

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

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

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

[Handwritten signature]
fls/STW

Case No. 14,497

MOTION TO DISMISS,
OR IN THE ALTERNATIVE
MOTION FOR A CONTINUANCE

Marshall & Winston, Inc. files this motion to dismiss the application filed herein, or in the alternative for a continuance, and in support thereof, states:

A. Facts.

1. Applicant seeks an order pooling all mineral interests from the surface to the base of the Morrow formation underlying the S½ of Section 26, Township 15 South, Range 34 East, NMPM, to form a standard 320-acre gas spacing unit for all pools or formations developed on 320-acre spacing, and the SE¼ of Section 26 to form a standard 160-acre gas spacing unit for all pools or formations developed on 160-acre spacing. The units are to be dedicated to the proposed Green Eyed Squealy Worm Well No. 1, located in the NE¼SE¼ of Section 26. Applicant proposes to re-enter the well, purportedly to restore production from existing perforations.

2. The Green Eyed Squealy Worm Well No. 1 was drilled in 2004 and completed in the Morrow formation. **Exhibit A.** The well produced from the Morrow formation until

September 2008, at the latest. The well was not plugged and abandoned. However, production has ceased from the Morrow formation (and any other formation).

3. Marshall & Winston, Inc. owns or controls 100% of the working interest in the N½SE¼ of Section 26, and desires to re-enter the well to test an oil zone developed on 40 acre spacing. Marshall & Winston, Inc.'s interest is not subject to an operating agreement or other agreement pertaining to development of its acreage.

4. Marshall & Winston, Inc. will be filing an application to approve the transfer of operatorship of the well to it from applicant (currently operator of record) so that it can proceed with its development plans. This application will be set for the July 22nd Examiner hearing.

5. Well proposals were sent to Marshall & Winston, Inc. and to Winston Partners, Ltd. (who together own 100% of the mineral interest in the N½SE¼ of Section 26) by letters dated May 20, 2010. **Exhibit B.** These letters imply that a JOA is still in effect, which is incorrect. Moreover, these letters were received by Marshall & Winston, Inc. and Winston Partners, Ltd., at best, a day or two before the application was filed herein.

6. Applicant filed a Sundry Notice with the Division regarding its proposed operation on or about May 14, 2010. **Exhibit C.**

B. Argument.

1. The application should be dismissed because:

(a) The Division has consistently held that pooling applications should be filed, absent any special circumstances (e.g., an expiring lease) 30-45 days after a proposal letter is sent to the working interest owners. That was not done here.

(b) The Division has held that an APD should not be filed by an operator where the operator owns no interest in the wellsite. In this case, the Sundry Notice, the

equivalent of an APD for the proposed re-entry, was filed with the Division even though applicant owns no interest in the well site.

For the foregoing reasons, the application filed herein should be dismissed until applicant abides with Division pooling requirements.

2. In the alternative, this case should be continued to the July 22nd hearing because:
 - (a) The filing of the application, simultaneously with the mailing of a proposal letter, is improper, and requires a continuance. See paragraph B(1)(a) above.
 - (b) The application being filed by Marshall & Winston, Inc. cannot be heard until July 22nd. In the interest of economy, it is best to consolidate both matters for hearing.

WHEREFORE, Marshall & Winston, Inc. requests that this case be dismissed, or in the alternative continued to the July 22nd Examiner hearing.

Respectfully submitted,



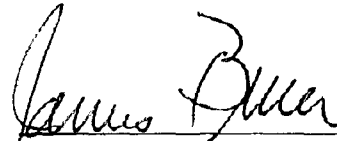
James Bruce
Post Office Box 1056
Santa Fe, New Mexico 87504
(505) 982-2043

Attorney for Marshall & Winston, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was served upon the following counsel of record this 18th day of June, 2010 by facsimile transmission:

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


James Bruce

Submit To Appropriate District Office
State Lease - 6 copies
Fee Lease - 5 copies
District I
1625 N. French Dr., Hobbs, NM 88240
District II
811 South First, Artesia, NM 88210
District III
1000 Rio Brezon Rd., Aztec, NM 87410
District IV
1220 S. St. Francis Dr., Santa Fe, NM 87505

