

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

**APPLICATION OF BOLD ENERGY, LP FOR APPROVAL OF AN
APPLICATION FOR PERMIT TO DRILL AND TO ALLOW TWO
OPERATORS IN A WELL UNIT, EDDY COUNTY, NEW MEXICO.**

CASE NO. 13877

**OXY USA WTP LIMITED PARTNERSHIP'S
RENEWED MOTION FOR CONTINUANCE AND STAY OF PROCEEDINGS**

OXY USA WTP Limited Partnership, ("OXY"), through its undersigned attorneys hereby moves the Oil Conservation Division for an Order (1) continuing the hearing on this application currently scheduled for April 12, 2007 (2) Staying the proceedings in this matter until Bold Energy, LP ("Bold") can establish that it has the right to drill the well it is currently proposing in this case and in support of its motion states:

1. Bold seeks the approval of an application for permit to drill the second well on a spacing unit which is operated by OXY and dedicated to OXY's Checker State Com Well No. 1.
2. The development of this spacing unit is governed by a Letter Agreement and Joint Operating Agreement that authorize only OXY to drill an additional well on this acreage. These agreement also provides that if an additional well is drilled by OXY on this spacing unit, Bold only shares in the production from the well after payout.
3. Bold does not have the right to develop this property and it's application in this case violates its contracts with OXY.
4. This dispute involve the interpretation of the contracts between the parties.
5. The Division lacks jurisdiction to resolve a contractual dispute .

WHEREFORE, OXY USA WTP, Limited Partnership seeks an order continuing the hearing on this application indefinitely and staying these proceeding until Bold can demonstrate that it has the right to drill this well by resolving the contractual issues this case raises in the District Court.

Respectfully submitted,
HOLLAND & HART, LLP

By: 

William F. Carr

ATTORNEYS FOR OXY USA WTP,
Limited Partnership

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CASE NO. 13877

**MEMORANDUM IN SUPPORT OF
OXY USA WTP LIMITED PARTNERSHIP'S
RENEWED MOTION FOR CONTINUANCE AND STAY**

OXY USA WTP Limited Partnership ("OXY") seeks an order from the Division continuing the hearing on this application and staying all proceedings in this case until Bold Energy, LP ("Bold") establishes that it has the right to drill on this acreage.

BACKGROUND:

1. By letter agreement dated March 27, 1997 ("Letter Agreement"), between OXY USA Inc. ("OXY") and Threshold Development Company, Broad Street Financial Company, Leland A. Hodges and Herbert F. Boles, hereinafter collectively referred to as "Farmors," OXY was authorized to drill certain wells on the land which is the subject of this application and, once the well was completed as a commercial well from the Morrow formation, would acquire Farmors' oil and gas leasehold interest in the spacing unit dedicated to the well subject to certain specific conditions set forth in the agreement. A copy of this letter agreement is attached hereto as Exhibit A.

2. The Letter Agreement provides that it is binding on the parties' heirs, successors and assigns. Paragraph 21. Bold Energy, LP ("Bold") is the successor to Threshold Development Company and thereby bound to the terms of this Letter Agreement. (Paragraph 21)

3. Pursuant to the Letter Agreement, OXY, at its sole risk, drilled, completed and equipped the Checker State Com Well No. 1 capable of producing oil and/or gas in commercial quantities from the Morrow formation in the W/2 of Section 8, Township 19 South, Range 29 East, N.M.P.M. and thereby earned all of Farmors' right title and interest in and to the subject leases in the 320-acre spacing unit comprised of the W/2 of said Section 8 (hereinafter referred to as the ("Earned Unit"). The Letter Agreement remains in full force as to this Earned Unit.

4. The Letter Agreement also provides that:

- A. the Farmors receive a 46.5% working interest in the well and Earned Unit upon the occurrence of payout of the well. Paragraph 5.
- B. that subsequent wells drilled on the Earned Unit "shall be drilled at the sole risk, cost and expense of OXY and Farmors shall be entitled to receive an undivided forty-six and one-half (46.5%)

working interest in such well upon occurrence of payout..."

Paragraph 9. (emphasis added).

5. For drilling and completing at its sole risk and expense the first well on this spacing unit, OXY earned 100% of the interest now held by Bold prior to payout of the initial well.

