

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

RECEIVED  
2008 MAR 14 PM 3 03

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

**APPLICATION OF CHESAPEAKE OPERATING, INC.  
FOR AN ORDER AUTHORIZING THE DRILLING OF  
WELLS IN LEA COUNTY, NEW MEXICO.**

**Cases No. 14101**

**PRE-HEARING STATEMENT**

This pre-hearing statement is submitted by Intrepid Potash – New Mexico, LLC (“Intrepid”) as required by the Oil Conservation Division in opposition to Applicant Chesapeake Operating Inc. (“Chesapeake”) applications to drill proposed Lost Tank 16 State Well Nos. 1 and 4.

**APPEARANCES**

**APPLICANT**

Chesapeake Operating, Inc.

**APPLICANT’S ATTORNEY**

William Carr  
Ocean Munds-Dry  
Holland & Hart, LLP  
P. O. Box 2208  
Santa Fe, New Mexico 87504-2208  
(505) 988-4421 phone  
(505) 983-6043 fax

**OPPONENT**

Intrepid Potash – New Mexico, LLC

**OPPONENT’S ATTORNEY**

Joseph E. Manges  
Comeau, Maldegen, Templeman &  
Indall  
P. O. Box 669  
Santa Fe, NM 87504-0669  
505-982-4611 phone  
505-988-2987 fax

and

Joseph Tippetts  
Holme Roberts & Owen LLP  
1700 Lincoln Street, Suite 4100  
Denver, CO 80203-4541  
303-866-0556 telephone  
303-866-0200 fax

### **STATEMENT OF THE CASE**

Applicant Chesapeake Operating, Inc. seeks an order authorizing it to drill its proposed Lost Tank 16 State Well Nos. 1 & 4 to test the Lower Brushy Canyon formation, Lost Tank Delaware Pool, at the proposed well locations in Unit D of Section 16, Township 21 South, Range 32 East, NMPM, Lea County, New Mexico. Intrepid opposes Applicant's request to drill the proposed wells, which are located in the vicinity of Intrepid's mining operations and within its Life of Mine Reserve on the grounds that the proposed well would unduly waste commercial grade potash. Well location is within the R-111-P "Potash Area," as defined in section B of the R-111-P Regulations. Intrepid claims that the applicant, Chesapeake, has the burden of proving, by a clear and convincing evidence, that the granting of the APD will not result in the undue waste of commercial potash.

### **PROPOSED EVIDENCE**

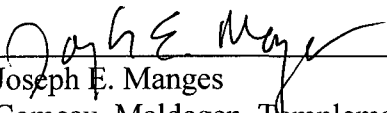
Due to the current unavailability of its geologists and other employees, Intrepid has not yet identified who its witnesses will be and has not yet assembled its exhibits and other evidence. Intrepid has filed a motion for continuance. Without waiving the foregoing, Intrepid would identify exhibits including maps, mine plans and mine reserves in the area affected by the proposed location. Certain of these documents may contain confidential and proprietary information. Intrepid witnesses may include geologists and company personnel who would

testify concerning the loss of valuable potash reserve in the event the application is granted. Intrepid may require at least one half day to present evidence.

### **PROCEDURAL MATTERS**

Due to the recent notice of Applicant's request to drill the subject wells, and the unavailability of Intrepid's geologists and other employees, Intrepid has not been able to assemble its evidence for the scheduled hearing date or fully develop its opposition. In its notice of appearance already filed with the Division, Intrepid has requested that the Division reschedule these proceedings for a later time when its witnesses will be available and after Intrepid has been able to assemble its evidence. Intrepid has requested that the hearing for these proceedings be rescheduled for May 1, 2008, when Intrepid intends to fully present its opposition to the proposed wells.

Respectfully submitted,

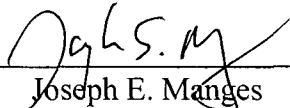
  
\_\_\_\_\_  
Joseph E. Manges  
Comeau, Maldegen, Templeman & Indall, LLP  
P. O. Box 669  
Santa Fe, NM 87504-0669  
505-982-4611 phone  
505-988-2987 fax

**CERTIFICATE OF SERVICE**

I hereby certify that I did on March 14, 2008 cause a true and correct copy of the foregoing Entry of Appearance to be served by first class mail, postage prepaid and facsimile on:

William Carr  
Ocean Munds-Dry  
Holland & Hart, LLP  
P. O. Box 2208  
Santa Fe, NM 87504-2208  
505-983-6043

Mark Fesmire, Director  
Energy Mineral & Natural Resources Department  
Oil Conservation Division  
1220 S. St. Francis Drive  
Santa Fe, NM 87505  
505-476-3462

  
\_\_\_\_\_  
Joseph E. Manges