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**APPLICATION
BY ORDER**

2008

HOLLAND & HART LLP



Ocean Munds-Dry
omundsdry@hollandhart.com

February 19, 2008

HAND-DELIVERED

Mark E. Fesmire, P.E.
Director
Oil Conservation Division
New Mexico Energy, Minerals and
Natural Resources Department
1220 South Saint Francis Drive
Santa Fe, New Mexico 87505

Case 14102

RECEIVED
FEB 19 PM 3 45

**Re: Application of Marbob Energy Corporation for an order
authorizing a centralized surface waste management facility, Eddy
County, New Mexico**

Dear Mr. Fesmire:

Enclosed is the application of Marbob Energy Corporation in the above-referenced case as well as a copy of a legal advertisement. Marbob requests that this matter be placed on the docket for the March ²⁰~~01~~, 2008 Examiner hearings.

Sincerely,

O Munds-Dry
Ocean Munds-Dry *by ME*

Enclosures

Holland & Hart LLP

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

**APPLICATION OF MARBOB ENERGY CORPORATION FOR AN ORDER
AUTHORIZING A CENTRALIZED SURFACE WASTE MANAGEMENT FACILITY,
EDDY COUNTY, NEW MEXICO.**

CASE NO. 14/02

APPLICATION

MARBOB ENERGY CORPORATION ("Marbob"), pursuant to the provisions of Oil Conservation Division Rule 19.15.9.711 and 19.15.36.20(C) applies to the New Mexico Oil Conservation Division for an order approving a centralized surface waste management facility, Eddy County, New Mexico and in support of this application, states:

1. Marbob Energy Corporation is the surface owner of certain lands in Sections 19 and 30, Township 17 South, Range 30 East, NMPM, Lea County, New Mexico.

2. Marbob proposes to construct and operate a centralized surface waste management facility in the SW/4 SW/4 of Section 19 and the NW/4 NW/4 of Section 30. Whereas the purpose of the facility is waste management, operation of the facility will also cause habitat restoration of the former caliche pits by filling the pits with drilling pit materials and other non-hazardous oilfield waste, covering the compacted material with an infiltration barrier then restoring the site with native vegetation.

3. Marbob filed its application to the Division on February 14, 2006 and in March 2006 provided notice to adjacent landowners and other affected parties pursuant to Division Rule 711. At the time Marbob filed the application, Marbob also requested the Division approve the proposed notice for publication in a newspaper of general circulation. In March 2006, the

Division approved the legal notice and Marbob accordingly published the legal notice also pursuant to Division Rule 711.

4. At the time Marbob filed the application, the United State Government was the surface owner where Marbob proposed to locate the surface waste management facility. Thus, in May and June of 2005 Marbob met with the United States Bureau of Land Management (BLM) to discuss the proposed surface waste management facility and the acquisition of the property. Marbob also provided notice of the application to the BLM when it filed the application with the Division. The subject lands in Section 19 and Section 30 were acquired from the BLM in April 2007.

5. Marbob submitted its application when new surface waste management rules were being considered by the Oil Conservation Commission. During the hearing, Marbob requested a transitional provision be included in the proposed rules to specifically address the Marbob application which would allow it to be considered under Rule 711. The Division was aware that Marbob was still in the process of acquiring the property.

6. As adopted in 19.15.36.20(C) NMAC the transitional provision provides:

The division shall process an application for a surface waste management facility permit filed prior to May 18, 2006 in accordance with 19.15.9.711 NMAC and an application filed after May 18, 2006 in accordance with 19.15.36 NMAC.

7. Shortly after Marbob acquired the subject property from the BLM, Marbob wrote to the Division to request it be allowed to conduct a pilot test on the property as described in the February 14, 2006 application. The Division denied this request.

8. Marbob subsequently followed up with the Division regarding the further processing of its application.

9. On January 14, 2008, the Division responded that the application was “never officially accepted by the OCD at the time of submittal” because Marbob did not possess the property in which the facility was proposed nor did it have approval of the owner at the time. The Division concluded that the application would therefore need to be submitted in accordance with Rule 36 rather than Rule 711.

10. Marbob’s application was improperly rejected because Rule 711 does not state that the Division must “officially accept” the application nor does it require that the applicant own the property where it proposes to construct a surface waste management facility. Further, the BLM was fully aware of Marbob’s proposal, did not object at anytime, and was in constant communication with Marbob and its representatives regarding the property and the proposed waste facility from 2005 until Marbob acquired the property in 2007..

