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Subject: Comments on “OIL AND GAS - GREENHOUSE GAS EMISSIONS REDUCTIONS” Report

BP appreciates the opportunity to comment on the New Mexico Environment Department’s (NMED) report on potential GHG reductions from the oil and gas sector in New Mexico.

As the department is aware, BP is a global company and has been actively engaged in the Climate Change discussion and GHG control issues for nearly a decade. We have maintained a global GHG emissions inventory and reporting system internally since 1998, actively reduced our internal emissions, developed and piloted an internal emissions trading system to develop knowledge and learning regarding trading, participate in both the UK and EU GHG trading systems, and have been active participants in policy discussions and initiatives throughout this period. In this time, we have developed a broad knowledge base regarding GHG inventory, reduction, and policy options.

As communicated in previous discussions and comments, BP supports a comprehensive federal program that addresses GHG inventory, reporting, registry, market mechanisms to foster reductions, and economy wide policy options for mandatory programs. We believe that a well constructed and consistent federal program is necessary to enable achieving GHG policy goals with the least cost to and disruption of the nation’s economy. We do not believe that individual State or regional programs with potentially different details offer the optimum path forward. However, where State or regional efforts are underway, we remain committed to be engaged and offer our views and help.

BP’s comments on the draft report follow.

General:

Bp agrees with NMED’s general philosophy that companies participating in voluntary programs (Natural Gas Star and San Juan Vistas) should not be penalized for this “early action” in the adoption of policy options to meet the Governor’s goals. We also agree with the Department’s

conclusion that such early action should be recognized and considered in the overall sector inventory and progress towards the Governor's goals.

Bp agrees with NMED's conclusion that reduction potentials from the oil and gas industry are much lower than indicated in the CCAG reports. We also agree with the conclusion that the GHG inventory underpinning the CCAG report is neither accurate nor sufficient to base specific control or policy options on – particularly mandatory options. As the department correctly notes, an accurate inventory and understanding of emissions is needed as a basis for any well constructed program of reductions or tracking of progress.

Prior to pursuing any mandatory reduction legislation and/or regulation, it is the NMED's responsibility to correct the deficient CCAG work and conclusions and assemble accurate information as a basis for policy recommendations. This correction must incorporate and recognize "early action" reductions made under the EPA's Natural Gas Star program and/or under the San Juan "Vistas" program. We suggest that the NMED take advantage of the numerous offers of assistance from industry in correcting the prior work. This correction also dovetails well into the development of an oil and gas inventory protocol for the "Western Climate Initiative" regional effort which New Mexico is leading.

Overall it seems that the actions contemplated in this report and the recommendations made for immediate actions are premature due to the absence of accurate underpinning information.

Recommendations

In the report, NMED makes several specific recommendations for further action. These recommendations and comments follow.

- 1. The top priority is creation of meaningful and accurate-as-possible measures of progress in reducing methane and CO₂ emissions from oil and gas operations. Without an appropriate metric of progress, it will be impossible to prioritize and implement emissions reductions programs effectively and with the most efficient use of resources by government agencies and the regulated community. Various sources of data are now or will be available, but potential gaps need to be identified and corrected, and a commitment made to specific metrics that will be available through the coming years.*

NMED recommends that NMED work jointly with the Oil Conservation Division of EMNRD, and with stakeholder input, to create a tracking system for current and future use by January 1, 2009. Funding, staff, and resources for this effort do not currently exist, and must be provided.

Comments: It seems that correcting the underlying inventory of GHG emissions from the oil and gas sector is a necessary first step prior to creating any metric for tracking of progress. Crafting a metric based on flawed information and then using this metric to inform policy forward will have limited credibility or value. The first priority should be an accurate inventory of GHG emissions from the oil and gas sector. As the WRAP criteria oil and gas sector emissions inventory experience, developed for the regional

haze work, has amply illustrated this will require working cooperatively with the industry sector to yield accurate and usable results.

2. *NMED should evaluate progress in reduction of methane emissions from oil and gas operations on an annual basis. If sufficient progress towards attaining the 20% reduction target is not being made, mandatory mechanisms should be considered.*

Comments: As stated above, it is NMED's responsibility to assemble accurate information as a basis for considering any mandatory policy options. BP also suggests that mandatory reduction options only be taken at a national level through broad economy wide market based programs that provide a "level playing field" and the least costly and economically disruptive approach to GHG reduction.

