



Exhibit 4



New Mexico Energy, Minerals and Natural Resources Department

Bill Richardson
Governor

Joanna Prukop
Cabinet Secretary
Reese Fullerton
Deputy Cabinet Secretary

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Division Director
Oil Conservation Division



August 21, 2008

OCEAN MUNDS-DRY, ESQ.
Holland & Hart, L.L.P.
P.O. Box 2208
Santa Fe, NM 87504
Sent via Email: Omundsdry@hollandhart.com

Re: OCD Case Nos. 14107 and 14106 - Applications of the Oil Conservation Division for Orders of Compliance and Penalty Assessments against Xeric Oil and Gas Corp.

Dear Ms. Munds-Dry:

We are in receipt of your client's *Status Update and Plan of Action* ("Update"), dated August 14, 2008, and submitted to our office on August 15, 2008, and have now had time to review and evaluate it. In addition to reviewing the "Update" from your client, however, I have also reviewed my notes and the correspondence relating to this case, and feel that unless something significant occurs between now and the scheduled hearing date of **September 4, 2008**, these cases have reached a point where it is most appropriate to proceed to hearing. Provided below for your reference is a summary of the key points in the chronology of these two cases starting with the date that the OCD filed these two Applications:

- On March 5, 2008, the OCD filed the Applications for Orders of Compliance in Case Nos. 14107 and 14106 against Xeric with Case No. 14107 addressing the West Pearl Queen #301 Rule 50 and APD permit violations and Case No. 14106 addressing inactive well violations for 80 wells and noncompliance with financial assurance requirements for 65 wells.
- No contact was received from any representative of Xeric until April 15, 2008, just two days prior to the hearing, scheduled to occur on April 17, 2008, at which time we were contacted by telephone by Joe Cook, the now former-owner of Xeric. Mr. Cook informed us at that time that your clients, Mr. Collier and his two business associates (St. John and Hirschfield), were taking (or had taken) over Xeric. Mr. Collier was present by telephone for this telephone conference as was an individual Mr. Collier indicated he was

Case No. 14106, De Novo
Re Xeric Oil & Gas
OCD EXHIBIT No. 4

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retaining for purposes of completing environmental assessments and work on the Xeric sites.

- At the time of the telephone conference, on April 15, 2008, we brought both our concerns regarding the environmental issues involved with the West Pearl Queen #301 pit and deep trench and our concerns regarding the numerous wells (at that time, 69) for which Xeric owed and had not yet paid single-well financial assurances to Mr. Collier's attention. Mr. Collier assured us that the West Pearl Queen #301 was his first priority, and that he was aware of the financial assurance compliance issue and planned to work with both the financial assurance administrator and the District Office to get the required bonds posted. Finally, Mr. Collier agreed to meet with us within the next few weeks to review the status of the Xeric wells and to provide us with a summary of Xeric's plan for addressing noncompliance issues and expected timeline for doing so.
- Based on the information provided in the telephone conference of April 15, 2008, we agreed to continue the two cases from the April 17, 2008 hearing date, and both cases were rescheduled to May 29, 2008 to allow us time to set up a meeting as described, above. However, Xeric did not follow through in setting up a meeting in time to do so prior to the May hearing date. It was finally agreed that all were available to meet in early June, so, with a meeting date confirmed, we once again agreed to continue both cases, this time to the July 10, 2008 docket.
- A meeting was conducted between the OCD and the new members of Xeric on June 13, 2008. At that meeting, the OCD's specific concerns regarding the violations at the West Pearl Queen #301, as well as those regarding the numerous inactive wells and financial assurance violations were reiterated for Xeric. Once again, Mr. Collier and his colleagues assured the OCD that Xeric intended to come into compliance as soon as possible. Mr. Collier noted at that time that it was his understanding that the pit and deep trench burial at the West Pearl Queen #301 site had already been addressed, closed and remediated, and that they expected to have the final report reflecting results of sampling/testing from Phoenix Environmental within the week. It was requested that as soon as Xeric received this report, Xeric provide the OCD with a full and complete copy as well so that the OCD could determine whether the work performed at the site was complete and adequate per OCD standards. To date, the OCD has not received any report relating to the West Pearl Queen #301.
- Another topic of significant discussion at the June 13, 2008 meeting was the way in which Xeric intended to proceed with assessing the wells in terms of

determining if a given well is out of compliance, and if so, the degree to and way(s) in which it is out of compliance, and then proceeding to make a determination regarding how it planned to prioritize its actions in addressing these wells/violations. We advised Mr. Collier that Buddy Hill at the Hobbs District Office would be a critical resource in this process, not only because it is essential that Xeric maintain good communication and coordinate its efforts with the District office, but also because Hill has a great deal of knowledge regarding Xeric's history in New Mexico. At that time, Mr. Collier indicated that he intended to begin the assessment and prioritization process by setting up a meeting with Buddy Hill, preferably within a week or so, to seek his (Hill's) input regarding Xeric's plan and prioritization of sites, and to coordinate with the District regarding Xeric's anticipated timeline for completing various actions.

