

**STATE OF NEW MEXICO
WATER QUALITY CONTROL COMMISSION**



In the Matter of:)
PROPOSED AMENDMENT)
To 20.6.2.3000 NMAC and 20.6.2.5000 NMAC)

No. WQCC 14-15(R)

**ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT'S OIL
CONSERVATION DIVISION'S NOTICE OF INTENT TO PRESENT TECHNICAL
TESTIMONY**

The Oil Conservation Division (“OCD”) of the Energy, Minerals and Natural Resources Department (“EMNRD”), pursuant to Section E(a) of the Procedural Order issued on May 15, 2015, hereby files this Notice of Intent to Present Technical Testimony at the Proposed Amendment to 20.6.2.3000 NMAC and 20.6.2.5000 NMAC (the “Rule”) hearing scheduled to commence on July 14, 2015.

1. Entity Represented by the Technical Witness

The technical witness will testify for the OCD of EMNRD.

2. Technical Witness and Qualifications

EMNRD will call Phillip Goetze to present technical testimony. Mr. Goetze holds a Bachelor of Science in Geology from New Mexico Institute of Mining and Technology and has over thirty years’ experience working on environmental, hydrologic, and/or regulatory applications. At present, Mr. Goetze serves as a hearing examiner and senior petroleum geologist for the Engineering and Geological Services Bureau with OCD. In his capacity with OCD, Mr. Goetze provides technical review of administrative applications submitted to OCD and prepares OCD orders for non-standard locations, salt water disposal wells (UIC Class II wells), enhanced oil recovery projects, pool delineations, and non-standard proration

units. Mr. Goetze's qualifications are further detailed in his résumé, attached hereto and made a part hereof as EMNRD Exhibit 1.

3. Full Direct Testimony

Mr. Goetze's full direct testimony is set forth in EMNRD Exhibit 2, said EMNRD Exhibit 2 being attached hereto and made a part hereof.

4. Recommended Modifications

The OCD supports the Navajo's proposed substantive modifications to add 20.6.2.5360 B(9)NMAC and delete proposed rules 20.6.2.5371 NMAC and 20.6.2.5372 NMAC and, therefore, submits no additional proposed text to Navajo's Second Amended Petition to Amend 20.6.2.3000 NMAC and 20.6.2.5000 NMAC.

5. Identification of Exhibits

EMNRD Exhibit 1 Résumé of Phillip Goetze

EMNRD Exhibit 2 Written Testimony of Phillip Goetze

6. Representation

Mr. William Brancard and Ms. Allison Marks shall serve as counsel to EMNRD and hereby enter their appearances.

Respectfully submitted,
Energy, Minerals and Natural Resources Department
Oil Conservation Division



William Brancard, General Counsel
Allison R. Marks, Assistant General Counsel
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was sent via electronic mail to the following on this 15th day of June, 2015:

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Administrator
New Mexico Water Quality Control Commission
1190 S. St. Francis Drive, S-2102
Santa Fe, New Mexico 87502
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New Mexico Environment Department
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By: /s/ Allison R. Marks
Allison R. Marks, Assistant General Counsel
Energy, Minerals and Natural Resources Department
Oil Conservation Division

PHILLIP R. GOETZE
Oil Conservation Division
Energy, Minerals and Natural Resources Department
1220 South St. Francis Drive
Santa Fe, NM 87505

Over 30 years of experience developing and implementing a variety of projects with environmental, hydrologic, or regulatory applications.

PROFESSIONAL EXPERIENCES:

February 2013 to Present: Senior Petroleum Geologist / Hearing Examiner
Engineering and Geological Services Bureau, Oil Conservation Division, Energy, Minerals and Natural Resources Department
1220 South St. Francis Drive, Santa Fe, NM 87505

Administrative permitting for development and management of oil and gas resources under the state Oil and Gas Act. These projects include technical review of administrative applications and preparation of orders for non-standard locations, salt water disposal wells (UIC Class II wells), enhanced oil recovery (EOR) projects, pool delineations, and non-standard proration units.

Additional experiences related to the position:

- Provide technical assistance to District personnel and General Counsel staff regarding compliance issues for disposal and EOR wells.

