

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

**APPLICATION OF NGL WATER SOLUTIONS
PERMIAN, LLC FOR APPROVAL OF SALT WATER
DISPOSAL WELL IN EDDY COUNTY, NEW MEXICO**

CASE NO. 20404

**NGL WATER SOLUTIONS PERMIAN LLC'S RESPONSE TO
SOLARIS WATER MIDSTREAM, LLC'S MOTION TO DISMISS**

NGL Water Solutions Permian, LLC (“NGL”), OGRID No. 372338, through its undersigned attorneys, hereby submits this Response in opposition to Solaris’ Motion to Dismiss (Solaris Motion). Solaris’ Motion must be denied because it provides no basis for dismissing Case No. 20404. Solaris takes the position in its motion that NGL’s application must be denied because NGL did not submit proof of publication when it filed its application. NGL filed its application for an examiner hearing, not administrative approval. Because Solaris’ Motion rests on the contention that NGL failed to comply with the publication requirement in the *administrative approval regulations*, it lacks merit and must be dismissed. In any event, NGL will demonstrate compliance with the correct regulation at the required time, *i.e.*, at the examiner hearing.

Solaris’ Motion fails because the regulation Solaris cites is inapplicable when, as here, NGL has filed an application for examiner hearing and not for administrative approval. Rule 19.15.26.8 NMAC applies only to applications filed for administrative approval. *See* Rule 19.15.26.8(C)(1) NMAC (“If *the application is for administrative approval rather than for a hearing*, it shall be accompanied by a copy of a legal notice the applicant published in a newspaper of general circulation...” (emphasis added)). Here, NGL did not submit an application for administrative approval, but, instead and consistent with the OCD rules, has applied for an

examiner hearing. The regulation Solaris cites, then, by its very terms does not apply here and cannot provide a basis for dismissing NGL's application.¹

NGL will demonstrate compliance with the applicable regulations at the examiner hearing. The applicable regulation, Rule 19.15.4.12(B) NMAC, requires notice be sent by certified mail at least 20 days prior to the application's scheduled hearing date. It only requires publication if there are unlocatable persons. 19.15.4.12(C) NMAC requires an applicant to provide evidence of its compliance with the notice requirements at *the hearing and not before*. See Rule 19.15.4.9.C ("At the hearing, the applicant shall make a record, either by testimony or affidavit, that the applicant or its authorized representative has signed, that the applicant has" complied with the notice requirements. (emphasis added)). This regulation does not require proof of publication at all (unless persons entitled to notice are unlocatable and then publication must be done ten business days before the hearing), much less proof of publication at the time NGL submitted its application.

At ConocoPhillips' request, NGL agreed to a continuance of this case, to the next available docket date, which will likely be May 16, 2019. At the May 16 hearing, NGL will provide evidence of its compliance with the notice requirements in Rule 19.15.4.12(B) as required by Rule 19.15.4.12(C) and consistent with Division practice.

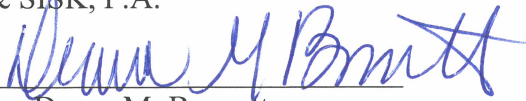
In sum, Solaris' Motion must be denied because it relies on an inapplicable rule and NGL will demonstrate compliance with the correct rule at the time required by the regulations, *i.e.*, at the examiner hearing.

¹ Even if Rule 19.15.26.8 NMAC applied, that rule does not compel dismissal here, because the Division will not be taking any action on NGL's application until after the hearing and NGL will be providing proof of notice at that hearing.

WHEREFORE, NGL requests that the Division deny Solaris' Motion to Dismiss Case No. 20404.

Respectfully submitted,

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I hereby certify that a true and correct copy of the foregoing was served on counsel of record by electronic mail on April 1, 2019.

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