- At the June meeting, Collier further advised that he would prepare a general plan of action and corresponding anticipated timeline for our review, and would submit that to us within a couple of weeks following our meeting, and with sufficient time for the OCD to review and evaluate the information prior to the next scheduled hearing date of July 10, 2008. No submissions were made prior to the hearing date of July 10th, and the August 14, 2008 "Update" is the first submission received from Xeric since the June meeting regarding ongoing work on Xeric sites.
- Xeric did not fulfill its promise to provide a plan and timeline for review prior to the July 10, 2008 hearing; however, the OCD still agreed to one additional continuance based upon representations by counsel via an email on July 1, 2008 that Xeric was coordinating with Buddy Hill in the District and were preparing the requested report and timeline, to be provided to counsel and forwarded to the OCD as soon as possible. On this basis, the July 10, 2008 hearing date was continued to September 4, 2008.
- As of July 30, 2008, we still had not heard or received anything further from either counsel or Xeric, and we therefore contacted counsel via email to make inquiry.
- On August 15, 2008, Xeric provided us with a two-page "Status Update and Plan of Action" dated August 14, 2008. The document is wholly insufficient, particularly given its tardiness, for the following reasons:
 - Two parts have been designated in the document: "completed tasks" and "to be completed." However, neither section contains a single date regarding when work either was completed or when work is anticipated to be completed, even if only as an estimate or range.

- As to the "completed tasks," your client addresses only five wells and one tank battery. With the exception of the well that is the subject of case number 14107, none of the identified wells are currently specifically at issue in either of the pending Applications.
- With regard to the West Pearl Queen Well #301 (Case No. 14107), your client assured us back in early June that the remediation was complete and that we would have the necessary documentation to review and evaluate in a very short period of time. It has now been over two months, and we have yet to receive anything from your client. Moreover, Xeric has not filed a single sundry relating to this well such that the OCD could even begin an evaluation of its efforts to remediate this site.
- Regarding the representation that "Xeric has met with representatives from the OCD District Office to discuss Xeric's wells," it is our understanding that Xeric telephoned Buddy Hill over a month ago to inquire regarding setting up a meeting, but has never followed through with an actual meeting. As was discussed in June, Mr. Hill has a wealth of information regarding the history of the Xeric wells and is an invaluable resource. It was our understanding after the June meeting that your clients were going to coordinate and work directly with Mr. Hill at the District Office; however, to date they have not done so.
- Regarding the "to be completed" section, Xeric indicates that it is "currently developing an inventory of wells that need minor surface remediation." First, it was the understanding of the OCD that this was going to be done months ago, as was indicated by Xeric at the initial telephone conference in April. Second, it is our understanding that there are sites that may need more than "minor surface remediation," in which case, these sites should take priority over those that need "minor" remediation. Again, coordinating with the District Office is essential to completing this task. Third, there is no concrete plan of action or timeframe indicated, and no indication of how Xeric is prioritizing this task.
- Regarding the statement that Xeric plans to go "well by well with Elk Environmental to determine what is necessary to test and plug or produce each well," again, we were under the impression that this process was to have been started some time ago. Further, once again, there is no timeframe or indication of a prioritization for this task.

- Regarding the information provided about the Crosby Deep Unit Well No. 3 pit, again, no timeframe has been provided. Further, it is our understanding that the BLM has given Xeric a deadline of August 24, 2008 by which to either bring this well back online or submit plugging procedure paperwork. Does Xeric expect to meet this deadline?
- Regarding the buried tank battery at the Crosby Deep Unit Well No. 4, we appreciate the information regarding the contact at BLM with whom Xeric will be working to address this; however, again, there is no indication of a timeframe provided. Further, according to OCD records this well is on private land, has not reported production since December of 2005, and therefore requires additional financial assurance be posted.
- Of note is the fact is that not only does the "Update" lack any mention of dates or timeframe for completion of work, but it fails to mention anything about if and when Xeric intends to address the multitude of Rule 201 and 101 violations for inactivity and financial assurance noncompliance. The entirety of Case No. 14106 is based upon violations of Rules 201 (inactivity) and 101 (financial assurance requirements). To date, Xeric has not provided the OCD with any documentation or information to rebut the presumption of inactivity for purposes of either Rule 101 or Rule 201. At the time of the filing of the Application, Xeric had 80 inactive wells in violation of Rule 201 and had 69 wells for which it owed additional financial assurance and was therefore in violation of Rule 101. Since the filing of the Application, these figures have increased. **At this time, Xeric has 83 inactive wells in violation of Rule 201 and 76 wells for which it owes additional financial assurance in violation of Rule 101. Xeric currently owes a total of \$813,151 in additional bonding.**

Based upon your client's history, and given that it is clear that Xeric is nowhere near coming into compliance with regard to the issues addressed by the two pending Applications, the OCD plans to proceed with the hearings for both matters as scheduled on September 4, 2008. If you have any additional information or documents you would like for us to consider prior to the hearing date, please feel free to forward those materials to us.

Sincerely,



Mikal Altomare
Assistant General Counsel

Case Nos. 14106 and 14107

August 21, 2008

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Ec: Daniel Sanchez, Compliance and Enforcement Manager
Chris Williams, Supervisor, Hobbs District Office
Buddy Hill, Compliance and Enforcement Inspector
Gail MacQuester, Assistant General Counsel