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April 4, 2004

David Brooks, Esq.
Oil Conservation Commission
1220 South Saint Francis Drive
Santa Fe, New Mexico 87505

Re: Chesapeake Operating Inc.'s motion to void
Division Order R-12283
NMOCD Case No. 13359 (de novo)
Application of Mewbourne Oil Company for
Compulsory pooling

Dear Mr. Brooks:

On behalf of Chesapeake Operating Company, please find enclosed their Motion to void Mewbourne's compulsory pooling order entered for the N/2 of Section 9, T21S, R35E for the Osudo "9" State Com Well No. 1 (Unit H).

The Commission hearing is set for April 14, 2005. I suggest that a short pre-hearing conference with counsel should resolve this motion thus settling this case and avoiding a Commission hearing.

Very truly yours,

W. Thomas Kellahin

Cc: Counsel of record

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

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

CASE NO. 13359(de novo)
ORDER NO. R-12283

APPLICATION OF MEWBOURNE OIL COMPANY FOR COMPULSORY POOLING LEA COUNTY, NEW MEXICO

CHESAPEAKE OPERATING, INC.'S MOTION TO VOID ORDER R-12283

Chesapeake Operating Inc. ("Chesapeake") moves that the New Mexico Oil Conservation Commission void compulsory pooling order R-11283, dated February 15, 2005, that approved the compulsory pooling application of Mewbourne Oil Company ("Mewbourne"). In support, Chesapeake states:

(1) This case appears to be one of first impression for the Commission in which an applicant (Mewbourne"), having reached a voluntary agreement with 100% of the working interest owners of the "deep zones" for the proposed Osudo "9" State Com Well No. 1 to test the Morrow formation, seeks to pool 97% of the owners of "shallow zones" and thereby require those shallow owners to reimburse Mewbourne for substantially **all** of the drilling costs from the surface to the base of the shallow interval if this well is recompleted to a shallow zones after it is tested in the Morrow formation.

(2) At the October 21, 2004 hearing, Mewbourne requested that the Division adopt a cost allowable formula based upon the Counsel of Petroleum Accountants Societies guidelines for Well Costs Allocation and Adjustments Accounting Guideline, dated April 2003, (the "New COPAS Bulletin #2"). This bulletin contains several guidelines for well-cost allocations for the parties to a JOA to consider when reaching a voluntary agreement. Mewbourne choose to use footage-based ratio (10,000 –vs.- 12,500 feet resulting in a 80-20 ratio). The effect is that the deep owners pay nothing for drilling to get to top of the deep zone.

(3) At the October 21, 2004 hearing, Mewbourne, relying upon selected parts of the New COPAS Bulletin #2, sought to have Finley reimburse Mewbourne approximately $583,000 for this Morrow test while Mewbourne would only pay $94,000. See **Mewbourne Exhibit 5-B"**

(4) At the December 2, 2004 hearing, Mewbourne abandoned that request but still suggested that the allocation formula should split the drilling costs on a footage based depth ratio of 10,000 to 12,500 feet resulting in 80% allocated to the shallow interval and 20% being allocated to the deep interval, being one of the new COPAS Bulletin solutions.

(5) Mewbourne failed to introduce evidence that the new COPAS Bulletin #2 is the industry standard that the Division can rely upon. To the contrary, Mewbourne testified that this New COPAS Bulletin #2 is only a guideline with multiple options for well-cost allocations to be considered by parties negotiating a voluntary contract ("JOA").

(6) On January 18, 2005, without waiting for the Examiner order, Mewbourne spudded the Osudo "9" State Com Well No. 1.

(7) On February 15, 2005, the Division issued Order R-12283.

(8) Unfortunately for the parties, Division Order R-12283 without explanation to support its decision of this issue, held that:

> "(13) The cost allocation formula proposed by Applicant (Mewbourne) for a completion attempt above 10,000 feet is fair and reasonable and should be adopted in this case."

(9) On March 8, 2005 Mewbourne completed this well for Morrow production.

(10) On March 29, 2005, Mewbourne, having now drilled and completed this well as a Morrow producing well, filed its motion to dismiss its application declaring that Order R-12283 will lapse by its own terms and a hearing de novo is moot.

(11) Unfortunately, what may not be moot is the fact that unless this order is also voided, then the Commission will have established a precedent whereby the owner of the deep rights can obtain an order requiring the shallow owners to reimburse the deep owners for a disproportionate share of the drilling costs of a wellbore that the shallow owners have not agreed is necessary. Such a precedent is unfair and unreasonable and adversely affecting the correlative rights of those owners of the shallow zones.

Wherefore Chesapeake moves that the Commission inter its order withdrawing and voiding compulsory pooling Order R-12283.

Respectfully submitted,

W. Thomas Kellahin
Attorney for Chesapeake Operating, Inc.

CERTIFICATION OF SERVICE

I hereby certify that a copy of this pleading was served upon the following counsel of record this 4th day of April, 2005, by facsimile.

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