

FILED

Oct 17, 2012

**BEFORE THE ENVIRONMENTAL QUALITY COUNCIL
OF THE STATE OF WYOMING**

**Jim Ruby, Executive Secretary
Environmental Quality Council**

IN THE MATTER OF THE APPLICATION)
OF STRATA ENERGY FOR AN IN SITU)
MINING PERMIT FOR THE ROSS ISR)
URANIUM PROJECT FROM THE LAND)
QUALITY DIVISION OF THE) Docket No. 12-4803
DEPARTMENT OF ENVIRONMENTAL)
QUALITY FOR THE STATE OF)
WYOMING)
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MERIT ENERGY COMPANY'S PREHEARING MEMORANDUM

Merit Energy Company, LLC, Merit Energy Partners, I, LP, Merit Energy Partners, III, LP, Merit Management Partners, I, LP, Merit Management Partners, III, LP, collectively ("Merit"), by and through its attorneys, Sundahl, Powers, Kapp & Martin, LLC, hereby submits its prehearing memorandum as follows:

A. List of Contested Issues

1. Whether Strata Energy, Inc. ("Strata") or the Environmental Quality Council ("EQC") has legal authority to take away groundwater well permits issued to Merit by the State Engineer's Office or require that water from another source be used by Merit.
2. Whether the proposed permit condition regarding mitigation of impacts on Merit's wells violates the statutes governing the regulation of water by the State Engineer's Office and whether it violates the State Engineer's Office's and Board of Control's exclusive supervision of appropriation, distribution and diversion of waters under Article 8, § 2 of the Wyoming Constitution.
3. Whether the proposed permit condition relating to Merit's water supply violates Article 8, § 3 of the Wyoming Constitution, which requires priority of appropriation for beneficial uses.
4. Whether Merit's prior appropriation of groundwater from the Fox Hills formation aquifer would be unlawfully compromised if the permit application were granted.

5. Whether Strata's activities will pollute, threaten, contaminate or create a nuisance due to contamination of Merit's water supply in such a manner that the permit application should be denied.
6. Whether the EQC should deny the application on the basis of Merit's written objections under W.S. § 35-11-406(m)(x).
7. Whether the Land Quality Division ("LQD") adequately conducted its review of the requirements for determining the compliance of the permit application with the relevant statutes and regulations.
8. Whether the lixiviant and chemicals used in Strata's proposed leaching process will pollute, threaten, contaminate or otherwise degrade the waters used by Merit in its waterflood-assisted oilfield operations and enhanced oil recovery of that oil.
9. Whether activities proposed by Strata would constitute waste in violation of the public policy of the State of Wyoming expressed in statutes W.S. §§ 30-5-101(a)(ix) and 35-5-102(a) by restricting or reducing the amount of recoverable oil in the Deadman Creek Field area.
10. Whether Merit's lawful activities and access to its operation of its oilfield wells and related facilities would be restricted due to regulations of the Nuclear Regulatory Commission.
11. Whether the activities of Strata personnel thus far have caused interference with Merit's field personnel and operations in a manner that warrants the denial of the permit application.
12. Whether significant state funds will be wasted if Strata's proposed mining operations prevent Merit's use of the alkali-surfactant polymer ("ASP") blend created in conjunction with the University of Wyoming Enhanced Oil Recovery Institute ("EORI") and funded extensively by the State of Wyoming.
13. Whether, if Merit's objections are dismissed, that its opportunity under W.S. § 35-11-406(k) to object and be heard at a public hearing will be unlawfully interfered with.
14. What consideration should be given to the cumulative impacts of Strata's proposed operations on the water source in light of future development planned for the Lance District.

B. List of Uncontested Issues

1. Merit is unaware of any uncontested issues.

C. List of Witnesses

The following witnesses are may-call witnesses:

1. Dennis Longwell
Operations Manager
Merit Energy Company
1601 E 6th Street, #B
Gillette, WY 82716
(307) 685-1400

Mr. Longwell will testify generally about Merit's oilfield operations, surface conditions of the field, source wells conditions, waterflood-assisted oilfield operation details and interference problems associated with Strata's activities, particularly its test wells, in the area. He will further testify to Merit's water requirements and the field's oil production. Mr. Longwell will testify in rebuttal to any witness called by any other party.