State of New Mexico
Energy, Minerals and Natural Resources

Oil Conservation Division
1220 S. St. Francis Dr.
Santa Fe, NM 87504

Form C-105
Revised March 25, 1999

WELL API NO. 30 025 36013				
5. Indicate Type of Lease STATE <input type="checkbox"/> FEE <input checked="" type="checkbox"/>				
State Oil & Gas Lease No.				
WELL COMPLETION OR RECOMPLETION REPORT AND LOG				
1a. Type of Well: OIL WELL <input type="checkbox"/> GAS WELL <input checked="" type="checkbox"/> DRY <input type="checkbox"/> OTHER <input type="checkbox"/>				
b. Type of Completion: NEW WELL <input checked="" type="checkbox"/> WORK OVER <input type="checkbox"/> DEEPEN <input type="checkbox"/> PLUG BACK <input type="checkbox"/> DIFF. RESV. <input type="checkbox"/> OTHER <input type="checkbox"/>				
2. Name of Operator David H. Arrington Oil & Gas (432) 682-6685				
3. Address of Operator P.O. Box 2071, Midland, TX 79702				
4. Well Location Unit Letter <u>I</u> 1974' Feet From The <u>South</u> Line and 1129' Feet From The <u>East</u> Line Section <u>26</u> Township <u>15S</u> Range <u>34E</u> NMPM <u>Lea</u> County				
10. Date Spudded 1-29-04	11. Date T.D. Reached 3-15-04	12. Date Compl. (Ready to Prod) 5-10-04	13. Elevations (DFA RKD, RT, OR, etc.) 4055'	14. Elev. Casinghead
15. Total Depth MD 13,255'	16. Plug Back T.D. TD 12,850'	17. If Multiple Compl. How Many Zones? N/A	18. Intervals Drilled By X	19. Rotary Tools Cable Tools
19. Producing Interval(s) of this completion - Top, Bottom, Name 13,084-13,100'; 13,055-13,059'; 12,993-13,004' - Morrow				20. Was Production Survey Made? yes
21. Type Electric and Other Logs Run GR/CBL/CCL				22. Was Well Cased? yes
23. CASING RECORD (Report all strings set in well)				
CASING SIZE	WEIGHT LB./FT.	DEPTH SET	HOLE SIZE	CEMENTING RECORD
13 7/8"	54.5#	498'	17 1/2"	515 sx
8 5/8"	32#	6192'	11"	1225 sx
5 1/2"	17#	13,297'	7 7/8"	945 sx
24. LINER RECORD				
SIZE	TOP	BOTTOM	SACKS CEMENT	SCREEN
25. TUBING RECORD				
SIZE	DEPTH SET	PACKER SET		
2 3/8"	12,911'	12,911'		
26. Perforation record (interval, size, and number) 2 spf 13,084-13,100'; 13,055-13,059'; 6 spf 12,993-13,004 Morrow				
27. ACID, SHOT, FRACTURE, CEMENT, SQUEEZE, ETC.				
DEPTH INTERVAL AMOUNT AND KIND MATERIAL USED				
13,055-13,100' 2000 gals acid; 154.00 scf N2				
12,993-13,004' 48 bbls 7 1/2" HCL/175,000 N2 scf				
12,993-13,100' 91 tons CO2, 30,200# 20/40 sd; 250 bbls 4%				
28. PRODUCTION				
Date First Production 5-10-04				
flowing				
Date of Test	Hours Tested	Choke Size	Prod'n For Test Period	Oil - Bbl.
7-7-04	24	32/64"		36
Gas - MCF	Water - Bbl.	Gas - Oil Ratio		
1347	58	37.417		
Flow Tubing Pres.	Casing Pressure	Calculated 24-Hour Rate	Oil - Bbl.	Gas - MCF
385#	packer			
29. Disposition of Gas (Sold used for fuel, vented, etc.) Sales				
Test Witnessed By				
30. List Attachments C-104, log, inclination				
I hereby certify that the information shown on both sides of this form are true and complete to the best of my knowledge and belief.				
Signature 		Printed Name Ann E. Ritchie Title Regulatory Agent (432) 684-6381 Date 9-17-04		

EXHIBIT

A

DAVID H. ARRINGTON OIL & GAS, INC.

P.O. BOX 2071, MIDLAND, TEXAS 79702
OFF (432) 682-6685
FAX (432) 682-4139

May 20, 2010

Marshall & Winston, Inc.,
PO Box 50880
Midland, Texas 79710-0880

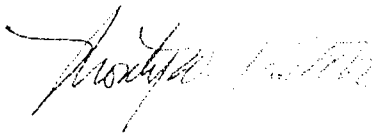
RE: Re-establish Morrow Production
Green Eyed Squeally Worm
API 30-025-36013
Lea County, New Mexico

Ladies and Gentlemen:

David H. Arrington Oil & Gas, Inc. (DHA) as operator of record for the subject well proposes to restore production from the existing perforations in the subject well. We invite you to participate in the operation, based on your interest in the original designated Pooled Unit (S1/2 of Section 26, T15S, R34E) and the terms of the original JOA. Enclosed is an Authority for Expenditure (AFE) for this project. Please indicate your election below and return one executed copy to the undersigned.

Please feel free to call or email me at monty@arringtonoil.com with your questions. Thank you for your cooperation.

