



New Mexico Energy, Minerals and Natural Resources Department

Bill Richardson
Governor

Jon Goldstein
Cabinet Secretary

Jim Noel
Deputy Cabinet Secretary

Mark Fesmire
Division Director
Oil Conservation Division



March 31, 2010

Range Operating New Mexico, Inc.
Attn: Ms. Deanna M. Poindexter
100 Throckmorton Street
Suite 1200
Fort Worth, TX 76102

**Re: East Loving Delaware Lease Waterflood Project
Division Order No. R-12601**

Dear Ms. Poindexter:

We are in receipt of your letter dated March 15, 2010, wherein you request “that the Division certify the [referenced] project to the New Mexico Taxation & Revenue Department retroactively to the date of first injection.” This request evidently seeks to invoke the procedure described in Ordering Paragraph (12) of Order No. R-12601, issued in Case No. 13705 on July 26, 2006.

Based on legal review, we now believe that Ordering Paragraph (12) was improvidently included in Order No. R-12601.

The Enhanced Oil Recovery Act, in NMSA 1978 Section 7-29A-4.F, provides that:

Upon the approval of the application for an enhanced recovery project or expansion, the division shall issue a certification of approval to the operator and designate the area to be affected by the enhanced recovery project or expansion.

The Division complied with Section 7-29A-4.F for this project when it issued Order R-12601 and served a copy thereof upon the operator.

Section 7-29A-4.F is the only provision in the statute for an OCD “certification” prior to the certification of positive production response described in Section 7-29A-4.I. Accordingly, the provision of Section 7-29A-4.I that the application for certification of positive production response must be filed “not later than five years from the date the division issues the certification of approval of the enhanced recovery project” necessarily refers to the date of issuance of Order R-12601, *i.e.* July 26, 2006. Since the Division does not have authority to extend the time requirement imposed by statute as a condition of eligibility for the lower tax rate that the statute



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provides, we can only conclude the Ordering Paragraph (12), and the issuance of any certificate as contemplated thereby, would have no legal effect.

For the reasons stated, your request for a certification to the Taxation and Revenue Department shall be denied.

Sincerely,

David K. Brooks
Legal Examiner, OCD

DATE IN	SUSPENSE	ENGINEER	LOGGED IN	TYPE	APP NO.
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ABOVE THIS LINE FOR DIVISION USE ONLY

NEW MEXICO OIL CONSERVATION DIVISION
 - Engineering Bureau -
 1220 South St. Francis Drive, Santa Fe, NM 87505



ADMINISTRATIVE APPLICATION CHECKLIST

THIS CHECKLIST IS MANDATORY FOR ALL ADMINISTRATIVE APPLICATIONS FOR EXCEPTIONS TO DIVISION RULES AND REGULATIONS WHICH REQUIRE PROCESSING AT THE DIVISION LEVEL IN SANTA FE

Application Acronyms:

- [NSL-Non-Standard Location] [NSP-Non-Standard Proration Unit] [SD-Simultaneous Dedication]**
[DHC-Downhole Commingling] [CTB-Lease Commingling] [PLC-Pool/Lease Commingling]
[PC-Pool Commingling] [OLS - Off-Lease Storage] [OLM-Off-Lease Measurement]
[WFX-Waterflood Expansion] [PMX-Pressure Maintenance Expansion]
[SWD-Salt Water Disposal] [IPI-Injection Pressure Increase]
[EOR-Qualified Enhanced Oil Recovery Certification] [PPR-Positive Production Response]

[1] **TYPE OF APPLICATION** - Check Those Which Apply for [A]

- [A] Location - Spacing Unit - Simultaneous Dedication
 NSL NSP SD

Check One Only for [B] or [C]

- [B] Commingling - Storage - Measurement
 DHC CTB PLC PC OLS OLM

- [C] Injection - Disposal - Pressure Increase - Enhanced Oil Recovery
 WFX PMX SWD IPI EOR PPR