- Prepare quarterly reports for review by the UIC coordinator for submission to the USEPA.

- Recommend changes in policy reflecting application of new technology or processes.

- Provided expert testimony before the Oil Conservation Commission for applications and in support of rulemaking.

Appointed as hearing examiner by the Division Director under 19.15.4.18 NMAC.

March 2007 to February 2013: Hydrogeologist / Environmental Scientist / Project Manager
Gloreita Geoscience, Incorporated
1723 Second Street, Santa Fe, NM 87505

Multiple projects for environmental, hydrologic, and natural resource assessments including:

- Los Alamos National Laboratory (LANL): contract team leader for ground-water sampling (including springs, shallow wells, monitoring wells with Baski and Westbay systems) in support of the Ground Water Stewardship Program; four years of sediment mapping and soil sampling for contaminants as part of the LANL assessment of geomorphic influences following the Cerro Grande and Las Conchas fires; geodetic surveying (with Trimble RTK GPS and Geodimeter total station units) and waste characterization sampling following LANL protocols.

- Oversight of drilling, logging, and construction of deep exploration wells as part of Rio Rancho's City Water Program and the NM Office of the State Engineer (Ft. Sumner project).

- Hydrologic modeling and ground-water abatement plan development for multiple dairy facilities in southern and eastern New Mexico.

- Assistance in development of oil and gas projects for unconventional sources in Galisteo Basin.

- Numerous Phase I Environmental Site Assessments (ESAs) for commercial, industrial, and undeveloped properties in northern New Mexico, Nevada, and Texas.

- Establish protocols, sampling requirements, and compile data for annual reporting for clients with Closure and Post Closure plans for landfills.

- Oversight of petroleum storage tank removals, closures, and Minimum Site Investigations following closure.

- Preparation and annual reporting of NPDES permits for commercial clients in New Mexico.

Preparation and implementation of Stage I Abatement Plans for dairies in violation of the NMWQCC ground-water standards.

Quality assurance for various sampling programs including mandatory monitoring and special client-specific events.

April 2006 to January 2007: Hydrogeologist / Project Manager

Tetra Tech EM Incorporated

6121 Indian School Road NE, Suite 205, Albuquerque, NM 87110

This position included responsibility for redevelopment of previous client relationships while maintaining obligations to state, Federal and private projects. Most significant projects include the following:

Supervising geologist for drilling, construction, and development of deep monitoring wells at Kirtland Air Force Base for Long-Term Monitoring Program.

Preparation of sampling and analysis plans for Texas Department of Criminal Justice landfills.

September 1999 to March 2006: Hydrogeologist / Project Manager

ASCG Incorporated of New Mexico (now the WH Pacific Corporation)

6501 Americas Parkway NE, Suite 400, Albuquerque, NM 87110

Responsible for a variety of environmental services for site assessment and remediation of contaminated sites associated with Federal, state, and private clients in New Mexico, Arizona, and the Navajo Nation. Significant projects entail the following:

Field Technical Leader (as subcontractor) for drilling, construction, and development of deep and shallow monitoring wells at LANL for 2005.

Developed and supervised assessment drilling programs for Risk-Based Corrective Action assessments of petroleum-contaminated NMED and Bureau of Indian Affairs (BIA) sites in New Mexico and Arizona.

Responsible for project development and management of soil and ground-water remediation of hydrocarbon and solvent-contaminated sites including quarterly water sampling events and air monitoring for compliance.

Supervised and participated in resolution of correction actions identified under USEPA CA/CO 1998-02 at approximately 35 Bureau of Indian Affairs federal facilities including review of asbestos programs, PCB investigations and remediations, Phase I ESAs for property transfer, AST/UST removals, hazardous waste disposal activities, environmental audits, and validation sampling of previous remedial activities.

Completed development and oversight of voluntary corrective actions of hazardous wastes cited in notice of violations at the Southwestern Polytechnic Indian Institute.

Provided sampling program for the AMAFCA Storm Water Study for assistance in compliance of the MS4 for the City of Albuquerque.

Completed assessment for hydrocarbon contamination and prepared plans for remedial actions for five locations at BIA facilities during the last quarter of 2004.

