs for wells covered by an exploration and development plan, designed to obtain information about fresh water and protect the fresh water that is found.

36. Proposed rule 19.15.39.10 NMAC:

- (a) requires closed-loop systems;
- (b) prohibits disposal of waste on site;
- (c) requires the operator to run logs from total depth to surface to determine porosity and water saturation;
- (d) requires a mud-logger on site during drilling from surface to total depth and the submission of mud logs and a written daily report;
- (e) requires operators to isolate all fresh water aquifers throughout their vertical extent with at least two cemented casing strings;

(f) requires the operator to circulate cement continuously to surface on all casing strings, except that the smallest diameter casing shall have cement to at least 100 feet above the casing shoe of the next larger diameter casing;

(g) requires the operator to run cement bond logs after each casing string is cemented; and

(h) requires a well that requires gas pipeline connection to be placed on approved temporary abandonment status while awaiting the pipeline connection.

37. An operator may obtain an exception to 19.15.39.10 NMAC's default requirements only by requesting the exception as part of its exploration and development plan, and demonstrating that its plan will protect fresh water and will protect human health and the environment.

38. The process provided in 19.15.39.9 NMAC for obtaining approval of an exploration and development plan, and amending and renewing that plan, will help the Division, the public and relevant governmental entities obtain information on the geology, surface hydrology and ground water hydrology of the area. That information, in turn, will assist the Division in developing appropriate requirements governing oil and gas development in the area.

39. The proposed rule 19.15.39.9 NMAC allows operators to seek approval for replacing the exploration and development plan with a special pool order once sufficient information has been gathered, and the requirements imposed in the exploration and development plan have been tested in the field.

40. An operator who has operated wells under an approved exploration and development plan for at least 5 years may apply to replace the exploration and development plan with a special pool order, following the same public notice process

applicable to plan amendments and renewals. The Division may set the application for hearing. And the Division may include some or all of the requirements set out in the exploration and development plan in the special pool order.

41. A copy of proposed rule 19.15.39.9 NMAC is attached as Exhibit A.
42. A copy of proposed rule 19.15.39.10 NMAC is attached as Exhibit B.
43. A copy of a draft advertisement for hearing is attached as Exhibit C.

WHEREFORE, the Environmental Bureau Chief of the Division hereby applies to the Commission to enter an order:

- A. Amending 19.15.39 NMAC to add new Sections to be codified at 19.15.39.9 NMAC and 19.15.39.10 NMAC, as set forth in Exhibits A and B.
- B. Granting such other and further relief as the Commission deems appropriate.

RESPECTFULLY SUBMITTED,



Gail MacQuesten
Assistant General Counsel
Energy, Minerals and Natural
Resources Department of the State of
New Mexico

1220 S. St. Francis Drive
Santa Fe, NM 87505
(505) 476-3451
Facsimile 505 476-3462
Gail.macquesten@state.nm.us

19.15.39.9 [NEW] SPECIAL PROVISIONS FOR SANTA FE COUNTY AND THE GALISTEO BASIN:

A. Applicability. The operator must obtain division approval for an exploration and development plan prior to drilling, re-entering or deepening a well located in Santa Fe county or the Galisteo Basin, and must operate the wells covered by the plan in accordance with the plan's requirements until the plan is specifically replaced by a special pool order. The operator must renew approved exploration and development plans every five years. The Galisteo Basin includes part of Santa Fe county,

- (1) the following sections in Sandoval county:
 - (a) sections 1 and 2 of township 13 north, range 6 east, NMPM;
 - (b) sections 1 through 4, 9 through 15, 22 through 26, 35 and 36 of township 14 north, range 6 east, NMPM;
 - (c) sections 10 through 30, and 32 through 36 of township 15 north, range 6 east, NMPM;
 - (d) sections 13 and 25 of township 15 north, range 5 east, NMPM; and
- (2) the following sections in San Miguel county:
 - (a) sections 4 through 9, and 16 through 21 of township 13 north, range 12 east, NMPM;
 - (b) sections 4 through 10, 13 through 24, and 27 through 33 of township 14 north, range 12 east, NMPM; and
 - (c) sections 19 and 29 through 32 of township 15 north, range 12 east, NMPM.