Best Regards,



Monty W. Kastner
Vice President, Land & Legal

____ I/we elect to participate in the Proposed Operations pursuant to the attached AFE

____ I/we elect not to participate in the Proposed Operations pursuant to the attached AFE.

By: _____

Name: _____

Date: _____

EXHIBIT **B**

DAVID H. ARRINGTON OIL & GAS, INC.

P.O. BOX 2071, MIDLAND, TEXAS 79702
OFF (432) 682-6685
FAX (432) 682-4139

May 20, 2010

Winston Partners, LTD
C/O Sargent Management
~~4800 First Bank Place~~
~~Minneapolis, Minnesota 55402~~

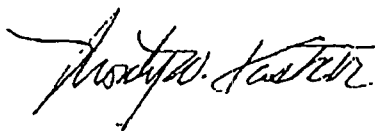
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Please feel free to call or email me at monty@arringtonoil.com with your questions. Thank you for your cooperation.

Best Regards,



Monty W. Kastner
Vice President, Land & Legal

____ I/we elect to participate in the Proposed Operations pursuant to the attached AFE

____ I/we elect not to participate in the Proposed Operations pursuant to the attached AFE.

By: _____

Name: _____

Date: _____

Submit 1 Copy To Appropriate District
Office
District I
1625 N. French Dr., Hobbs, NM 88240
District II
1301 W. Grand Ave., Artesia, NM 88210
District III
1000 Rio Brazos Rd., Aztec, NM 87410
District IV
1220 S. St. Francis Dr., Santa Fe, NM
87505

State of New Mexico
Energy, Minerals and Natural Resources

Form C-103
October 13, 2009

RECEIVED MAY 14 2010 HOBBSOCD		CONSERVATION DIVISION 1220 South St. Francis Dr. Santa Fe, NM 87505	
SUNDRY NOTICES AND REPORTS ON WELLS (DO NOT USE THIS FORM FOR PROPOSALS TO DRILL OR TO DEEPEN OR PLUG BACK TO A DIFFERENT RESERVOIR. USE "APPLICATION FOR PERMIT" (FORM C-101) FOR SUCH PROPOSALS.)		WELL API NO. 30-025-36013	
1. Type of Well: Oil Well <input checked="" type="checkbox"/> Gas Well <input type="checkbox"/> Other <input type="checkbox"/>		5. Indicate Type of Lease STATE <input type="checkbox"/> FEE <input checked="" type="checkbox"/>	
2. Name of Operator David H. Arrington Oil & Gas Inc		6. State Oil & Gas Lease No.	
3. Address of Operator PO Box 2071 Midland, TX 79702		7. Lease Name or Unit Agreement Name Green Eyed Squally Worm	
4. Well Location Unit Letter 1 : 1974 feet from the South line and 1129 feet from the East line Section 26 Township 15S Range 34E NMPM County Lea		8. Well Number 1	
11. Elevation (Show whether DR, RKB, RT, GR, etc.) 4055 GL		9. OGRID Number 5898	
		10. Pool name or Wildcat Eidson; Morrow. North (Gas)	

12. Check Appropriate Box to Indicate Nature of Notice, Report or Other Data

NOTICE OF INTENTION TO:		SUBSEQUENT REPORT OF:	
PERFORM REMEDIAL WORK <input checked="" type="checkbox"/>	PLUG AND ABANDON <input type="checkbox"/>	REMEDIAL WORK <input type="checkbox"/>	ALTERING CASING <input type="checkbox"/>
TEMPORARILY ABANDON <input type="checkbox"/>	CHANGE PLANS <input type="checkbox"/>	COMMENCE DRILLING OPNS. <input type="checkbox"/>	P AND A <input type="checkbox"/>
PULL OR ALTER CASING <input type="checkbox"/>	MULTIPLE COMPL <input type="checkbox"/>	CASING/CEMENT JOB <input type="checkbox"/>	
DOWNHOLE COMMINGLE <input type="checkbox"/>			
OTHER: <input type="checkbox"/>		OTHER: <input type="checkbox"/>	

13. Describe proposed or completed operations. (Clearly state all pertinent details, and give pertinent dates, including estimated date of starting any proposed work). SEE RULE 19.15.7.14 NMAC. For Multiple Completions: Attach wellbore diagram of proposed completion or recompletion.

Run tbg & rods on pumping unit and return well to production:

Spud Date:

Rig Release Date:

I hereby certify that the information above is true and complete to the best of my knowledge and belief.

SIGNATURE Debbie Freeman TITLE Engineer Tech DATE 05/14/2010

Type or print name Debbie Freeman E-mail address: debbie@arringtonoil.com PHONE: (432)682-6685

For State Use Only

APPROVED BY: [Signature] TITLE PETROLEUM ENGINEER DATE MAY 17 2010

Conditions of Approval (if any):

EXHIBIT

C