

IN THE MATTER OF THE PETITION FOR
HEARING TO ADOPT NEW REGULATIONS
AND TO AMEND VARIOUS SECTIONS OF
20.2.1, 20.2.2, 20.2.70, and 20.2.72 NMAC,
Statewide Cap on Greenhouse Gas Emissions



No. EIB 08-19(R)



**PETITIONER'S RESPONSE TO MOTION TO STRIKE PETITIONER'S TECHNICAL
TESTIMONY, OR IN THE ALTERNATIVE, FOR AN ORDER REQUIRING [sic]
PUBLIC NOTICE AND EXTENSION OF PREHEARING DEADLINES**

Public Service Company of New Mexico and the other corporations and industry groups (“Movants”) rely primarily on incorrect statements of fact and law to justify their latest attempt to derail this rulemaking at any cost. Under the actual facts and law, their Motion to Strike is baseless and should be denied.

Consistent with the Board’s Rules and Petitioner’s representations, Petitioner has recommended changes to its original proposal that will ultimately lead to better regulations. Although not legally required, Petitioner would not oppose additional notice, including notice of every party’s right under the Board’s Rules to recommend changes to the current regulatory proposal. However, Petitioner adamantly opposes the other relief requested by Movants. The Board’s Rules expressly allow Petitioner and every party to recommend changes to regulatory proposals, and this was conveyed in the Notice provided in this matter, which is attached as Exhibit A. In contrast, nothing in the Rules allows relevant testimony to be stricken. As a matter of fact and law, the Notice given in this matter was more than adequate, and neither the public nor Movants were prejudiced by Petitioner’s recommended changes. Indeed, Movants and all other parties now have several months to prepare their testimony before the hearing on the merits begins, which is far more time than the Board’s Rules require. But if this still is not enough time, the Board’s Rules even allow for submission of additional evidence after the

hearing concludes. Accordingly, the Hearing Officer should deny Movants' Motion to Strike and allow this proceeding to move forward in accordance with the Second Order for Hearing Procedures.

ARGUMENT

1. **Petitioner's recommended changes are expressly allowed by statute and the Board's Rules.**

Movants appear to believe they are litigating a federal court case in which the rules of civil procedure and legal technicalities reign supreme. However, contrary to their apparent belief, Movants' are parties to a state administrative rulemaking in which the "*rules of civil procedure and the rules of evidence [do] not apply.*" NMAC § 20.1.1.400. The aim of this rulemaking is not to suppress evidence or maximize delay, but to "assure that the facts are fully elicited and [to] avoid delay." NMAC § 20.1.1.107. To that end, the Board's Rules provide, expressly, that the "hearing officer *shall* admit *any* relevant evidence, unless the hearing officer determines that the evidence is incompetent or unduly repetitious." NMAC § 20.1.1.401(B) (emphasis added). Petitioner's evidence is not irrelevant, incompetent or unduly repetitious, and therefore, nothing in the Board's Rules justifies Movants' Motion to Strike.

In contrast, the Environmental Improvement Act ("EIA") and the Board's Rules expressly authorize the Petitioner (and all the other parties) to recommend changes to proposed regulations. Section 74-1-9(E) of the EIA provides that "the board shall allow all interested persons reasonable opportunity to submit ... proposed changes to the proposed regulation" *at the hearing*. And Section 20.1.1.302(A) of the Board's Rules provides: "Any person, including the petitioner, who intends to present technical testimony at the hearing [must], no later than

fifteen (15) days prior to the hearing, file a notice of intent to present technical testimony.”¹

The Rule then goes on to describe several items that “shall” be included in the notice of intent, including “*any* recommended modifications to the proposed regulatory change.” NMAC § 20.1.1.302(A)(5) (emphasis added).

Movants assert that Rule 302(A)(5) “authorizes only minor technical changes,”² *Motion to Strike at 7*, but nothing in the Board’s Rules or other authority supports this assertion. Had the Board or the Legislature actually intended to restrict the scope of “recommended modifications” to “minor technical changes,” as Movants argue, it would have been easy enough to say so directly and expressly. The absence of any limiting language shows that they had no such intent, but that they instead wanted the Board to hear the full range of possible solutions to a given environmental problem. Cf. State v. Frazier, 2007 NMSC 32, ¶ 10, 142 N.M. 120, 122 (2007) (“In the absence of any more specific elaboration by the legislature, such an outcome appears arbitrary.”). Again, the aim is not to play evidentiary games, but to adopt a reasonable rule (or none at all).

