

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

IN THE MATTER OF THE APPLICATION
OF DAVID H. ARRINGTON OIL & GAS, INC. FOR
COMPULSORY POOLING,
LEA COUNTY, NEW MEXICO.

CASE NO.14497

ARRINGTON'S RESPONSE TO MARSHALL & WINSTON'S MOTION TO
DISMISS, OR IN THE ALTERNATIVE MOTION FOR CONTINUANCE

DAVID H. ARRINGTON OIL & GAS, INC., ("Arrington") through its undersigned attorneys, hereby responds to Marshall & Winston, Inc.'s *Motion to Dismiss, or in the Alternative Motion for Continuance* and states as follows:

1. Arrington is a working interest owner in the S/2 of Section 26, Township 15 South, Range 34 East, NMPM and has the right pursuant to N.M.S.A. 1978, § 70-2-17 to seek to pool interest owners who do not agree to voluntarily commit their interests to the spacing unit and well dedicated thereto.

2. Arrington drilled the Green Eyed Squealy Worm No. 1 (API No. 30-025-36013) at a location 1974 feet from the South line and 1129 feet from the East line of Section 26 (Unit I) in 2004. The well produced from the Morrow formation until approximately September 2008. The well was shut-in pending further evaluation.

3. Arrington now plans to re-establish production in the Morrow formation in its Green Eyed Squealy Worm Well No. 1.

4. Although the well proposal for the well went out on May 20, 2010, Arrington has been in ongoing discussions with Marshall & Winston for some time

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about this well. In fact, at least two proposals have been sent to Marshall & Winston in the last couple of years. Therefore, Arrington has complied with the Division's policy of undertaking good faith negotiations with other interest owners at least 30 to 45 days before an application for compulsory pooling was filed. Accordingly, the motion to dismiss should be denied.

5. Marshall & Winston attempted to file a Form C-145 Change of Operator form on or around May 14, 2010 for the subject well. Exhibit A. Arrington wrote to the Division that same day to advise that Arrington had not executed the form and did not intend to relinquish operatorship of the well. Arrington further stated that it had in fact filed a sundry with the district office with its intent to re-establish production in the well. Marshall & Winston has now waited until the eve of the hearing to indicate that it will be filing an application to be heard on the July 22 docket. Given the circumstances, there is no reason to delay the hearing of Arrington's application.

WHEREFORE, David H. Arrington Oil & Gas, Inc. requests that Marshall & Winston's motion be denied.

Respectfully submitted,
HOLLAND & HART LLP

By: Ocean Munds-Dry
Ocean Munds-Dry
Post Office Box 2208
Santa Fe, New Mexico 87504
(505)988-4421

ATTORNEYS FOR DAVID H. ARRINGTON
OIL & GAS, INC.

CERTIFICATE OF SERVICE

I certify that on June 18, 2010 I served a copy of the foregoing document to the following by

- ☐ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☒ Fax
- ☐ Electronic Service by LexisNexis File & Serve

James Bruce
Post Office Box 1056
Santa Fe, New Mexico 87504

Ocean Munds-Dry
Ocean Munds-Dry

District I
1625 N. French Dr., Hobbs, NM 88240
Phone: (575) 393-6161 Fax: (575) 393-0720

State of New Mexico
Energy, Minerals and Natural
Resources

Form C-145
Permit 114021

Oil Conservation Division
1220 S. St Francis Dr.
Santa Fe, NM 87505

Change of Operator

Previous Operator Information

OGRID: 5898
Name: DAVID H ARRINGTON OIL & GAS INC
Address: 500 WEST WALL ST, SUITE 300
City, State, Zip: MIDLAND, TX 79701

New Operator Information

Effective Date: Effective on the date of approval by the OCD
OGRID: 14187
Name: MARSHALL & WINSTON INC
Address: PO BOX 50880
City, State, Zip: MIDLAND, TX 79710

I hereby certify that the rules of the Oil Conservation Division have been complied with and that the information on this form and the certified list of wells is true to the best of my knowledge and belief.

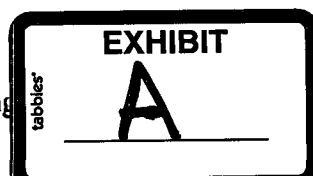
Additionally, by signing below, MARSHALL & WINSTON INC certifies that it has read and understands the following synopsis of applicable rules.

Previous Operator

Signature: _____
Printed Name: _____
Title: _____
Date: _____ Phone: _____

New Operator

Signature: _____
Printed Name: _____
Title: _____
Date: _____ Phone: _____



MARSHALL & WINSTON INC certifies that all below-grade tanks constructed and installed prior to June 16, 2008 associated with the selected wells are in compliance with 19.15.17 NMAC, have been closed pursuant to 19.15.17.13 NMAC, or have been retrofitted to comply with Paragraphs (1) through (4) of Subsection I of 19.15.17.11 NMAC.