July 1996 to August 1999: Geologist / Environmental Scientist; General Contractor

Phillip R. Goetze, Consulting Geologist, Edgewood, New Mexico

Subcontractor for environmental firms providing on-site technical support and report preparation. Primary contractors included the following:

Billings and Associates, Inc., Albuquerque, New Mexico

Responsible for acquisition of both soil and water data for assessment and for installation of remediation systems for hydrocarbon-contaminated sites.

Roy F. Weston Inc., Albuquerque, New Mexico

Temporary position with responsibilities for on-site supervisor for data acquisition (three drilling rigs), for health and safety monitoring, and for quality assurance of installation of

multiple ground-water wells at a Department of Energy tailings remediation (UMTRA) site near Tuba City, Arizona.

January 1993 to July 1996: Project Geologist / Project Manager

Billings and Associates, Inc.

6808 Academy Pkwy, E-NE, Suite A-4, Albuquerque, NM 87109

Responsible for acquisition of air, soil, and water data for site assessments related to leaking underground storage tanks throughout New Mexico. Participated and supervised installation, operation, and maintenance of biosparging/SVE remediation systems at five New Mexico locations.

June 1985 to December 1992: Independent Geologist and Environmental Scientist

Phillip R. Goetze, Consulting Geologist, Albuquerque, New Mexico

Subcontracting services for data acquisition in geophysics and mineral exploration. Primary contractors included:

Charles B. Reynolds and Associates, Albuquerque, New Mexico

Performed functions of seismologist and crew chief for consulting group specializing in shallow seismic geophysics for environmental and engineering applications. Projects included USGS hydrologic assessment of Mesilla Bolson; plume and paleosurface mapping at Johnson Space Center facility north of Las Cruces; plume and paleosurface mapping in Mortandad Canyon and TA-22 site, LANL; plume and paleosurface mapping at Western Pipeline facility at Thoreau, NM; plume and paleosurface mapping at UNC Partners mill and tailings site north of Milan; engineering assessment of collapsible soils at Tanoan residential development and along the east edge of Albuquerque.

Glorieta Geoscience, Santa Fe, New Mexico

Initiated and conducted sampling program for assessing economic potential of low-grade gold occurrence in southwest New Mexico.

November 1983 to September 1984: Fluid Minerals Geologist

Bureau of Land Management, Department of Interior, Cheyenne, Wyoming

Temporary detail to Casper office to alleviate backlog of assessments of federal oil and gas leases in Wyoming and Nebraska. Assessments required geologic evaluation of oil and gas potential for lands in Powder River, Wind River, Big Horn and Denver-Julesburg Basins. Determination of "known geologic structure (KGS)" per Secretarial Order for categorizing of federal oil and gas minerals into competitive and non-competitive status. Deposed as expert witness and provide summaries for Interior Board of Land Appeals (example IBLA 84-798).

June 1982 to September 1983: Field Geologist

United States Bureau of Mines, Department of Interior, Lakewood, Colorado

Assisted primary authors with field inventory and evaluation of mineral occurrences in 15 wilderness areas in Colorado (Central Mineralized Region), southern Wyoming, and eastern Utah. Field work included mapping and sampling of abandoned mines and mineral occurrences within these areas and adjacent areas with potential impacts on wilderness designation.

July 1979 to January 1982: Geologist

United States Geological Survey, Department of Interior, Casper, Wyoming and Lakewood, Colorado

First two years exclusively mapping, drilling, and classifying coal resources in south central Wyoming. Detailed for two years to special team for preparation of impact statement: one of four principle authors for the Cache Creek-Bear Thrust Environmental Impact Statement which documented effects of two proposed oil and gas wells in designated wilderness area near

Jackson, Wyoming. Deposed as expert witness in federal court. Final year primarily responsible for assessments of federal oil and gas leases for lands in Wyoming and Nebraska.

July 1977 to July 1979: District Geologist

Bureau of Land Management, Department of Interior, Socorro District Office, Socorro, New Mexico

Responsible for District minerals program for federal lands in west central portion of state. Assisted in environmental reports for land exchanges, classification of saleable mineral sites, mining claim validity determinations, inspection of surface reclamation for mineral extractions, and assessments for location of water wells in support of grazing projects.