Although Petitioner clearly is recommending important changes and providing far more detail, its proposal has not *fundamentally* changed. As in its original proposal, Petitioner still proposes to limit the emission of greenhouse gases (“GHGs”) with the goal of reducing New Mexico’s emissions to 25% below 1990 levels by 2020. Compare Corrected Petition at 3-4 with Petitioner’s Notice of Intent, Exhibit 12 at 2-3. Petitioner still proposes to accomplish this end primarily through reductions at the source and not through a “cap and trade” program. Compare Corrected Petition at 17-18, 21-22 with Petitioner’s Notice of Intent, Exhibit 12 at 3-

¹ The Second Order for Hearing Procedures actually required the Petitioner to file its technical testimony *nearly four (4) months* before the first scheduled hearing on the merits.

² Movants do not mention the EIA.

4. The Petitioner is, however, recommending that the Board consider several changes that will flesh out the details of Petitioner's proposal, substantially reduce the number of covered sources, and that will make implementation easier and less expensive. The recommended changes include:

a. Rather than defining a "climate nuisance" and leaving it to the Environment Department to determine how much a particular source should reduce its GHG emissions to abate the nuisance (*Corrected Petition at 5, 17-18, 21-22*), Petitioner recommends that the Board adopt a 3% reduction requirement for all covered sources across the board.

b. Rather than imposing another procedure to estimate 1990 baseline emissions, Petitioner recommends that the Board require reductions from an existing source's 2010 baseline, which will be based on reported data.

c. Rather than applying to all sources that emit at least 10,000 TPY CO₂e, Petitioner recommends restricting the regulations to apply only to sources that emit at least 25,000 TPY CO₂e, but only if those sources are within the oil and gas and electricity generation sectors. This is consistent with EPA's recently adopted mandatory GHG reporting rule.

d. Rather than attempting to force the GHG reduction program into the Environment Department's existing air permits, which requires multiple amendments to existing regulations, the Petitioner recommends that the Board codify the program entirely in a new Part 100.

e. The Petitioner recommends expressly allowing sources to have flexibility in how they comply, including allowing sources to obtain offsets, to bank credits, and to borrow against future reductions.

f. The Petitioner recommends including a cap on compliance costs.

All of the changes recommended by Petitioner improve its proposal and increase the likelihood that the proposal's fundamental goal will be accomplished—substantial and timely reduction of GHG emissions from major sources in New Mexico. Nothing in the EIA, the Air Quality Control Act (“AQCA”) or the Board’s Rules limits the scope or type of changes that the Petitioner (or any other party) may recommend to the Board, just as nothing in the Rules supports Movants’ Motion to Strike. Accordingly, the Motion should be denied.

2. The public notice for this rulemaking was adequate and neither the public nor any party has been prejudiced by Petitioner’s submission of recommended changes in accordance with Board Rules.

The Petitioner is asking the Board to adopt regulations pursuant to the Board’s authority under the EIA and the AQCA. In nearly identical language, the EIA and AQCA require the Board to provide notice and a public hearing before the Board adopts a proposed regulation. Compare NMSA 1978, § 74-2-6 (D) (EIA notice and hearing requirements) with NMSA 1978, § 74-1-9(C) (AQCA notice and hearing requirements). Both laws require prior notice of the hearing—the EIA requires at least sixty (60) days and the AQCA requires at least thirty (30) days notice prior to hearing. Id. The notice under both laws must apprise the public of “the hearing date and ... the subject, the time and the place of the hearing and the manner in which interested persons may present their views.” Id. And, using slightly different language, both laws require the notice to inform the public of where they might “secure copies” of the proposed regulations. Id.

Movants seize upon this last provision in the AQCA to argue that “the public and interested parties have been deprived of the right to ‘secure copies of any proposed regulation ...’ in advance of the hearing.” *Motion to Strike at 8.* This is not correct, because the hearing on the merits will not begin until June 21st, and this hearing will likely continue throughout the

summer at various dates that have yet to be announced. Thus, Movants, the other parties and the public will have *almost four months* prior to hearing on the merits to “secure copies” of Petitioner’s original proposal and its recommended changes. Indeed, Petitioner emailed its proposed changes to all parties and the changes are also available for inspection at the Environment Department and online. NMAC § 20.1.1.201. Therefore, no one has been prejudiced by Petitioner’s recommended changes.

