

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

**APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION, THROUGH THE ENFORCEMENT AND COMPLIANCE MANAGER, FOR A COMPLIANCE ORDER AGAINST MESQUITE SWD, INC., SUSPENDING MESQUITE'S AUTHORITY TO INJECT INTO THE EXXON STATE NO. 8 UNDER ORDER SWD-180 UNTIL MESQUITE SHOWS THAT THE INJECTED FLUIDS ARE NOT ESCAPING TO UNAUTHORIZED INJECTION ZONES; REQUIRING COMPLIANCE WITH ORDER NO. SWD-180 AND RULE 19.15.9.703 NMAC AND REQUEST FOR EXPEDITED HEARING; EDDY COUNTY, NEW MEXICO**

**Case No. 14136**

**IN THE MATTER OF MESQUITE SWD, INC.'S APPLICATION NO. PKVR0817936301  
TO AMEND PERMIT SWD-180**

**Case No. 14178**

**APPLICANT MESQUITE SWD, INC.'S PREHEARING STATEMENT**

Pursuant to 19.15.14.1211(B) NMAC, Applicant Mesquite SWD, Inc. ("Mesquite") submits its Prehearing Statement.

**I. Parties**

Mesquite, the Applicant, is represented by the undersigned counsel, Thomas M. Hnakso and Kelcey C. Nichols of the Santa Fe office of Hinkle, Hensley, Shanor & Martin, L.L.P.

Mr. Sonny Swazo represents the New Mexico Oil Conservation Division ("NMOCD") in this matter.

**II. Concise Statement of the Case**

On May 9, 2008, the NMOCD issued Emergency Order No. E-37 shutting in Mesquite's Exxon State No. 8 salt water disposal well for injecting fluids into the Yates formation at a depth

of 694 feet in alleged violation of Order No. SWD-180. Emergency Order No. E-37 mistakenly states that Order No. SWD-180 authorizes the operator of the Exxon State No. 8 to "inject into the Yates formation" at only a depth of "approximately 570 feet to approximately 600 feet." **Emergency Order No. E-37, ¶ 3.** However, in issuing Emergency Order No. E-37, the NMOCD neglected the fact that the NMOCD previously amended Order No. SWD-180, on February 18, 1977, to allow disposal of salt water at a depth of 700 feet. Thus, Emergency Order No. ER-37 was improvidently entered because it is based on a misapprehension of the permitted depth for the Exxon State No. 8.

Despite the permitted injection depth of 700 feet, Order No. ER-37 mistakenly states that the Exxon State No. 8 has "failed to confine fluids to the authorized injection zones." **Order No. ER-37, ¶ 7.** However, consistent with the amendment to Order No. SWD-180, Dr. Havenor analyzed the thickness of the Yates formation beneath the Exxon State No. 8 and concluded that the bottom of the Exxon State No. 8 is well within the Yates formation. Dr. Havenor's research and analysis demonstrate that the Yates formation is located, conservatively, at a depth of at least 744 feet, 50 feet or more below the bottom of the Exxon State No. 8 well, at 694 feet. Dr. Havenor's analysis of the thickening of the Yates formation southward toward the Capitan Reef demonstrates that the Yates formation is located, most logically, at a depth of *more than* 744 feet below the surface. Thus, the Exxon State No. 8 is disposing of fluids into the Yates formation, the injection zone as authorized by the NMOCD, and there is no basis for the NMOCD's emergency order shutting in the well.

For the reasons set forth above, Mesquite respectfully requests that the Division Examiner enter an order quashing Emergency Order No. E-37 and allow the Exxon State No. 8 to operate

pursuant to SWD No. 180, as amended and modified by the NMOCD on February 18, 1977, at a depth of 700 feet. Alternatively, Mesquite requests that the Division Examiner grant the proposed amendment to clarify and reaffirm the NMOCD's prior approvals authorizing disposal at a depth not to exceed 700 feet.

### **III. Mesquite's Witnesses**

Mesquite will present the following three witnesses to testify in support of its application:

1. Clay Wilson, the President and Managing Partner of Mesquite, co-partner of C&D Energy, and the current operator of the Exxon State No. 8 salt water disposal well;
2. David Perini, co-partner of C&D Energy, and the former operator of the Exxon State No. 8 salt water disposal well; and
3. Dr. Kay Havenor, who has been retained by Mesquite as an expert in geoscience.

### **IV. Mesquite's Case Presentation**

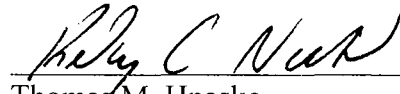
Mesquite anticipates that it will take approximately three (3) hours to present its case.

### **V. Unresolved Procedural Matters**

Mesquite filed a Motion to Quash Emergency Order No. E-37 on September 9, 2008.

Respectfully submitted,

HINKLE, HENSLEY, SHANOR & MARTIN, LLP



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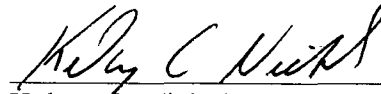
505.982.4554

*Attorneys for Applicant Mesquite SWD, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on this on this 11th day of September, 2008, I sent a true and correct copy of the foregoing and *Mesquite SWD, Inc.'s Prehearing Statement* via postage prepaid first class mail and electronic mail to:

Mr. Sonny Swazo, Esq.  
Oil Conservation Division  
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Santa Fe, NM 87505



Kelcey C. Nichols