B. Application for Exploration and Development Plan. An operator applying for approval of an exploration and development plan shall file two copies of the application with the division's Santa Fe office and file a copy of the application with the appropriate division district office or offices. The application shall include:

- (1) the operator's name, address and telephone number, with an e-mail address and facsimile number if available;
- (2) a legal description of the area to be covered by the plan including at a minimum the operator's best estimate of the productive area;
- (3) identification of the target zone or zones;
- (4) a topographic map of the area to be covered by the proposed plan and one half mile beyond the boundary of that area;
- (5) a map or maps of the area to be covered by the proposed plan and one half mile beyond the boundary of that area plotting the following, with global positioning system coordinates to the sixth decimal point for un-surveyed areas:
 - (a) state, federal, private or tribal surface ownership;
 - (b) municipal and county boundaries;
 - (c) site boundaries of all registered cultural properties;
 - (d) farms;
 - (e) all buildings and infrastructure including highways and roads, railroads, pipelines, power lines, antennas, wind turbines, solar farms, and mines (surface and subsurface);
 - (f) sinkholes, playas and unstable areas;
 - (g) municipal fresh water well fields covered under a municipal ordinance adopted pursuant to NMSA 1978, Section 3-27-3, as amended;
 - (h) all existing water wells;
 - (i) all existing oil and gas wells; and
 - (j) the location of proposed exploratory wells and related facilities, including but not limited to tank batteries, gathering lines, waste disposal facilities, compressor stations and access roads;
- (6) a hydrogeologic and site report that provides sufficient information and detail on the area's topography, soils, geology, surface hydrology and ground water hydrology to enable the division to evaluate the actual and potential effects on soils, surface water and ground water;
- (7) proposed plans for
 - (a) installing monitor wells to determine depth to water and saturated thickness, obtain baseline water samples and detect releases;

- (b) a drilling program describing the air drilling program or mud program to be used;
- (c) a mud-logging program, including a copy of the mud log sheet and a description of the mud-logger's daily report, which shall include at a minimum the total depth reached, the footage drilled in the preceding 24 hours, oil and gas intervals, fresh water zones, and mud parameters including mud weight, chlorides, funnel viscosity and filtrate properties;
- (d) addressing wastes generated during the drilling and production processes;
- (e) minimizing pad size and consolidating facilities; and
- (f) developing the area if the exploratory wells are productive, including the operator's best estimate of the number and location of development wells and related facilities;
- (8) a written contingency plan for all releases, with no exclusion for de minimus amounts, which shall include
 - (a) procedures for early detection of releases;
 - (b) instructions for notifying appropriate responders, with a contact list including current names, telephone numbers, e-mail addresses, facsimile numbers and addresses;
 - (c) identification of applicable equipment, materials and supplies available locally or regionally to respond to releases, with advance arrangements for acquiring the equipment, materials and supplies; and
 - (d) response plans based on the severity and nature of the release;
- (9) if the area to be included in the proposed exploration and development plan includes a registered historic property, the information required by 4.16.7.9 NMAC;
- (10) any proposed exceptions to the requirements set out in 19.15.39.10 NMAC and evidence that operating in accordance with the proposed exceptions will prevent waste, protect correlative rights, protect fresh water and protect human health and the environment from oilfield waste;
- (11) a proposed legal notice complying with Subsection F of 19.15.39.9 NMAC;
- (12) other information that the division may require to demonstrate that the plan will prevent waste, protect correlative rights, protect fresh water, protect human health and the environment, and will assure the division that operation of the plan will be in compliance with division rules and orders; and
- (13) certification by the operator that the information submitted in the application is true, accurate and complete to the best of the operator's knowledge, after reasonable inquiry.

C. Amendments to Exploration and Development Plans. An operator must obtain an approved amendment to its exploration and development plan prior to expanding the area covered by the plan, increasing the number or changing the locations of proposed wells or related facilities, or changing the terms of the proposed plan. An operator applying for an amendment to an exploration and development plan shall file two copies of the application with the division's Santa Fe office and file a copy of the application with the appropriate division district office or offices. The application shall:

- (1) describe the proposed amendment(s);
- (2) update the information provided in the original application pursuant to Subsection B of 19.15.39.9 NMAC; and
- (3) provide a proposed legal notice complying with Subsection F of 19.15.39.9 NMAC.