Furthermore, because the hearing will continue “for more than one day, the hearing officer [must] provide an opportunity each day for testimony from ... the general public.” NMAC § 20.1.1.400(B)(5). Members of the public who do not wish to present oral testimony may also present their comments in writing, before or at the hearing, NMAC § 20.1.1.304(B), and the Hearing Officer can, if necessary, hold the record open and allow submission of additional evidence *after* the hearing. NMAC § 20.1.1.404; see also NMAC § 20.1.1.302(B) (allowing Hearing Officer under certain circumstances to admit technical testimony even though it was not included in a notice of intent). All of this, again, demonstrates that the aim of the Board’s Rules is not to provide lawyers with means of delay, but to assure that the Board receives helpful and complete information.

Movants appear to believe that the special March 1st opportunity for general public comment *was* the hearing and that the public was somehow prejudiced by not having Petitioner’s recommended changes in hand. Although it “is always refreshing when giant corporations evince solicitous regard for others’ rights,” Coca Cola Company et al. v. Federal Trade Commission, 475 F.2d 299 (5th Cir. 1973), Movants need not be overly concerned. The March 1st event was *not* the hearing and was *not* required by the Board’s Rules. Instead, as set out above and in the Second Order for Hearing Procedures, the true hearing on the merits will

not begin until June 21, 2010, and it will extend throughout the summer. The public will thus have numerous additional opportunities to testify. Furthermore, Petitioner is unaware of any public comment at the March 1st event that was directed at the specifics of the original proposal. Instead, most if not all of the comments concerned the general issue of whether the Board should adopt *any* regulation capping GHG emissions, which is itself an important issue. Therefore, the fact that Petitioner recommended changes to its original proposal, and the fact that other parties may recommend further changes, does not diminish the value of the public comments provided on March 1st. Accordingly, Petitioner encourages the Board to seriously consider these comments in its final deliberations.

In one of their more glaring misrepresentations, Movants cite the Notice published in the State Register and suggest it was misleading in light of Petitioner's recommended changes because "the referenced sections [§§ 20.2.1, 20.2.2 and 20.2.70] are no longer at issue in the new proposal." *Motion to Strike at 8*. **First**, although it is true that Petitioner now recommends *not* amending the sections cited by Movants, the Notice also expressly alerts the public that the Board will "consider the adoption of proposed *new* regulations" (*New Mexico Register*, Vol. XX, No. 24 (December 31, 2009 (emphasis added))). This is consistent with Petitioner's recommendation that the Board codify the entire GHG reduction program in a *new* Part 100.³ **Second**, the Notice discloses that (1) the "Board may make other changes [to the proposal] as necessary to accomplish the purpose of providing public health and safety in response to public comments and evidence presented at the hearing"; (2) that the "proposed changes may be reviewed during business hours"; and (3) that parties may make "any recommended modifications to the proposed changes." (Exhibit A.) Thus, the Notice expressly alerts the public that changes can be made, and nothing in either the Notice or the Board's Rules limits

³ Movants also fail to point out how Petitioner's recommended change in codification prejudices them.

the nature or scope of these potential changes. And **third**, although Petitioner is indeed recommending changes, its original proposal is still pending. Thus, if one reads the Notice in its entirety and does not rely on Movants' highly selective excerpts, it is clear that Petitioner's recommended changes are consistent with the Notice and the Board's Rules.

Finally, although Movants rely mostly on unsupported conclusory statements, the few cases they do cite are inappropriate. First, Lexis identifies the status of the lead case cited and quoted by Movants,⁴ Groendyke Transport, Inc. v. New Mexico Corporation Commission, 80 N.M. 509, 458 P.2d 584 (1969) ("Groendyke I"), as "*overruled in part by*" Groendyke Transp. v. New Mexico State Corp. Comm'n, 85 N.M. 718, 516 P.2d 689 (N.M. 1973) ("Groendyke II"). Furthermore, the Groendyke II Court describes as "*being dicta*" and "*not controlling*" the very same language that Movants quote from Groendyke I and highlight in their brief⁵. Groendyke II at 721, 516 P.2d at 692. Thus, Groendyke I is not valid precedent for the proposition for which Movants cite it, since the Supreme Court actually reached the *opposite* conclusion on the merits in Groendyke II. Id. at 722, 516 P.2d at 693. Movants should have disclosed this to the Board.

Second, Movants also fail to disclose that *none* of the other notice cases they cite involve rulemaking.⁶ Martinez v. Maggiore, 2003 NMCA 43, 133 N.M. 472 (Ct. App. 2002) involved an adjudication, not a rulemaking, in which there was a complete failure to provide notice of hearing in accordance with an express and unequivocal statutory requirement.⁷ Similarly, Nesbit v. City of Albuquerque, 91 N.M. 455, 575 P.2d 1340 (1977) was an

⁴ *Motion to Strike* at 9.

