

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

**IN THE MATTER OF THE HEARING CALLED BY  
THE OIL CONSERVATION DIVISION FOR THE  
PURPOSE OF CONSIDERING:**

**CASE NO. 13877 (De Novo)**

**ORDER NO. R-12747-A**

**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.**

**PRE-HEARING STATEMENT**

This Pre-Hearing Statement is submitted by Holland & Hart LLP as required by the Oil Conservation Commission.

**APPEARANCES OF PARTIES**

**APPLICANT**

OXY USA WTP Limited Partnership  
Attn: David Evans  
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Houston, TX 77210-4294  
(713) 366-5303

**ATTORNEY**

William F. Carr, Esq.  
Holland & Hart LLP  
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Santa Fe, New Mexico 87504-2208  
(505) 988-4421

**OPPOSITION**

Bold Energy, LP

**ATTORNEY**

James Bruce, Esq.  
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(505) 982-2043

**STATEMENT OF CASE**

**APPLICANT**

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.

**OPPOSITION**

OXY USA WTP Limited Partnership opposes the approval of Bold's application for permit to drill. Bold's Application is premature because the conditions necessary to Bold's right to conduct operations on this spacing unit have not occurred. While Bold's property right in this spacing unit is not in dispute, its right to exercise that property right by physically conducting operations on this land is subject to a condition precedent that has not yet occurred. It must first propose the well to the other parties under the JOA. The provisions in the JOA that authorize Bold to propose a well have been superseded by a Farmout Agreement dated March 27, 1997, Paragraph 18. Not until that Farmout Agreement is terminated, may Bold propose a well to the other parties to the JOA. Then its rights to conduct operations arise if, but only if, the operator (OXY) elects not to participate. *See*, Division Order No. R- 12747-A , Finding 19. Bold has attempted on several occasions to propose a second well on the subject spacing unit. However, until the Farmout Agreement is terminated, these proposals cannot be effective because the Farmout Agreement provides that only OXY has the right to drill a second well on this spacing unit. Farmout Agreement Paragraph 9. While the Farmout Agreement is effective, one set of economic parameters apply to – and control- a party's decision to participate in the drilling of the well. Once the Farmout is terminated, a different set of economic parameters control and the facts underlying a decision on whether or not to participate in a well are different than the factors that applied prior to this termination.

Once that Farmout Agreement is terminated, the rights of the parties are governed by a Joint Operating Agreement. Under this Joint Operating Agreement, Bold may not drill a well until it has proposed to the other interest owners in the dedicated spacing unit and OXY as operator has not agreed to participate. Only after the Farmout Agreement is terminated, and then pursuant to the Joint Operating Agreement, may Bold propose a well, Until it has the right to propose a well, it does not have the right to seek or obtain an APD for this action could preclude the Operator from obtaining an ADP and drilling under the JOA.

**PROPOSED EVIDENCE**

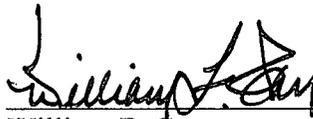
**APPLICANT**

WITNESSES (Name and Expertise)	ESTIMATED TIME	EXHIBITS
David Evans Land	Approx. 10 Minutes	Approx. 3

Elizabeth Bush-Ivie (May Call)  
Regulatory Affairs

**PROCEDURAL MATTERS**

Oxy will request that the hearing on this application be consolidated with the hearing in Case No. 13950.



William F. Carr  
Attorney for OXY USA WTP Limited Partnership

**CERTIFICATE OF SERVICE**

I certify that on August 9, 2007 I served a copy of the foregoing document to the following by

- U.S. Mail, postage prepaid
- Hand Delivery
- Fax
- Electronic Service by LexisNexis File & Serve

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