

# Correspondence

*Renovo*

Case No. 11723

*Nov. 1997*

**JAMES BRUCE**  
ATTORNEY AT LAW

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November 14, 1997

Mr. William J. LeMay  
Oil Conservation Commission  
2040 South Pacheco Street  
Santa Fe, New Mexico 87505

Ms. Jami Bailey  
Commissioner of Public Lands  
State Land Office Building  
310 Old Santa Fe Trail  
Santa Fe, New Mexico 87501

Mr. William W. Weiss  
Petroleum Recovery Research Center  
Kelly Building  
New Mexico Institute of Mining  
& Technology  
Socorro, New Mexico 87801

Re: Case Nos. 11,723 and 11755 (*de novo*)  
Mewbourne/Fasken/Texaco

Dear Commissioners:

Enclosed is the proposed order of Mewbourne Oil Company.

Please note that Fasken's proposed order references the transcript and exhibits from the Examiner hearing in April 1997. However, that material was not incorporated into the record at the Commission hearing, at Mr. Kellahin's request, and I ask that you ignore those materials.

Very truly yours,

  
James Bruce  
Attorney for Mewbourne Oil Company

NOV 14 1997  
Oil Conservation Commission

cc: Michael F. Shepard  
Marilyn S. Hebert  
William F. Carr  
W. Thomas Kellahin

**JAMES BRUCE**  
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November 4, 1997

**Hand Delivered**

Mr. William J. LeMay  
Oil Conservation Commission  
2040 South Pacheco Street  
Santa Fe, New Mexico 87505

Re: Cases 11723/11755 (de novo) (Fasken/Mewbourne)

Dear Mr. LeMay:

We have received Fasken's proposed order in the above matter. Because the Commission did not ask for a proposed order, Mewbourne did not intend to file one. However, if it would be of assistance to the Commission, Mewbourne could file one by next week. If the Commission does not want proposed orders, Mewbourne requests that Fasken's proposed order be ignored and removed from the case file. Please let me know the Commission's pleasure.

Very truly yours,

  
James Bruce  
Attorney for Mewbourne  
Oil Company

*Telecom 11/15  
Requested Jim submit  
a proposed order.*

cc: Commissioner Bailey  
Commissioner Weiss  
William F. Carr  
W. Thomas Kellahin

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1997

Oil Conservation Division

**KELLAHIN AND KELLAHIN**

ATTORNEYS AT LAW

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W. THOMAS KELLAHIN\*

\*NEW MEXICO BOARD OF LEGAL SPECIALIZATION  
RECOGNIZED SPECIALIST IN THE AREA OF  
NATURAL RESOURCES-OIL AND GAS LAW

JASON KELLAHIN (RETIRED 1991)

November 4, 1997

Mr. William J. LeMay, Chairman  
Oil Conservation Commission  
2040 South Pacheco  
Santa Fe, New Mexico 87502

**HAND DELIVERED**

Mrs. Jami Bailey  
State Land Office  
310 Old Santa Fe Trail  
Santa Fe, New Mexico 87501

**HAND DELIVERED**

Mr. Bill Weiss  
New Mexico Petroleum Recovery  
Research Center, Kelly Building  
New Mexico Tech Campus  
Socorro, New Mexico 87801

**FEDERAL EXPRESS**

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1997

Oil Conservation Commission

**Re: PROPOSED ORDER OF THE COMMISSION**

*NMOCD Case No. 11755*

*Application of Fasken for unorthodox gas well location,*

*Eddy County, New Mexico*

*NMOCD Case 11723*

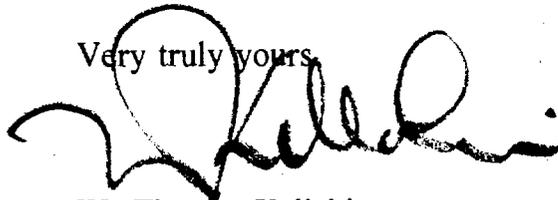
*Application of Mewbourne for unorthodox gas well*

*location, Eddy County, New Mexico*

Dear Members of the Commission:

On behalf of Fasken, please find enclosed our proposed order for consideration by the Commission. I have provided a copy of this order on a WordPerfect Diskette and have delivered it to Mrs. Hebert.

