

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

AMENDED APPLICATION OF WILLIAMS PRODUCTION CO., LLC FOR
APPROVAL OF A CLOSED-LOOP SYSTEM FOR THE ROSA SWD WELL NO. 2 AND
FOR THE IN-PLACE BURIAL OF DRILLING WASTES AT ANOTHER WELL
LOCATION, NEW MEXICO

RECEIVED
OCD
2010 APR 16
3:04

CASE NO. 14463

**OIL CONSERVATION DIVISION'S MOTION TO DISMISS WILLIAMS
PRODUCTION CO. LLC'S APPLICATION FOR HEARING**

COMES NOW, the Enforcement and Compliance Manager of the New Mexico Oil Conservation Division (hereinafter, "OCD"), by and through his attorney, Sonny Swazo, and hereby moves the OCD to dismiss the above-entitled application for hearing filed by Applicant Williams Production Co. LLC (hereinafter, "Applicant").

AS GROUNDS, the OCD Enforcement and Compliance Manager states the following:

1. On March 25, 2010, Applicant filed the above-entitled amended application for hearing seeking "an order approving a closed-loop system for the Rosa SWD Well No. 2 and the in-place burial of drilling and completion wastes at another well location."
2. Applicant states in its hearing application that it "seeks to take the waste [from the Rosa SWD Well No. 2] to an approved temporary pit at another proposed well location – either the Rosa Unit Well No. 634C located in Section 23, Township 31 North, Range 6 West, NMPM or the Rosa Unit Well No. 635B located in Section 21, Township 31 North North, Range 5 West, NMPM," and bury it on-site.

3. The rules regarding the construction or use of a closed-loop system or pit are set out in Rule 19.15.17 NMAC.
4. Rule 19.15.17.8 requires an operator to have a permit in order to construct or use a closed-loop system or pit.
5. The permit application is described in Rule 19.15.17.9 NMAC.
6. Subsection A of 19.15.17.9 NMAC states in relevant part:

An operator shall use form C-144 to apply to the division for a permit to construct or use a pit, closed-loop system, below-grade tank or proposed alternative method to which 19.15.17 NMAC applies. The operator shall submit the form C-144 either separately or as an attachment to a permit application for a facility with which the pit, closed-loop system, below-grade tank or proposed alternative method will be associated.

7. Subsection B of 19.15.17.9 NMAC requires the permit application to include a detailed plan for the type of waste management system that the operator proposes to use.
8. The detailed plan required for a temporary pit is described in Paragraph 2 of Subsection B of 19.15.17.9 NMAC. Paragraph 2 states:

The plan for a temporary pit shall use appropriate engineering principles and practices and follow applicable liner manufacturers' requirements. The plan shall include operating and maintenance procedures, a closure plan and hydrogeologic data that provides sufficient information and detail on the site's topography, soils, geology, surface hydrology and ground water hydrology to enable the appropriate division district office to

evaluate the actual and potential effects on soils, surface water and ground water and compliance with the siting criteria of 19.15.17.10 NMAC. The plan for a temporary pit may incorporate by reference a standard design for multiple temporary pits that the operator files with the application or has previously filed with the appropriate division district office.

9. The detailed plan required for a closed-loop system is described in Paragraph 3 of Subsection B of 19.15.17.9 NMAC. Paragraph 3 states:

The plan for a closed-loop system shall use appropriate engineering principles and practices and follow applicable manufacturers' requirements. The plan shall include operating and maintenance procedures and a closure plan. The plan for a closed-loop system may incorporate by reference a standard design for multiple projects that the operator files with the application or has previously filed with the appropriate division district office. If the operator proposes to bury the contents of a drying pad associated with a closed-loop system in an on-site trench, the operator shall provide sufficient information and detail on the site's topography, soils, geology, surface hydrology and ground water hydrology to enable the appropriate division district office to evaluate the actual and potential effects on soils, surface water and ground water and compliance with the siting criteria of 19.15.17.10 NMAC.

10. Subsection C of 19.15.17.9 NMAC requires the permit application to have a closure plan. Subsection C describes the requirements for a closure plan.

