

HOLLAND & HART LLP



**Ocean Munds-Dry**  
omundsdry@hollandhart.com

February 19, 2008

**HAND-DELIVERED**

Mark E. Fesmire, P.E.  
Director  
Oil Conservation Division  
New Mexico Energy, Minerals and  
Natural Resources Department  
1220 South Saint Francis Drive  
Santa Fe, New Mexico 87505

*Case 14102*

RECEIVED  
2008 FEB 19 PM 3 45

**Re: Application of Marbob Energy Corporation for an order  
authorizing a centralized surface waste management facility, Eddy  
County, New Mexico**

Dear Mr. Fesmire:

Enclosed is the application of Marbob Energy Corporation in the above-referenced case as well as a copy of a legal advertisement. Marbob requests that this matter be placed on the docket for the March ~~01~~<sup>20</sup>, 2008 Examiner hearings.

Sincerely,

*O Munds-Dry*  
Ocean Munds-Dry *by MKE*

Enclosures

Holland & Hart LLP

**APPLICATION PAGE 7** Tel: (505) 988-4421 Fax: (505) 988-6043 [www.hollandhart.com](http://www.hollandhart.com)

110 North Guadalupe Suite 1 Santa Fe, NM 87501 **Mailing Address** P.O. Box 2208 Santa Fe, NM 87504-2208

Aspen Billings Boise Boulder Cheyenne Colorado Springs Denver Denver Tech Center Jackson Hole Salt Lake City Santa Fe Washington, D.C. ♻

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

**APPLICATION OF MARBOB ENERGY CORPORATION FOR AN ORDER  
AUTHORIZING A CENTRALIZED SURFACE WASTE MANAGEMENT FACILITY,  
EDDY COUNTY, NEW MEXICO.**

CASE NO. 14102

**APPLICATION**

MARBOB ENERGY CORPORATION ("Marbob"), pursuant to the provisions of Oil Conservation Division Rule 19.15.9.711 and 19.15.36.20(C) applies to the New Mexico Oil Conservation Division for an order approving a centralized surface waste management facility, Eddy County, New Mexico and in support of this application, states:

1. Marbob Energy Corporation is the surface owner of certain lands in Sections 19 and 30, Township 17 South, Range 30 East, NMPM, Lea County, New Mexico.

2. Marbob proposes to construct and operate a centralized surface waste management facility in the SW/4 SW/4 of Section 19 and the NW/4 NW/4 of Section 30. Whereas the purpose of the facility is waste management, operation of the facility will also cause habitat restoration of the former caliche pits by filling the pits with drilling pit materials and other non-hazardous oilfield waste, covering the compacted material with an infiltration barrier then restoring the site with native vegetation.

3. Marbob filed its application to the Division on February 14, 2006 and in March 2006 provided notice to adjacent landowners and other affected parties pursuant to Division Rule 711. At the time Marbob filed the application, Marbob also requested the Division approve the proposed notice for publication in a newspaper of general circulation. In March 2006, the

Division approved the legal notice and Marbob accordingly published the legal notice also pursuant to Division Rule 711.

4. At the time Marbob filed the application, the United State Government was the surface owner where Marbob proposed to locate the surface waste management facility. Thus, in May and June of 2005 Marbob met with the United States Bureau of Land Management (BLM) to discuss the proposed surface waste management facility and the acquisition of the property. Marbob also provided notice of the application to the BLM when it filed the application with the Division. The subject lands in Section 19 and Section 30 were acquired from the BLM in April 2007.

5. Marbob submitted its application when new surface waste management rules were being considered by the Oil Conservation Commission. During the hearing, Marbob requested a transitional provision be included in the proposed rules to specifically address the Marbob application which would allow it to be considered under Rule 711. The Division was aware that Marbob was still in the process of acquiring the property.

6. As adopted in 19.15.36.20(C) NMAC the transitional provision provides:

The division shall process an application for a surface waste management facility permit filed prior to May 18, 2006 in accordance with 19.15.9.711 NMAC and an application filed after May 18, 2006 in accordance with 19.15.36 NMAC.

7. Shortly after Marbob acquired the subject property from the BLM, Marbob wrote to the Division to request it be allowed to conduct a pilot test on the property as described in the February 14, 2006 application. The Division denied this request.

8. Marbob subsequently followed up with the Division regarding the further processing of its application.

9. On January 14, 2008, the Division responded that the application was “never officially accepted by the OCD at the time of submittal” because Marbob did not possess the property in which the facility was proposed nor did it have approval of the owner at the time. The Division concluded that the application would therefore need to be submitted in accordance with Rule 36 rather than Rule 711.

10. Marbob’s application was improperly rejected because Rule 711 does not state that the Division must “officially accept” the application nor does it require that the applicant own the property where it proposes to construct a surface waste management facility. Further, the BLM was fully aware of Marbob’s proposal, did not object at anytime, and was in constant communication with Marbob and its representatives regarding the property and the proposed waste facility from 2005 until Marbob acquired the property in 2007..

11. Marbob has sent notice of this application to those interested parties listed on **Exhibit A** to this application.

12. Approval of this application will be in the best interest of conservation, will protect correlative rights and prevent waste. Approval of this application will also be fully protective to human health and the environment.

WHEREFORE, Marbob Energy Corporation requests that this application be set for hearing before an Examiner of the Oil Conservation Division on March 20, 2008, and that, after notice and hearing, the Division enter its order authorizing Marbob Energy Corporation to construct and operate a centralized surface waste management facility pursuant to the provisions of Rule 711 in Sections 19 and 30, Township 17 South, Range 30 East, Eddy County, New Mexico.

Respectfully submitted,

HOLLAND & HART, LLP

By: W.F. Carr *by me*  
William F. Carr  
Ocean Munds-Dry  
P.O. Box 2208  
Santa Fe, New Mexico 87504-2208  
Telephone: (505) 988-4421

ATTORNEYS FOR MARBOB ENERGY CORP.

**Exhibit A**

**APPLICATION OF MARBOB ENERGY CORPORATION FOR AN ORDER  
AUTHORIZING A CENTRALIZED SURFACE WASTE MANAGEMENT FACILITY,  
EDDY COUNTY, NEW MEXICO.**

Larry Taylor  
Highway 83  
Loco Hills, New Mexico 88255

United States Department of Interior  
Bureau of Land Management  
Carlsbad Field Office  
620 E. Greene St.  
Carlsbad, New Mexico 88220

Eddy County Commission  
101 West Greene Street  
Suite 110  
Carlsbad, New Mexico 88220

CASE NO. 14102 **Application of Marbob Energy Corporation for an order authorizing a centralized surface waste management facility, Eddy County, New Mexico.** Applicant seeks an order approving a centralized surface waste management facility in Sections 19 and 30, Township 17 South, Range 30 East, Eddy County, New Mexico. Applicant will place drilling pit material, recycled caliche roadbed or drill pad material, remediated hydrocarbon-impacted soils and topsoil into an existing caliche pit in accordance with sound engineering practices. The intended result is to then return the land and vegetation to a condition approximating or equal to that which existed prior to the construction of the caliche pit without posing a threat to human health or the environment. Fresh ground water, if present, is at a depth of more than 250 feet below land surface. Said location is approximately 1.5 miles west of Loco Hills, New Mexico.