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May 22, 2017

Via E-mail to [florene.davidson@state.nm.us](mailto:florene.davidson@state.nm.us)

Florene Davidson  
New Mexico Energy, Minerals and  
Natural Resources Department  
Oil Conservation Division  
1220 South St. Francis Drive  
Santa Fe, NM 87505

Re: Case Nos. 15547, 15548, 15549, 15550, 15551, 15552, and 15562.

Dear Ms. Davidson:

Enclosed is Blair Seaton Crooke's Respondent's Pre-Hearing Statement. Although we believe this to have been filed via electronic mail on January 13, 2017, we have now learned that the transmission did not go through. Nonetheless, we still respectfully file same and reserve all rights allowed under Rule 19.15.13 to appear in person.

Sincerely,

CAVIN & INGRAM, P.A.

By:

  
Scott S. Morgan

Enclosure

Florene Davidson  
May 22, 2017  
Page 2

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Mewbourne Oil Company

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January 13, 2017

Via E-mail to [florene.davidson@state.nm.us](mailto:florene.davidson@state.nm.us)

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Re: Case Nos. 15547, 15548, 15549, 15550, 15551, 15552, and 15562 Consolidated

Dear Ms. Davidson:

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Sincerely,

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Florence Davidson  
January 13, 2017  
Page 2

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

**APPLICATION OF MEWBOURNE OIL COMPANY FOR *[Inter alia]*  
NON-STANDARD SPACING AND PRORATION UNITS,  
COMPUSLORY POOLING, AND UNORTHODOX GAS  
WELL LOCATIONS, EDDY COUNTY, NEW MEXICO**

**CASE NOS. 15547,  
15448, 15549, 015550,  
15551, 15552, 15562  
Consolidated**

**RESPONDENT'S PRE-HEARING STATEMENT**

Blair Seaton Crooke provides this Pre-Hearing Statement in these consolidated cases.

**APPEARANCES**

**RESPONDENT**

**BLAIR SEATON CROOKE**

**RESPONDENT'S ATTORNEY**

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**APPLICANT**

**MEWBOURNE OIL COMPANY**

**APPLICANT'S ATTORNEY**

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**ADDITIONAL PARTIES**

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**PREMIER OIL AND GAS, INC.**

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## STATEMENT OF THE CASE

Mewbourne Oil Company seeks seven orders for the compulsory pooling of un-joined interests, and in certain instances, approving of non-standard spacing and proration units and unorthodox well locations in Eddy County, New Mexico, as follows:

### **Case No. 15547**

Owl Draw "22" W1AP Federal Com. No. 1H  
SHL – 230' FSL & 660' FEL (Section 15)  
BHL – 333' FSL & 650' FEL (Section 22)  
Section 22, T26S, R27E, NMPM

### **Case No. 15548**

Owl Draw "22-27" B2AP Federal Com. No. 1H  
SHL – 200' FSL & 600' FEL (Section 15)  
BHL – 336' FSL & 572' FWL (Section 27)  
Sections 22 and 27, T26S, R27E, NMPM

### **Case No. 15549**

Owl Draw "23" DM Federal Com. No. 1H  
SHL – 375' FSL & 990' FWL (Section 14)  
BHL – 344' FSL & 625' FWL (Section 23)  
Section 23, T26S, R27E, NMPM

### **Case No. 15550**

Owl Draw "23" DM Federal Com No. 2H  
SHL – 370' FSL & 1055' FWL (Section 14)  
BHL – 334' FSL & 661' FWL (Section 23)  
Section 23, T26S, R27E, NMPM

### **Case No. 15551**

Owl Draw "22-27" B2BO Federal Com. No. 2H  
SHL – 330' FNL & 1585' FEL (Section 22)  
BHL – 330' FSL & 1980' FEL (Section 27)  
Sections 22 and 27, T26S, R27E, NMPM

### **Case No. 15552**

Owl Draw "22-27" B2MD Federal Com. No. 1H  
SHL – 170' FSL & 330' FWL (Section 27)  
BHL – 330' FNL & 330' FWL (Section 22)  
Sections 27 and 22, T26S, R27E, NMPM

### **Case No. 15562**

Owl Draw 27/22 W2NC Fed. Com. #2H

SHL – 170' FSL & 2230' FWL (Section 27)  
BHL – 330' FNL & 2310' FWL (Section 22)  
Sections 27 and 22, T26S, R27E, NMPM

### **MR. CROOKE'S POSITION**

Mr. Crooke is an heir of Herbert Welch and Marie G. Welch, who were husband and wife, and who are now deceased. Herbert and Marie G. Welch owned interests in the following lands:

- (a) Township 26 South, Range 27 East, NMPM  
Section 22: SE/4SE/4, SE/4SW/4, SW/4SE/4 SE/4NE/4, N/2SE/4
- (b) Township 26 South, Range 27 East, NMPM  
Section 23: NW/4SW/4, SW/4NW/4
- (c) Township 26 South, Range 27 East, NMPM  
Section 27: W/2NW/4, NE/4NW/4, N/2NE/4
- (d) Township 26 South, Range 27 East, NMPM  
Section 28: SE/4NE/4, N/4SE/4

Mr. Crooke owns an undivided interest in the interest owned, at one time, by Marie G. Welch. These interests are currently subject to litigation currently before the Eddy County District Court and styled: *In The Matter Of The Last Will And Testament Of Marie G. Welch, Deceased; Premier Oil and Gas, Inc. v. Mewbourne Oil Company, et. al.; 5<sup>th</sup> Judicial District Cause No. D-503-PB-2012-00036-LBR.*

On February 6, 1974, Herbert Welch and Marie Griffin Welch, husband and wife, executed a joint, contractual and mutual will (the "Contractual Will" or "1974 Contractual Will").

