

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

**IN RE NEW MEXICO OIL CONSERVATION DIVISION'S AMENDED APPLICATION
FOR ORDER TO REVOKE ORDER NO. R-21096, AS AMENDED, AND APDS FOR
CAVEMAN #402H AND CAVEMAN 7 12 WCD #003H WELLS**

CASE NO. 22102

SPC RESOURCES, LLC'S PRE-HEARING STATEMENT

SPC Resources, LLC ("SPC") (OGRID No. 372262) submits this Pre-Hearing Statement pursuant to the rules of the Oil Conservation Division.

APPEARANCES

APPLICANT

Oil Conservation Division

ATTORNEY

Eric Ames
Jesse Tremaine
Assistant General Counsels
New Mexico Energy Minerals and Natural
Resources Department
1220 S. St. Francis Drive
Santa Fe, New Mexico 87505

OTHER PARTIES

SPC Resources LLC

Michael H. Feldewert
Adam G. Rankin
Julia Broggi
Kaitlyn A. Luck
Holland & Hart LLP
Post Office Box 2208
Santa Fe, New Mexico 87504
(505) 988-4421
(505) 983-6043 Facsimile

Mewbourne Oil Company and
Matador Production Company

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

SPC'S STATEMENT OF THE CASE

SPC opposes revocation of Order No. R-21096, as amended, (the "Order") and revocation of its APDs for the Caveman #402H and Cavemen 7 12 WCD #003H wells.

SPC is a small, independent oil and gas company with 12 employees based in Artesia, New Mexico. Starting in 2017, SPC has invested tens of millions of dollars in capital in obtaining oil and gas leases in and around Carlsbad to develop its Caveman Project. It includes the Caveman Unit, a 1,267.1-acre standard horizontal well spacing unit in the Wolfcamp formation comprised of the planned Caveman 402H well and the Caveman 7 12 WCD 003H well, that are the subject of the Division's application.

In 2009, the Division issued an internal policy for reviewing APDs for wells within a half-mile area of review around a former brine well facility located within Carlsbad city limits. SPC purposely avoided acquiring leases and oil and gas development within the Division's half-mile area of review around the brine well, as well as all acreage within any of the four sections of land (four-square miles) touching the half-mile area of review. SPC's Caveman 402H is about 1.4 miles laterally north of the brine well facility, which places it about 0.9 miles outside the perimeter of the brine well area of review.

SPC's proposal to develop its Caveman Unit and drill and complete the Caveman 402H and Caveman 7 12 WCD 003H wells were presented to the Division for approval on five different occasions between September 19, 2019, and May 6, 2021 (with the last approval being issued by the OCD on May 17, 2021). The Division approved SPC's applications in each instance and never raised a question or concern about proximity to the brine well. SPC expended significant time and costs to obtain its regulatory approvals from OCD.

After learning that the Division had requested another operator delay completing its wells that were located nearby, SPC, out of an abundance of caution, notified the Division on June 17, 2021, that it had contracted for a drilling rig and planned to commence drilling its Caveman 402H well and would complete it in the September/October 2021 timeframe. In the course of the resulting communications, the Division asked SPC to voluntarily delay drilling and completing its planned well for 6 months and then revised the ask to 12 months. The Division's change in policy with respect to allowing oil and gas development in the vicinity of the brine well was an absolute surprise to SPC.

SPC responded that it could not (and cannot) voluntarily delay the drilling and completion of the Caveman 402H well because it has an oil and gas lease with a primary term that expires on November 1, 2021. SPC has approximately 4,600 primary term leases in the Caveman Project area with nearly 300 in the Caveman Unit that begin expiring in Spring 2022. Unless SPC is able to drill and complete a well capable of producing in paying quantities within the primary terms of all these leases, it stands to suffer severe monetary damages and may lose its valuable property interests. Other contractual agreements worth millions of dollars to SPC are also in jeopardy if SPC is unable to commence drilling prior to December 31, 2021.

