

## STATE OF NEW MEXICO

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

## OIL CONSERVATION DIVISION

MAY 15 1997

OIL CONSERVATION DIVISION

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

APPLICATION OF FASKEN OIL AND RANCH, )  
 LTD., FOR A NONSTANDARD GAS PRORATION )  
 AND SPACING UNIT AND TWO ALTERNATE )  
 UNORTHODOX GAS WELL LOCATIONS, EDDY )  
 COUNTY, NEW MEXICO )

CASE NOS. 11,755

APPLICATION OF MEWBOURNE OIL COMPANY )  
 FOR AN UNORTHODOX GAS WELL LOCATION AND )  
 NONSTANDARD GAS PRORATION UNIT, EDDY )  
 COUNTY, NEW MEXICO )

and 11,723

(Consolidated)

REPORTER'S TRANSCRIPT OF PROCEEDINGSEXAMINER HEARING

BEFORE: MICHAEL E. STOGNER, Hearing Examiner

May 1st, 1997

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, MICHAEL E. STOGNER, Hearing Examiner, on Thursday, May 1st, 1997, at the New Mexico Energy, Minerals and Natural Resources Department, Porter Hall, 2040 South Pacheco, Santa Fe, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

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## I N D E X

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\* \* \*

## A P P E A R A N C E S

## FOR THE DIVISION:

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 Legal Counsel to the Division  
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 Santa Fe, New Mexico 87505

## FOR FASKEN OIL AND RANCH, LTD.:

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 Santa Fe, New Mexico 87504-2265  
 By: W. THOMAS KELLAHIN

## FOR MEWBOURNE OIL COMPANY:

JAMES G. BRUCE, Attorney at Law  
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 P.O. Box 1056  
 Santa Fe, New Mexico 87504

## FOR TEXACO EXPLORATION AND PRODUCTION, INC.:

CAMPBELL, CARR, BERGE and SHERIDAN, P.A.  
 Suite 1 - 110 N. Guadalupe  
 P.O. Box 2208  
 Santa Fe, New Mexico 87504-2208  
 By: WILLIAM F. CARR

\* \* \*

1           WHEREUPON, the following proceedings were had at  
2   12:10 p.m.:

3           EXAMINER STOGNER: Hearing will come to order.  
4   At this time I'm going to call both Cases 11,755 and  
5   11,723, which was heard on the first hearing in April, and  
6   I continued it to this time.

7           And do you want to call it, Mr. Carroll?

8           MR. CARROLL: Application of Fasken Oil and  
9   Ranch, Limited, for a nonstandard gas proration and spacing  
10   unit and two alternate unorthodox gas well locations, Eddy  
11   County, New Mexico,

12          And Application of Mewbourne Oil Company for an  
13   unorthodox gas well location and nonstandard gas proration  
14   unit, Eddy County, New Mexico.

15          EXAMINER STOGNER: Mr. Kellahin, Mr. Carr? Is  
16   Mr. Bruce here? Yes, he is.

17          Gentlemen, do you want to give me an update?

18          MR. KELLAHIN: Mr. Examiner, at the conclusion of  
19   taking evidence and testimony of witnesses at the last  
20   hearing before you on this topic, you directed the parties  
21   to meet and discuss possible settlement. In addition, you  
22   asked us to return today, to report back to you on the  
23   status of that effort.

24          I'm here to tell you that on April 14th,  
25   Mewbourne and Fasken and their various representatives,

1 technical representatives, met in Midland to discuss this  
2 case. This is after the last hearing.

3 In addition, Texaco was invited to attend and to  
4 participate in those discussions. My understanding is that  
5 Texaco declined to attend that meeting.

6 Unfortunately, at the conclusion of that meeting  
7 the parties were unable to resolve the difference. Mr.  
8 Bruce and I have talked about this earlier this week. We  
9 both believe -- at least it's my belief that neither Fasken  
10 will concede to the Mewbourne location, nor will Mewbourne  
11 concede to the Fasken location. They may have discussed  
12 other solutions in confidence among themselves, but the end  
13 result is, we can't agree upon a location.

14 Therefore, I'm asking you to take the cases under  
15 advisement and to enter an appropriate decision.

16 There are a couple of loose ends in the case that  
17 we would ask you to consider in resolving the matter.

18 Mr. Bruce has moved to dismiss our Application  
19 with regards to the naming of a particular Fasken entity.  
20 Subsequent to the last hearing, I have filed a motion of  
21 joinder and an affidavit to which Mr. Bruce has responded.  
22 I would simply ask that you take that under consideration  
23 and rule appropriately as part of your ordering provisions.

24 I would invite Mr. Carroll's attention to the  
25 fact that joinder is widely recognized and permitted under

1 the New Mexico Rules of Civil Procedure, and if you want to  
2 look at Rule 18, 19 and 20, there's an abundance of  
3 information in the statutes with regards to cases and  
4 authority for joinder. And we think if you join the  
5 mineral and land entity of Fasken, there's simply no  
6 question that you have the right party.