D. Renewals of Exploration and Development Plans.

- (1) An operator applying for renewal of its exploration and development plan shall file two copies of the application with the division's Santa Fe office and file a copy of the application with the appropriate division district office or offices. The application shall:
 - (a) update the information provided pursuant to Subsection B of 19.15.39.9 NMAC; and
 - (b) provide a proposed legal notice complying with Subsection F of 19.15.39.9 NMAC.

(2) The operator may combine an application to renew its exploration and development plan with an application to amend the exploration and development plan.

E. Replacement of an Exploration and Development Plan with a Special Pool Order.

- (1) An operator who has operated wells under an approved exploration and development plan for at least 5 years may apply for approval to replace the plan with a special pool order.

(2) An operator applying for approval to replace the exploration and development plan with a special pool order shall file two copies of the application with the division's Santa Fe office and file a copy of the application with the appropriate division district office or offices. The application shall:

(a) describe provisions to be included in the special pool order to protect fresh water and to protect human health and the environment;

(b) update the information provided pursuant to Subsection B of 19.15.39.9 NMAC; and

(c) provide a proposed legal notice complying with Subsection F of 19.15.39.9 NMAC.

F. Legal Notice. Legal notice of an application for a proposed exploration and development plan or an application to amend, renew or replace an existing exploration and development plan shall include

(1) the operator's name, address and telephone number, and an e-mail address and facsimile number if available;

(2) a legal and a common description of the area covered by the exploration and development plan;

(3) in the case of an application for an exploration or development plan, a summary of the proposed plan including the number and location of proposed exploratory and development wells and related facilities;

(4) in the case of an application to amend an existing exploration and development plan, a summary of the existing plan and a summary of the proposed amendment;

(5) in the case of an application to renew an existing exploration and development plan, a summary of the existing plan;

(6) in the case of an application to replace an existing exploration and development plan, a summary of the provisions to be included in the special pool order to protect fresh water and protect human health and the environment;

(7) instructions for viewing the complete application on the division's website or at the appropriate division district office or offices;

(8) instructions for filing written public comments on the application with the division's Santa Fe office;

(9) if the application will be set for hearing, the date, time and location of the public hearing; and

(10) instructions for being placed on a contact list to receive notice of future applications to amend, renew or replace the exploration and development plan.

G. Administrative Completeness.

(1) Within 60 days of receiving an application for an exploration and development plan or an application to amend, renew or replace an existing exploration and development plan, the division shall notify the operator in writing of its determination on whether the application is administratively complete. An application is administratively complete if it contains all the information required by 19.15.39.9 NMAC.

(2) If the division determines that the application is administratively complete, the division shall:

(a) notify the operator in writing that the application is administratively complete;

(b) provide the operator with an approved legal notice;

(c) provide the operator with a copy of the current contact list of individuals and entities requesting notice of actions related to the exploration and development plan;

(d) distribute notice of the application with its next division or commission docket; and

(e) post the approved legal notice and the application on the division's website.

(3) If the division determines that the application is not administratively complete, the division's written notification to the operator shall identify the deficiencies.

(4) The operator may re-submit an application to correct deficiencies, correct errors or add information. The division's receipt of a re-submittal triggers a new 30 day period for the division to notify the operator of the division's determination on administrative completeness.

H. Public Notice. Within 20 days of receiving an approved legal notice and the division's determination that an application is administratively complete, the operator shall

- (1) publish the approved legal notice in a newspaper of general circulation in the affected county or counties;
- (2) mail the approved notice by first class mail to
 - (a) holders of mineral interests in the area covered by the exploration and development plan and the area within one half mile of the boundary of the exploration and development plan if they have not already agreed to participate in the plan;
 - (b) surface interest owners in the area covered by the exploration and development plan and the area within one half mile of the boundary of the exploration and development plan;
 - (c) all tribes, pueblos and nations in New Mexico;
 - (d) the governments of counties and municipalities located within or partially located within the area covered by the exploration and development plan or the area within one half mile of the boundary of the exploration and development plan;
 - (e) the state historic preservation officer; and
 - (f) the game and fish department; and
- (3) mail the approved notice of hearing by first class mail or transmit the notice of hearing by electronic mail to those individuals and entities on the division's contact list for the exploration and development plan.

