

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

2005 MAY 12 PM 2 52

**IN THE MATTER OF THE APPLICATION
OF MEWBOURNE OIL COMPANY FOR
CANCELLATION OF A DRILLING PERMIT
AND APPROVAL OF A DRILLING PERMIT,
LEA COUNTY, NEW MEXICO**

CASE NO. 13,492

JOINT MOTION TO LIMIT DRILLING OPERATIONS

Movants, Kaiser-Francis Oil Company ("Kaiser-Francis") and Samson Resources Company ("Samson"), through their undersigned counsel, move the Division enter an expedited order limiting drilling operations by Chesapeake Operating, Inc., ("Chesapeake"), on the KF "4" State Well No. 1 (API No. 30-025-37129) currently drilling below an estimated depth of 4,000 feet at a location 990 feet from the east line and 660 feet from the south line of Irregular Section 4, T. 21 S., R. 35 E., in Lea County, New Mexico. In support of their Joint Motion, the Movants state:

WYJ
5/12/05

1. Movants are the working interest owners in Lots 9, 10, 15, 16, and the SE/4 of Irregular Section 4, T. 21 S., R. 35 E., NMPM, Lea County, New Mexico (the "Subject Lands"). The mineral interests under the Subject Lands are owned entirely by the State of New Mexico and are subject to State Oil and Gas Lease Nos. V-7054 and B-1481-14, 100 percent of which are owned and/or controlled by the Movants.

2. Under that Communitization Agreement approved by the Commissioner of Public Lands on April 27, 2005, effective April 1, 2005, and pursuant to that Joint Operating Agreement dated March 24, 2005, the subject lands were consolidated to form a standard 320-acre stand-up gas spacing and proration unit comprised of Lots 9, 10, 15, 16 SE/4 of Section 4. Further, pursuant to the Joint Operating Agreement the Movants have designated Mewbourne Oil

Company as operator and have agreed to drill the Osudo "4" State Com Well No. 1 at a standard gas well location 660 feet from the south line and 1,650 feet from the east line of said Section 4.

3. On March 30, 2005 Mewbourne filed with the Division's Hobbs District Office its Request for Approval of its Application for Permit to Drill ("APD") for the Osudo "4" State Comm Well No. 1. The APD was returned to Mewbourne by the Hobbs District Office without approval for the reason that the District Office had previously approved an APD submitted on behalf of Chesapeake Operating, Inc. on March 11, 2005 for Chesapeake's KF State "4" No. 1 Well in said Section 4. The C-102 form that accompanied Chesapeake's APD purported to show the dedication of a 320-acre lay-down gas spacing and proration unit consisting of the SW $\frac{1}{4}$ and SE $\frac{1}{4}$ equivalents of Section 4.

4. Chesapeake Operating, Inc. owns no interest in any portion of the Subject Lands. However, Chesapeake Permian, L.P., purports to own the lease outside the Subject Lands covering the SW/4 of Section 4.

5. On approximately April 27, 2005, without notice, Chesapeake moved a drilling rig onto the location for the KF State "4" No. 1 Well and commenced drilling operations that same day. It is undisputed that Chesapeake trespassed onto the Subject Lands.

6. On April 28, 2005, Mewbourne filed its Application in this case and on that same day also filed its Application for Emergency Order Vacating Chesapeake's drilling permit. Kaiser-Francis entered its appearance in this proceeding on April 29, 2005.

7. On May 3, 2005, a hearing was convened on Mewbourne's Application for Emergency Order before the Division Director, the Division's Chief Engineer and counsel for both the NMOCD and NMOCC.

8. At the May 3, 2005 hearing, the evidence established that Chesapeake owned no interest in the SE ¼ of Section 4 and had no right to enter onto or occupy the land. Further, Chesapeake was unable to refute the evidentiary showing made by Mewbourne that Chesapeake is in trespass on the Subject Lands. (“[T]he order granting the permit is a purely negative pronouncement. It grants no affirmative rights to the permittee to occupy the property[.]” Order No. R-12093-A; Case No. 13215, *Application of Valles Caldera Trust To Deny Applications Of Geoproducts of New Mexico, Inc. for Permits To Re-Enter Abandoned Geothermal Wells (APDs), Sandoval County, New Mexico*, citing to *Magnolia Petroleum Co. v. Railroad Com’n*. 170 S.W.2d 189, 191 [Tex. 1943].)