EDUCATION:

New Mexico Institute of Mining and Technology, Socorro, New Mexico
Bachelor of Science in Geology, 1977

Additional Courses for: Asbestos Inspector (LA); Licensed Contractor (NM); Lead-Based Paint Risk Assessor (EPA Regions VI and IX); Application of Ground Penetrating Radar

PROFESSIONAL MEMBERSHIPS, LICENSES, OR CERTIFICATIONS:

American Association of Petroleum Geologists, Member No. 51,310

American Institute of Professional Geologist, Certified Professional Geologist No. 6,657

Alliance of Hazardous Materials Professionals, CHMM No. 11,401

ASTM International, Member No. 1314118 (Voting Member); Committees D18 (Soil and Rock) and E50 (Environmental Assessment, Risk Management and Corrective Action)

OSHA 40HR and 8HR Refresher Hazardous Waste Operations and Emergency Response (Current)

OSHA Hazardous Waste Operations and Emergency Response Manager/Supervisor (Current)

State of Alaska, Licensed Professional Geologist No. 514

State of Arizona, Registered Professional Geologist No. 40,812

State of Nevada, Certified Environmental Manager 2,218

State of Texas, Licensed Professional Geologist No. 2,278

SELECTED PUBLICATIONS:

Drakos, P. G., Reneau, S. L., Shultz-Fellenz, E. S., Riesterer, J. W., Kelley, R., Miller, E. D., **Goetze, P. R.**, and Chamberlain, P., 2012, Post-Fire Sediment Transport and Erosion in the Water Canyon and Canon de Valle Watershed, Jemez Mountains, New Mexico; 11th Annual Española Basin Workshop, New Mexico Bureau of Geology and Mineral Resources Open-file Report 547.

Goetze, P. R., 1981, Regional geologic map for the Cache Creek-Bear Thrust Environmental Impact Statement, Teton and Sublette Counties, Wyoming, U. S. Geological Survey Open-File Report 81-856, scale 1:48,000.

Reneau, S. L., Drakos, P. G., Riesterer, J. W., **Goetze, P. R.**, Shultz-Fellenz, E. S., Miller, E. D., and Katzman, D., 2011, Watershed-Scale Investigation of Sediment Contamination-Chromium and PCBs in Sandia Canyon, Pajarito Plateau, New Mexico; 10th Annual Española Basin Workshop, New Mexico Bureau of Geology and Mineral Resources Open-file Report 536.

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TECHNICAL TESTIMONY BY

PHILLIP R. GOETZE, PG, RG, CHMM, CEM

My name is Phillip R. Goetze, and I am employed by the Oil Conservation Division (“OCD” or “Division”) of the Energy, Minerals and Natural Resources Department (“ENMRD”), State of New Mexico. I am presenting this written testimony in support of the petition by Navajo Refining Company, LLC (“Navajo”) to the New Mexico Water Quality Control Commission (“Commission”) to amend 20.6.2.3000 NMAC and 20.6.2.5000 NMAC (the “Rule”) relating to the type of injection wells permitted by the OCD.

I. Education and Experience

I am a professional geologist licensed in the states of Alaska, Arizona, and Texas. I am also a certified environmental manager and a certified hazardous material manager by the Alliance of Hazardous Materials Professionals. My education includes a Bachelor’s degree in Geology and formal courses offered through professional organizations such as the National Ground Water Association.

I have over 30 years of diverse experience involving environmental, hydrologic, mineral extraction, and regulatory projects. My early employment included positions as a field geologist

and fluid minerals geologist for the United States Geological Survey, the United States Bureau of Mines, and the United States Bureau of Land Management.

Beginning in the 1980s, I was employed by a variety of companies in the private sector that were involved in environmental projects. Examples of these projects included investigations and remediation of leaking underground petroleum storage tank sites in Arizona and New Mexico; seismic investigations, geomorphic mapping, media sampling, drilling and sampling supervision at Los Alamos National Laboratory; environmental audits and remediation activities at numerous Bureau of Indian Affairs facilities within the Navajo Nation; project geologist for the drilling of deep and shallow water production wells in New Mexico; and management for compliance of discharge plans and abatement plans for several dairy farms in southeast New Mexico.