I. Public Hearings.

(1) The division shall set all applications for approval of exploration and development plans for public hearing, with the public hearing to be set no sooner than 60 days after service of public notice.

(2) The division may hold a public hearing on an application to amend, renew or replace an existing exploration and development plan.

(3) If the division acts administratively to deny an application to amend, renew or replace an existing exploration and development plan, or acts administratively to approve an amendment, renewal or replacement of an existing exploration and development plan with conditions or terms, the operator may, within 30 days of receipt of the administrative order, file an application for hearing on the application. The division shall set the application for public hearing.

(4) If the division sets for public hearing an application to amend, renew or replace an existing exploration or development plan, the operator shall

- (a) submit to the Santa Fe office of the division for approval a notice of hearing containing the information required by Subsection F of 19.15.39.9 NMAC;
- (b) publish the approved notice of hearing at least 30 days before the hearing in a newspaper of general circulation in the county or counties in the area covered by the exploration and development plan and within one half mile of the boundary of the area covered by the exploration and development plan;
- (c) mail the approved notice of hearing by first class mail at least 30 days before the hearing to those persons and entities entitled to public notice under Paragraph 2 of Subsection H of 19.15.39.9 NMAC; and
- (d) mail the approved notice of hearing by first class mail or transmit the notice of hearing by electronic mail to those individuals and entities on the division's contact list for the exploration and development plan.

J. Plan Approvals, Conditions, Denials, Amendments, Revocations, Renewals and Transfers.

(1) The division may approve an exploration and development plan for a period not to exceed five years. The division may renew an exploration and development plan for additional periods not to exceed five years.

(2) The division may approve an application for an exploration and development plan or an application to amend, renew or replace an existing exploration and development plan if the division determines that

- (a) the operator is in compliance with Subsection A of 19.15.5.9 NMAC;
- (b) the application provides the information required by 19.15.39.9

NMAC;

and

(c) the operator has provided the notice required by 19.15.39.9 NMAC;

(d) approval of the application will prevent waste, protect correlative rights, protect fresh water, and protect human health and the environment.

(3) The division may impose conditions on its approval of an application for an exploration and development plan or an amendment or renewal of an exploration and development plan if the division determines that the conditions are necessary to prevent waste, protect correlative rights, protect fresh water, and protect human health and the environment from oilfield waste.

(4) The division may include provisions in a special pool order that replaces an exploration and development plan if the division determines that the provisions are necessary to prevent waste, protect correlative rights, protect fresh water, and protect human health and the environment.

(5) After notice to the operator and hearing, the division may revoke approval of an exploration and development plan and require wells covered by that plan to be shut-in if the operator is out of compliance with the plan or is out of compliance with Subsection A of 19.15.5.9 NMAC.

(6) If an exploration and development plan expires and the operator has not filed an application to renew the plan, the operator shall shut-in the wells covered by the plan. If the operator has filed an application to renew the plan prior to its expiration, the operator may continue to operate wells covered by the plan until a final order is issued on the application for renewal.

(7) The exploration and development plan shall remain in effect until revoked, amended or replaced pursuant to 19.15.39.9 NMAC.

(8) In the event another operator becomes operator of record of wells subject to the exploration and development plan, the new operator shall be bound by the terms of the applicable approved exploration and development plan or special pool order.

19.15.39.10 [NEW] ADDITIONAL REQUIREMENTS FOR APPLICATIONS TO DRILL, RE-ENTER OR DEEPEN WELLS SUBJECT TO AN EXPLORATION AND DEVELOPMENT PLAN:

A. An application for permit to drill, re-enter or deepen a well that requires an exploration and development plan pursuant to 19.15.39.9 NMAC must include the following in addition to meeting the requirements set out in 19.15.14.10 NMAC:

- (1) a form C-144 for the closed-loop system, or for the pit if the operator's approved exploration and development plan allows pits;
- (2) global positioning system coordinates to the sixth decimal point to identify the location of a well to be drilled in an un-surveyed area; and
- (3) any additional information required by the operator's approved exploration and development plan.