⁵ *Motion to Strike* at 9.

⁶ Groendyke I and Groendyke II also do not concern agency rulemaking, but an adjudication involving the amendment of a certificate of public convenience and necessity.

⁷ The statute required publication in *two* places in the newspaper, whereas notice was published in only one place—in the back of the newspaper's classified section. Martinez ¶¶ 7-9.

adjudication, not a rulemaking, involving a zoning decision in which the notice of hearing failed to properly describe the property at issue “with the specificity required by the applicable statute.” Martinez ¶ 10, 133 N.M. at 475. In contrast, a public hearing under the AQCA is not “an adjudicatory or trial-type hearing,” and therefore, the cases cited by Movants “are not applicable.” Wylie Bros. Contracting Co. v. Albuquerque-Bernalillo County Air Quality Control Bd., 80 N.M. 633, 642, 459 P.2d 159, 168 (Ct. App. 1969).

Wylie Bros. effectively disposes of Movants’ argument:

The provisions of the Act in regard to a public hearing do not contemplate that every change in proposed regulations, *whether such change be inconsequential or substantial*, requires another public hearing thereon. To so require would make the adoption of adequate regulations almost impossible, and would discourage consideration by a board of the views, data, testimony and arguments presented at the public hearing.

Id. (emphasis added). Federal courts reach the same conclusion regarding rulemakings under the federal Administrative Procedures Act:

The procedural rules were meant to ensure meaningful public participation in agency proceedings, not to be a straitjacket for agencies. An agency’s promulgation of proposed rules is not a guarantee that those rules will be changed only in the ways the targets of the rules suggest. “The requirement of submission of a proposed rule for comment does not automatically generate a new opportunity for comment merely because the rule promulgated by the agency differs from the rule it proposed, partly at least in response to submissions.” International Harvester Co. v. Ruckelshaus, 155 U.S. App. D.C. 411, 428, 478 F.2d 615, 632 (1973). ... Even substantial changes in the original plan may be made so long as they are “in character with the original scheme” and “a logical outgrowth” of the notice and comment already given. South Terminal Corp. v. EPA, 504 F.2d 646, 658, 659 (1st Cir. 1974). ... The essential inquiry is whether the commenters have had a fair opportunity to present their views on the contents of the final plan.

BASF Wyandotte Corp. v. Costle, 598 F.2d 637, 642 (1st Cir. 1979). Thus, because

Petitioner’s recommended changes were provided several months *before* the hearing will begin,

Movants and all interested persons will have more than “a fair opportunity to present their views” on Petitioner’s regulatory proposal.

Finally, if the Hearing Officer or the Board has any question about whether the notice is sufficient, the Board’s Rules provide an easy solution:

If the board determines to hold a public hearing on the petition, it may issue such orders specifying procedures for conduct of the hearing, in addition to those provided by this part, as may be necessary and appropriate to fully inform the board of the matters at issue in the hearing or control the conduct of the hearing. Such orders may include requirements for giving additional public notice, holding pre-hearing conferences, filing direct testimony in writing prior to the hearing, or limiting testimony or cross-examination.

NMAC § 20.1.1.300(D) (emphasis added). Accordingly, if the Hearing Officer believes that additional notice would be helpful, she can simply enter an order requiring “additional public notice.” Because the hearing will not commence until June 21, and because it will continue thereafter for several months, the provision of additional public notice should not require any further delay or adjustment of the established deadlines.

CONCLUSION

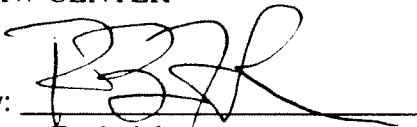
Since the beginning of this process, Movants have been determined to delay and derail it. Their last of several attempts in this proceeding (Movants’ January 8, 2010, *Second Motion to Stay*) was not denied until January 14, 2010. Movants have now even sued the Board in Lea County, hundreds of miles from Santa Fe, obviously hoping to gain some advantage by having the matter litigated in the middle of oil and gas country. At stake in the Lea County litigation is Petitioner’s (and every person’s) statutory right to recommend regulations to the Board, and therefore, Petitioner was forced to seek intervention in the Lea County case.

