

FAX TRANSMISSION
SOUTHWEST REGIONAL SOLICITOR'S OFFICE
505 Marquette Ave., NW, Suite 1800
Albuquerque, New Mexico 87102
Phone: (505) 248-5600
Fax: (505) 248-5623

To: New Mexico Energy, Minerals and Natural Resources Department
Oil Conservation Division – fax 505-476-3462

From: Janet Wong – direct phone 505-248-5605

Date: October 9, 2008

No. of Pages (including cover sheet): 3

Subject: In the Matter of Mesquite SWD, Inc.'s Application No. PKVR0817936301 to Amend Permit SWD-180, Case No. 14178 - Subpoena Duces Tecum dated October 7, 2008, to Mr. John Simitz, Bureau of Land Management

This facsimile message is intended only for the use of the individual or entity to which it is addressed. It may contain information that is privileged, confidential, or otherwise protected from disclosure under applicable law. If the reader of this transmission is not the intended recipient or the employee or agent responsible for delivering the transmission to the intended recipient, you are hereby notified that any dissemination, distribution, copying, or use of this transmission or its contents is strictly prohibited. If you have received this transmission in error, please notify us by calling and returning the original transmission to us at the address given above.



United States Department of the Interior

OFFICE OF THE SOLICITOR
Southwest Regional Office
505 Marquette Avenue NW
Suite 1800
Albuquerque, New Mexico 87102

October 9, 2008

By facsimile only - (505) 982-8623

Kelcey Nichols
Hinkle, Hensley, Shanor & Martin, L.L.P.
218 Montezuma
P.O. Box 2068
Santa Fe, New Mexico 87504

Re: Subpoena Duces Tecum

Dear Ms. Nichols:

This is in response to a subpoena duces tecum issued by the State of New Mexico Energy, Minerals and Natural Resources Department, Oil Conservation Division, dated October 7, 2008, at your request, ordering the Bureau of Land Management ("BLM") to produce requested documents on October 9, 2008, and ordering a BLM employee, John Simitz, to testify on October 15, 2008. The Department of the Interior has promulgated regulations at 43 C.F.R. Part 2, Subpart H, which govern the production of documents and the testimony of employees. The Department's general policy is to not allow its employees to testify or to produce Department records either upon request or by subpoena. 43 C.F.R. § 2.81(a). If a request is submitted pursuant to these regulations, an agency official will decide whether to allow testimony or production of records under this subpart. 43 C.F.R. § 2.81(a). If you would like to submit a request pursuant to the regulations, you may direct your request to the following:

Linda Rundell, State Director
Arizona State Office, BLM
P.O. Box 27115
Santa Fe, NM 87502-0115

Chuck Schmidt, Acting Field Manager
Roswell Field Office, BLM
2909 West Second Street
Roswell, NM 88201

Janet Wong
Southwest Regional Solicitor's Office
505 Marquette Avenue NW, Suite 1800

Albuquerque, NM 87102

As of this date, we have not received a request which complies with the regulations. Thus, the requested documents will not be produced on October 9, 2008, and Mr. Simitz will not testify on October 15, 2008. See 43 C.F.R. § 2.81(b) (no Department employee may testify or produce records in any proceeding to which this subpart applies unless authorized by the Department under §§ 2.80 through 2.90) and § 2.83.

In the future, please comply with the Department's regulations at least two weeks prior to the anticipated testimony, so that sufficient time is afforded to review the request in conjunction with the regulations cited herein. Please feel free to contact me at (505) 248-5605 should you have any questions.

Sincerely,


Janet Wong
Attorney-Advisor

cc (by facsimile): New Mexico Energy, Minerals and Natural Resources Department,
Oil Conservation Division