3. *NMED should work with the US EPA Gas STAR program to develop step up outreach and educational efforts in New Mexico on methane emissions reduction measures and their potential economic benefits to operators. NMED should seek the cooperation of the New Mexico Oil and Gas Association and the Independent Petroleum Association of New Mexico in extending this outreach and education to operators who are not Gas STAR Partners. Joining Gas STAR as a Partner would be encouraged, but the emphasis would be on implementing cost-effective emissions reductions regardless of membership in the Gas STAR program. Additional resources would be needed by NMED if it is to contribute significantly to this effort.*

Comments: BP agrees that fostering participation in the US EPA Gas Star program and other voluntary programs is an important undertaking. However, New Mexico should also consider and craft measures that would protect reductions made in these voluntary programs to not disadvantage/punish participating companies. With the uncertainty regarding the details of potential State, Regional, and/or Federal legislation and subsequent regulatory programs, companies will be wary of making early reductions with no solid assurance these will not be an eventual disadvantage.

4. *NMED should review options for air pollutant emissions mitigation strategies developed for oil and gas by the Four Corners Air Quality Task Force to determine their potential for greenhouse gas emissions reduction. Other Task Force participants, including Colorado, Utah, the Navajo Nation, and the Southern Ute Indian Tribe, should be invited to join this effort. Measures with high potential for greenhouse gas emissions reduction should be prioritized and implemented as resources allow.*

Comments: Any review of options for criteria air pollutant mitigation developed as part of the Four Corners Air Quality Task Force should be subjected to the same tests of technical and economic feasibility recommended in the CCAG work.

5. *A continuing stakeholder working group on oil and gas greenhouse gas emissions should be established to evaluate implementation mechanisms, including those recommended by the CCAG and any others that may be identified (e.g., Gomez paper, Appendix F). The workgroup should prioritize and recommend voluntary and mandatory implementation mechanisms. Participation will be needed from several state agencies, including NMED, the*

Oil Conservation Division of EMNRD, the Public Regulation Commission, and the Taxation and Revenue Department. Recommendation

Comments: Industry participation in such a working group will be critical to ensure that policy options recommended are actually achievable from a technical and economic perspective. Without the intimate knowledge and expertise of the industry any conclusions from this workgroup are likely to “miss the mark”.

GHG Emissions as “Waste”

The NMED’s discussion of potential characterization of methane and combustion CO₂ emissions as “waste” under the New Mexico Oil and Gas statutes and implementing regulations is disturbing and appears to be biased. This portion of the report seems to imply that methane emissions from the oil and gas sector should somehow be construed as “waste” under the NMOCD contrary to the underlying reasons for these emissions and historical precedent. Gas used to power pneumatic devices, as fuel for compressor engines and process heaters, emitted as fugitive leaks, legally flared, and to “lift” fluids from well-bores is gas necessarily used to enable production and not “waste”. Gas “lost” due to Force Majeure causes is, by definition, beyond the control of the operator and cannot be construed as “waste” under any normal use of the word.

As NMED correctly concludes, maximizing oil and gas production, sales, and revenue is in the best interests of the oil and gas producers – that is our revenue stream. That it also increases and benefits state revenues simply show that the interests of the producers and the State are aligned. Oil and gas producers are always working to maximize oil and gas sold which includes taking technically and economically feasible steps to minimize the amount of production used and/or lost during production.

It is not clear what relevance the discussion of the Dynegy Midstream Services and Versado Gas Processors legal dispute has to the discussion of potential GHG reductions from the oil and gas industry in New Mexico. As noted in the report, this case is far from over, a Texas bill stemming from the case failed, and it appears to be a contractual dispute rather than having some deeper meaning. We suggest it be deleted from the report before it is sent on.

Methane and CO₂ Reductions:

As noted in the appendices to this report, the CCAG report, and ES-12, the oil and gas industry participants on the Energy Supply TWG stated *“The oil and gas participants on the TWG do not agree that the analysis conducted is accurate and reflects correct potential reductions or costs.”* This statement was not lightly made and was considered necessary by concerns regarding the methodologies used by the Center for Climate Strategies and NMED in constructing the “top down” inventory of GHG’s for the State, determining potential reduction actions, evaluating the technical and economic feasibility of potential reduction actions, and projecting the amount and scope of potential reductions. Of particular concern was the analysis of reduction potential, costs, and feasibility of reduction actions conducted by Dr. Lorna Greening as part of the work commissioned from the Center for Climate Strategies. This work hinged on multiple assumptions, such as an in-place widespread electric grid with “net-metering” and in-place low pressure gas lines for vapor recovery which are not valid. It is New Mexico’s and NMED’s

responsibility to do a comprehensive analysis of each potential reduction opportunity or technology prior to promoting them or making them somehow mandatory. Again, NMED should work with the industry to enable a high quality and useful outcome to this work.