Like their Declaratory Judgment action in Lea County, Movants’ Motion to Strike is improper and without merit. Petitioner recommended changes to its regulatory proposal in full

compliance with the Board's Rules. Movants have demonstrated no prejudice, nor have they shown any failure on the part of the Board to substantially comply with the notice requirements of either the EIA or the AQCA. The case law relied upon by Movants has been overruled and is otherwise inappropriate. The excerpts of the Notice quoted in Movants' brief were incomplete and thus misleading. Accordingly, the Hearing Officer should deny their Motion to Strike.

Respectfully submitted:

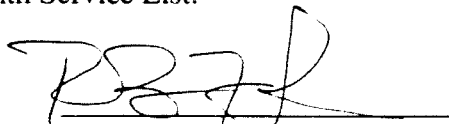
NEW MEXICO ENVIRONMENTAL
LAW CENTER

By: 
Bruce Frederick
Douglas Meiklejohn
Eric Jantz
1405 Luisa Street, Ste. 5
Santa Fe, NM 87505
(505) 989-9022
bfrederick@nmelc.org

Attorneys for Petitioner

Certificate of Service

I certify that the foregoing document was emailed on the 17th day of March, 2010, to the persons listed on the attached Thirteenth Service List.


Bruce Frederick

New Mexico Register / Volume XX, Number 24 / December 31, 2009**New Mexico Environmental Improvement Board****Notice of Public Hearing to Consider the Proposed Adoption of New Regulations and to Amend Various Sections of 20.2.1, 20.2.2, 20.2.70 and 20.2.72 NMAC**

The New Mexico Environmental Improvement Board ("Board") will hold a public hearing beginning at 10:00 a.m. on March 1, 2010 to take public comment and May 3, 2010 to accept technical testimony, continuing thereafter as necessary to consider the adoption of proposed new regulations and the amendment of various other sections in 20.2.1, 20.2.2, 20.2.70 and 20.2.72 NMAC. The March 1, 2010 session will be held in the Rio Grande Room of the New Mexico Regulation and Licensing Department, Toney Anaya Building, 2550 Cerrillos Road, Santa Fe, New Mexico 87505.

New Energy Economy (NEE) is the proponent of the proposed regulation changes to New Mexico Environmental Improvement Board's air quality regulations. NEE's Petition seeks to regulate greenhouse gas emissions statewide as an air pollutant and public nuisance through the imposition of an emissions cap. NEE's Petition is limited to entities that emit more than 10,000 metric tons of greenhouse gas emissions per year. The New Mexico Environment Department would monitor and oversee the implementation of the greenhouse gas emission reduction regulations. A penalty for non-compliance would be imposed for violation of the regulations.

Please note that formatting and minor technical changes in the regulations, other than those proposed by New Energy Economy may occur. In addition, the Board may make other changes as necessary to accomplish the purpose of providing public health and safety in response to public comments and evidence presented at the hearing.

The proposed changes may be reviewed during business hours at the Environmental Improvement Board office, located in the Harold Runnels Building, 1190 St. Francis Drive, Room N2153, Santa Fe, New Mexico 87505.

Written comments regarding the proposals may be addressed to the Board Administrator, Ms. Joyce Medina, at the above address, and should reference docket number EIB 08-19 (R).

The hearing will be conducted in accordance with 20.1.1 NMAC (Rulemaking Procedures) Environmental Improvement Board, the Environmental Improvement Act, NMSA 1978, Section 74-1-1 (Environmental Improvement Act), and other applicable procedures. An Order on Hearing Procedures has been entered by the Hearing Officer on October 14, 2009 and is available from the Office of the Board Administrator.

All interested persons will be given reasonable opportunity at the hearing to submit relevant evidence, data, views, or arguments, orally or in writing, to introduce exhibits and to examine witnesses. Any person who wishes to submit a non-technical written statement for the record in lieu of oral testimony must file such statement prior to the close of the hearing.

Persons wishing to present technical testimony must file with the Board a written notice of intent to do so. The notice of intent to present technical testimony shall include:

- (1) identify the person or entity for whom the witness(es) will testify;
- (2) identify each technical witness that the person intends to present and state the qualifications of the witness, including a description of his or her educational and work background;
- (3) summarize or include a copy of the direct testimony of each technical witness and state the anticipated duration of the testimony of that witness;
- (4) list and describe, or attach, each exhibit anticipated to be offered by that person at the hearing, including any proposed statement of reasons for adoption of the rules; and,
- (5) attach the text of any recommended modifications to the proposed changes.

