

BEFORE THE NEW MEXICO OIL CONSERVATION DIVISION

APPLICATION OF FASKEN LAND AND  
MINERALS, LTD. FOR COMPULSORY  
POOLING AND AN UNORTHODOX GAS  
WELL LOCATION, EDDY COUNTY,  
NEW MEXICO.

Case No. 11,877

REDSTONE'S REPLY IN SUPPORT OF MOTION TO DISMISS APPLICATION

Redstone Oil & Gas Company (Redstone) submits this reply in support of its motion to dismiss the above case:

Fasken Land and Minerals, Ltd. (Fasken) seeks to pool all of Section 12, Township 23 South, Range 24 East. The reply filed by Fasken shows that:

- (a) Fasken claims to own 100% of the working interest in the W $\frac{1}{2}$  of Section 12;
- (b) The entire working interest in the E $\frac{1}{2}$  of Section 12 is subject to the 1970 Operating Agreement;<sup>1</sup> and
- (c) Fasken also owns an interest in the E $\frac{1}{2}$  of Section 12, and is subject to the 1970 Operating Agreement, because David Fasken, its predecessor-in-interest, signed the Operating Agreement. **See Operating Agreement (Exhibit B attached to Fasken's Reply).**

Thus, even assuming that Fasken is correct as to the status of the W $\frac{1}{2}$  of Section 12,<sup>2</sup> there is a voluntary agreement in place covering the E $\frac{1}{2}$  of Section 12, and the only acreage which needs to

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<sup>1</sup>"In summary, the Operating Agreement of January 1, 1970 is, by its terms, applicable to the E/2 of Section 12 as to the Morrow formation pursuant to the provisions of Paragraph 10." **Affidavit of Robert C. Bledsoe, attached as Exhibit A to Fasken's Reply.**

<sup>2</sup>Redstone does not agree with Fasken's legal opinion. For instance, there is no provision in the Operating Agreement to reduce the contract area.

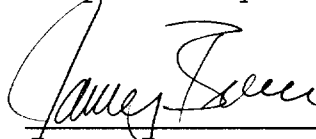
be committed to the well unit is the W½, which Fasken says it owns. Fasken cannot force pool itself. There is a procedure in the Operating Agreement to propose and drill a well, and Fasken should comply with that provision.

This case is equivalent to the situation faced by the Division in Case 10658, when it held that acreage within a well unit which is subject to an operating agreement cannot be force pooled, and dismissed the pooling application.<sup>3</sup> **Order No. R-9841.** There is no need for force pooling, and the Division should dismiss this case.

In support of its position, Fasken attaches the legal interpretation of Mr. Bledsoe. Obviously, there are issues regarding contract interpretation, which should be left to the courts.<sup>4</sup> Again, this calls for the case to be dismissed.

**WHEREFORE,** Redstone requests that Fasken's application be dismissed.

Respectfully submitted,



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Company

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<sup>3</sup>The acreage subject to the operating agreement in Case 10658 did not cover the entire well unit.

<sup>4</sup>In addition to the issue of whether the W½ of Section 12 is subject to the Operating Agreement, there is an issue as to the proper operator of Section 12 as to the Morrow formation.

CERTIFICATE OF SERVICE

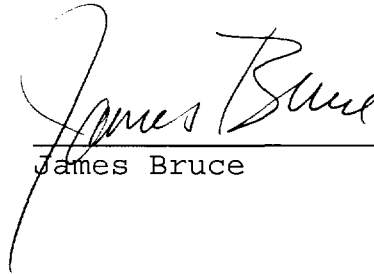
I hereby certify that a copy of the foregoing pleading was served this 6th day of January, 1998 upon the following counsel of record:

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