Very truly yours,



W. Thomas Kellahin

cc: *Lyn Hebert, Esq.*  
*Attorney for the Commission*  
*William F. Carr, Esq.*  
*Attorney for Texaco*  
*James Bruce, Esq.*  
*Attorney for Mewbourne*

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

**APPLICATION OF FASKEN OIL AND RANCH, LTD.  
FOR TWO ALTERNATIVE UNORTHODOX WELL  
LOCATIONS AND A NON-STANDARD PRORATION UNIT,  
EDDY COUNTY, NEW MEXICO.**

**CASE NO. 11755**

**APPLICATION OF MEWBOURNE OIL COMPANY  
CORPORATION FOR AN UNORTHODOX WELL  
LOCATION AND A NON-STANDARD PRORATION  
UNIT, EDDY COUNTY, NEW MEXICO.**

**CASE NO. 11723**

**APPLICATION OF TEXACO EXPLORATION AND  
PRODUCTION, INC. FOR CLARIFICATION OR IN  
THE ALTERNATIVE, AN EXCEPTION TO THE  
SPECIAL POOL RULES AND REGULATIONS FOR  
THE CATCLAW DRAWN-MORROW GAS POOL,  
EDDY COUNTY, NEW MEXICO.**

**CASE NO. 11868**

**FASKEN LAND AND MINERALS, LTD.  
AND  
FASKEN OIL AND RANCH, Ltd.  
PROPOSED  
ORDER OF THE COMMISSION**

**ORDER R-10872-A**

**RECEIVED**

1997

Oil Conservation Division

**BY THE COMMISSION:**

This cause came on for hearing at 9:00 a.m. on October 30, 1997, before the Oil Conservation Commission of New Mexico, hereinafter referred to as the "Commission".

NOW, on this \_\_\_\_ day of November, 1997, the Commission, a quorum being present, having considered the pleadings in Cases 11723, 11755 and 11868, including the applications, various motions and affidavits contained therein, the transcripts, exhibits and evidence presented to the Division on April 3 and 4, 1997, and the testimony presented and the exhibits received at the hearing held on October 30 and 31, 1997, and being fully advised in the premises,

**FINDS THAT:**

**Cases, Appearances and Notice**

(1) The following cases were consolidated for hearing before and decision by the Commission:

(a) Case 11723: Application of Mewbourne Oil Company ("Mewbourne") for an unorthodox well location 2310 feet from the East line and 660 feet from the south line ("the Mewbourne location") of Irregular Section 1, T21S, R25E including approval of a non-standard 297.88 acre unit ("NSP") comprising the southern portion of Irregular Section 1 described as Lots 29, 30, 31, 32 and the SW/4 (S/2 equivalent), Eddy County, New Mexico.

(b) Case 11755: Amended Application of Fasken Oil and Ranch, Ltd, and Fasken Land and Minerals, Ltd. (collectively "Fasken"). for an unorthodox well location 750 feet from the West line and 2080 feet from the south line ("the Mewbourne location") of Irregular Section 1, T21S, R25E including approval of a non-standard 297.88 acre unit ("NSP") comprising the southern portion of Irregular Section 1 described as Lots 29, 30, 31, 32 and the SW/4 (S/2 equivalent), Eddy County, New Mexico.

(c) Case 11868: Application of Texaco Exploration and Production, Inc. ("Texaco") for an order clarifying the rules to be applied to second wells on spacing units in the Catclaw-Draw Morrow gas Pool, or in the alternative for an exception from these rules for its E. J. Levers Federal "NCT-1" Wells No 1 and 2 (hereafter the Levers #1 and the Levers #2) located in Section 12, T21S, R25E, Eddy County, New Mexico.

(2) Fasken in Case 11755, Mewbourne in Case 11723 and Texaco in Case 11868 have provided adequate notice of this proceedings and the only parties appearing of record are as follows:

Fasken Oil and Ranch, Ltd.  
Fasken Land and Minerals, Ltd.  
Mewbourne Oil Company  
Penwell Energy Inc.  
Texaco Exploration and Production, Inc.

(3) Due public notice having been given as required by law, the Division has jurisdiction of this cause and the subject matter thereof.

