



**MONTGOMERY
& ANDREWS**

J. SCOTT HALL

Cell: (505) 670-7362

Email: shall@montand.com

Reply To: Santa Fe Office

www.montand.com

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October 2, 2009

David Brooks, Esq.
New Mexico Oil Conservation Division
1220 S. St. Francis Drive
Santa Fe, NM 87505

Hand Delivered

Re: NMOCD Case No. 14323: Application of Chesapeake Energy Corporation for Cancellation of a Permit to Drill Issued to COG Operating LLC, Eddy County, New Mexico

Dear Mr. Brooks:

On Tuesday, September 29, 2009, Mr. Kellahin and I attended a conference convened by you pursuant to my letter dated September 23, 2009 requesting reinstatement of COG Operating LLC's APD and issuance of a corrected order. The request was made in view of uncontested evidence in the hearing record establishing COG's working interest control in each of the 40-acre tracts comprising the 160-acre special project area for COG's Blackhawk 11 Federal Well No. 1-H. Mr. Kellahin, on behalf of Chesapeake, objected to reinstatement of the APD, challenging the authority of one of the interest owners election to participate in COG's well when that owner is allegedly a party to an operating agreement. Chesapeake did not introduce the operating agreement into evidence at the hearing. Counsel were then asked to brief this issue by next week. In an e-mail to me, Mr. Kellahin framed the issue as follows:

"Does the joinder of a non-operator working interest owner to a Joint Operating Agreement ("JOA") preclude that non-operator working interest owner from signing an AFE presented by a third-party who has no interest in the JOA contract area?"

I believe this is a fair statement of the issue. However, as I indicated, it will not be possible to properly analyze this issue without a review of the terms of the

REPLY TO:

325 Paseo de Peralta
Santa Fe, New Mexico 87501
Telephone (505) 982-3873 • Fax (505) 982-4289

Post Office Box 2307
Santa Fe, New Mexico 87504-2307

6301 Indian School Road NE, Suite 400
Albuquerque, New Mexico 87110
Telephone (505) 884-4200 • Fax (505) 888-8929

Post Office Box 36210
Albuquerque, New Mexico 87176-6210

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operating agreement Chesapeake relies on. This is confirmed by my initial research. Through Mr. Kellahin, Chesapeake has been requested to provide a copy of the operating agreement. However, I have received no response to the request. Consequently, it will not be possible to provide you with briefing on this issue by next week, so an extension is requested. The lack of any evidence in the record regarding the operating agreement is another matter that will have to be addressed.

In addition to the operating agreement issue, we also discussed on September 23rd the possibility that an application for a rulemaking proceeding to address horizontal well permitting issues might be forthcoming. You indicated that because there was no rulemaking application pending, the Division would attempt to establish policy regarding applications for permits to drill horizontal wells by way of an order in this proceeding. If my understanding in this regard is not accurate, please advise.

Very truly yours,

A handwritten signature in black ink, appearing to read "J. Scott Hall", written in a cursive style.

J. Scott Hall

JSH:kw

cc: W. Thomas Kellahin, Esq.