2. Brad Bauer
Exploitation Manager
Merit Energy Company
13727 Noel Road, Suite 500
Dallas, TX 75240
(972) 628-1479

Mr. Bauer will testify as an expert witness generally about Merit's waterflood-assisted oilfield operations, the importance of water quality in Merit's operations, and the economics associated with the operations. He will further testify to the reasons for which Strata's proposed permit language is inadequate, to the time and effort put forth in the EORI study and its importance to Merit's future operations, Merit's water permits issued by the State Engineer's Office, the life of the oilfield, oilfield reserves, the amount of water Merit needs to conduct its operations and the amount of oil the field produces. Mr. Bauer will testify in rebuttal to any witness called by any other party.

3. Chris Heavner
Eastern Rockies Region Manager
Merit Energy Company
13727 Noel Road, Suite 500
Dallas, TX 75240
(972) 628-1559

Mr. Heavner will testify generally about Merit's oilfield operations, the interference problems Merit has experienced associated with Strata's activities in the area, Merit's water permits issued by the State Engineer's Office and the life of the oilfield. He will further testify about oilfield

reserves, the reasons for which Strata's proposed permit language is inadequate and Merit's water and materials requirements for the oilfield operation. Mr. Heavner will testify in rebuttal to any witness called by any other party.

4. Charles Thomas
Director of Reservoir and Technical Services
TIORCO, LLC
2452 S. Trenton Way, Suite M
Denver, CO 80231
(303) 923-6464

Mr. Thomas will testify as an expert witness regarding enhanced oil recovery ("EOR") operations generally and EOR operations specific to Merit's activities in the Deadman Creek Field area, the importance of the proper water quality and quantity in an EOR operation. He will further testify to the necessity of proper blends in an EOR operation, that Strata's operations will have a negative effect on the water quality and quantity in the Deadman Creek Field area and the effect of such activities on Merit's waterflood-assisted oilfield operations. Mr. Thomas will testify in rebuttal to any witness called by any other party.

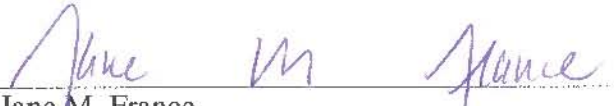
5. Merit reserves the right to call any witness listed by any other party.

D. List of Exhibits

1. 3 water permits issued to Merit by the State Engineer's Office.
 - a. Permit No. 67747, 19XX, State
 - b. Permit No. 50917, 22X-19
 - c. Permit No. 67746, 789V State
2. Wyoming Statutes §§ 41-4-317 and 41-3-906 related to prior appropriation and groundwater.
3. Wyoming Constitution, Article 8, § 2 related to the jurisdiction of the State Engineer's Office.
4. January 12, 2011 string of emails between Ben Schiffer and Neil Nadrash, discussing water interference and competition.
5. August 24, 2011 letter from Ray Moores to Eric Williams, discussing the likely plugging of Merit's water supply wells.
6. 22X-19 water supply well log.
7. Map of Merit's Deadman Creek Unit and the proposed location of Strata's Ross ISR project.

8. Schematic wellbore plan for water supply well 789V State.
9. Schematic wellbore plan and well history for water supply well 19XX.
10. Schematic wellbore plan and well history for water supply well 22X-19.
11. 789 V State water supply well daily volume log.
12. (a)-(f) Photos of Strata's uranium drill rig close to Merit's Deadman Creek Field 24-18 well.
13. Merit reserves the right to list any exhibits used in the deposition of any witness in this proceeding.
14. Merit reserves the right to list any exhibits listed by any other party.
22. Cross section of ore zone and Fox Hills aquifer.
23. Logs and emails from Ben Schiffer deposition.
24. Email from Ben Schiffer to Neil Nadrash.
25. August 24, 2011 letter from Ray Moores to Eric Williams.
27. Oshoto Reservoir fact sheet.

DATED this 15 day of October, 2012.


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CERTIFICATE OF SERVICE

I certify the foregoing pleading was served on this 15 day of October, 2012,

and that copies were served as follows:

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