- [D] Other: Specify: Commencement of Injection-EOR Certification

[2] **NOTIFICATION REQUIRED TO:** - Check Those Which Apply, or Does Not Apply

- [A] Working, Royalty or Overriding Royalty Interest Owners
- [B] Offset Operators, Leaseholders or Surface Owner
- [C] Application is One Which Requires Published Legal Notice
- [D] Notification and/or Concurrent Approval by BLM or SLO
U.S. Bureau of Land Management - Commissioner of Public Lands, State Land Office
- [E] For all of the above, Proof of Notification or Publication is Attached, and/or,
- [F] Waivers are Attached

*COPY TO Case 13705
A-12001*

[3] **SUBMIT ACCURATE AND COMPLETE INFORMATION REQUIRED TO PROCESS THE TYPE OF APPLICATION INDICATED ABOVE.**

[4] **CERTIFICATION:** I hereby certify that the information submitted with this application for administrative approval is **accurate** and **complete** to the best of my knowledge. I also understand that **no action** will be taken on this application until the required information and notifications are submitted to the Division.

Note: Statement must be completed by an individual with managerial and/or supervisory capacity.

Deanna M. Poindexter
 Print or Type Name

Deanna Poindexter
 Signature

District Engineer
 Title

3/15/2010
 Date

dpoindexter@rangeresources.com
 E-Mail Address

March 15, 2010

Energy, Minerals and Natural Resources Department
Oil Conservation Division
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

Attention: Mr. Mark Fesmire
Division Director

Re: Range Operating New Mexico, Inc.
Notice of Commencement of Injection Operations &
Request for Retroactive Certification to NM Taxation & Revenue Dept.
East Loving Delaware Leasehold Waterflood Project
Eddy County, New Mexico

RECEIVED OGD
2010 MAR 18 A 11:58

Dear Mr. Fesmire,

By Order No. R-12601, as amended, dated July 26, 2006 Range Operating New Mexico, Inc. ("Range") was authorized by the Division to institute a leasehold waterflood project within a project area comprising the N/2 and the N/2 S/2 of Section 23, Township 23 South, Range 28 East, NMPM, Eddy County, New Mexico, by the injection of water into the Brushy Canyon member of the Delaware formation, East Loving-Brushy Canyon Pool (40350). Order No. R-12601 further authorized Range to utilize the following-described wells for injection:

<u>Well Name & Number</u>	<u>Surface Well Location</u>
South Culebra Bluff "23" No. 15	Unit H, Section 23, T-23S, R-28E
South Culebra Bluff "23" No. 17	Unit K, Section 23, T-23S, R-28E
South Culebra Bluff "23" No. 18	Unit E, Section 23, T-23S, R-28E
South Culebra Bluff "23" No. 19	Unit F, Section 23, T-23S, R-28E
South Culebra Bluff "23" No. 20	Unit J, Section 23, T-23S, R-28E
South Culebra Bluff "23" No. 21	Unit I, Section 23, T-23S, R-28E

Order No. R-12601 further qualified the project as an "Enhanced Oil Recovery Project" pursuant to the "Enhanced Oil Recovery Act."

Pursuant to Ordering Paragraph No. 12 of Order No. R-12601, Range is required to notify the Division of the date water injection commenced within the project area. At that time, the Division certifies the project to the New Mexico Taxation & Revenue Department.

Please be advised that injection within the East Loving Delaware Leasehold Waterflood Project commenced in May, 2007. Through the end of 2009, the six wells authorized for injection within the project have cumulatively injected 2.135 million barrels of fluid into the East Loving-Brushy Canyon Pool. Consequently, Range hereby

requests that the Division certify the project to the New Mexico Taxation & Revenue Department **retroactively to the date of first injection.**

It is our understanding that pursuant to the "Enhanced Oil Recovery Act", Range has five years from the certification date to demonstrate that a positive production response has occurred within the project in order to qualify for the EOR tax rate.

Range will file a subsequent request to certify that a positive production response has occurred within the East Loving Delaware Leasehold Waterflood Project.

If you should have any questions, please call me at (817) 869-4127.

Sincerely,



Deanna M. Poindexter
District Engineer
Range Operating New Mexico, Inc.
100 Throckmorton Street
Suite 1200
Fort Worth, Texas 76102