New Energy Economy's Notice of Intent to Present Technical Testimony for the hearing must be received by the Office of the Environmental Improvement Board (EIB) not later than 5:00 p.m., January 18, 2010. All other parties' Notices of Intent to Present Technical Testimony must be received by the Office of the EIB not later than 5:00 p.m. February 22, 2010. Rebuttal testimony by all parties must be received by the Office of the EIB not later than 5:00 p.m. March 29, 2010. Notices of Intent to Present Technical Testimony and all subsequent documentation should be submitted referencing the name of the regulation, the date of the hearing and the docket number EIB 08-19 (R) and should be submitted to:

Joyce Medina, Administrator
Environmental Improvement Board



Harold Runnels Bldg., Rm. N-2153
1190 St. Francis Drive
Santa Fe, New Mexico 87505
(505) 827-2425
(505) 827-0310 FAX

If you are an individual with a disability and you require assistance or an auxiliary aid, e.g., sign language interpreter, to participate in any aspect of this process, please contact Judy Bentley by February 12, 2010 at the NMED, Human Resources Bureau, P.O. Box 5469, Santa Fe, NM 87502, telephone 505-827-9872. TDD or TDY may access this number via the New Mexico Relay Network at 1-800-659-8331.

The Board may make a decision on the proposed changes at the conclusion of the hearing, or the Board may convene a meeting after the hearing to consider action on the proposal.

**STATE OF NEW MEXICO
ENVIRONMENTAL IMPROVEMENT BOARD**

**In the Matter of the Petition for Hearing
to Adopt New Regulations and Amend
Various Sections of 20.2.1, 20.2.2.,
20.2.70 and 20.2.72 NMAC, Statewide
Cap on Greenhouse Gas Emissions**

EIB No. 08-19



THIRTEENTH REVISED SERVICE LIST

All parties, in addition to a signed original paper copy as well as an electronic copy of all documents filed in this matter with the Environmental Improvement Board Administrator Joyce Medina, must also serve copies of all documents on those persons or entities listed below by electronic means. See email addresses below for your respective files.

Bruce Frederick, Esq.
NM Environmental Law Center
1405 Luisa St., Suite 5
Santa Fe, NM 87505
btfrederick@nmelc.org

Representing New Energy Economy

Mariel Nanasi, Esq.
1433 Seville
Santa Fe, NM 87505
mariel@seedsbeneaththesnow.com

Policy Advisor, New Energy Economy

Eric Ames, Asst. General Counsel
Office of General Counsel
NM Environment Department
Runnels Bldg. Rm. N4050
1190 St. Francis Drive
Santa Fe, New Mexico 87505
eric.ames@state.nm.us

Representing NM Environment Dept.

Eric Groten, Esq.
Vinson & Elkins LLP
2801 Fortuna, Suite 100
Austin, Texas 78746
egroten@velaw.com

Representing El Paso Electric Co.

Timothy Van Valen, Esq.
Brownstein Hyatt Law Firm
Albuquerque Plaza
201 Third Street, NW, Suite 1700
Albuquerque, NM 87102
tvanvalen@bhsf.com

Doug Roark
Grupo Cementos de Chihuahua, SA
130 Rampart Way, Suite 205
Denver, Colorado 80230
droark@gcc.com

Mark Mathews, Esq.
Brownstein Hyatt Law Firm
410 17th Street, Suite 2200
Denver, Colorado 80212
mmathews@bhfs.com

Bret Fox, Esq.
Brownstein Hyatt Law Firm
410 17th Street, Suite 2200
Denver, Colorado 80212
bfox@bhfs.com

Representing Grupo Cementos de Chihuahua

Stephen Vigil, Asst. Atty. General
NM Attorney General's Office
P. O. Box 1508
Santa Fe, NM 87504
svigil@nmag.gov

Representing the Environmental Improvement Board

Louis Rose, Esq.
Montgomery & Andrews
P. O. Box 2307
Santa Fe, NM 87504
lrose@montand.com

Representing NM Oil and Gas Association

John Curl
Western Resource Advocates
227 East Palace Avenue, Suite M
Santa Fe, NM 87501
smichel@westernresources.org

Contact for Western Resource Advocates

Robb Thomson
NM Conference of Churches
250 East Alameda, Apt. 15
Santa Fe, NM 87501-2177
robbm@toast.net

NM Conference of Churches

Richard Alvidrez, Esq.
Miller Stratvert Law Firm
P. O. Box 25687
Albuquerque, NM 87125
ralvidrez@mstlaw.com

Representing Public Service Co. of NM and Southwestern Public Service Co.

