

**Brooks, David K., EMNRD**

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**From:** Brooks, David K., EMNRD  
**Sent:** Sunday, October 07, 2007 6:24 PM  
**To:** 'JamesBruc@aol.com'  
**Cc:** Ezeanyim, Richard, EMNRD; Jones, William V., EMNRD  
**Subject:** Case 13935; Application or Apollo Energy for Waterflood etc

Jim

I have reviewed the information furnished with your letter of October 4, and I am unable to determine from that information whether all required persons have been noticed.

Rule 701.B(2), as amended in 2005, requires notice to "each leasehold operator or other 'affected person' within any tract wholly or partially contained within one-half mile of the well." You have demonstrated that notice has been given to all operators of wells within one-half mile of the proposed injection wells, but that is not what the rule requires.

The rule is a bit vague in two respects. First, it does not say whether notice is required to "affected persons" as to all formations and depths, or only to the injection formation, and second, it is not clear what a "tract" is. I am prepared to accept that it requires notice only to owners on interests in the injection formation, and that a "tract" is equivalent to a spacing unit in the injection formation. Using that definition, it seems to me that the following units meet the definition of "tract:"

Section 13: All units.

Section 14: A, G, H, I, J, O and P, and maybe B

Section 23: A

Section 24: A, B, C, D, E, F, G, and maybe H

This is measuring from any of the five proposed injection wells on Exhibit 10, or the two existing injection wells. The maybes are there because I do not have a calculator that will do trig handy.

The information from OCD files that you have furnished establishes that Nordstrand is operator in the Yates as to Units A, G, H, J and P. That establishes that Nordstrand, to whom you gave notice, is the only "affected person" as to those units.

The information from BLM establishes that Apollo is owner of 100% record title as to the lands in the lease. However, it is clear that there are other owners of operating rights, and I have not found anything in the record that establishes exactly who owns operating rights. The evidence, it seems, deals only with who operates specific wells. As I said, I interpret the rule to require notice only to owners in the Yates formation. However, it is not clear to me that the record establishes Apollo as owner of 100% of the operating rights as to the entire lease, even in the Yates formation. Indeed the fact that Nordstrand operates wells on the lease in Section 14 that are completed in the Yates seems to negate that assumption.

Thus, it seems to be that we have not established who are the affected persons as to Section 13, or as to Units I, O and B in Section 14, or any of the included units in Sections 13, 23 and 24. In this connection I note that CFM is the operator of two wells in Unit G of Section 24, but it does not seem they are completed in the Yates. Hence CFM would not be the "division designated" operator of that unit as to the Yates.

Additionally, I am concerned about whether or not we have correctly identified the wells within the Area of Review. Exhibit 2, a copy of which is attached as Exhibit D to your October 4 letter, was identified as depicting the area of review, but that is obviously not correct. Exhibit 2 is actually a copy of an exhibit that was attached to the earlier administrative SWD application for the Russell USA # 60 and the Russell USA #65; so it cannot also be a ½ mile plot for the five requested new injection wells.

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In any case, it is a rough drawing and does not appear to be accurate. The footages for the Russell USA #65 are 1990 FSL and 1337 FWL. Thus to describe a ½ mile radius around the #65, the AOR circle would have to extend 650 feet down into Section 24, whereas the rough drawing on Exhibit 2 makes it appear more or less tangent to the section line between Section 13 and 24. I have not attempted to plot the location of particular wells to ascertain whether or not the listing of the wells within the AOR is correct. It seemed that what appears to be a discrepancy in the Exhibit produced in evidence is a sufficient reason to ask that you all look into the matter.

Please advise if I am misinterpreting the record on either of these matters.

Sincerely,

David K. Brooks  
Legal Examiner

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