11. The filing of a permit application for temporary pit is described in Paragraph 2 of Subsection D of Rule 19.15.17.9 NMAC, which states:

To request approval to use or construct a temporary pit, closed-loop system or below-grade tank, an operator shall file an application, form C-144, and all required attachments with the appropriate division district office. If the operator plans to use a temporary pit, the operator shall provide the proposed pit location on form C-102.

12. Subsection A of 19.15.17.16 NMAC states:

The division shall review all applications to permit facilities subject to 19.15.17 NMAC, and may approve, deny or approve an application with conditions. If the division denies an application or approves the application subject to conditions not expressly provided by the Oil and Gas Act or in 19.15 NMAC, then the division shall notify the applicant by certified mail, return receipt requested, and shall set the matter for hearing if the applicant so requests within 10 days after receipt of such notification.

13. As provided by the rules, Applicant is required to have a permit in order to construct or use a closed-loop system or temporary pit. The rules require Applicant to use form C-144 to apply for a permit. The permit application is required to contain certain information. A permit application for a closed-loop system is required to include a detailed plan as provided by the rule. A permit application for a temporary pit is required to include a detailed plan as provided by the rule. Since Applicant plans to use a temporary pit, Applicant is required to provide the proposed pit location on

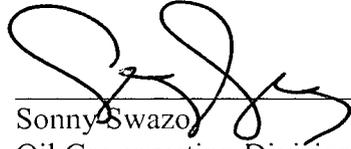
form C-102. The rules require the C-144 to be filed with the appropriate district office. The rules allow the Applicant the opportunity for a hearing if the OCD were to deny its permit application or approve the permit application subject to conditions not expressly provided by the Oil and Gas Act or in 19.15 NMAC.

14. Applicant has not properly applied for a permit to construct or use a temporary pit at either the Rosa Unit Well No. 634C or Rosa Unit Well 635B. As the application indicates, Applicant never applied for a permit to construct or use a temporary pit at either the Rosa Unit Well No. 634C or Rosa Unit Well 635B, for purposes of drilling the Rosa SWD Well No. 2. The exhibits attached to Applicant's hearing application are not for the Rosa Unit Well No. 634C or Rosa Unit Well 635B.
15. Applicant states that the temporary pit will be located at "another proposed well location" – either the Rosa Unit Well No. 634C or Rosa Unit Well 635B, indicating that the temporary pit will be used to drill the Rosa Unit Well No. 634C or Rosa Unit Well 635B in addition to drilling the Rosa SWD Well No. 2. These would be factors to consider in any permit application to construct or use a temporary pit at either the Rosa Unit Well No. 634C or Rosa Unit Well 635B.
16. Applicant is not entitled to a hearing at this point because there has been no denial of a permit application, or approval of a permit application subject to conditions not expressly provided by the Oil and Gas Act or in 19.15 NMAC.
17. Applicant needs to apply for a permit in accordance with the rules.

WHEREFORE, the OCD Enforcement and Compliance Manager respectfully requests that the OCD dismiss the above-entitled hearing application so that Applicant may properly follow the administrative procedures for applying for a permit to construct or use a closed-loop

system or temporary pit; and for such other and further relief as the OCD deems necessary and appropriate.

Respectfully Submitted,



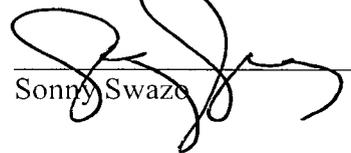
Sonny Swazo
Oil Conservation Division
Energy, Minerals and Natural Resources Dept.
1220 S. St. Francis Drive
Santa Fe, NM 87505
Phone: (505) 476-3463
Fax: (505) 476-3462
Email: sonny.swazo@state.nm.us

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was served upon the following party on April 6, 2010:

Ocean Munds-Dry
Holland & Hart LLP
P.O. Box 2208
Santa Fe, NM 87504-2208
Phone: (505) 988-4421
Fax: (505) 983-6043
Email: omundsdry@hollandhart.com

Attorney for Applicant Williams Production Co., LLC



Sonny Swazo