Karin V. Foster, Esq.
Chatham Partners, Inc.
5805 Mariola Place, NE
Albuquerque, NM 87111
Fosterassociates2005@Yahoo.com

Representing Independent Petroleum Producers Assn. of NM

Sunny Nixon, Esq.
Rodey Law Firm
P. O. Box 1357
Santa Fe, NM 87504
snixon@rodey.com

Representing the City of Farmington & Farmington Elec. Utlty. System.

Maude Grantham-Richards
City of Farmington
101 North Browning Parkway
Farmington, NM 87401
maudegr@fmtn.org

Contact for the City of Farmington & Farmington Elec. Utlty. System.

Cecilia Abeyta
NM Farm and Livestock Bureau
1835 San Felipe Circle
Santa Fe, NM 87505
cecilia.abeyta@nmfarmbureau.org

Contact for NM Farm and Livestock Bureau

Katherine Campbell
NM League of Women Voters
2315 San Pedro, NE, Suite F6
Albuquerque, NM 87110
ksmithcamp@cybermesa.com

Lora Lucero
NM League of Women Voters
P. O. Box 7638
Albuquerque, NM 87194
loralucero@aol.com

Contacts for NM League of Women Voters

Robert Berstein, MD
NM Physicians for Social Responsibility
1580 Cerro Gordo
Santa Fe, NM 87501
rbern007@cybermesa.com

Contact for NM Physicians for Social Responsibility

Minda McGonagle
National Federation of Independent Business
P. O. Box 57178
Albuquerque, NM 87187
Minda.McGonagle@NFIB.ORG

Contact for National Federation of Independent Business

Arturo Sandoval
Center of Southwest Culture, Inc.
500 Copper Ave., NW, Ste. 103
Albuquerque, NM 87102
vocesinc@aol.com

Contact for Center of Southwest Culture, Inc.

Phyllis Kaplan
Center Advancing Sustainable Architecture
2532 Tramway Terrace Court NE
Albuquerque, NM 87122
p.kaplan@casa-center.org

Contact for Center Advancing Sustainable Architecture

Joanne M. Ray, D.O.
NM Pediatric Society
2132 A Central Ave., SE, #289
Albuquerque, NM 87110
nmpeds@yahoo.com

Contact for NM Pediatric Society

Michael Jensen
Amigos Bravos
P. O. Box 238
Taos, NM 87571
mjensen@amigosbravos.org

Contact for Amigos Bravos

Bianca Sopoci-Belknap
Earthcare International
1235 Siler Road, Ste. D
Santa Fe, NM 87507
bianca@earthcare.org

Contact for Earth Care International

Joan Brown
NM Interfaith Power and Light
1004 Major Ave., NW
Albuquerque, NM 87107
joankansas@swcp.com

Contact for NM Interfaith Power and Light

Kathy Sanchez
Tewa Women United
P. O. Box 397
Santa Cruz, NM 87567
wanpovi@hotmail.com

Contact for Tewa Women United

Robby Rodriquez
Southwest Organizing Project
211 10th Street SW
Albuquerque, NM 87102
marjorie@swop.net

Contact for Southwest Organizing Project

Vickie Pozzebon
Santa Fe Alliance
P. O. Box 23864
Santa Fe, NM 87502
vicki@santafealliance.com

Contact for Santa Fe Alliance

Eddy County Board of Commissioners
Attn. Allen R. Sartin, County Mgr.
101 West Greene St., Ste. 110
Carlsbad, NM 88220
asartin@co.eddy.nm.us

Contact for Eddy County Board of Commissioners

Carlsbad Department of Development
Attn. Steve McCutcheon, Pres. Bd. of Directors
P. O. Box 1090
Carlsbad, NM 88221
cdod@developcarlsbad.org

Contact for Carlsbad Dept. of Development

Tina Dziuk
11000 Spain NE, Bldg. B
Albuquerque, NM 87111
tdziuk@prusandia.com

Representing herself individually

James Mackenzie
VAWTPower Management, Inc
47 Forest Lane
Placitas, NM 87043
jimimack@vawtpower.com

Contact for VAWTPower Management, Inc.

Robert G. Armstrong
Armstrong Energy Corporation
P. O. Box 1973
Roswell, NM 88202
rga@armstrongenergycorp.com

Contact for Armstrong Energy Corporation

Lisa Winn
XTO Energy Inc.
810 Houston St.
Fort Worth, TX 76102
Lisa_Winn@xtoenergy.com

Contact for XTO Energy Inc.