MARSHALL & WINSTON INC understands that the OCD's approval of this operator change:

1. constitutes approval of the transfer of the permit for any permitted pit, below-grade tank or closed-loop system associated with the selected wells; and
2. constitutes approval of the transfer of any below-grade tanks constructed and installed prior to June 16, 2008 associated with the selected wells, regardless of whether the transferor has disclosed the existence of those below-grade tanks to the transferee or to the OCD, and regardless of whether the below-grade tanks are in compliance with 19.15.17 NMAC.

As the operator of record of wells in New Mexico, MARSHALL & WINSTON INC agrees to the following statements:

1. I am responsible for ensuring that the wells and related facilities comply with applicable statutes and rules, and am responsible for all regulatory filings with the OCD. I am responsible for knowing all applicable statutes and rules, not just the rules referenced in this list. I understand that the OCD's rules are available on the OCD website under "Rules," and that the Water Quality Control Commission rules are available on the OCD website on the "Publications" page.
2. I understand that if I acquire wells from another operator, the OCD must approve the operator change before I begin operating those wells. See 19.15.9.9.B NMAC. I understand that if I acquire wells or facilities subject to a compliance order addressing inactive wells or environmental cleanup, before the OCD will approve the operator change it may require me to enter into an enforceable agreement to return those wells to compliance. See 19.15.9.9.C(2) NMAC.
3. I must file a monthly C-115 report showing production for each non-plugged well completion for which the OCD has approved an allowable and authorization to transport, and injection for each injection well. See 19.15.7.24 NMAC. I understand that the OCD may cancel my authority to transport from or inject into all the wells I operate if I fail to file C-115 reports. See 19.15.7.24.C NMAC.
4. I understand that New Mexico requires wells that have been inactive for certain time periods to be plugged or placed on approved temporary abandonment. See 19.15.25.8 NMAC. I understand the requirements for plugging and approved temporary abandonment in 19.15.25 NMAC. I understand that I can check my compliance with the basic requirements of 19.15.25.8 NMAC by using the "Inactive Well List" on OCD's website.
5. I must keep current with financial assurances for well plugging. I understand that New Mexico requires each state or fee well that has been inactive for more than two years and has not been plugged and released to be covered by a single-well financial assurance, even if the well is also covered by a blanket financial assurance and even if the well is on approved temporary abandonment status. See 19.15.8.9.C NMAC. I understand that I can check my compliance with the single-well financial assurance requirement by using the "Inactive Well Additional Financial Assurance Report" on the OCD's website.
6. I am responsible for reporting releases as defined by 19.15.29 NMAC. I understand the OCD will look to me as the operator of record to take corrective action for releases at my wells and related facilities, including releases that occurred before I became operator of record.
7. I have read 19.15.5.9 NMAC, commonly known as "Part 5.9," and understand that to be in compliance with its requirements I must have the appropriate financial assurances in place, comply with orders requiring corrective action, pay penalties assessed by the courts or agreed to by me in a settlement agreement, and not have too many wells out of compliance with the inactive well rule (19.15.25.8 NMAC). If I am in violation of Part 5.9, I may not be allowed to drill, acquire or produce any additional wells, and will not be able to obtain any new injection permits. See 19.15.16.19 NMAC, 19.15.26.8 NMAC, 19.15.9.9 NMAC and 19.15.14.10 NMAC. If I am in violation of Part 5.9 the OCD may, after notice and hearing, revoke my existing injection permits. See 19.15.26.8 NMAC.
8. For injection wells, I understand that I must report injection on my monthly C-115 report and must operate my wells in compliance with 19.15.26 NMAC and the terms of my injection permit. I understand that I must conduct mechanical integrity tests on my injection wells at least once every five years. See

19.15.26.11 NMAC. I understand that when there is a continuous one-year period of non-injection into all wells in an injection or storage project or into a saltwater disposal well or special purpose injection well, authority for that injection automatically terminates. See 19.15.26.12 NMAC. I understand that if I transfer operation of an injection well to another operator, the OCD must approve the transfer of authority to inject, and the OCD may require me to demonstrate the well's mechanical integrity prior to approving that transfer. See 19.15.26.15 NMAC.

9. I am responsible for providing the OCD with my current address of record and emergency contact information, and I am responsible for updating that information when it changes. See 19.15.9.8.C NMAC. I understand that I can update that information on the OCD's website under "Electronic Permitting."
10. If I transfer well operations to another operator, the OCD must approve the change before the new operator can begin operations. See 19.15.9.9.B NMAC. I remain responsible for the wells and related facilities and all related regulatory filings until the OCD approves the operator change. I understand that the transfer will not relieve me of responsibility or liability for any act or omission which occurred while I operated the wells and related facilities.

From Operator DAVID H ARRINGTON OIL & GAS INC OGRID 5898
To Operator MARSHALL & WINSTON INC OGRID 14187
Wells Selected for Transfer: Permit 114021
Permit Status: DRAFT

OCD District Hobbs

Property Well	Lease Type	ULSTR	OCD Unit	API	Well Type	Pool ID	Pool Name	Last Prod/Inj	Additional Bonding
30566 GREEN EYED SQUEALY WORM #001	P	I-26-15S-34E	I	30-025-36013	O	76360	EIDSON;MORROW, NORTH (GAS)	03/07	18255
Total Additional bond									18255