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

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

CASE NO. 13877
ORDER NO. R-12747

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.

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on April 12, 2007, at Santa Fe, New Mexico, before Examiner Richard I. Ezeanyim, on the Motion for Continuance and to Stay Proceedings filed herein by protestant, OXY USA WTP Limited Partnership (OXY).

NOW, on this 20th day of April, 2007, the Division Director, having considered the testimony, the record and the recommendations of the Examiner,

FINDS THAT:

(1)   Bold Energy, LP (Bold) filed this application after OXY protested its notice of intent to drill a second well in a spacing unit operated by OXY.

(2)   Bold proposes to drill its OXY Checker State Well No. 2 in the NW/4 of Section 8, Township 19 South, Range 29 East, NMPM, in Eddy County, New Mexico, to test the Wolfcamp and Canyon formations

(3)   The W/2 of Section 8 is currently dedicated, in the Wolfcamp and Canyon formations, to the OXY Checker State Well No. 1, located in the SW/4 of Section 8, and operated by OXY,

(4)   Applicable spacing rules permit the drilling of a second well in the Wolfcamp and Canyon formations in this spacing unit, in the NW/4 of Section 8.

(5)   Bold gave notice, as required by Division Rule 104.E(2), of its intent to drill its proposed OXY Checker State Well No. 2 within an existing spacing unit containing a well operated by another operator. OXY protested Bold's application, which was accordingly set for hearing.

(6)   OXY filed its Motion for Continuance and Stay of Proceedings, asserting that, pursuant to existing contracts between OXY and Bold, only OXY, and not Bold, has a right to drill the proposed well.

(7)   It is undisputed that both OXY and Bold are owners of working interests in the subject unit. It is also undisputed that both OXY and Bold are parties to a Joint Operating Agreement covering this unit. The dispute between these parties concerns their respective rights under the Joint Operating Agreement and under a prior farmout letter agreement.

(8)   The Oil Conservation Division (the Division) does not have jurisdiction to determine contractual rights. However, the approval of an Application for Permit to Drill (APD) by the Division does not accord to any person a right to drill a well if such person does not have that right by reason of lease ownership or contractual agreement. APD approval is a necessary, but not a sufficient, condition for a person to have a legal right to drill a well. Accordingly, it is not necessary for the Division to determine the rights of the parties under the applicable contracts in order to determine its disposition of this application.

(9)   If the Division grants the application of Bold for an APD in this case, and OXY continues to dispute Bold's contractual right to drill the proposed well, OXY can pursue its legal objection in a court having jurisdiction over such matters.

(10)   Accordingly, OXY's Motion for Continuance and Stay of Proceedings, which, in effect, asks the Division to effectively resolve the issue of Bold's right to an APD on grounds over which the Division has no jurisdiction, should be denied.
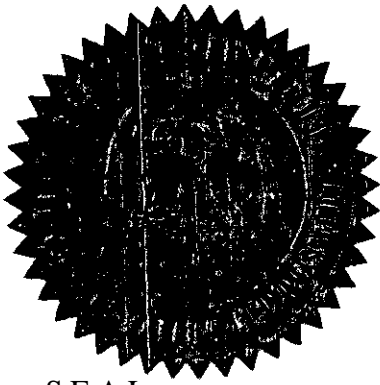
IT IS THEREFORE ORDERED THAT:

(1)   The Motion for Continuance and Stay of Proceedings filed in this case by protestant, OXY, is overruled,

(2)   The Division shall proceed to hearing of this case on its merits on Thursday, April 26, 2007, at 8:15 a.m.

(3)   Jurisdiction of this case is retained for the entry of such further orders as the Division may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

MARK E. FESMIRE, P.E.
Director

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