B. Unless otherwise specified in an approved exploration and development plan, an application for permit to drill or deepen a well that requires an exploration and development plan shall be subject to the following conditions:

- (1) the operator shall drill the well using a closed loop system;
- (2) the operator shall not dispose of waste on site;
- (3) the operator shall run logs from total depth to surface that will determine porosity and water saturation;
- (4) a mud-logger shall be on site during drilling from surface to total depth and shall submit the logs and a written report daily to the supervisor of the appropriate district office;
- (5) the operator shall isolate all fresh water aquifers throughout their vertical extent with at least two cemented casing strings;
- (6) the operator shall circulate cement to surface on all casing strings, except that the smallest diameter casing shall have cement to at least 100 feet above the casing shoe of the next larger diameter casing;
- (7) the operator shall run cement bond logs acceptable to the division after each casing string is cemented and file the logs with the appropriate district office; and
- (8) the operator shall place a well that requires gas pipeline connection on approved temporary abandonment status while awaiting pipeline connection.

NOTICE OF RULE MAKING

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

The State of New Mexico, through its Oil Conservation Commission, hereby gives notice that the Commission will conduct a public hearing on **December 11, 2008**, beginning at 9:00 a.m., in Porter Hall at 1220 South St. Francis Drive, Santa Fe, New Mexico, concerning the amendment of 19.15.39 NMAC to add two new sections setting out special provisions for Santa Fe County and the Galisteo Basin, which extends into portions of San Miguel and Sandoval Counties. If additional time is needed, the hearing may continue at a later date announced by the Commission.

Proposed section 19.15.39.9 NMAC requires operators to obtain the approval of the Oil Conservation Division (Division) for an exploration and development plan prior to drilling, re-entering or deepening a well in Santa Fe County or the Galisteo Basin, and requires the operator to renew the plan every five years. The operator will be required to operate the wells covered by the plan in accordance with the plan's requirements until the plan is specifically replaced by a special pool order. The proposed rule sets out the process for obtaining, amending, renewing and replacing exploration and development plans.

Proposed section 19.15.39.10 NMAC sets out conditions that will be applied to applications for permits to drill, re-enter or deepen a well covered by an exploration and development plan. These conditions will apply unless the operator's approved exploration and development plan recognizes an exception.

Copies of the text of the application and proposed amendment are available from commission clerk Florene Davidson at (505) 476-3458 or from the Division's web site at <http://www.emnrd.state.nm.us/ocd> under "Announcements." If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing, please contact Ms. Davidson at (505) 476-3458 or through the New Mexico Relay Network (1-800-659-1779) as soon as possible.

Written comments on the proposed amendment, pre-hearing statements and notices of recommended modifications must be received no later than 5:00 p.m. on **Wednesday, December 3, 2008**. Any person may present non-technical testimony or make an un-sworn statement at the hearing. Any person who intends to present technical testimony or cross-examine witnesses at the hearing shall, no later than 5:00 p.m. on **Wednesday, December 3, 2008**, file six sets of a pre-hearing statement with Ms. Davidson. The pre-hearing statement shall include the person's name and the name of the person's attorney; the names of all witnesses the person will call to testify at the hearing; a concise statement of each witnesses' testimony; all technical witnesses' qualifications including a description of the witnesses' education and experience; and the approximate time needed to present the testimony. The person shall attach to the pre-hearing statement any exhibits he or she plans to offer as evidence at the hearing. Any person recommending modifications to a proposed rule change shall, no later than **Monday, November 24, 2008**, file a notice of recommended modifications with Ms. Davidson including the text of the recommended modifications, an explanation of the modifications' impact, and the reasons for adopting the modifications. Written comments, pre-hearing statements and notices of recommended modifications may be hand-delivered or mailed to Ms. Davidson at 1220 South St. Francis Drive, Santa Fe, New Mexico 87505, or may be faxed to Ms. Davidson at (505) 476-3462.

Given under the Seal of the State of New Mexico Oil Conservation Commission at Santa Fe, New Mexico on this 10th day of November 2008.

**STATE OF NEW MEXICO
OIL CONSERVATION DIVISION
Mark E. Fesmire, P.E.
Director, Oil Conservation Division**

**Application for Amendment
to 19.15.39 NMAC
EXHIBIT C**