7 But in terms of anything further, I have no  
8 further technical presentation to make to you, and I'm here  
9 to report that despite our efforts we cannot resolve the  
10 differences and must impose upon you to make decisions  
11 about the well locations.

12 MR. CARROLL: Was there any request for  
13 simultaneous dedication?

14 MR. KELLAHIN: Say again?

15 MR. CARROLL: Was there a request for  
16 simultaneous dedication --

17 MR. KELLAHIN: No, sir.

18 MR. CARROLL: -- by Fasken?

19 MR. BRUCE: No, and I have a brief comment on  
20 that.

21 MR. CARROLL: Mr. Bruce?

22 MR. BRUCE: As I told you on Tuesday, Mr.  
23 Stogner, I have a brief statement. As you can see, I have  
24 my witnesses here. And we understood you didn't want any  
25 technical presentation; they're here if you have any

1 questions that you'd like answered.

2 As Tom said at the hearing on -- April 4th was  
3 the day it ended, you requested that the parties negotiate  
4 a new well location which you said should be at least 1650  
5 feet from the side and end boundaries of the well unit.  
6 You'd hoped that the parties could agree on a location and  
7 that would be the end of this matter.

8 We're before you again today for one simple  
9 reason: the refusal by Fasken and Texaco to compromise or  
10 modify their positions.

11 As Tom said, there was a meeting on the 14th; it  
12 was held at Mewbourne's office. And in order to compromise  
13 and settle the dispute, Mewbourne did offer to move its  
14 well to the west and to the north. As we've said before,  
15 based on Mewbourne's geologic interpretation, they really  
16 don't want to move to the location 1650 feet from the south  
17 line of the section.

18 Fasken's response is to maintain its original  
19 location. It was unwilling to budge one foot or five foot  
20 from that location.

21 That location is still unacceptable to Mewbourne  
22 because it's based on the speculative Cisco/Canyon, rather  
23 than the Morrow geology, which everyone agrees is the main  
24 objective.

25 Texaco didn't attend the meeting. Texaco was

1 contacted by phone at the meeting with both Fasken and  
2 Mewbourne present. They were asked to consider a location  
3 less than 1650 feet from the south line of Section 1.  
4 Texaco refuses to consider that option, even with a  
5 penalty.

6 In our opinion, Mewbourne was the only party that  
7 was willing to compromise. But that's of no use if the  
8 other parties refuse to compromise or bargain at all.

9 As a result, Mewbourne requests also that you  
10 take the cases under advisement. We ask that you issue a  
11 decision granting Mewbourne's Application without  
12 modification. We think a decision in Mewbourne's favor is  
13 proper because its proposal, as we've discussed, was first  
14 on the table and has priority under the operating  
15 agreement.

16 We also believe Mewbourne had the best geology.  
17 The reason we're here -- why we're here today, why we were  
18 here a month ago, was, the Texaco Levers Well Number 2 in  
19 Section 12 to the south, that well is producing 3 or 4  
20 million a day. Texaco's geologist admitted that well was  
21 drilled based on geology prepared by Keith Williams, the  
22 Mewbourne geologist, while he worked at Texaco.

23 Keith was right before, we think he's right  
24 again. Why not drill the Fasken location first, is one  
25 proposal in front of you. We think it's a direct offset to

1 the uneconomic Fasken Avalon Federal Number 1 well in Unit  
2 P of Section 1, which makes it uneconomic and highly risky.  
3 Once again, it's based on Cisco/Canyon, which is not the  
4 primary zone of interest. We think it's proper just to  
5 drill a Morrow well, get some revenue from that well; then  
6 you can consider a Cisco/Canyon well.

7 As Tom indicated, we do request that Fasken's  
8 Application be denied or be dismissed without prejudice due  
9 to defective notice. We filed our case; we're not asking  
10 for two wells in the section. Fasken is asking for two  
11 wells, or at least alternate wells, in Section 1. But they  
12 haven't requested simultaneous dedication. We think that's  
13 another defect in the notice and Fasken's case, and we  
14 think that requires dismissal.

15 If they want to re-file, go ahead, but to get the  
16 proper name of the interest owner in Section 1, Fasken Land  
17 and Minerals, get the proper designation for simultaneous  
18 dedication if they are asking for two wells in the section.  
19 We think their Application is defective.

20 Mewbourne does agree to the assessment of a  
21 reasonable penalty on production. My final comment is,  
22 regarding a penalty, I'd like to point out the  
23 contradiction in Texaco's position. Texaco stated that it  
24 fears the Fasken location more than the Mewbourne location.

25 If that's the case, then why not request a



1 penalty on the Fasken well, at least based on the acreage  
2 formulation, half of the section, which of course they  
3 asserted against Mewbourne?

4 Instead, it seeks no penalty on Fasken's well and  
5 a huge prohibitive penalty on Mewbourne's well, which it  
6 claims is a poorer location. That makes no sense.