John D. Roe
Dugan Production Corp.
P. O. Box 420
Farmington, NM 87499
johnroe@duganproduction.com

Contact for Dugan Production Corp.

Gerald E. Harrington
Llano Land & Exploration Co.
P. O. Box 2544
Roswell, NM 88202
gharringtonzds@qwestoffice.net

Contact for Llano Land & Exploration Co.

Arlene Rowland
Harvey E. Yates Company
P. O. Box 1933
Roswell, NM 88202
arowland@heycoenergy.com

Contact for Harvey E. Yates Company

William Mayhew
McKay Oil and Gas, LLC
P. O. Box 14738
Albuquerque, NM 87191
Bill@McKayOilandGas.com

Contact for McKay Oil and Gas, LLC

Paul C. Thompson
Thompson Engineering & Prod. Corp.
7415 East Main Street
Farmington, NM 87402
paul@walsheng.net

Contact for Thompson Engineering & Prod. Corp.

John A. Byrom
DJ Simmons, Inc.
1009 Ridgeway Place, Ste. 200
Farmington, NM 87401
ibyrom@djsimmons.com

Contact for DJ Simmons

Randy Poteet
ConocoPhillips Company
P. O. Box 4289
Farmington, NM 87499
Randy.Poteet@conocophillips.com

Contact for ConocoPhillips

Lawrence D. Hanna, Esq.
Lea County Attorney
P. O. Box 2733
Hobbs, NM 88241
hannalaw@windstream.net

Representing Lea County Board of Commissioners

Elizabeth Gallaway, Esq.
Mountain States Legal Foundation
2596 Lewis Way
Lakewood, CO 80227
egallaway@mountainstateslegal.com

Representing Mountain States Legal Foundation

Jennifer Knowlton
Yates Petroleum Corporation
105 South Fourth Street
Artesia, NM 88210
jknowlton@yatespetroleum.com

Contact for Yates Petroleum Corporation

Ocean Munds-Dry, Esq.
Holland & Hart LLP
P. O. Box 2208
Santa Fe, NM 87504
omundsdry@hollandhart.com

Representing McElvain Oil & Gas Properties, Inc

Ed Hasely
Energen Resources, Incorporated
2010 Afton Place
Farmington, NM 87401
ed.hasely@energen.com

Contact for Energen Resources, Incorporated

Carl Colonius
Rocky Mtn. Youth Corps
P. O. Box 1960
Ranchos de Taos, NM 87557
colonius@youthcorps.org

Contact for Rocky Mtn. Youth Corps

Larry Scott
Lynx Petroleum Consultants, Inc.
P. O. Box 1708
Hobbs, NM 88241
lynxpet@leaco.net

Contract by Lynx Petroleum Consultants, Inc.

Steven Feisal, Esq.
Chesapeake Energy Corporation
6100 N. Western Avenue
Oklahoma City, OK 73118
steven.feisal@chk.com

Representing Chesapeake Energy Corporation

Howard Hutchinson
Coalition of AZ/NM Counties
P. O. Box 4963
Santa Fe, NM 87502
aznmc@earthlink.net

Contact for Coalition of AZ/NM Counties

Joel M. Carson, Esq.
Mack Energy Corporation
400 N. Pennsylvania, Suite 290
Roswell, NM 88201
jcarson@mackenergycorp.com

Representing Mack Energy Corporation

Leon Romero
MAR Oil & Gas Corp.
P. O. Box 5155
Santa Fe, NM 87502
laromeo@marog.com

Contact for MAR Oil & Gas Corp.

Mike McVay
McVay Drilling
P. O. Box 2450
Hobbs, NM 88241
mmcvay@mcvaydrilling.com

Contact for McVay Drilling

Patricia Leahan
Las Vegas Peace & Justice Center
719 6th Street
Las Vegas, NM 87701
lvpeacecenter@desertgate.com

Contact for Las Vegas Peace & Justice Center

William Clark
A-Plus Well Service, Inc.
P. O. Box 1979
Farmington, NM 87499
bill@apluswell.com

Contact for A-Plus Well Service, Inc.

Kevin Leonard
EnerVest Operating, LLC
1001 Fannin, Suite 800
Houston, TX 77002
kleonard@enervest.net

Contact for EnerVest Operating, LLC



Joyce Medina, Board Administrator
joyce.medina@state.nm.us

Certificate of Service

I hereby certify that a copy of this Thirteenth Revised Service List was sent electronically to all parties listed above on March 15, 2010.



Joyce Medina