6. In consideration for the drilling of the first well on this spacing unit and thereby proving the reserves there under. OXY also acquired the right to drill subsequent wells on this "Earned Unit" and retain 100% of the interest now held by Bold prior to payout on any subsequent well drilled thereon.¹ (emphasis added)

7. If Bold drills a well on an earned tract, under the terms of the Letter Agreement, Bold will not share in production until the well has reached payout. (See, Paragraph 9).

8. The parties to the Letter Agreement also agreed to execute, and did execute, a Joint Operating Agreement covering these lands (Paragraph 14) which was incorporated by reference into the Letter Agreement (Paragraph 18). However, the Letter Agreement also provides that "In the event of a conflict between the terms and provisions contained within this Letter Agreement, and the terms and provisions contained within the Operating Agreement, the terms and provisions of this Letter Agreement shall control." (Paragraph 18).

9. In violation of the 1997 Letter Agreement, Bold has proposed to drill and operate a second well on the Earned Unit comprised of the W/2 of said Section 8 and provided notice of its intent to operate this well to OXY pursuant to Oil Conservation Division Rule 104E(2).

10. Pursuant to Rule 104.E, OXY filed a written objection to this well proposal and the application for permit to drill has been set for hearing before a Division Examiner on March 1, 2007.

11. On February, 23, 2007, OXY filed its Motion for Continuance and Stay of Proceedings and counsel for OXY and Bold met with the Division Examiner and legal counsel on February 27, 2007 to discuss this motion. At that time, OXY advised that it had executed assignments prepared by Bold covering certain interests in the subject lands and that it has also executed an agreement terminating the 1997 Letter Agreement ("Termination Agreement") and returned it to Bold for execution by the other interest owners in this spacing unit. OXY requested that the hearing be continued and that any further development proceed under the operating agreement between the parties. The hearing was continued to the March 15, 2007 and was subsequently continued to the April 12, 2007 examiner hearing docket.

12. OXY has been advised that the Termination Agreement has not been executed by all other interest owners in the subject spacing units and that Bold is planning on going to hearing on April 12, 2007 on its application for permit to drill.

13. Oxy seeks an indefinite continuance of the April 12, 2007 hearing and a

¹ Paragraph 9 provides "With regard to any well to be drilled on the Subject Lands below the base of the Bone Spring formation whether such well is an Option Well or a well proposed to be drilled on an Earned Unit, all such wells shall be drilled at the sole risk, cost and expense of OXY and Farmers shall be entitles to receive an undivided forty-six and one-half (46.5%) working interest in such well upon the occurrence of payout..."

stay of further proceedings in this case until Bold establishes its right to drill on the subject Earned Unit. Oxy is entitled to a stay of this hearing for:

- A. It is likely that OXY will prevail on the merits of this dispute with Bold. Oxy's contract with Bold is clear and unambiguous and OXY, in reliance thereon, has drilled a commercial well on this Earned Unit thereby fully performing its contract with Bold. Oxy is the only operator authorized to drill a second well on this acreage.
- B. Since interests in land, like those at issue in this dispute, are unique, OXY will suffer irreparable harm if a stay is not granted.
- C. No harm will result to Bold if the stay is granted. Bold has derived the benefit bargained for when the Letter Agreement was entered for the reserves under this tract have been proven by the efforts OXY undertook at its "sole risk, cost and expense."

See, Rule 1-075 NMRA

14. Pursuant to the terms of the Letter Agreement, Bold does not have the right to develop this property and its Application for Permit to Drill in this case violates this contract with OXY.

15. If the Termination Agreement is executed by all owners in the subject spacing units, the development of the subject spacing unit will be governed by the Operating Agreement between the parties. Therefore, once the Termination Agreement is executed, any well on this acreage must be proposed pursuant to this contract and drilled in accordance with its terms.

16. The Division lacks jurisdiction to resolve contractual disputes.

17. The hearing on this application should be continued and further proceedings stayed.

WHEREFORE, OXY USA WTP, Limited Partnership request that the Division enter its order continuing the hearing on this application and staying all further proceedings in this case until the contractual issues raised by this application are resolved by the District Court.

