

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

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

**CASE NO. 15550
ORDER NO. R-13751-B**

**APPLICATION OF MEWBOURNE OIL COMPANY FOR A NON-STANDARD
OIL SPACING AND PRORATION UNIT AND COMPULSORY POOLING, EDDY
COUNTY, NEW MEXICO**

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on May 25, 2017, at Santa Fe, New Mexico, before Examiner Scott Dawson.

NOW, on this 30th day of November, 2017, the Division Director, having considered the testimony, the record and the recommendations of Examiner,

FINDS THAT:

(1) Due public notice has been given, and the Division has jurisdiction of this case and of the subject matter.

(2) Order No. R-13751-A is hereby withdrawn in its entirety, and this order is issued in lieu thereof.

(3) Cases 15547, 15548, 15549, 15550, 15551, 15552 and 15562 were consolidated for hearing. However, a separate order is being issued in each case.

(4) Order No. R-13751 was issued in Case No. 15038 on September 18, 2013, forming a 160-acre non-standard oil spacing and proration unit and project area (the "Unit") for oil and gas production from the Bone Spring Formation, Hay Hollow; Bone Spring Pool (pool code 30215), comprising the W/2 W/2 of Section 23, Township 26 South, Range 27 East, NMPM, Eddy County, New Mexico and pooling all uncommitted interests in the Bone Spring formation within the Unit.

(5) By this application, Applicant seeks to pool the interests, if any, in the Unit of certain parties ("additional parties") whose interests are contingent on the outcome of pending litigation, and who were not notified of the prior pooling proceeding.

(6) The Unit is dedicated to Applicant's Owl Draw 23 DM Federal Com Well No. 2H ("the well"; API No. 30-015-41629), a horizontal well that Applicant has drilled and completed from a surface location 370 feet from the South line and 1055 feet from the West line (Unit M) of Section 14, to an as-drilled bottom-hole location, 334 feet from the South line and 661 feet from the West line (Unit M) of Section 23, both in Township 26 South, Range 27 East, NMPM, Eddy County, New Mexico.

(7) The well is within the Hay Hollow; Bone Spring Pool and is subject to statewide Rule 19.15.15.9.A. NMAC, which provides for standard 40-acre spacing units each comprising a governmental quarter-quarter section, and 330-foot setbacks from the unit boundaries. The Unit consists of eight quarter-quarter sections aligned north to south.

(8) Applicant appeared through counsel and presented the following land and geologic evidence:

- (a) The Bone Spring Formation in this area is suitable for development by horizontal drilling.
- (b) The proposed orientation of the horizontal well north to south is appropriate for the Unit.
- (c) All quarter-quarter sections to be included in the Unit are expected to be productive in the Bone Spring formation, so that formation of the Unit as requested will not impair correlative rights.
- (d) Notice was provided for compulsory pooling to all the additional parties by certified mail, return receipt requested.

(9) Wesley Welch, Joe Michael Welch and Barbara Grace Walker (collectively "the Welch Heirs), Tuffy Oil Co., LLC, Premier Oil & Gas, Inc., and Blair Seaton Croke entered appearances in this case and appeared at the hearing through counsel, but did

(10) No other party or person appeared at the hearing or indicated any opposition to the granting of the application.

The Division concludes as follows:

(11) Two or more separately owned tracts are embraced within the Unit, and/or there are royalty interests and/or undivided interests in oil and gas minerals in one or more tracts included in the Unit that are separately owned.

(12) Applicant is owner of an oil and gas working interest within the Unit. Applicant has the right to drill and has drilled the well to, and completed the well in, a common source of supply within the Unit at the above-described location.

(13) The interests, if any, of the parties other than Applicant who appeared at the hearing, except Blair Seaton Crooke ("Crooke"), are now committed to the Unit by agreement, and Applicant does not seek to pool any interest of such parties. The Division does not have jurisdiction to determine title to any interest, and no finding in this respect has been made or should be inferred.

(14) To avoid the drilling of unnecessary wells, protect correlative rights, prevent waste and afford to the owner of each interest in the Unit the opportunity to recover or receive without unnecessary expense a just and fair share of hydrocarbons, this application should be approved by pooling all uncommitted interests, including the interests of the additional parties, whatever they may be, in the oil and gas within the Unit that were not effectively pooled by Order No. R-13751.

(15) Mewbourne Oil Company should be designated the operator of the well and the Unit.

(16) Any pooled working interest owner who does not pay its share of estimated well costs should have withheld from production its share of reasonable well costs plus an additional 200% thereof as a reasonable charge for the risk involved in drilling the well.

(17) Reasonable charges for supervision (combined fixed rates) should be fixed at \$7,500 per month, per well, while drilling and \$700 per month, per well, while producing, provided these rates may be adjusted annually pursuant to the overhead provisions of the COPAS form titled "*Accounting Procedure-Joint Operations*."

