



United States Department of the Interior

BUREAU OF RECLAMATION

Albuquerque Area Office
555 Broadway Blvd., NE Suite 100
Albuquerque, New Mexico 87102-2352

NOV 07 2005

IN REPLY REFER TO:

ALB-420
LND-6.00

Mr. Ross Duncan
Marbob Energy Corporation
P.O. Box 227
Artesia, NM 88211-0227

RECEIVED

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COO-ARTESIA

30-015-34355

Subject: Proposed Wells Preparation H Fee #1 and ~~Preparation H Fee #2~~ - Section 1 Township 19 South Range 26 East, New Mexico Principal Meridian, Eddy County, New Mexico - Carlsbad Project

Dear Mr. Duncan:

The Bureau of Reclamation appreciates meeting with you regarding the proposed development of the subject wells. The information you provided at the meeting clarified a couple of the questions we raised in our initial letter to you dated October 14, 2005. This included a verification of the elevation of the well locations and the access route to the site. As you described, access to the site would not cross lands under the jurisdiction of the Reclamation, and would therefore not require our consent to use those lands.

The primary concern remains the proposed placement of storage facilities on the site should the wells be producers. There are two proposals that were brought forward at that meeting, and we have considered those within the terms of the lease and as established by Public Law 106-220. The United States retained a perpetual easement on, over and across the lands transferred to the Carlsbad Irrigation District. That easement provides for continued restrictions and stipulations on oil and gas development as are currently in effect by Reclamation. A copy of those stipulations was provided in the October 14, 2005 letter and you have indicated receipt of that letter.

Additionally, Public Law 106-220 section 3(b) clearly establishes the continued compliance with the existing stipulations: "The [Carlsbad Irrigation] District shall continue to adhere to the current Bureau of Reclamation mineral leasing stipulations for the Carlsbad Project." This restriction is further cited in Article 27 of the mineral lease issued by the Carlsbad Irrigation District for the lands being developed by the subject wells.

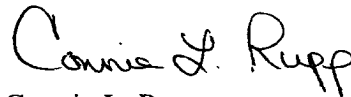
The stipulations restrict the placement of storage facilities below the contour elevation of 3286. The well elevation for both locations is below contour elevation 3286, and, as such, storage facilities could not be installed and remain in compliance with the terms of the mineral lease, Public Law 106-220, or the easement rights held by the United States. Your proposed means of

meeting the conditions of the stipulations, by constructing a raised bed of earth, has been considered and determined to not meet the intent of the stipulations. It is our opinion that raising the elevation by placing dirt or other earthen material is tantamount to constructing a platform on stilts with an elevation above the minimum stipulated limits. The material used to raise the height of the facility does not alter the contour elevation of the facility. Therefore Reclamation considers your proposed option an unacceptable deviation of the intent of the lease terms, Public Law 106-220 and Reclamation's easement rights.

The second proposed means to place storage facilities at the well site locations would have Reclamation waive its rights to ensure adherence to the stipulations. We have considered this option, but have determined that it is also unacceptable. Reclamation's stipulations were developed for the express purpose of protecting the Carlsbad Project from actions with potential to adversely impact the quality of the Project water supply and the structural integrity of its facilities. We have determined that your proposal has such potential. Additionally, waiving our rights in this case would set a precedent that would jeopardize our ability to protect Project facilities in the future.

If you have any questions regarding the issues provided in this letter, please feel free to call Mr. Rik Arndt at 505-462-3604. Reclamation remains willing to assist with the proper development of the site; however, that development needs to be in accordance with the stipulations established for the protection of the Carlsbad Project.

Sincerely,



Connie L. Rupp
Area Manager

cc: Mr. Tom Davis
Manager
Carlsbad Irrigation District
201 South Canal Street
Carlsbad, NM 88220

Mr. Bryan Arrant
New Mexico Oil Conservation Division
1301 West Grand Avenue
Artesia, NM 88210