I have been employed since 2013 by the OCD as a petroleum geologist within the Engineering and Geological Services Bureau. My primary task involves technical review of administrative applications including applications for injection under the Underground Injection Control (“UIC”) Program as established under the Safe Drinking Water Act. My other major responsibilities are hearing examiner for Division as part of the adjudication process authorized under the New Mexico Oil and Gas Act and technical advisor in support of OCD guidance documents and the OCD rule-making process.

I have been qualified as an expert witness in hearings before the Oil Conservation Commission and have provided testimony in mineral and environmental cases heard before the Department of the Interior’s Interior Board of Land Appeals and United States District Court. A copy of my résumé is attached as **ENMRD Exhibit 1**.

II. Purpose of Proposed Amendment

The Petitioner for the Rule, Navajo, is currently operating three UIC Class I (non-hazardous) waste injection wells in support of waste water management at its Artesia refinery in southeast New Mexico. These wells are reaching the limits of the available reservoir capacity for the disposal of wastewater. Navajo has made application for approval of a new Class I (non-hazardous) waste injection well to supplement the declining capacities of the existing wells. Navajo has also identified a need to address possible changes in the characteristics of the waste stream that may be disposed in the new Class I (non-hazardous) waste injection well. Navajo has proposed an increase in the operation of the reverse osmosis (“RO”) system at the Artesia refinery which may result in a corresponding increase in certain constituents in the waste water. Navajo has identified at least one constituent that may exceed the toxicity characteristic for hazardous waste. The use of the RO system reduces the consumption of potable water resources and a reduction in volume in waste generated from industrial processes at the refinery.

Therefore, Navajo has requested the Rule be considered by the Commission in order to allow the capability of converting the new Class I (non-hazardous) waste injection well to a Class I (hazardous) waste injection well if the waste characteristics of the RO reject change with the increased operation.

Overall, the oil and gas industry has seen a dramatic rise in production with the application of horizontal drilling and multistage fracturing of reservoirs that were once considered uneconomical. This increase in hydrocarbon production has initiated the requirement by industry to develop new processing methods that are more efficient and reduce the need for consumption of limited resources, such as drinking water, for refinery operations. With these improvements, the waste stream produced by refineries will change and may include a portion

that could be characterized as hazardous. Disposal of these wastes into deep formations by using a Class I (hazardous) waste injection well would allow the flexibility in operation required by refineries with the changes in production. Alternative methods for disposal of hazardous waste, such as transportation to an off-site facility, may increase the potential for release and exposure. Approval of the Rule would provide the opportunity for safe and efficient disposal of hazardous waste generated at refineries that are changing procedures or expanding operations.

III. Consideration of the Rule as Proposed

OCD was provided the opportunity to participate in the development of the Rule being proposed before the Commission. This participation allowed for additional content that has been incorporated in the final version. This includes the review of the Class I (hazardous) waste injection well application using procedures currently employed for Class II waste injection wells under Title 19 Chapter 15 of the New Mexico Administrative Code. These procedures include a greater level of notification of affected parties and the assessment of the proposed injection interval for hydrocarbon potential. One of the notification requirements for Class II waste injection wells requires notification within a one-half mile radius of the proposed well of Division-designated operator for the tract, or mineral lessees, if no designated operator is identified, or finally, the mineral estate owner, if neither an operator nor lessee is identified for the tract. This notification process allows for protest of the application with resolution through negotiation or hearing before the Division or Oil Conservation Commission.

The Rule makes the notice radius for property owners one-half mile for Class I (hazardous) waste injection wells as compared to the one-third mile radius for Class I (non-hazardous) waste injection wells. This increase in notification will provide property owners

greater opportunity for participation in the application process including the ability to protest the application.

