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September 6, 2018

VIA HAND-DELIVERY

Case 16447

Florene Davidson
New Mexico Oil Conservation Division
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

**Re: Application of Strata Production Company to Revoke the Injection
Authority Granted Under SWD-1591-A for the Forty Niner Ridge SWD
Well No. 1, Operated by Mewbourne Oil Company in Eddy County, New
Mexico**

Dear Ms. Davidson:

Enclosed for filing is the original and one copy of an Application with regard to the above referenced matter. Also enclosed is the proposed advertisement. We will email the proposed advertisement in Word to you. Please set this matter for hearing on the December 13, 2018 Commission docket.

Thank you for your attention to this matter. If you have any questions, please contact our office.

Sincerely,

Sharon T. Shaheen

Enclosures

cc: Jim Bruce, Esq., *Attorney for Mewbourne Oil Company*

REPLY TO:

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Santa Fe, New Mexico 87501
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Santa Fe, New Mexico 87504-2307

11/14/2018 10:00 AM

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

**APPLICATION OF STRATA PRODUCTION COMPANY TO REVOKE
THE INJECTION AUTHORITY GRANTED UNDER SWD-1591-A
FOR THE FORTY NINER RIDGE SWD WELL NO. 1,
OPERATED BY MEWBOURNE OIL COMPANY IN EDDY COUNTY, NEW MEXICO**

Case No. 16447

Pursuant to Division Rule 19.15.4.8 NMAC, Strata Production Company (Strata), through counsel, Montgomery & Andrews, P.A., hereby applies for an order revoking the injection authority granted by Administrative Order SWD-1591-A, dated June 4, 2018.

Strata makes this Application to the Oil Conservation Commission because the Commission recently concluded, in the context of an application to revoke injection authority, that the “Oil and Gas Act does not authorize the Division to consider appeals or rehearings of final administrative orders issued by the Division and to reverse a prior Division order.” Order No. R-14484-B at 6, ¶ 3, *In re Application of Delaware Energy LLC to Revoke the Injection Authority Granted Under SWD-1680 for the Alpha SWD No. 1 Well Operated by Alpha SWD Operating LLC*, Case No. 15855 (*de novo*). Should the Commission find that this Application must originate in the Division, Strata respectfully requests that the Commission remand the Application to the Division for consideration.

In support of its application, Strata states as follows.

1. Administrative Order SWD-1591, issued October 28, 2015 and subsequently rescinded, authorized Mewbourne Oil Company (Mewbourne) to utilize the Forty Niner Ridge SWD Well No. 1, then designated as “API 30-015-Pending,” for disposal of oil field produced water into the Devonian formation at depths of approximately 15545 feet to approximately 16500 feet. Order SWD-1591 at 1. The order incorrectly designated the location of Forty Niner

Ridge SWD Well No. 1 as 330 feet from the South line and 660 feet from the East line, Unit letter P of Section 22, Township 23 South, Range 30 East, NMPM, Eddy County, New Mexico. *Id.*

2. Administrative Order SWD-1591-A, issued June 4, 2018, superseded and rescinded Administrative Order SWD-1591. Order SWD-1591-A at 1. It corrected the location of Forty Niner Ridge SWD Well No. 1 (API 30-015-44950) to 1300 feet from the South line and 205 feet from the East line, Unit letter P of Section 22, Township 23 South, Range 30 East, NMPM, Eddy County, New Mexico, and reauthorized Mewbourne to utilize the well for disposal of oil field produced water into the Devonian formation. *Id.*

3. Mewbourne did not provide Strata with notice of either its 2015 application for salt water disposal permit, which resulted in Administrative Order SWD-1591, or its 2018 application, which resulted in Administrative Order SWD-1591-A.

4. Strata learned that Mewbourne acquired injection authority to operate Forty Niner Ridge SWD Well No. 1 as a salt water disposal well on or about July 30, 2018.

5. On or about August 1, 2018, Strata emailed an informal request to the Oil Conservation Division to rescind Administrative Order SWD-1591-A because Strata did not receive notice. In ensuing email correspondence, the Division rejected this request. Counsel for Strata sent a letter to the Division, on August 20, 2018, clarifying the request, providing additional information, and notifying the Division of Strata's intent to file the present Application. To date, the Division has not responded.

6. Division Rule 19.15.26.6 NMAC states that the objective of the Division's injection well rule is "to regulate . . . salt water disposal . . . to prevent waste, protect correlative rights and protect public health, fresh water, and the environment."

7. Accordingly, an operator must apply for a permit prior to commencing injection operations, and the Division may only issue such a permit after proper notice. 19.15.26.8(A) NMAC.

8. Division Rule 19.15.26.8(B)(2) NMAC requires an applicant for an injection permit to furnish notice, by certified mail, of its application for a salt water disposal permit “to each leasehold operator or other affected person within any tract wholly or partially contained within one-half mile of the well.”

9. The first category of persons entitled to notice under the rule are “leasehold operators.” 19.15.26.8(B)(2) NMAC. The Oil and Gas Act and the implementing Division Rules for salt water injection do not define the terms “leasehold” or “leasehold operator.” *See* Oil and Gas Act, NMSA 1978, §§ 70-2-1 to -38 (1977, as amended through 2018); 19.15.26 NMAC (12/1/2008, as amended through 7/2/2018). “‘Operator’ means a person who, duly authorized, manages a lease’s development or a producing property’s operation, or who manages a facility’s operation.” 19.15.2.7(O)(5) NMAC. In turn, “‘[f]acility’ means a structure, installation, operation, storage tank, transmission line, access road, motor vehicle, rolling stock or activity of any kind, whether stationary or mobile.” 19.15.2.7(F)(1) NMAC.