9. Following the hearing on Mewbourne’s Application for Emergency Order, that same day, counsel for the parties were verbally advised that Mewbourne’s Application would be denied. The Division subsequently issued Order No. R-12343.

10. While the Division declined to revoke the APD which Movants contended was improperly obtained by Chesapeake, the Division has conferred no other regulatory approvals for Chesapeake’s operations.

11. Chesapeake’s trespass onto the subject lands continues. On May 4, 2005, the State Land Office advised Chesapeake, through its counsel, that its activity on trust land is not in compliance with state statutes and SLO Rules. The State Land Office asked Chesapeake to provide evidence of authority for its actions. (See Exhibit 1, attached.) It is not known what response if any Chesapeake has made to the State Land Office’s request.

12. As of this date, it is estimated that Chesapeake’s KF State “4” No. 1 well is presently drilling at depths below 4,000 feet to an anticipated total depth of 12,100 feet. For the reason that Chesapeake is in trespass on the Subject Lands, it has not provided the Movants with

a drilling plan and has not otherwise conferred with them about any proposals for completing, testing or operating the KF "4" State Well No. 1. Neither has Chesapeake filed any sundry notice, C-103 or other standard reporting form with the Division reflecting any plans for completing the well.

13. Movants have not and at this time do not consent to any operations undertaken by Chesapeake on the Subject Lands.

14. As further explained in the attached affidavit of James Wakefield, Petroleum Engineer for Movant Kaiser-Francis Oil Company, undertaking testing and completion of a well without first conferring with and obtaining the approval of the interest owners is a departure from industry customs and practices. Experienced operators may disagree over the appropriate means of testing and completing a well. Further, there is a substantial risk that an improperly planned or executed completion would result in damage to the well or the potential loss of reserves, resulting in waste and potential damage to Movants' correlative rights.

15. It is estimated that the KF State "4" Well No. 1 will reach total depth on approximately June 3, 2005.

16. A hearing on Mewbourne's Application in Case No. 13,492 is scheduled to be convened before one of the Division's examiners on May 19, 2005. It is also anticipated that a hearing will be convened on Chesapeake's Application in Case No. 13,493 on that same date. By its Application in Case No. 13,493, Chesapeake seeks an order pooling all unjoined interests to form a 320 acre lay down spacing and proration unit consisting of the SE/4 and SW/4 of Irregular Section 4 and further designating Chesapeake as operator of the KF "4" State Well No. 1. Significantly, the Application is filed on behalf of Chesapeake Permian, L. P. Further,

Chesapeake's Application is devoid of any allegation asserting that either Chesapeake Permian, L.P. or Chesapeake Operating, Inc. has the right to drill the KF "4" State Well No. 1.

17. Chesapeake's right to occupy the SE ¼ of Section 4 and to drill the KF State Well No. 1 continues to be in dispute. (**"The right to exercise mineral rights arises, if at all, from the ownership of the mineral interest, and not from the approval of an APD which merely confirms that the specific operation proposed complies with the OCD's spacing and technical requirements."** Order No. R-12093-A; Case No. 13215, *Application of Valles Caldera Trust To Deny Applications Of Geoproducts of New Mexico, Inc. for Permits To Re-Enter Abandoned Geothermal Wells (APDs), Sandoval County, New Mexico.*) Correspondingly, ownership of any and all data obtained from drilling, as well as ownership of the wellbore itself, are also in dispute. Just as Chesapeake may not acquire an ownership or occupancy interest in the subject lands by virtue of its trespass, neither may it appropriate the geologic and engineering data derived from drilling the KF "4" State Well No. 1.