The assessment of the injection interval provides for the protection of natural resources entrusted to OCD under the New Mexico Oil and Gas Act. The proposed injection interval for a Class I (hazardous) waste injection well application will likely delineate deeper formations that satisfy the requirements for confining layers that may have higher potentials for undiscovered hydrocarbon resources. The proposed changes in the Rule will prevent the waste of hydrocarbon resources while reviewing the injection interval for the engineering and geological criteria required under the UIC Program.

The Rule includes the standard minimum distance of two miles for determining the radius of the Area of Review (“AOR”) used to identify wells penetrating the proposed injection interval. This AOR is consistent with the minimum distance required under federal regulation. The Rule also provides the Director of the OCD the authority to increase the AOR should the calculated cone of influence be greater than the standard two-mile radius.

In general, the Rule satisfies all the minimum siting criteria as well as the requirements for construction, operation, monitoring, reporting, closure, and post-closure care currently included in the federal regulations for permitting a Class I (hazardous) waste injection well. The Rule also offers a greater scope of protection and exceeds the federal requirements due to the state’s expanded definition of protectable waters

Review of the filing fee, permit fee, annual administration fee, renewal fee, modification fee, and financial assurance fee proposed in the Rule is reasonable and appropriate for the scope of evaluation of an application for a Class I (hazardous) waste injection well associated with a refinery operation and the associated follow-up review associated therewith. A review of other

states' fees indicate the proposed fees are comparable with UIC Class I (hazardous) wells across the nation, and the OCD believes that, if ever needed due to the event of any staffing shortages, the proposed fees will allow the OCD to obtain contract resources to assist in any applicable review.

IV. Division as Administrator of Class I (Hazardous) Waste Injection Wells

OCD currently administers approximately 4025 active UIC Class II injection wells for gas storage, disposal, or enhanced oil recovery. OCD also administers five UIC Class I (non-hazardous) waste injection wells and 10 UIC Class III brine wells. The majority of the UIC wells are located within two OCD Districts, the Hobbs District and the Artesia District, that comprise the Permian Basin of southeast New Mexico. A minor number of UIC wells, including one UIC Class I (non-hazardous) waste injection well, are located in the Aztec District which administers the portion of New Mexico that is within the San Juan Basin. The compliance inspectors in the Districts are supported by the technical staff of the Environmental Bureau and the Engineering and Geological Services Bureau located in Santa Fe.

Both the Environmental Bureau and the Engineering and Geological Services Bureau are responsible for the technical review of applications for injection authority. Participation in the evaluation is based on the type of UIC well application being submitted and the expertise required for proper review. An application of a Class I (non-hazardous) waste injection well currently requires the review of casing and cement programs by a registered petroleum engineer along with an assessment of the siting criteria, such as the hydrology and hydrocarbon potential of the proposed well, by a qualified geologist. This effort includes a comprehensive review of oil and gas wells in the AOR radius that penetrate the proposed injection interval and may become possible conduits for migration of injected fluids out of the interval. This level of

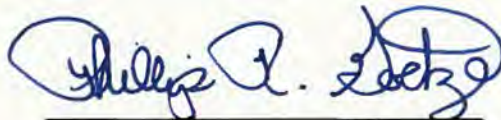
technical review would also be extended to any applications for Class I (hazardous) waste injection wells. The expansion of the OCD UIC program to Class I (hazardous) waste injection wells associated with oil and gas operations is well within the capacity of the OCD program as OCD currently undertakes most of the reviews for injection well applications processed by the state.

The Rule limits the potential applicants, oil and gas refineries, and restricts the source of injection waste, water conservation operations at the facilities. Again, the applications to be submitted under the Rule would be consistent with the experience and expertise found within the Division.

OCD also has available expertise through its long standing relationship with the New Mexico Bureau of Geology and Mineral Resources and New Mexico Institute of Mining and Technology. Both organizations have been employed through contract or public forum to assist OCD when technical issues have developed a need for expertise not available within the Division.

In conclusion, the adoption of the Rule would provide an opportunity for greater beneficial use of hydrocarbon resources, reduction in the use of limited water resources, and, if properly implemented (which would be done through the OCD), provide for the protection of the environment. The OCD believes this Rule should be adopted by the Commission. This concludes my direct testimony. Thank you.

Respectfully submitted,



Phillip L. Lutz