

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

**IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
DIVISION FOR THE PURPOSE OF
CONSIDERING:**

**CASE NO. 13870
ORDER NO. R-12754-A**

**APPLICATION OF QUEST CHEROKEE, LLC
FOR APPROVAL OF AN APPLICATION FOR
PERMIT TO DRILL, LEA COUNTY,
NEW MEXICO.**

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for consideration on October 11, 2007, at Santa Fe, New Mexico, on Motion of Intervenor, Barbara Cox, *et al.* for an Emergency Order Suspending Approval to Drill Entered in this Cause.

NOW, on this 11th day of October, 2007, the Division Director, having reviewed the files and records of the Division concerning this matter and considered the representations and arguments of counsel for Intervenor and for Applicant, and being fully advised in the premises,

FINDS THAT:

(1) The Division has jurisdiction of the subject matter of this case, and has power to issue emergency orders, without notice and hearing, as provided in NMSA 1978, Section 70-2-23.

(2) In the original application in this case, Quest Cherokee, LLC ("Applicant") sought approval of its Application for Permit to Drill (APD) for its West Bishop State Well No. 1 (API No. 30-025-38503) at a standard location 990 feet from the North line and 2310 feet from the West line (Unit C) of Section 9, Township 18 South, Range 38 East, in Lea County, New Mexico. This location is in a semi-developed, suburban area in close proximity to the City of Hobbs, New Mexico.

(3) The Division held a hearing on the application on February 15, 2007, at which Intervenor appeared and opposed approval of Applicant's APD.

(4) On May 3, 2007, the Division issued Order No. R-12854, denying Intervenor's objections to the granting of the proposed APD, but directing the Hobbs District Office to review environmental issues involved with this proposed well, and place appropriate protective conditions upon its approval of the APD.

(5) On August 29, 2007, the Hobbs District Office of the Division approved the APD for this well. The only express conditions placed on this approval were, "Operator to abide by Oil Conservation Rules and Regulation and R-12754 at all times."

(6) On September 6, 2007, OCD Hobbs District Supervisor, Chris Williams, wrote a letter to Hon. Mike Whitehead, Lea County Commissioner, with copies to various persons, including Applicant and Lee Robertson, one of the Intervenor, reciting that Applicant had agreed to certain conditions regarding the drilling of this well. This letter referred to an agreement that the well be no closer than 1500 feet from any water well.

(7) On October 10, 2007, Intervenor filed their Motion for an Emergency Order Suspending Approval to Drill, alleging, *inter alia*, that the proposed location is less than 1500 feet from several water wells.

(8) Although Order No. R-12754 directed the Hobbs District Office to deliver a copy of the approved APD to counsel who appeared in this case at the February 15, 2007, hearing, Intervenor have asserted that this was not done prior to October 10, 2007.

(9) It is unclear from the documents on file with the Division exactly what conditions the Division has imposed on its approval of the APD in this case and exactly what conditions Applicant has agreed to, and with whom it has agreed.

(10) Applicant plans to move a rig onto the location and commence drilling of this well on October 12, 2007.

(11) Intervenor could be irreparably harmed if Applicant proceeds with the drilling of this well without complying with conditions that were intended to be imposed, or should have been imposed, on the Division's approval of the APD.

(12) On the other hand, Applicant could be irreparably harmed if the Division orders a delay in commencement of the well at this time.

(13) It is accordingly necessary for the Division to balance the equities between Intervenor and Applicant.

(14) The Division concludes that Applicant should be allowed to proceed with the drilling of this well on condition that it shall comply with all of the conditions and stipulations set forth in the September 6, 2007 letter from Chris Williams to Hon. Mike Whitehead referenced above, except for the conditions stated in the final paragraph of that letter regarding the location of the well.

(15) For the protection of Intervenor or others who have existing water wells located less than 1500 feet from the proposed oil well location, Applicant should also be required to drill and periodically sample monitor wells for the protection of fresh water resources available at such water wells.

IT IS THEREFORE ORDERED THAT:

(1) Intervenor's request that the Division suspend approval of the APD for Applicant's West Bishop State Well No. 1 (API N. 30-025-38503) is denied.

(2) In conducting all operations with respect to this well so long as this Order remains in force, Applicant shall comply with all of the conditions set forth in the September 6, 2007 letter from Chris Williams to Hon. Mike Whitehead, a copy whereof is attached to this Order as Exhibit A and incorporated herein by the reference, SAVE AND EXCEPT, that Applicant shall not be required to change the location of its well from that specified in the approved APD.

(3) Applicant shall, as soon as practicable, but not less than 15 days after the issuance of this Order (unless extended by the Division Director) identify each active water well within 1500 feet of the location of the West Bishop State Well No. 1; for each such water well, drill a monitor well to be located between the said oil well and such water well, on a direct line between the oil well and the water well or as close thereto as practicable, and not more than half way from the oil well to the water well.

(4) As soon as such monitor well can be completed, Applicant shall take a base line sample from such monitor well, and shall report the results thereof to the owner of such water well (or to the owner's counsel if the owner is represented by counsel in this case), with copies to the Hobbs District Office and to the Santa Fe Office of the Division.

(5) If this order is continued in force, Applicant shall thereafter take samples from each of the above-described monitor wells at three-month intervals, and report the results thereof to the owner of the water well and to the Division as provided in Ordering Paragraph (4) above.

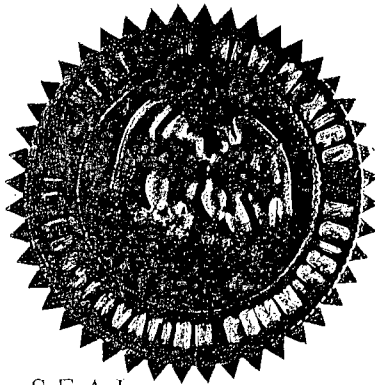
(6) This Order shall, during the time it remains in effect, constitute an amendment of, and a condition upon the Division's approval of, the APD for the West Bishop State Well No. 1 (API N. 30-025-38503).

(7) This Order shall remain in effect as an emergency order for 15 days from the date of its issuance, and shall continue in effect thereafter unless, on or before October 16, 2007, at 5:00 P.M., either Applicant or Intervenor file with the Division a request for a hearing of this matter. In the event that such a request is filed, the matter will be set for hearing within the 15-day period for which this order is in effect as an emergency order, with such notice as the Division Director shall direct.

(8) Except as altered hereby, Order No. R-12754 shall remain in force and effect.

(9) Jurisdiction of this case is retained for the entry of such further orders as the Division may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.



SEAL

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

A handwritten signature in black ink, appearing to read "Mark E. Fesmire".

MARK E. FESMIRE, P.E.
Director