11. Marbob has sent notice of this application to those interested parties listed on **Exhibit A** to this application.

12. Approval of this application will be in the best interest of conservation, will protect correlative rights and prevent waste. Approval of this application will also be fully protective to human health and the environment.

WHEREFORE, Marbob Energy Corporation requests that this application be set for hearing before an Examiner of the Oil Conservation Division on March 20, 2008, and that, after notice and hearing, the Division enter its order authorizing Marbob Energy Corporation to construct and operate a centralized surface waste management facility pursuant to the provisions of Rule 711 in Sections 19 and 30, Township 17 South, Range 30 East, Eddy County, New Mexico.

Respectfully submitted,

HOLLAND & HART, LLP

By: W.F. Carr *by me*

William F. Carr

Ocean Munds-Dry

P.O. Box 2208

Santa Fe, New Mexico 87504-2208

Telephone: (505) 988-4421

ATTORNEYS FOR MARBOB ENERGY CORP.

Exhibit A

**APPLICATION OF MARBOB ENERGY CORPORATION FOR AN ORDER
AUTHORIZING A CENTRALIZED SURFACE WASTE MANAGEMENT FACILITY,
EDDY COUNTY, NEW MEXICO.**

Larry Taylor
Highway 83
Loco Hills, New Mexico 88255

United States Department of Interior
Bureau of Land Management
Carlsbad Field Office
620 E. Greene St.
Carlsbad, New Mexico 88220

Eddy County Commission
101 West Greene Street
Suite 110
Carlsbad, New Mexico 88220

CASE NO. 14102 **Application of Marbob Energy Corporation for an order authorizing a centralized surface waste management facility, Eddy County, New Mexico.** Applicant seeks an order approving a centralized surface waste management facility in Sections 19 and 30, Township 17 South, Range 30 East, Eddy County, New Mexico. Applicant will place drilling pit material, recycled caliche roadbed or drill pad material, remediated hydrocarbon-impacted soils and topsoil into an existing caliche pit in accordance with sound engineering practices. The intended result is to then return the land and vegetation to a condition approximating or equal to that which existed prior to the construction of the caliche pit without posing a threat to human health or the environment. Fresh ground water, if present, is at a depth of more than 250 feet below land surface. Said location is approximately 1.5 miles west of Loco Hills, New Mexico.

NOTICE OF HEARING

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

The State of New Mexico through its Oil Conservation Division hereby gives notice pursuant to law and the Rules and Regulations of the Division of the following public hearing to be held at 8:15 A.M. on **March 20, 2008**, in the Oil Conservation Division Hearing Room at 1220 South St. Francis Drive, Santa Fe, New Mexico, before an examiner duly appointed for the hearing. If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing, please contact Florene Davidson at 505-476-3458 or through the New Mexico Relay Network, 1-800-659-1779 by **March 10, 2008**. Public documents, including the agenda and minutes, can be provided in various accessible forms. Please contact Florene Davidson if a summary or other type of accessible form is needed.

STATE OF NEW MEXICO TO:

**All named parties and persons
having any right, title, interest
or claim in the following cases
and notice to the public.**

(NOTE: All land descriptions herein refer to the New Mexico Principal Meridian whether or not so stated.)

CASE 14097: Application of Encore Operating, LP for compulsory pooling, Lea County, New Mexico. Applicant seeks an order pooling all mineral interests from the surface to the base of the Atoka and Morrow formations underlying the E/2 of Section 28, Township 16 South, Range 34 East, NMPM, Lea County, New Mexico, to form a standard 320-acre gas spacing and proration unit for any and all formations and or pools developed on 320 acres, including but not necessarily limited to the Atoka and Morrow formations. Said units are to be dedicated to Applicant's proposed Encore 28 State Com No. 1 Well to be drilled from a surface location 860 feet from the North line and 660 feet from the East line of said Section 28. Also to be considered will be the cost of drilling and completing said well and the allocation of the cost thereof as well as actual operating costs and charges for supervision, designation of Encore Operating, LP or its designee as operator of the well and a charge for risk involved in drilling said well. The proposed well location is approximately 12 miles southwest of Lovington, New Mexico.