1. The CCAG “top-down” inventory, the CCAG ES-12 characterization of potential methane reductions from the industry, and this report ignore the participation of most of the large and many of the smaller oil and gas companies with operations in New Mexico in the EPA’s voluntary “Natural Gas Star” program. Very large reductions in methane emissions have already been accomplished by these participating companies and continue to be pursued through voluntary participation in EPA’s program. These reductions are not fully detailed or recognized in the CCAG inventory, the potential reductions projected in ES-12, or in the NMED’s review of the CCAG work.

As a “Charter Partner” in EPA’s Natural Gas Star program and a very active partner in making and reporting methane reductions, Bp is very concerned that New Mexico will ignore the previous reductions made by Bp and other Natural Gas Star partners - by not correcting the CCAG inventory, the conclusions of ES-12, pursuing the Governor’s goal of 20% reduction based on flawed information and mandating reductions – thereby “punishing” companies for early actions and responsible operations.

Prior to pursuing any mandatory reduction legislation and/or regulation, it is the NMED’s responsibility to correct the deficient CCAG work and conclusions and provide accurate information as a basis for policy recommendations. This correction must incorporate and recognize “early action” reductions made under the EPA’s Natural Gas Star program and/or under the San Juan “Vistas” program. We suggest that the NMED take advantage of the numerous offers of assistance from industry in correcting the prior work.

2. As NMED correctly recognizes, the reduction technologies and practices in the EPA’s Natural Gas Star program are often applicable only in specific instances. This fact underpins the CCAG recommendation that application of such measures in New Mexico be subject to “*verification of technical and economic feasibility and reduction potential*”. NMED must keep this “test” in mind when considering policy options aimed at reducing GHG emissions.
3. BP agrees with the NMED’s conclusion that the CCAG emission inventory methods are not accurate or robust enough to be used for tracking reduction progress or any other specific policy option.
4. BP agrees with NMED’s analysis of lower reduction potential from oil and gas methane sources than analyzed by the CCAG in ES-12. However, we do not agree that the information is robust enough to arrive at a target of 5.20 MMTCO_{2e} from methane emissions in 2020.
5. BP does not agree with NMED’s conclusion that actual methane emissions from the oil and gas sector are underestimated. We do agree that the methane emissions are not well understood and that the GRI/EPA work should be updated or improved to provide more

accurate estimates of emissions from the sector. We note that the mandatory reporting requirements recently adopted by the NM Environmental Improvement Board and the Albuquerque/Bernalillo County Air Quality Control Board begins the necessary work to enable better understanding of methane emissions from the sector. However we recognize that time frames for the mandatory reporting are not necessarily consistent with the time frames for the Governor's order.

6. There is merit in pursuing the "survey" methodology that NMED discusses in their report. As noted, the majority of wells and production in the state are operated by the top 20 producing companies. If the proper assurances and confidentiality can be worked out, it is expected that many/most of these companies would participate in such an effort. The results can be scaled up across the sector and should yield a much more accurate view of sector emissions than the US activity factor approach. The scope of this could include both current emissions and historical reductions made over some time frame to be agreed.
7. Due to some of the provisions in "The Climate Registry" reporting protocols (ex: reporting of all emissions across all businesses in all three countries) voluntary participation in the TCR may be limited. This is likely to delay or reduce the value of TCR reports to inform this effort. Lack of a reduction project reporting mechanism in the TCR protocols and plans eliminates any potential for specific reduction tracking and will simply provide overall emissions information. Given the number of changes that can affect emissions in any given year, changes in overall emissions cannot be equated to any particular cause – including reduction.
8. BP agrees with the base conclusion from the economic analysis done by Mr. David S. Dixon of the UNM Economics Department and seconded by the AQD that "collection of consistent and timely methane production and emission data is the first and most urgent task in the success of this program." Without understanding the emissions profile and underlying reasons for emissions it does not seem possible to construct a meaningful program or policies.
9. We agree with the AQD's opinions that potential reductions of CO2 from reduced combustion of fuels was not deeply analyzed in the CCAG work and should be re-visited prior to constructing any programs or policies to address it.

The challenge to conduct a well founded and clearly documented economic and technical feasibility assessment of any one or multiple reduction options remains. This work must be done prior to adopting any mandatory measures or requirements and should be done prior to promoting voluntary measures.

Again, BP thanks the Department for the opportunity to comment on the AQD's reduction report. Please contact me at 281-366-7515 or smithgr1@bp.com should you have any questions regarding these comments or require additional information.

Sincerely,

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