### Summary of relevant factual background

(4) Irregular Section 1 consists of 853.62 acres and is divided into thirds with the central portion of this section being "unleased" federal oil and gas minerals the surface of which is subject to a federal environmental study. As a result, both Fasken and Mewbourne requested approval of a non-standard 297.88 acre unit ("NSP") comprising the southern portion of Irregular Section 1, T21S, R25E, Eddy County, N.M. and described as Lots 29, 30, 31, 32 and the SW/4 (S/2 equivalent).

(5) Fasken is the operator of the S/2 equivalent of Irregular Section 1 as a result of a Joint Operating Agreement, AAPL-1956 Model Form, dated April 1, 1970 which includes Mewbourne Oil Company ("Mewbourne") Matador Petroleum Corporation, Devon Energy Corporation, and others, as non-operators.

(6) South of Section 1 is Section 12 which Texaco Exploration and Production Inc. ("Texaco") operates as a 632.36 acre gas spacing and proration unit within the Catclaw Draw-Morrow Gas Pool which is currently dedicated to the:

(a) E. J. Levers Federal "NCT-1" Well No. 1 (the Levers Well No. 1) located 660 feet from the South line and 1980 feet from the West line of Section 12; and

(b) E. J. Levers Federal "NCT-1" Well No. 2 (the Levers Well No. 2) located 2448 feet from the North line and 1980 feet from the West line of Section 12

(7) Both well locations are within the current boundary of the Catclaw Draw-Morrow Gas Pool which is subject to the Division's Special Rules and Regulations (Order R-4157-D) which include:

"Rule: 2...shall be located no closer than 1650 feet to the outer boundary of the section nor closer than 330 feet to any governmental quarter-quarter section line."

"Rule 2(B)...The second well drilled on a proration unit shall be located on a quarter section not containing the first well and shall be located not closer than 1650 feet to the outer boundary...."

"Rule 5: A standard gas proration unit...shall be 640-acres."

(8) While the Catclaw Draw-Morrow Gas Pool is still officially "prorated", prorationing has been suspended and the wells in the pool are allowed to produce at capacity.

(9) On January 28, 1997 and without obtaining the concurrence of Fasken, as operator, or of the other working interest owners in the S/2 of Irregular Section 1, Mewbourne filed with the Division an application for approval of an unorthodox gas well location 660 feet from the south line and 2310 feet from the East line of said Section 1. This is NMOCD Case 11723 and is referred to as the "Mewbourne location" which encroaches upon Texaco who appeared at the April 3, 1997 examiner's hearing in opposition to Mewbourne's location.

(10) Mewbourne contends its location is necessary in order to compete with Texaco's Levers Well No. 2 which is producing gas from the Morrow formation.

(11) Fasken analysis indicates that Mewbourne's location is on the downthrown side of a fault and is fault separated from Texaco's Levers Well No. 2 and would not be able to compete for Morrow gas now being produced by Texaco in that wellbore. Therefore, Fasken proposed to Mewbourne and the other owners in the S/2 of Irregular Section 1 that the Morrow gas well be drilled at a location 750 feet from the West line and 2080 feet from the South line of Section 1. This is NMOCD Case 11755 and is referred to as the "Fasken location" which does not encroach upon Texaco. Fasken's proposed location will also test a Cisco structure which the parties do not believe exists at the Mewbourne location.

(12) Texaco appeared at the Division hearing in opposition to the Mewbourne location and proposed an 81.4% production penalty.

(13) Texaco acknowledged that it could not complain about the Fasken location because Fasken's location was more than 1650 feet away from the northern boundary of Texaco's unit.

(14) The Fasken location is standard as to Texaco's Section 12 but is unorthodox as to Section 2 which is operated by Penwell Energy Inc. who waived any objection to Fasken's location.

(15) On April 3 and 4, 1997, the Division held an evidentiary hearing before Examiner Stogner at which Fasken, Mewbourne and Texaco each presented geological evidence in an effort to support their respective positions.

(16) On September 12, 1997, the Division entered Order R-10872 approving the Fasken location and denying the Mewbourne location.

