

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

**APPLICATIONS OF MEWBOURNE OIL  
COMPANY FOR COMPULSORY POOLING,  
EDDY COUNTY, NEW MEXICO**

**Case No. 21361  
Case No. 21362  
Case No. 21363  
Case No. 21364**

**APPLICATION OF ASCENT ENERGY,  
LLC, FOR COMPULSORY POOLING,  
EDDY COUNTY, NEW MEXICO**

**Case No. 21393  
Case No. 21394**

**APPLICATION OF APACHE CORPORATION  
FOR COMPULSORY POOLING AND  
APPROVAL OF A HORIZONTAL SPACING  
UNIT FOR A POTASH DEVELOPMENT  
AREA AND PILOT PROJECT,  
EDDY COUNTY, NEW MEXICO**

**Case No. 21489  
Case No. 21490  
Case No. 21491**

**Order No. R-21675**

**ORDER ON ASCENT ENERGY'S MOTION TO DISMISS**

This matter comes before the Director on the Motion to Dismiss (Motion) filed by Ascent Energy, LLC (Ascent) on October 29, 2020 to dismiss pooling applications in Case Nos. 21489, 21490 and 21491 filed by Apache Corporation (Apache) and Case Nos. 21362 and 21364 filed by Mewbourne Oil Company (Mewbourne). Apache and Mewbourne each filed a response to the Motion, and Ascent filed a consolidated reply. A hearing on the motion was held December 3, 2020, and a status conference was had on February 18, 2021.

Having considered the motion, responses, and reply, and based on the recommendation of the Hearing Examiner, the Motion is denied for the reasons set out in the responses, particularly:

1. The Oil Conservation Commission (Commission) has already considered some of Ascent's same arguments in Commission Case Nos. 21277 to 21280 and has not accepted them. The Commission issued Orders R-21454 and R-21454-A staying the Commission's proceedings "until all competing applications are heard by the Division".

2. The doctrine of *res judicata* does not bar the Division's consideration of Apache's applications in Case Nos. 21489, 21490 and 21491.

3. The doctrine of *res judicata* does not bar the Division's consideration of Mewbourne's applications in Case Nos. 21362 and 21364.

4. Mewbourne's applications in Case Nos. 21362 and 21364 do not improperly raise contract issues such that the Division lacks jurisdiction to hear them.

5. Ascent's interpretation of NMSA 1978, Section 70-2-13 does not provide a basis to dismiss the applications in Case Nos. 21489-21491, 21362, or 21364.

6. The Amended Pre-Hearing Order filed on February 26, 2021 is further amended to provide a special hearing date of **June 16, 2021** for all the above listed cases.

STATE OF NEW MEXICO  
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ADRIENNE SANDOVAL, DIRECTOR

Date: 4/30/2021