18. Completion of the well and utilization or release of data from the drilling of the well in a manner inconsistent with the interests of the owners in the Subject Lands should be avoided. The geologic and engineering data derived from the drilling of the KF "4" State Well No. 1 is proprietary and confidential business information owned by the parties owning the oil and gas leasehold interests in the Subject Lands. Further, any data that are derived during drilling should be immediately turned over to the Movants and strict confidentiality maintained. For these reasons, Movants seek the issuance of an order providing as follows:

- A. Limiting Chesapeake's activities to drilling to total depth only and restricting Chesapeake from completing the well;

- B. Requiring Chesapeake to provide Movants with free and uninterrupted access to all parts of the well site, daily drilling reports, mud log reports and such other information that is derived during the drilling of the well to total depth;
- C. On reaching total depth, requiring Chesapeake to obtain the following suite of open hole logs and deliver same to Movants: Triple Combo (or equivalent) comprised of a dual Laterolog, MSFL Survey, Gamma Ray Combo, Spectral Density, and Dual Compensated Neutron logs. Otherwise, Chesapeake should be restricted from testing the well in any other fashion, including DST's, the retrieval of core samples or any other methods of testing or data analysis;
- D. After reaching total depth, if indicated by the well log information obtained under the foregoing paragraph, Chesapeake should be required to set casing in a manner acceptable to Movants as may be necessary to protect any reserves that are discovered. Immediately following, Chesapeake's drilling rig is to be moved off location and Chesapeake should be restricted from attempting any completion of the well;
- E. In the event Chesapeake deems that the drilled well failed to encounter any commercial pay zones and decides to plug and abandon the well bore per NMOCD rules, Chesapeake must first give the Movant the opportunity to take over the well and set casing before plugging the well or moving off the drilling rig.
- F. That the well receive no allowable and that the well not otherwise be allowed to produce for either testing purposes or for sales;

G. That any and all data derived from drilling the well to total depth be immediately surrendered to the Movants and that strict confidentiality thereof be maintained; and

H. That the foregoing provisions be maintained in effect pending the final resolution of the matters in dispute in Case Nos. 13,492 and 13,493, or as the parties may otherwise mutually agree pursuant to written agreement.

19. As it is anticipated the KF "4" State Well No. 1 will reach total depth within the next few days, Movants further request the issuance by the Division of an order pursuant to this Motion on an expedited basis.

20. Issuance of an order granting the relief requested herein will promote preservation of the status quo, will prevent further harm to the Movants, and will not result in harm or prejudice to Chesapeake.

Respectfully submitted,

MILLER STRATVERT P.A.

By: J. Scott Hall
J. Scott Hall
Attorneys for Kaiser-Francis Oil Company
and Samson Resources Company
Post Office Box 1986
Santa Fe, New Mexico 87504-1986
(505) 989-9614

Certificate of Service

I hereby certify that a true and correct copy of the foregoing was faxed to counsel of record on the 11 day of May, 2005, as follows:

Thomas Kellahin, Esq.
Post Office Box 2265
Santa Fe, New Mexico 87504
Attorneys for Chesapeake Operating, Inc.
And Chesapeake Permian, LP
(505) 982-2047/Facsimile

Gail MacQuesten, Esq.
New Mexico Oil Conservation Division
1220 South St. Francis Drive
Santa Fe, New Mexico 87504
(505) 476-3462/Facsimile



J. Scott Hall

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KF ENERGY, L.L.C.

P. O. BOX 2101

TULSA, OKLAHOMA 74101-2101

6733 South Yale Avenue, 74136
(918) 491-4457 Fax: (918) 491-4459

May 12, 2005

Miller Stratvert
150 Washington Ave., Suite 300
Santa Fe, NM 87501

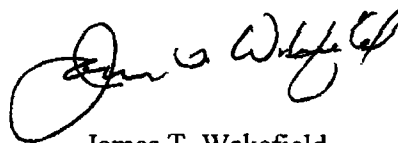
Attention: J. Scott Hall

Re: Affidavit for Kaiser-Francis Oil
Company Motion to Limit
Operations by Chesapeake
KF 4 State Com No. 1 well
SE/4 Section 4, T21S R35E
Lea County, NM

Gentlemen:

I, James T. Wakefield, affirm that Kaiser-Francis Oil Company (Kaiser) typically cooperates and communicates with their working interest owners in designing the drilling and completion program for jointly drilled wells in order to determine the optimum plan to complete the well into a sales line. Kaiser has found that certain drilling and completion procedures must be followed in properly completing Morrow sands in Lea County, New Mexico such as the one targeted by the currently drilling KF 4 State No. 1 well. Given that Chesapeake Operating, Inc (Chesapeake) has not communicated to Kaiser their plans for the drilling and completion of the subject well, it is our fear that Chesapeake will undertake incorrect and damaging procedures that would result in harm to the Morrow reservoir and which will in turn create substantial expenses in excess of those necessary to drill and complete this well in a competent manner. The ultimate effect of improper drilling and completion practices will therefore result in the loss of reserves thereby causing waste.

