

**BEFORE THE OIL CONSERVATION DIVISION
STATE OF NEW MEXICO**

**APPLICATION FOR INJECTION/SWD
WELLS IN EDDY COUNTY, NM
BY DELAWARE ENERGY LLC**

Case Nos.: 16259, 16,260, and 16,261

PROTESTANTS' PRE-HEARING STATEMENT

Comes now, Jim Davis and Barbara Davis, Protestants in the above-referenced Application, through their counsel of record, Marion J. Craig III, Attorney at Law, L.L.C., (Marion J. Craig III) and files this their Pre-Hearing Statement in the above-numbered cases:

1. **Party/Attorney:** Jim and Barbara Davis,
 Alisa Ogden
 c/o Marion J. Craig III, Attorney at Law, L.L.C.
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2. **Statement of the case:**

Applicant seeks an order authorizing the injection of produced water for disposal purposes for the proposed Giant Panda SWD #1, Grizzly SWD #1 and Kodiak SWD #1.

Protestants own property along Black River Village Road, and are in the area which would be affected by this well. The Davises are located on Black River, and are one of the habitats of the Texas Hornshell, an endanger species. Mr. and Mrs. Davis are protesting these salt water disposal wells on the basis that these salt water disposal wells are within the immediate proximity of the Black River and Black River Road, and therefore pose a threat to public safety, environmental quality and the fresh water supply of Black River. The Davises also oppose this application since there is no showing that the Applicant has permission to locate the SWD Well

at the place shown on the application. Upon information and belief, the Davises believe that the Applicant does not have permission to place the well at the location set forth in its applications, which were published. Finally, the location of the proposed wells, as advertised, is along Black River Village Road, must use Black River Village Road, or on property which is not susceptible to access.

Black River Village Road is in extremely bad repair, and there is already excessive truck traffic and other oil field traffic currently on that road. The Eddy County infrastructure is woefully lacking, but the county is starting to rebuild the road. One truck hauling produced water has already crashed into Black River, but fortunately no produced water escaped into the river. Additional traffic would pose a threat to the traveling public, cause additionally damage to the road and pose a threat to the critical habitat of one endangered species and another species which may be listed. The proposed salt water disposal wells will require truck traffic across low water crossings to reach the salt water disposal well locations. The low water crossings would present a danger to the river and the endangered species who have Black River as its habitat, in the event of a mishap with the salt water disposal trucks. Additionally, Black River is a major source of agricultural water for the Carlsbad Irrigation District, and also is the home to one endangered species and another species that is being investigated. Any spill into the river, whether directly through a truck accident, or an overflow at a salt water disposal well location, or a mishap with the casing on below ground portions of the disposal well, would seriously impact the Black River and destroy the endangered species.

This entire region through which the disposal wells are to be drilled is highly porous karst formations, primarily consisting of limestone and porous materials. These areas are areas of

fresh water supplying fresh water to the residents, Black River, and the agriculture of the area. Wells drilled in the area of Black River regularly loose circulation, and these areas of fresh water must be protected for the public good. At least monthly pressure tests should be required, larger than standard berms should be required, and additional cementing of the areas around the wells and pad should all be required, if any of these applications is granted.

Alisa Ogden owns property adjoining the Kodiak, and has the state grazing lease on the land that Applicant proposes to place the Kodiak SWD. The will cause damage to the protestant, and will cause surface damage to the land leased by her for which she should be compensated. She is not agreeable to granting an easement across her fee land to the proposed location. Also, she opposes these applications because of the public safety concerns and the potential damages to the Black River and the habitat of a protected endangered species.

3. **Witnesses:**

A. Jim Davis. Mr. Davis is a land owner along the Black River, and is across the road from one of the proposed salt water disposal wells in Section 5, and has land leased from the BLM next to Section 16. Mr. Davis can testify about the traffic problems and maintenance problems on Black River Road, and the critical nature of the Black River. Mr. Davis has knowledge of at least one truck hauling produced water crashing into the Black River, and has a picture of the event. Mr. Davis has drilled numerous water wells in the area of his home, and can testify about the problems encountered, and the direct effect that these water bearing areas have on the river. Mr. Davis will not allow access across his fee land to the Giant Panda.

B. Emily Wirth and/or Matt Ramey. Both work for CEHMM, and are acquainted with the environmental conditions of Black River, the critical habitat of the Texas

Hornshell Mollusk, and the impact that any leaked or lost produced water would cause to the environmental integrity of Black River. They will also testify that the effect that any spill would have on the endangered species, and generally about the hydrologic condition of Black River and the water bearing strata through which these salt water disposal wells are to be drilled, and the concerns from the increased traffic with will lead to opportunities for spills and increase in sedimentation, which would have a very deleterious effect on Black River. They also have photos of the types of problems which might be encountered.

C. Alisa Ogden will testify about the land she owns and the effect that she believes the proposed wells will cause. She will testify that she will not grant any access across her fee land to any of the wells.

D. Possibly a Representative from the State Land Office to testify on the status of any State Leases on the lands identified in the Applications.

4. **Approximate Time for Testimony:** It is anticipated that Protestants' presentation of their testimony will take approximately 2 hours. The testimony should be essentially the same with respect to each of the salt water disposal wells to which objection has been made, therefore the Applications should be hear together.

5. **Procedural Matters:** Protestants know of no procedural matters which need to be resolved, except that Applicants should be required to furnish a consent, lease or deed to show that it has the right to place the proposed well at the noticed location, and if any of the locations are revised or changed, a showing by the applicant that notice of any new location be noticed as

required by 19.15.26.8 NMAC. Also, issues of easements may become an issue to show that the Applicant will not trespass to use the proposed locations.

Respectfully Submitted,

Marion J. Craig III,
Attorney at Law, LLC

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Certificate of Service

Copies of this Statement have been sent to counsel for Applicant and the Oil Conservation Division Office this 7th day of November, 2018.

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