

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

2007 MAR 2 PM 12 46

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

**APPLICATION OF QUEST CHEROKEE, LLC
FOR APPROVAL OF AN APPLICATION FOR
PERMIT TO DRILL, LEA COUNTY, NEW MEXICO.**

Case No. 13,870

POST-HEARING STATEMENT OF QUEST CHEROKEE, LLC

This post-hearing statement is submitted by applicant Quest Cherokee, LLC (“Quest”) in support of its application.

I. **INTRODUCTORY FACTS.**

This application involves the West Bishop Canyon Well No. 1, which Quest proposes to drill at an orthodox oil well location in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 9, Township 18 South, Range 38 East, N.M.P.M., to test the San Andres formation. Due to objections by several surface owners (the “Intervenors”) to the drilling of the well, the Hobbs District Office informed Quest that it would not approve any Application for Permit to Drill (“APD”) filed by Quest.

The NW $\frac{1}{4}$ of Section 9 was once entirely state land (surface and mineral estates). In 1960 the state patented the surface estate, excepting and reserving all minerals, together with the right to prospect for, mine, and remove the same, and perform any and all acts necessary in connection therewith, in compliance with the laws of New Mexico. **Quest Exhibit 5.** In February 2004 the state issued Oil and Gas Lease VA-3080, covering its oil and gas mineral interest in the NW $\frac{1}{4}$ of Section 9. **Quest Exhibit 6.** That lease is now owned by Quest. **Quest Exhibits 6 and 7.**

II. ARGUMENT.

A. APD.

The filing and approval of an APD is normally a ministerial act. The pertinent District Office reviews the application to determine if the operator of the well (i) has registered with the Division as an operator, (ii) has an OGRID number, (ii) is bonded, and (iv) has registered with the Public Regulation Commission (if the operator is a corporation). **NMAC 19.15.3.100-102, and NMAC 19.15.13.1101.** Quest's witnesses testified at hearing that it has complied with these requirements.¹

Furthermore, under New Mexico law and Division regulations, Quest is not required to notify surface owners of the filing of an APD. The only notice requirement is if a well is in the corporate limits of a city, town, or village, when the town must be notified. Both sides agreed that the well was not within a city's limits, and thus notice was unnecessary.

In addition, Quest's witnesses testified that they would comply with all Division statutes and regulations regarding the drilling and operating of wells in New Mexico. These regulations include the protection of fresh water, blowout prevention, safety regulations, and hydrogen sulfide (if applicable). **NMAC 19.15.3.106, 109, 114, and 118.** These regulations address most issues raised by Intervenors. Thus, Quest's APD must be processed by the Hobbs District Office.

The Division may impose conditions on approval of an APD. **NMAC 19.15.13.110.B.** Again, Quest's witnesses testified that Quest would comply with all lawful requirements of the Division. However, the Division may not impose conditions not otherwise required by law.

¹ If not previously provided, the emergency contact for Quest is: David W. Bolton, Executive V.P., Suite 300, 9520 North May Avenue, Oklahoma City, Oklahoma 73120 (phone: (404) 488-1304; and fax: (405) 840-9897).

surface owner ceased negotiations with Quest.

C. INTERVENOR'S ADDITIONAL REQUESTS.

Intervenors, in their presentation, essentially wanted Quest to agree to conditions on drilling that exceed the Division's regulatory authority. They complained of the following:

- a. Fumes: Intervenors asserted that drilling and servicing the well would lead to an unacceptable increase in traffic and motor vehicle fumes. That is pure sophistry. Intervenors final witness (Mr. Roberson) testified as to how busy College Lane is, and further testified that a number of additional residences were

B. LOCATION OF WELL.

Quest's geologist testified that, based on geology, the well must be drilled in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 9. **Quest Exhibit 11.** Moving the well to the west, as requested by Intervenor, is not practical or prudent for the operator, and directional drilling is not economic. **Quest Exhibit 14.**

In addition, looking at the plats submitted at the hearing (*e.g.*, **Quest Exhibit 3**), the well is located a substantial distance from existing residences. In addition, before selecting the wellsite, Quest and its assignor both checked with City (Hobbs), County, and State authorities on surface use at this location, and no restrictions were imposed.

New Mexico law provides that an oil and gas lessee may use so much of the surface as is reasonably necessary for its drilling and production operations. **Amoco Production Company v. Carter Farms Company, 103 N.M. 117 (1985).** Quest has public road access to the NW $\frac{1}{4}$ of Section 9. Thus, it is not blocked from reaching the drillsite by any surface access issues. In addition, Quest is willing to discuss use of the proposed wellsite with the owner. However, the surface owner ceased negotiations with Quest.

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proposed that would add 300 or more vehicles to the immediate area of the well in the near future. The limited vehicle traffic caused by drilling and operating the well pales in comparison to existing and projected traffic.

b. Sound: Intervenors also asserted that the increase in noise caused by drilling and servicing the well would be disruptive of the neighborhood. First, there are no Division, Lea County, or State of New Mexico sound or noise reduction regulations, ordinances, or statutes. Imposing noise reduction in an APD would be arbitrary and capricious, and is beyond the scope of the Division's authority.

In addition, the current and planned increases in traffic in the area of the well indicate that the alleged increase in noise is not a serious argument.

If Intervenors have a complaint on the above two issues, it is with Lea County or the State Transportation Department.

c. Well Blowout. As Mr. Hochstein testified on behalf of Lynx, this is an underpressured oil reservoir, and blowouts are not an issue. Also, as noted above, Quest must comply with NMAC 19.15.3.109 (blowout prevention).

d. Property Prices: Intervenors presented newspaper ads on property prices in the area of the well (up to \$30,000 for less than an acre of land). Such ads merely show what owners want to sell for, not actual prices. More importantly, however, Mrs. Cox (the surface owner of the wellsite) testified that she and her husband bought the property for about \$1250/acre. Thus, there is simply no evidence that Mrs. Cox (or anyone else) is losing value on property in this area due to the well.

III. CONCLUSION.

Quest and the State Land Office own mineral rights in the NW¼ of Section 9, and are legally entitled to develop them in a prudent manner. If they cannot develop them, their correlative rights² will be impaired. Moreover, waste of hydrocarbons will occur, in violation of the Oil and Gas Act. None of Intervenor's arguments bar issuance of an APD by the Division. Quest requests that an APD filed with the Division's Hobbs District Office be duly processed.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was served upon the following counsel of record this 15th day of March, 2007, by U.S. Mail and facsimile transmission.

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James Bruce

² Intervenor's talked about the surface owners "correlative rights." However, The Oil and Gas Act only recognizes the correlative rights of mineral owners.