

STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

BEFORE THE OIL CONSERVATION COMMISSION

APPLICATION OF COG OPERATING, LLC FOR CANCELLATION OF
OPERATOR'S AUTHORITY AND TERMINATION OF SPACING UNITS, YESO
ENERGY, INC. DOW "B" 28 FED. WELL NO. 1, EDDY COUNTY, NEW MEXICO.

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CASE NO. 14,472
De Novo

APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION, THROUGH
THE COMPLIANCE AND ENFORCEMENT MANAGER, FOR AN
ORDER AUTHORIZING THE DIVISION TO RECOGNIZE AN OPERATOR
OF RECORD FOR WELLS CURRENTLY OPERATED BY YESO ENERGY, INC.; LEA, EDDY
AND CHAVES COUNTIES, NEW MEXICO.

CASE NO. 14,547

RESPONSE OF THE OIL CONSERVATION DIVISION
TO
MOTION FOR CONTINUANCE FILED BY JUDAH OIL, LLC

The Oil Conservation Division (OCD) opposes the motion filed by Judah Oil, LLC (Judah) seeking to continue the above-captioned cases until the December 9, 2010 hearing docket. The Oil Conservation Commission's December 9, 2010 docket is extremely crowded, and Judah has not demonstrated a need for a continuance until that date. Further, according to OCD records it appears that Judah is operating at least one of the wells at issue without becoming operator of record¹ – a swift determination of whether Judah is authorized to operate the well would be beneficial to all parties.

Judah bases its request for a continuance on its assumption that the issues in the case have changed. They have not. The OCD's application for hearing in Case No. 14,547 stated that

¹ See OCD Exhibits 19, 20, and 23.

it sought guidance on which operator or operators it should recognize as operator of record for certain wells operated by Yeso Energy, Inc. (Yeso), given the language in two hearing orders. Order R-12930-B, a plugging order issued to Yeso in a compliance case, states in relevant part that Yeso shall plug all wells "or transfer each of said wells to another operator not affiliated with Yeso and approved by the Division." Order R-13294, issued upon the application of COG Operating, LLC (COG), provides in relevant part, "The Division hereby terminates the authority of Yeso Energy to act as operator of the Dow 'B' 28 Federal well No. 1," and that "COG shall file an application with the Division to use the subject well for disposal operations without the necessity of a change of operator that would be ordinarily required."

When the OCD filed its pre-hearing statement in Case No. 14,547 (a day early), it wrote that it appeared that the "affiliation" issues related to Order R-12930-B had been resolved. The OCD had been concerned that Chica Energy, LLC (Chica) - one of the would-be operators - was affiliated with Yeso. Chica has provided the OCD with a letter indicating it is no longer interested in the Yeso wells. With Chica out of the picture, it appeared that the only issues left to determine were the issues related to Order R-13294: whether the termination of Yeso's authority as to the Dow 'B' 28 Fed. No. 1 and the provision allowing COG to apply for disposal authority without becoming operator of record affected Yeso's attempt to transfer the well to Judah, who was also seeking disposal authority for the well. However, when the OCD received the pre-hearing statement filed by COG, it realized that the "affiliation" issue might still be alive. COG attached as one of its possible exhibits a copy of a purchase and sale agreement showing that Yeso and Chica (as "sellers") were transferring the Dow 'B' 28 Fed. No. 1 to Judah reserving a fee of \$.05 per barrel of water disposed into the well and an overriding royalty of

ten percent of the net revenue attributable to oil collected by the SWD operations and sold (in addition to the sum of \$50,000 upon the issuance of an SWD permit to Judah). The fee and overriding royalty interest suggest an on-going business arrangement between Judah and Yeso/Chica that needs to be explored in light of the "affiliation" language in Order R-12930-B.² The OCD promptly filed an amended pre-hearing statement to alert the parties that it took the position that the affiliation issue may still be alive, and provided copies of additional exhibits that it may seek to introduce. The amended pre-hearing statement with exhibits was filed prior to the deadline for filing pre-hearing statements.

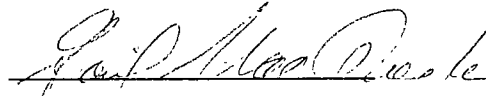
Judah asks for additional time to "understand" the issues and the OCD's exhibits, stating that it will attempt to do this informally through counsel but may need to issue a subpoena (in which case it graciously suggests that the OCD may need time to respond). The OCD has filed a clear application for hearing in this case describing its concerns; has filed a detailed response to Judah's motion to dismiss providing more information on its case; requested, set up and actively participated in a pre-hearing conference in this case to identify and limit the issues; filed an original and an amended pre-hearing statement with exhibits; and now has filed a response to Judah's motion for continuance. The OCD has done everything it can to define the issues it seeks to set out before the Oil Conservation Commission in this case. It is not obligated to set out every part of its case for Judah's review before the hearing, or explain every one of its potential exhibits.

The OCD opposes Judah's request for continuance.

² The potential income stream to Yeso is also interesting in light of the over \$250,000 the State of New Mexico has spent plugging Yeso's non-compliant wells, and the statutory mandate that the OCD bring suits for indemnification. See NMSA 1978, Section 70-2-14(E).

Respectfully submitted

this 1st day of November 2010 by



Gail MacQuesten

Oil Conservation Division, EMNRD

CERTIFICATE OF SERVICE

I hereby certify that on November 1st 2010 I faxed a copy of this pleading to:

Michael Feldewert
Ocean Munds-Dry
Holland & Hart LLP
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Scott Hall
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this 1st day of November 2010 by



Gail MacQuesten

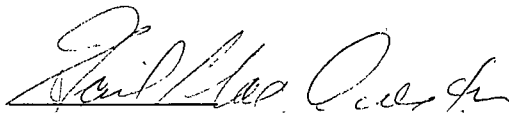
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