7 I smell collusion here. Fasken and Texaco assert  
8 the Fasken well can be drilled without penalty, which may  
9 be an appealing option to the Division. This way, Texaco  
10 gets a well drilled very far away from its Levers Number 2  
11 well, and Fasken gets to drill its Cisco/Canyon test.  
12 Meanwhile, Texaco continues to produce 3 or 4 million cubic  
13 feet a day from its offset well that continues draining  
14 Morrow reserves from Section 1. We think that's not fair,  
15 and we think that impairs the correlative rights of the  
16 Section 1 interest owners.

17 Again, we ask you to take the matters under  
18 advisement and issue a decision in favor of Mewbourne.

19 EXAMINER STOGNER: Mr. Carr?

20 MR. CARR: Mr. Stogner, what we have here are two  
21 cases, one where the people are trying to figure out how to  
22 live in a section are going to figure out how to develop  
23 that acreage. And until they do that, Texaco's role as  
24 their neighbor is somewhat restricted and somewhat limited.

25 There was a meeting called by Mewbourne on April

1 the 14th. Texaco participated by telephone. They had no  
2 location that they could agree on, and so we really had no  
3 role at that time. It's true that we operate a good well  
4 south of this acreage, and we're not opposing anyone who  
5 wants to go north of us and develop their reserves.

6 But if the location is proposed at an unorthodox  
7 location, it's going to result in drainage, not offset by  
8 counter-drainage, then we do object. And we've come into  
9 this hearing and we have presented our concerns, and we  
10 have recommended a penalty.

11 And if it is collusion for us to oppose the  
12 location that is closer to a standard setback to our common  
13 lease line and not to oppose a location that is farther  
14 away than allowed by rules, then I guess that's collusion.  
15 But we think it's not.

16 It's our policy to oppose locations that encroach  
17 on us, not to oppose those that do not. And we've proposed  
18 a penalty, and we showed you a month ago that to make the  
19 penalty effective -- I mean, a reasonable penalty for  
20 Mewbourne appears to be no penalty at all for Texaco.

21 And the only way to come forward with a penalty  
22 that would be meaningful is not only to look on the amount  
23 of encroachment but to also factor in elements that would  
24 mean the penalty was, in fact effective. And so that's  
25 where we are.

1           We had no agreement. We agree that it is now  
2 before you. I'm sorry that the whole mess is just lopped  
3 to you, but that's where it stands. And we would request  
4 that an order be entered on the record in May and let it  
5 go.

6           MR. CARROLL: It's our understanding that  
7 Fasken's Application is for alternative locations, not for  
8 two wells.

9           MR. KELLAHIN: That's right. Mr. Bruce --

10          MR. CARROLL: It's only one well that's going to  
11 be drilled --

12          MR. KELLAHIN: That's right, it's not  
13 simultaneous dedication, it's either/or.

14          MR. CARROLL: Mr. Bruce, has Mewbourne been  
15 prejudiced by naming Fasken Oil and Ranch, Limited, rather  
16 than Fasken Land and Minerals in the original application?

17          MR. BRUCE: Mr. Examiner, Mr. Carroll, I think  
18 that, first of all, the Application is not properly before  
19 you. You should only consider Mewbourne's Application.

20                 And if you then go back and look at their  
21 Application, they did ask -- As I read the Application,  
22 Fasken asked for approval of two well locations. They did  
23 not say that one or the other would be drilled.

24                 I think if you dismiss Fasken's Application, they  
25 can bring it later. But under the operating agreement,

1 Mewbourne's is first in time and first in right, and that  
2 one should be considered solely and separately.

3 (Off the record)

4 EXAMINER STOGNER: Considering your comments  
5 today, gentlemen, I'm going to allow the joinder of Fasken  
6 Oil and Ranch, Limited, in this matter, and at this time  
7 I'm prepared to take both cases under advisement.

8 (Thereupon, these proceedings were concluded at  
9 12:25 p.m.)

10 \* \* \*

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14  
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16  
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20  
21 I do hereby certify that the foregoing is  
22 a complete record of the proceedings in  
the Examiner hearing of Case Nos 11755 and 11723  
heard by me on 1 May 1992.  
23 [Signature], Examiner  
24 Oil Conservation Division  
25

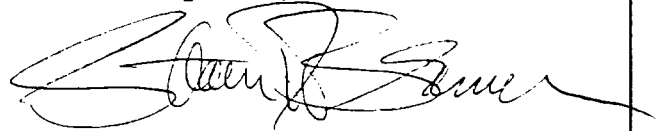
## CERTIFICATE OF REPORTER

STATE OF NEW MEXICO    )  
                                  )   ss.  
COUNTY OF SANTA FE    )

I, Steven T. Brenner, Certified Court Reporter and Notary Public, HEREBY CERTIFY that the foregoing transcript of proceedings before the Oil Conservation Division was reported by me; that I transcribed my notes; and that the foregoing is a true and accurate record of the proceedings.

I FURTHER CERTIFY that I am not a relative or employee of any of the parties or attorneys involved in this matter and that I have no personal interest in the final disposition of this matter.

WITNESS MY HAND AND SEAL May 9th, 1997.



STEVEN T. BRENNER  
CCR No. 7

My commission expires: October 14, 1998