

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

**APPLICATION OF CHESAPEAKE  
OPERATING, INC. FOR AN ORDER  
AUTHORIZING THE DRILLING OF  
A WELL IN THE POTASH AREA,  
LEA COUNTY, NEW MEXICO.**

**CASE NO'S. 14100 & 14101**

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**RESPONSE TO SUBPOENA DUCES TECUM**

Chesapeake Operating, Inc. ("Chesapeake") responds to Intrepid Potash – New Mexico LLC's ("Intrepid") Objections to Subpoena Duces Tecum and states as follows:

1. On behalf of Chesapeake, the Division issued a Subpoena Duces Tecum ordering Intrepid to produce certain documents and information by April 9, 2008. Intrepid has objected to producing the documents listed in "Exhibit A" to the Subpoena because: a) Intrepid did not have enough time to respond to the subpoena; b) the subpoena seeks sensitive, proprietary and confidential documents; and c) some of the documents sought are irrelevant to the issues.

2. Intrepid has provided no evidence or details supporting its objections and therefore it is difficult for Chesapeake to respond in any meaningful way. Further, Intrepid's request to quash the subpoena cannot be seriously considered until it provides more information.

3. For example, Intrepid asserts it will take thirty (30) days to comply with the Subpoena but does not provide any information as to why it will take that amount of time. Intrepid has only offered a general statement from its counsel.

4. Intrepid also relies on the provisions in Order R-111-P that allow documents supporting its designation of a Life-of-Mine Reserve to be designated as confidential. *See* R-111-P, Section G. The information may be protected from disclosure by the Bureau of Land Management (BLM) and the State Land Office. However, Chesapeake has not asked the SLO or the BLM to disclose the information but has through the Division's subpoena powers requested this information directly from Intrepid. More importantly, Intrepid will be required to prove at the Division Examiner hearing that undue waste of commercial potash will occur if Chesapeake's applications are granted. Chesapeake (and the Division) should be entitled to see the data that supports the basis of Intrepid's claims. Chesapeake seeks the opportunity to evaluate Intrepid's data before the hearing in order to respond to such claims fully.

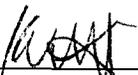
5. Again, Intrepid asserts that some of the documents Chesapeake seeks are irrelevant but provides no specific discussion as to which documents it considers irrelevant and why they may be irrelevant.

6. As Intrepid has provided no concrete information to support its objections, Intrepid's objections should be overruled and Intrepid should be required to comply with the subpoena immediately.

WHEREFORE, Chesapeake respectfully requests that the Division require Intrepid to immediately produce the documents listed in the Subpoena Duces Tecum.

Respectfully submitted,

**HOLLAND & HART, LLP**

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**ATTORNEYS FOR CHESAPEAKE  
OPERATING INC.**

**CERTIFICATE OF SERVICE**

Applicant Chesapeake Operating, Inc, certifies that on April 11, 2008, a copy of *Response to Objections Subpoena Duces Tecum* for Case Nos. 14100 and 14101 was served on the following by facsimile:

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