Very truly yours,



James T. Wakefield
VP KF Energy LLC, General Partner
of KF Energy Ltd, Acting as agent
for and on behalf of Kaiser-Francis
Oil Company

KF ENERGY, L.L.C.

P. O. BOX 2101

TULSA, OKLAHOMA 74101-2101

ACKNOWLEDGMENT

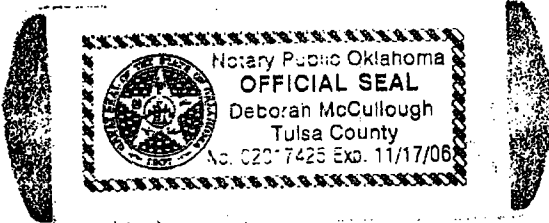
6733 South Yale Avenue, 74136
(918) 491-4457 Fax: (918) 491-4459

STATE OF OKLAHOMA)
) ss.
COUNTY OF TULSA)

This instrument was acknowledged before me on May 12, 2005, by James T. Wakefield, Vice President of KF Energy, L.L.C. General Partner of KF Energy, Ltd., Individually and as agent for Kaiser-Francis Oil Company.

My commission expires:

11/17/06





Notary Public-Deborah McCullough



PATRICK H. LYONS
COMMISSIONER

State of New Mexico
Commissioner of Public Lands

310 OLD SANTA FE TRAIL
P.O. BOX 1148
SANTA FE, NEW MEXICO 87504-1148

COMMISSIONER'S OFFICE

Phone (505) 827-5760

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www.nmstatelands.org

May 4, 2005

Thomas W. Kellahin, Esq.
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Phillip T. Brewer, Esq.
P.O. Box 298
Roswell, NM 88202-0298

Via Fax 505-625-0299

RE: State Trust Land, Section 4, T-21-S, R-35-E

Dear Messrs. Kellahin and Brewer:

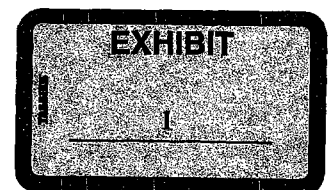
The State Land Office (SLO) has been advised through proceedings in the Oil Conservation Division (OCD) and the state district court in the Fifth Judicial District that your client, an entity of Chesapeake Energy, is in the process of drilling a well on state trust mineral acreage in the above-referenced Section 4. It is the SLO's understanding that your client's entry onto the state trust land is not pursuant to lease or other specific authorization issued to Chesapeake by the Commissioner of Public Lands or the lessee of record. It is our further understanding that the entry may be upon reliance of an authorization for permit to drill issued by the Oil Conservation Division (OCD).

Access to state trust surface and minerals requires specific approval of the Commissioner, who is the state official charged by constitution and statute to control and manage state trust property. Reliance solely on OCD approval without approval of the Commissioner or the lessee pursuant to SLO rules as to state trust lands is misplaced.

The SLO understands that there exists a dispute between our lessee of the property and your client over the right to drill and produce the minerals and that the OCD is scheduled to address this issue in a May 19 hearing. The Commissioner has established the SLO rules for state trust lands to govern both voluntary pooling (19.2.100.51 NMAC) and forced pooling (19.2.100.52 NMAC) situations.

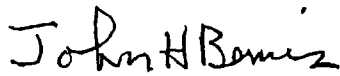
The SLO's present understanding is that Chesapeake's activity on trust land is not in compliance with state statutes and SLO rules. We expect full compliance with applicable statutes and rules and would appreciate an immediate response as to the authority Chesapeake invokes to allow its operations on state trust acreage.

"WORKING FOR EDUCATION"



My direct dial number is 505-827-4489 and my fax number is 505-827-4739.

Very truly yours,



John H. Bemis
Assistant Commissioner
For Oil & Gas

Cc: Scott Hall via fax 505-989-9857
James Bruce via fax 505-982-2151
Michael Curry via fax 915-682-3692