10. The second category of persons entitled to notice under the rule are “affected persons.” 19.15.26.8(B)(2) NMAC. “Affected person” is defined by Division Rule 19.15.26.7 NMAC:

“Affected person” means the division designated operator; in the absence of an operator, a lessee whose interest is evidenced by a written conveyance document either of record or known to the applicant as of the date the applicant files the application; or in the absence of an operator or lessee, a mineral interest owner whose interest is evidenced by a written conveyance document either of record or known to the applicant as of the date the applicant filed the application for permit to inject.

11. Strata qualifies as a “leasehold operator” entitled to notice prior to issuance of a permit for salt water disposal in the Forty Niner Ridge SWD Well No. 1. Within the half-mile area of review surrounding the Forty Niner Ridge SWD Well No. 1, Strata operates Forty Niner Ridge Unit No. 006 (API 30-015-33637). Strata’s well is located 990 feet from the South line and 2050 feet from the East line, Unit letter O of Section 22, Township 23 South, Range 30 East, NMPM, Eddy County, New Mexico. Forty Niner Ridge Unit No. 006 is an active salt water disposal well operating under disposal permit SWD-1323. Accordingly, the Forty Niner Ridge Unit No. 006 qualifies as a “facility” within the meaning of Division Rule 19.15.2.7(F)(1) NMAC, and Strata qualifies as an “operator” within the meaning of Division Rule 19.15.2.7(O)(5) NMAC. Moreover, Strata operates the Forty Niner Ridge Unit No. 006 under a leasehold interest in the Delaware Formation throughout the Fortyniner Ridge Unit. Therefore, Strata is a “leasehold operator” within a half mile of the proposed Forty Niner Ridge SWD Well No. 1.

12. Alternatively, Strata qualifies as an “affected person” entitled to notice due to its status as a division designated operator and lessee of mineral interests within the half mile area of review surrounding Forty Niner Ridge SWD Well No. 1. Strata’s mineral interests are more particularly described as follows.

13. Strata is the operator and majority owner of the mineral rights from the surface to the top of the Bone Springs formation in the Forty Niner Ridge Unit, which includes all of Sections 9, 10 (except NW/4NW/4), 15, 16, 21, and 22 in Township 23 South, Range 30 East, NMPM, in Eddy County.

14. Further, Strata has contractual mineral interests in the deeper formations, including but not limited to the Devonian formation, throughout the Forty Niner Ridge Unit.

These interests are described in that certain Exploration Agreement between Strata, as Assignor, and Mewbourne, as Assignee, effective February 1, 2005. Mewbourne was well aware of these interests when it submitted its salt water disposal applications in 2015 and 2018.

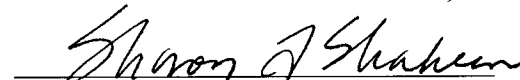
15. Issuance of Administrative Order SWD-1591-A without notice to Strata endangers its correlative rights in the Forty Niner Ridge Unit.

16. In addition, issuance of Administrative Order SWD-1591-A could lead to waste. The proposed Forty Niner Ridge SWD Well No. 1 is located within the “Fortyniner Drilling Island” as part of “Designated Potash Area of Eddy and Lea Counties” as defined in the Department of the Interior’s Secretarial Order No. 3324. Strata is a lessee and operator within the “Fortyniner Drilling Island.” As a co-operator, Mewbourne has an obligation to work with Strata to utilize the limited surface area within the drilling island for development in the most efficient manner to prevent waste.

WHEREFORE, Strata respectfully requests that (1) this matter be heard before the Commission on the December 13, 2018, docket: and (2) after notice and hearing, the Commission enter an order revoking or substantially modifying the injection authority under Administrative Order SWD-1591-A.

Respectfully submitted,

MONTGOMERY & ANDREWS, P.A.



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Case No. _____. **Application of Strata Production Company to Revoke the Injection Authority Granted under SWD-1591-A for the Forty Niner Ridge SWD Well No. 1, Operated by Mewbourne Oil Company in Eddy County, New Mexico.** Applicant seeks an order revoking the injection authority granted by Administrative Order SWD-1591-A for the Forty Niner Ridge SWD Well No. 1 (API 30-015-44950), a salt water disposal well located 1300 feet from the South line and 205 feet from the East line, Unit letter P of Section 22, Township 23 South, Range 30 East, NMPM, Eddy County, New Mexico, for disposal of oil field produced water into the Devonian formation at depths of approximately 15545 feet to approximately 16500 feet. Mewbourne Oil Company is the operator of the well. The well is located approximately 13 miles east of Loving, New Mexico. This case will be heard before the Commission on December 13, 2018, pursuant to the provisions of Division Rule 19.15.4.8 NMAC and Order No. R-14484-B at 6, ¶ 3, *In re Application of Delaware Energy LLC to Revoke the Injection Authority Granted Under SWD-1680 for the Alpha SWD No. 1 Well Operated by Alpha SWD Operating LLC*, Case No. 15855 (*de novo*). For further information, contact Applicant's attorney, Sharon T. Shaheen, Montgomery & Andrews, P.A., 325 Paseo de Peralta, Santa Fe, NM 87501 (505) 986-2678, sshaheen@montand.com.