CASE 14098: Application of Apache Corporation for compulsory pooling, Lea County, New Mexico. Applicant seeks an order pooling all mineral interests from the surface to the base of the Drinkard formation underlying the SW/4 NW/4 of Section 11, Township 20 South, Range 38 East, NMPM, to form a standard 40-acre oil spacing and proration unit for any and all formations or pools developed on 40-acre spacing within that vertical extent, including the House-Blinbry Pool and House-Tubb Pool. The unit will be dedicated to the Magnolia Well No. 1, to be drilled at an orthodox oil well location in the SW/4 NW/4 of Section 11. Also to be considered will be the cost of drilling and completing the well and the allocation of the cost thereof, as well as actual operating costs and charges for supervision, designation of applicant as operator of the well, and a 200% charge for the risk involved in drilling and completing the well. The unit is located approximately 2-1/2 miles south of Nadine, New Mexico.

CASE 14099: Application of RSC Resources Limited Partnership for approval of a non-standard oil spacing and proration unit and compulsory pooling, Eddy County, New Mexico.

Applicant seeks an order approving a non-standard oil spacing and proration unit (project area) comprised of the S/2 N/2 of Section 19, Township 16 South, Range 29 East, NMPM, to form a non-standard 160-acre oil spacing and proration unit (project area) for any and all formations or pools developed on 40-acre spacing within that vertical extent, and pooling all mineral interests in the Wolfcamp formation underlying the non-standard unit. The unit is to be dedicated to the Lucky Wolf "19" State Com. Well No. 1H, a horizontal well to be drilled at a surface location 1980 feet from the North line and 10 feet from the West line, with a terminus 1980 feet from the North line and 330 feet from the East line, of Section 19. Also to be considered will be the cost of drilling and completing the well and the allocation of the cost thereof, as well as actual operating costs and charges for supervision, designation of applicant as operator of the well, and a 200% charge for the risk involved in drilling and completing the well. The unit is located approximately 12 miles northwest of Loco Hills, New Mexico.

CASE 14100: Application of Chesapeake Operating, Inc. for an order authorizing the drilling of a well in the Potash Area, Lea County, New Mexico.

Applicant seeks an order approving the drilling of its proposed Lost Tank 16 State Well No. 1 to test the Lower Brushy Canyon Formation, Lost Tank Delaware Pool within the Potash Area at a location 330 feet from the South and West lines (Unit M) of Section 16, Township 21 South, Range 32 East, NMPM, Lea County, New Mexico. This well will be drilled to an approximate depth of 8,700 to test the Lower Brushy Canyon formation. Said location is within the Potash Area and approximately 36.1 miles east of Eunice, New Mexico.

CASE 14101: Application of Chesapeake Operating, Inc. for an order authorizing the drilling of a well in the Potash Area, Lea County, New Mexico.

Applicant seeks an order approving the drilling of its proposed Lost Tank 16 State Well No. 4 to test the Lower Brushy Canyon Formation, Lost Tank Delaware Pool within the Potash Area at a location 330 feet from the North and West lines (Unit D) of Section 16, Township 21 South, Range 32 East, NMPM, Lea County, New Mexico. This well will be drilled to an approximate depth of 8,700 to test the Lower Brushy Canyon formation. Said location is within the Potash Area and approximately 36.1 miles east of Eunice, New Mexico.

***CASE 14102: Application of Marbob Energy Corporation for an order authorizing a centralized surface waste management facility, Eddy County, New Mexico.**

Application seeks an order approving a centralized surface waste management facility in Sections 19 and 30, Township 17 South, Range 30 East, Eddy County, New Mexico. Applicant will place drilling pit material, recycled caliche roadbed or drill pad material, remediated hydrocarbon-impacted soils and topsoil into an existing caliche pit in accordance with sound engineering practices. The intended result is to then return the land and vegetation to a condition approximating or equal to that which existed prior to the construction of the caliche pit without posing a threat to human health or the environment. Fresh ground water, if present, is at a depth of more than 250 feet below land surface. Said location is approximately 1.5 miles west of Loco Hills, New Mexico.

Given under the Seal of the State of New Mexico Oil Conservation Commission at Santa Fe,
New Mexico on this 20th day of February, 2008.

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

Mark E. Fesmire, P. E.
Division Director

S E A L