IT IS THEREFORE ORDERED THAT:

(1) Pursuant to the application of Mewbourne Oil Company ("Applicant"), all uncommitted interests, whatever they may be, in the oil and gas in the Bone Spring Formation underlying the W/2 W/2 of Section 23 in Township 26 South, Range 27 East, NMPM, Eddy County, New Mexico ("the Unit"), including, but not limited to the interests of additional parties, if any, are hereby pooled.

(2) The Unit is dedicated to Applicant's Owl Draw 23 DM Federal Com Well No. 2H ("the well"; API No. 30-015-41629), a horizontal well that Applicant has drilled and completed from a surface location 370 feet from the South line and 1055 feet from the West line (Unit M) of Section 14, to a bottom-hole location 334 feet from the South line and 661 feet from the West line (Unit M) of Section 23, both in Township 26 South, Range 27 East, NMPM, Eddy County, New Mexico.

(3) Upon final plugging and abandonment of the well and any other well drilled on the Unit pursuant to Division Rule 19.15.13.9 NMAC, the pooled Unit created by this Order shall terminate, unless this Order has been amended to authorize further operations.

(4) Mewbourne Oil Company (OGRID 14744) is hereby designated the operator of the well and the Unit.

(5) After the effective date of this Order, the operator shall furnish to the Division and to each of the additional parties who owns a working or unleased interest in the Unit ("additional owners") an itemized schedule of actual costs of drilling, completing and equipping the well ("well costs").

(6) Within 30 days from the date the schedule of well costs is furnished, the additional owners shall have the right to pay their claimed share of actual well costs to the operator in lieu of paying their share of reasonable well costs out of production as hereinafter provided. An additional owner who pays his claimed share well costs within 30 days after receipt of the schedule of costs as provided shall remain liable for operating costs with respect to his interest, if any, but shall not be liable for risk charges. An additional owner who elects not to pay his claimed share of well costs as provided in this paragraph shall be deemed a "non-consenting additional owner."

(7) If no objection to the actual well costs is received by the Division, and the Division has not objected, within 45 days following receipt of the schedule, the actual well costs shall be deemed to be the reasonable well costs. If there is an objection to actual well costs within the 45-day period, the Division will determine reasonable well costs after public notice and hearing.

(8) Within 60 days following determination of reasonable well costs, any additional owner who has paid his claimed share of actual costs in advance as provided above shall receive from the operator the amount, if any, that the actual well costs he has paid exceed his claimed share of reasonable well costs.

(9) The operator is hereby authorized to withhold all proceeds of production attributable to additional owners whose interest is contingent upon the outcome of pending litigation until the litigation is terminated by settlement or final judgment and the operator is provided with satisfactory proof thereof. If a final settlement or judgment establishes that an additional owner is entitled to an interest in production from the Unit ("adjudicated interest"), the operator shall pay or deliver to such additional owner all amounts due to such owner by reason of its adjudicated interest, less amounts operator is authorized to withhold under this order, within 60 days after receipt of proof of such agreement of judgment. If a final settlement or judgment establishes that an additional owner has no interest in production from the Unit, the operator shall refund to such additional owner, without interest, any amounts he has paid as well costs pursuant to Ordering Paragraph (6) above.

(10) The operator is further authorized to withhold from production attributable to each non-consenting additional owner's interest:

- (a) The proportionate share of reasonable well costs attributable to such interest; and
- (b) As a charge for the risk involved in drilling the well, 200% of the above costs.

(11) The operator shall distribute the costs and charges withheld from production, proportionately, to the parties who advanced the well costs.

(12) Reasonable charges for supervision (combined fixed rates) for the well are hereby fixed at \$7,500 per month, per well, while drilling and \$700 per month, per well, while producing, provided that these rates shall be adjusted annually pursuant to the overhead provisions of the COPAS form titled "*Accounting Procedure-Joint Operations*." The operator is authorized to withhold from production attributable to each owner's interest the owner's proportionate share of both the supervision charges and the actual expenditures required for operating the well, not in excess of what are reasonable.

(13) Except as provided in the foregoing paragraphs, all proceeds from production from the well that are not disbursed for any reason shall be held for the account of the person or persons entitled thereto pursuant to the Oil and Gas Proceeds Payment Act (NMSA 1978 Sections 70-10-1 through 70-10-6, as amended). If not disbursed, such proceeds shall be turned over to the appropriate authority as and when required by the Uniform Unclaimed Property Act (NMSA 1978 Sections 7-8A-1 through 70-8A-28, as amended).

(14) Any unleased mineral interest shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for the purpose of allocating costs and charges under this Order. Any well costs or charges that are to be paid out of production shall be withheld only from the working interests' share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

(15) Should all the parties to this compulsory pooling order reach voluntary agreement subsequent to entry of this Order, this order shall thereafter be of no further effect.

(16) The operator of the well and the Unit shall notify the Division in writing of the subsequent voluntary agreement of all parties subject to the compulsory pooling provisions of this Order.

(17) Order No. R-13751 shall remain in effect except as modified hereby.

(18) Jurisdiction of this case is retained for the entry of such further orders as the Division may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.



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STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

David R. Catanach

DAVID R. CATANACH
Director