The Contractual Will is titled "Last Will and Testament of Herbert Welch and Marie G. Welch."

The Contractual Will contains reciprocal bequests between Herbert and Marie, in which with both agreed in paragraph 6 that the survivor of them "*shall* divide our estate, which is community property, in the following manner, to-wit: the community interests of HERBERT

WELCH *shall* be equally divided between Joe H. Welch, his brother, and Grace Welch Phelan, his sister; the community interest of MARIE G. WELCH *shall* be equally divided between Judge H.D. Griffin, her brother, Ralph S. Griffin, a nephew, and S.G. Alderman, a cousin, each to share and share alike therein” (emphasis added).

The Contractual Will expressed Herbert’s and Marie’s intent that the mineral interests held by them in Eddy County, New Mexico and Glacier County, Montana, would be distributed to the Welch family, Judge H.D. Griffin, Ralph S. Griffin and Samuel G. Alderman. The Eddy County Minerals are referred to herein as the “Minerals.”

The Contractual Will named Griffin as the executor in the case of simultaneous demise.

Herbert Welch died on May 2, 1974 and Marie Welch probated the Contractual Will that year in Eddy County Probate Court, Case No. 4217.

The Eddy County Probate Court admitted the Contractual Will to probate, qualified Marie Welch as the executrix of Herbert Welch’s estate, and ordered that the properties inventoried as part of Herbert Welch’s estate, including the Eddy County mineral interests be “distributed to Marie G. Welch as provided by the Decedent’s Last Will and Testament.” Marie Welch recorded the Contractual Will in Book 43, Page 375 of the Sundry Probate Records.

On January 22, 1975, Marie, as executrix of Herbert’s estate, executed a mineral deed transferring to Marie Griffin Welch the undivided one-half interest in the Eddy County minerals held by Herbert Welch at the time of his death. Marie Welch recorded that Mineral Deed in Book 221, Page 15 of the Eddy County records. The recorded Deed expressly references “Eddy County Probate Court No. 4217,” the probate of Herbert’s estate discussed above.

Judge Harvey D. Griffin died testate. His probated 1979 will bequeathed his estate to his wife, Gladys S. Griffin. Gladys S. Griffin died testate in 1996. Her probated will bequeathed her residual estate in equal parts to her sister, Nell C. Blair, and to her nephew-in-law, Ralph S.

Griffin. Thus under the 1974 will, Judge Griffin's 1/6 interest now would belong to Ralph S. Griffin and Nell C. Blair, 1/12 each.

Nell C. Blair died testate on December 19, 1997. Her will bequeathed her entire estate to her daughter, Myrtice Dale Crooke.

Myrtice Dale Crooke died on October 26, 2008, leaving three children, Blair Seaton Crook, Lisa Dale Crooke Lampel, and Forest Ashley Crook. Myrtice Dale Crooke's will bequeathed her residual estate to her children, in equal shares 1/3 each. Thus, under the terms of the 1974 Contractual Will, the 1/12 interest previously owned by Nell C. Blair is now owned by Blair Seaton Crook, Lisa Dale Crooke Lampel, and Forest Ashley Crook, each now owning a 1/36 interest.

Mr. Crooke claims a 1/36 interest in those minerals once owned by Marie G. Welch.

Mewbourne Oil Company submitted well proposals and AFE's to Mr. Crooke. As the ownership of the 1/36 interests previously owned by Marie G. Welch has not been determined by the court in the pending litigation Mr. Crooke is unable to make a determination as to whether to participate in these wells.

#### **RESPONDENT'S PROPOSED EVIDENCE**

##### **WITNESS**

None.

Counsel reserves to the right to make certain statements and request that the examiners take notice of certain facts and law.

##### **ESTIMATED TIME**

##### **EXHIBITS**

#### **PROCEDURAL MATTERS**

None at this time.

**RESPONDENT'S POSITION ON RELIEF SOUGHT**

Mr. Crooke opposes the issuance of the compulsory pooling relief sought by Mewbourne until such time as the pending controversy before the Eddy County District Court is adjudicated.

As a first alternative, Mr. Crooke takes the position that, pursuant to Rule 19.15.13.8.D NMAC, no risk penalty should be recovered from production proceeds attributable to his interests if pooled, because Mewbourne drilled the wells that are the subject of its applications prior to providing notice to the affected parties and the controversy before the Eddy County District Court has not been adjudicated.

As a second alternative, Mr. Crooke takes the position that if it is the determination of the examiners that the interests should be pooled and a risk penalty assessed, that Mr. Crooke, within 21 days of the examiners' decision, be allowed to elect to participate in the drilling of the wells that are the subject of Mewbourne's applications, and that any payment made in connection with such an election to be returned with reasonable interest if it is finally determined that Mr. Crooke owns no interest in the lands and wells at the conclusion of the controversy before the Eddy County District Court.

RESPECTFULLY SUBMITTED,

CAVIN & INGRAM, P.A.

By: 

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ATTORNEY FOR BLAIR SEATON CROOKE

I hereby certify that a true and correct copy  
of the foregoing was served via e-mail on  
January 13, 2017 to the following:

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