

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

IN THE MATTER OF MESQUITE SWD, INC.'S APPLICATION NO. PKVR0812936301
TO AMEND PERMIT SWD-180

Case No. 14178

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APPLICANT MESQUITE SWD, INC.'S REVISED PREHEARING STATEMENT

Pursuant to 19.15.14.1211(B) NMAC, Applicant Mesquite SWD, Inc. ("Mesquite") submits its Revised Prehearing Statement based on the New Mexico Oil Conservation Division's (NMOCD's) withdrawal of Emergency Order No. E-37.

I. Parties

Mesquite, the Applicant, is represented by the undersigned counsel, Thomas M. Hnakso and Kelcey C. Nichols of the Santa Fe office of Hinkle, Hensley, Shanor & Martin, L.L.P.

Mr. Sonny Swazo represents the New Mexico Oil Conservation Division ("NMOCD") in this matter.

II. Concise Statement of the Case

Mesquite seeks an order formally amending Order SWD-180 to allow the Exxon State No. 8 to dispose of produced water at a depth of 694 feet. Order SWD-180 currently permits the Exxon State No. 8 to dispose of salt water within the Yates Formation at a depth of 600 feet. Mesquite submitted its application to amend Order SWD-180 on June 24, 2008 and, for more than three months, has worked in good faith with the NMOCD to resolve the NMOCD's concerns with respect to Mesquite's application. Mesquite has complied with all of the NMOCD's requirements as set forth in the NMAC and Form C-108.

Additionally, Dr. Kay Havenor conducted an extensive analysis of the geohydrology surrounding the Exxon State No. 8 and concluded that allowing the Exxon State No. 8 to dispose of produced water at a depth of 694 feet would not endanger any protected or unprotected water, including the protected waters in the Capitan Reef, or have an adverse impact on any nearby wells. Dr. Havenor's analysis of the thickening of the Yates Formation southward toward the Capitan Reef demonstrates that the bottom of the Yates Formation is located at a depth of at least 802 feet, more than 100 feet below the bottom of the Exxon State No. 8 well, at 694 feet. Thus, at a total depth of 694 feet, the Exxon State No. 8 is still well within the Yates Formation.

Dr. Havenor's analysis of wells in the area of review and the area surrounding the Exxon State No. 8 further demonstrates that there are no water wells within one half mile of the Exxon State No. 8. The concentrations of total dissolved solids (TDS) in the wells surrounding the Exxon State No. 8 range from 79,800 mg/l to 114,000 mg/l, far in excess of protected water which must have a TDS concentration of less than 10,000 mg/l. **19.15.9.701(E)(2) NMAC.**

For the reasons set forth above, Mesquite respectfully requests that the Division Examiner enter an order allowing the Exxon State No. 8 to operate at a depth of 694 - 700 feet.

III. Mesquite's Witnesses

Mesquite will present the following four witnesses to testify in support of its application:

1. Clay Wilson, the President and Managing Partner of Mesquite, co-partner of C&D Energy, and the current operator of the Exxon State No. 8 salt water disposal well;
2. David Perini, co-partner of C&D Energy, and the former operator of the Exxon State No. 8 salt water disposal well;

3. John Simitz, Geologist, Bureau of Land Management; and
3. Dr. Kay Havenor, who has been retained by Mesquite as an expert in geoscience.

IV. Mesquite's Case Presentation

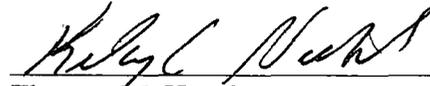
Mesquite anticipates that it will take approximately three (3) hours to present its case.

V. Unresolved Procedural Matters

None.

Respectfully submitted,

HINKLE, HENSLEY, SHANOR & MARTIN, LLP



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Attorneys for Applicant Mesquite SWD, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this on this 8th day of October, 2008, I sent a true and correct copy of the foregoing and *Mesquite SWD, Inc. 's Prehearing Statement* via postage prepaid first class mail and electronic mail to:

Mr. Sonny Swazo, Esq.
Oil Conservation Division
1220 South St. Francis Drive
Santa Fe, NM 87505



Kelcey C. Nichols