Respectfully submitted,
HOLLAND & HART, LLP

By: 

William F. Carr

ATTORNEYS FOR OXY USA WTP,
Limited Partnership

CERTIFICATE OF SERVICE

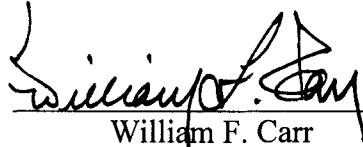
I hereby certify that a copy of the foregoing pleading was served upon the following counsel of record this 9th day of April, 2007:

Via Facsimile:

James Bruce, Esq.
Post Office Box 1056
Santa Fe, New Mexico 87504

Via Hand Delivery:

David K. Brooks, Esq.
Oil Conservation Commission
1220 South Saint Francis Drive
Santa Fe, New Mexico 87505



William F. Carr

New Mexico.

CASE 13877: *Continued from the March 15, 2007 Examiner Hearing.*

Application of Bold Energy, LP for approval of an application for permit to drill and to allow two operators on a well unit, Eddy County, New Mexico. Applicant seeks approval of an application for permit to drill its OXY Checker State Well No. 2 in the W/2 of Section 8, Township 19 South, Range 29 East, NMPM. The W/2 of Section 8 will be simultaneously dedicated to the proposed well, located in the SW/4 NW/4 of Section 8, to be operated by applicant, and to the existing OXY Checker State Well No. 1, located in the NW/4 SW/4 of Section 8, operated by OXY USA WTP Limited Partnership. The well unit is located approximately 12 miles southwest of Loco Hills, New Mexico.

CASE 13907: *In the matter of the hearing called by the Oil Conservation Division for an order creating and extending certain pools in Lea County, New Mexico.*

(a) CREATE a new pool in Lea County, New Mexico for the production of gas from the Morrow formation and designated as the West Anderson Ranch-Morrow Gas Pool (**Pool Code 97552**). The discovery well is the OXY USA WTP Limited Partnership OXY Night Hawk State Com. Well No. 1 (**API No. 30-025-37637**) located in Unit I of Section 20, Township 16 South, Range 32 East, NMPM. Said pool would comprise:

TOWNSHIP 16 SOUTH, RANGE 32 EAST, NMPM

Section 20: E/2

(b) CREATE a new pool in Lea County, New Mexico for the production of gas from the Queen formation and designated as the Northeast Brunson-Queen Gas Pool (**Pool Code 97559**). The discovery well is the Marathon Oil Company Walter Lynch Well No. 12 (**API No. 30-025-37556**) located in Unit F of Section 1, Township 22 South, Range 37 East, NMPM. Said pool would comprise:

TOWNSHIP 22 SOUTH, RANGE 37 EAST, NMPM

Section 1: NW/4

(c) CREATE a new pool in Lea County, New Mexico for the production of oil from the Bone Spring formation and designated as the East Corbin-Bone Spring Pool (**Pool Code 97568**). The discovery well is the Mack Energy Corporation Lea KG State Well No. 1 (**API No. 30-025-36370**) located in Unit I of Section 35, Township 17 South, Range 33 East, NMPM. Said pool would comprise:

TOWNSHIP 17 SOUTH, RANGE 33 EAST, NMPM

Section 35: SE/4

(d) CREATE a new pool in Lea County, New Mexico for the production of gas from the Morrow formation and designated as the Langley-Morrow Gas Pool (**Pool Code 97579**). The discovery well is the BP America Production Company Javelina Well No. 1 (**API No. 30-025-37943**) located in Unit M of Section 10, Township 22 South, Range 36 East, NMPM. Said pool would comprise:

TOWNSHIP 22 SOUTH, RANGE 36 EAST, NMPM

Section 10: W/2

(e) CREATE a new pool in Lea County, New Mexico for the production of oil from the Yates formation and designated as the Southeast Lusk-Yates Pool (**Pool Code 97578**). The discovery well is the Yates Petroleum Corporation Lusk AHB Federal Well No. 1 (**API No. 30-025-30808**) located in Unit B of Section 35, Township 19 South, Range 32 East, NMPM. Said pool would comprise:

TOWNSHIP 19 SOUTH, RANGE 32 EAST, NMPM

Section 35: NE/4

(f) CREATE a new pool in Lea County, New Mexico for the production of gas from the Atoka formation and designated as the West Mescalero-Atoka Gas Pool (**Pool Code 97570**). The discovery well is the Yates Petroleum Corporation Fender State Unit Well No. 2 (**API No. 30-025-37765**) located in Unit L of Section 17, Township 10 South,