

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

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

**CASE NO. 14463  
ORDER NO. R-13246**

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

**ORDER OF THE DIVISION**

**BY THE DIVISION:**

This case came on for consideration on the Oil Conservation Division Enforcement and Compliance Manager's Motion for Reconsideration of Motion to Dismiss Williams Production Co. LLC's Application for Hearing and Motion to Set the Case before the Oil Conservation Commission if the Motion to Dismiss is Denied (Motion for Reconsideration).

NOW, on this 30<sup>th</sup> day of April, 2010, the Division Director, having considered the Motion for Reconsideration, the Applicant's Response and the recommendations of the Examiner,

**FINDS THAT:**

- (1) Due notice has been given, and the Division has jurisdiction of the subject matter of this case.
- (2) Williams Production Co., LLC (Applicant) seeks reversal of a decision of the Aztec District Office of the Division denying its application for a permit to dispose of wastes from its proposed Rosa Unit SWD Well No. 2 into a temporary pit at a location remote from the well site.

(3) The Aztec District Office denied the application for a pit permit (C-144) on the ground that provisions of Division Rule 19.15.17 (the Pit Rule) and/or 19.15.36 (the Surface Waste Management Rule) prohibit disposition of wastes into a temporary pit not located at the drillsite absent an exception to the Pit Rule authorized pursuant to Rule 19.15.17.15.

(4) In its original Application filed in this Case, Applicant contended that the Pit Rule did not prohibit its proposed waste management method, or, in the alternative, that an exception to the Pit Rule should be allowed in this case. By letter dated March 18, 2010, the Division declined to set this case for a hearing because Applicant sought an exception to the Pit Rule which, pursuant to 19.15.17.15, must be first presented to the Environmental Bureau in the Division's Santa Fe Office after prescribed public notice.

(5) Thereafter, on March 25, 2010, Applicant filed an Amended Application in which it dropped its request for an exception and asked only that the Division Director construe the Pit Rule as authorizing its proposed waste management method without the necessity to obtain an exception. The Amended Application also changed the location for the proposed remote temporary pit.

(6) On April 6, 2010, the Division's Compliance and Enforcement Manager ("the Compliance Manager"), through counsel, filed a Motion to Dismiss the Amended Application because the revised temporary pit location had not been considered by the District Office.

(7) On April 8, 2010, the hearing examiner denied the Motion to Dismiss because the Amended Application presented an issue of law that would have to be resolved regardless of the specific pit location.

(8) On April 22, 2010, the Compliance Manager, through counsel, filed the Motion for Reconsideration, seeking dismissal of the Application on various grounds not included in the previous motion, and alternatively asking that the Division Director remove this case to the Commission for hearing and disposition. On April 27, 2010, Applicant filed its Response to the Motion for Reconsideration.

(9) The Motion for Reconsideration premised on the alleged necessity for an exception to the Pit Rule and a contention that a proposal to utilize a temporary pit at another well location requires a surface waste management facility permit under Rule 19.15.36.

(10) The Compliance Manager first asserts that this Application is controlled by Section 19.15.17.13.F(2)(f) of the Pit Rule, which governs closure of drying pads into temporary pits. Applicant responds that it does not contemplate utilizing a drying pad. This fact issue should be resolved after hearing.

(11) The Compliance Manager next asserts that Applicant has not complied with the procedural prerequisites for seeking an exception to the Pit Rule. The Amended

Application, however, seeks only a construction of the Pit Rule and not an exception. If it is determined after hearing that an exception to the Pit Rule is required, the Application can be denied without prejudice to Applicant's right to seek such an exception.

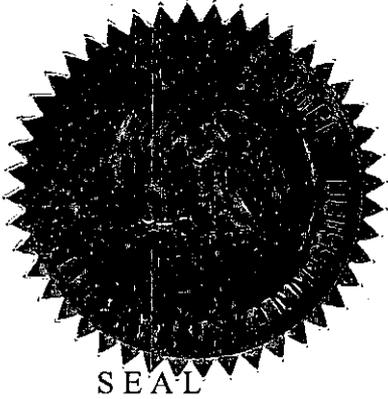
(12) The Division Director concludes that the Motion for Reconsideration, insofar as it seeks peremptory dismissal, should be denied.

(13) However, in view of the importance that resolution of the issues presented in this Application will likely have for the administration of the Pit Rule, the Director further concludes that this case should be heard by the Commission in the first instance.

**IT IS THEREFORE ORDERED THAT:**

- (1) The Compliance Manager's Motion for Reconsideration is denied.
- (2) Pursuant to Rule 19.15.4.20.B the Director hereby directs that this case be withdrawn from the hearing examiner and heard by the Commission in the first instance.
- (3) Jurisdiction of this case is retained for the entry of such further orders as the Division may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.



STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION

A handwritten signature in black ink, appearing to read "Mark E. Fesmire".

MARK E. FESMIRE, P.E.  
Acting Director