



BRUCE KING
GOVERNOR

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



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January 14, 1993

HINKLE, COX, EATON,
COFFIELD & HENSLEY
Attorneys at Law
P. O. Box 2068
Santa Fe, New Mexico 87501

RE: CASE NO. 10636
ORDER NO. R-9829

Dear Sir:

Enclosed herewith are two copies of the above-referenced Division order recently entered in the subject case.

Sincerely,


Sally E. Leichtle
Administrative Secretary

cc: BLM - Carlsbad
Steve Keene
T. Kellahin

KELLAHIN AND KELLAHIN
ATTORNEYS AT LAW
EL PATIO BUILDING
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W. THOMAS KELLAHIN*

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NATURAL RESOURCES-OIL AND GAS LAW

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December 16, 1992

VIA FACSIMILE
(505) 827-5741

Mr. Michael E. Stogner
Hearing Examiner
New Mexico Oil Conservation Division
310 Old Santa Fe Trail
Post Office Box 2088
Santa Fe, New Mexico 87504

RE: **MOTION TO DISMISS**
NMOCD Cases 10635 and 10636
Applications of Mewbourne Oil Company
for Compulsory Pooling and Unorthodox
Gas Well Locations, Eddy County,
New Mexico

Dear Mr. Stogner:

Our firm was retained this morning by Marathon Oil Company ("Marathon") concerning the two referenced pooling cases now on the docket for hearing on December 17, 1992. Those cases were filed by Mewbourne Oil Company ("Mewbourne") which is represented by Mr. James Bruce, Esq.

On behalf of Marathon Oil Company, we hereby move that the Division dismiss Case 10635 and Case 10636 and in support state:

(1) By letter dated October 8, 1992, Mewbourne requested a multi-tract farmout of Marathon's interests in some 1200 acres located in various tracts in T17S, R28E and T18S, R28E, Eddy County, New Mexico;

(2) By letter dated November 5, 1992, Marathon informed Mewbourne it was not interested in the proposed Mewbourne farmout;

*sent to
Attorney
December 7, 1992
ms.*

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(3) On November 16, 1992, Mewbourne filed its compulsory pooling application with the Oil Conservation Division seeking to have Marathon's interest pooled.

(4) On December 14, 1992, Marathon received notification of the proposed pooling of its interest and the scheduled hearing to be held three days later on December 17, 1992.

(5) Mewbourne has not yet submitted to Marathon an AFE for either well;

(6) Mewbourne has not yet afforded to Marathon an opportunity to form on a voluntary basis a spacing unit for either of the two subject wells;

(7) Mewbourne has not sought Marathon's concurrence for drilling of either well at the proposed unorthodox well locations described in the Division docket;

(8) Mewbourne has not submitted to Marathon a proposed Joint Operating Agreement for either well or its corresponding spacing unit;

(9) Mewbourne has not provided Marathon with any geologic or engineering data to support the drilling of this well or to justify its location.

(10) Contrary to the custom and practice of the Division and in violation of Section 70-2-17 (c) NMSA (1978), Mewbourne prematurely instituted compulsory pooling action against Marathon without first undertaking a good faith and reasonable effort to form a spacing unit on a voluntarily basis for the drilling of the subject wells at their proposed locations;

(11) Mewbourne seeks to use the compulsory pooling statute as a negotiation strategy against Marathon rather than as a remedy of last resort when all efforts for obtaining a voluntary agreement have failed.

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(12) The Mewbourne applications are premature and must be dismissed.

WHEREFORE, Marathon requests that the Division Hearing Examiner grant this Motion and dismiss Oil Conservation Division Cases 10635 and 10636.

Respectfully submitted,

KELLAHIN AND KELLAHIN,

A handwritten signature in black ink, appearing to read 'W. Thomas Kellahin', written over the printed name 'KELLAHIN AND KELLAHIN'.

W. Thomas Kellahin
Attorneys for Marathon
Oil Company

WTK/jcl
cc: Via Facsimile
James Bruce, Esq. (505/982-8623)
Marathon Oil Company