Revocation of Order No. R-21096, as amended, and the APDs for the Caveman 402H and Cavemen 7 12 WCD 003H wells is not justified given the time, effort, investment, and capital expenditures SPC has made to obtain the necessary oil and gas leases and Division approvals to develop its planned Caveman Unit and wells. Revocation would unfairly undo SPC's costly and time-consuming regulatory work that it has achieved to-date and would require all of that work to be re-done at a future time. SPC would then have to start its pooling efforts from scratch, placing an unjust burden of additional costs and time on SPC and, most importantly, would place hundreds-

to-thousands of its primary leases in jeopardy of termination if SPC is unable to obtain a new order and permits in time for SPC to drill wells to perpetuate its expiring leases. Revocation also would arguably force SPC to immediately file new APDs and pooling applications to meet its lease obligations. Further, such revocation would not expressly prohibit the drilling of a well within any other formation. Without an order clearly prohibiting the drilling of any well within the lands covered by the Caveman Unit (and then applied as necessary to nearby Units), SPC arguably would, pursuant to its lease obligations, have to apply for and be denied the rights to form spacing units and drill wells, including vertical wells, in every pool within the affected acreage, a process that would be impractical and excessively burdensome on the OCD and SPC.

Instead of revocation, OCD could place additional and enforceable timing conditions on the Order and APDs that will effectively suspend SPC's operations until OCD notifies SPC that the brine well has been remediated or the condition has been lifted. OCD has the authority. *See, e.g.,* NMSA 1978, § 70-2-12(B) (The oil conservation division may make rules and orders "to require wells to be drilled, operated and produced in such manner as to prevent injury to neighboring leases or properties"); § 70-2-11 ("[T]he division is empowered to make and enforce rules, regulations and orders, and to do whatever may be reasonably necessary to carry out the purpose of this act, whether or not indicated or specified in any section hereof."); 19.15.14.10.B NMAC ("The division may impose conditions on an approved permit to drill, deepen or plug back."). The determination as to whether that condition has been met would be subject to the discretion and control of the Division. Imposition of timing conditions would more effectively accomplish the OCD's goal of preventing SPC's operations during the brine well remediation, while preserving SPC's costly and time-consuming regulatory work. The conditions applied pursuant to this case could be expressly incorporated by reference to SPC's other existing orders

or permits in the Caveman Project area that are already approved and/or have yet to be filed and that the OCD intends to be subject to the same timing conditions.

SPC's requests that the Division fairly and clearly apply its authority in a manner that minimizes the potential damage this sudden change in policy will cause industry, the company, and its employees.

SPC'S PROPOSED EVIDENCE

WITNESS Name and Expertise	ESTIMATED TIME	EXHIBITS
Hanson Yates, Co-Managing Member and President	Affidavit (about 30 minutes)	Approx. 8

PROCEDURAL MATTERS

By agreement with OCD, the parties will pre-file its direct testimony and exhibits.

Respectfully submitted,

HOLLAND & HART LLP

Michael H. Feldewert
Adam G. Rankin
Julia Broggi
Kaitlyn A. Luck
Post Office Box 2208
Santa Fe, New Mexico 87504-2208
(505) 988-4421
(505) 983-6043 Facsimile
mfeldewert@hollandhart.com
agrarkin@hollandhart.com
jbroggi@hollandhart.com
kaluck@hollandhart.com

ATTORNEYS FOR SPC RESOURCES, LLC

CERTIFICATE OF SERVICE

I hereby certify that on September 2, 2021, I served a copy of the foregoing document to the following counsel of record via Electronic Mail to:

Eric Ames
Jesse Tremaine
Assistant General Counsels
New Mexico Energy Minerals and Natural
Resources Department
1220 S. St. Francis Drive
Santa Fe, New Mexico 87505
eric.ames@state.nm.us
jessek.tremaine@state.nm.us

ATTORNEYS FOR OIL CONSERVATION DIVISION

James Bruce
Post Office Box 1056
Santa Fe, New Mexico 87504
505-982-2043
jamesbruc@aol.com

**ATTORNEY FOR MEWBOURNE OIL COMPANY AND
MATADOR PRODUCTION COMPANY**



Adam G. Rankin



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