(17) Although Fasken has a legitimate business disagreement with Mewbourne with respect to the optimum well location, on April 30, 1997, Mewbourne filed litigation in a District Court in Midland, Texas, contending that Fasken, among other things, owed Mewbourne a fiduciary duty and that Fasken had breached the Joint Operating Agreement by proposing an alternative location for approval by the Division. These contractual issues are still in litigation.

(18) At the Examiner hearing, Mewbourne attempted to introduce testimony and evidence concerning this contractual dispute and asked the Division Examiner to adjudicate certain issues related to those contractual matters.

(19) At the hearing held on April 3 and 4, 1997, for the first time, Mewbourne Oil Company raised a question about the standing of Fasken Oil and Ranch, Ltd. to be an applicant in Case 11755. In order that there be no question about the real party applicant in interest, Fasken Land and Minerals, Ltd. requested that it be added as a co-applicant in Case 11755. That procedural pleading issue was resolved by the Division when it granted over Mewbourne's objection, Fasken's application to have both Fasken Land and Minerals, Ltd and Fasken Oil and Ranch, Ltd. interplead as parties.

(20) In its motion for a stay of the Division order, Mewbourne continues to complain to the Division concerning its contractual dispute with Fasken. Among other things, Mewbourne complains that by awarding operations to Fasken the Division has ignored the Operating Agreement.

### Commission's Decisions concerning motions

(21) The Commission denies Mewbourne's motion to dismiss Fasken's Case 11755 for the following reasons:

(a) On April 1, 1970, Monsanto Company, as operator, and David Fasken, Len Mayer, Robert L. Haynie, Gulf Oil Corporation, Atlantic Richfield Company, Union Oil Company of California, and Texaco, Inc. as working interest owners, entered into a Joint Operating Agreement. **(Mewbourne Exhibit 3)**

(b) David Fasken's oil and gas interests subject to the Joint Operating Agreement are now held by Fasken Land and Minerals, Ltd. as owner, and Fasken Oil and Ranch Ltd. as manager, pursuant to a Management Agreement dated December 15, 1995. Fasken Oil and Ranch, Ltd., as manager and on behalf of Fasken Land and Minerals, Ltd. as owner, filed NMOCD Case 11755. The ownership of Fasken Oil and Ranch, Ltd. and Fasken Land and Minerals, Ltd. is identical. **(Fasken's response to Mewbourne Motion to dismiss, including affidavit of Sally Kvasnicka).**

(c) Currently, Fasken Land and Minerals, Ltd. is the operator of the southern portion of Irregular Section 1, Township 21 South, Range 25 East, NMPM, Eddy County, New Mexico, as a result of a Joint Operating Agreement dated April 1, 1970 which includes Mewbourne Oil Company ("Mewbourne") Matador Petroleum Corporation, Devon Energy Corporation, and others, as non-operators. **(Mewbourne Exhibit 3)**

(d) Mewbourne contends that Fasken Oil and Ranch does not have any ownership interest in the proposed spacing unit and therefore cannot file an application before the Division or have the Division designate the operator of this spacing unit.

(e) In order that there be no question about the real party applicants in interest, Fasken Land and Minerals, Ltd. requested that it be added as a co-applicant in Case 11755. The Division granted that request. Before the Commission, Mewbourne renewed its motion to dismiss Case 11755.

(f) Mewbourne concedes that Fasken Land and Minerals, Ltd is an interest owner in this spacing unit. **(Mewbourne exhibit 2)**

(g) The Commission's practice is to allow any affected interest owner in cases before the Commission to appear and be represented individually or by its farmee, agent or its operating company.

(h) any procedural issue was resolved by the Division when it granted over Mewbourne's objection, Fasken's application to have both Fasken Land and Fasken Oil interplead as parties.

(22) The Commission granted Fasken's request that the Commission limit evidence and argument to the geologic and engineering issues and exclude from the DeNovo hearing any evidence or argument concerning the "Fasken-Mewbourne contractual dispute" which is currently the subject of litigation in State District Court, Midland County, Texas, and in doing so decided that it did not have jurisdiction over the following issues:

(a) what type of activities constitutes "actually commence work on the proposed operations" pursuant to Article 12 of the joint operating agreement. **See Examiner Transcript p. 27.**

(b) interpretations and constructions of the "consent/non-consent" election pursuant to Article 12 of the Joint Operating Agreement-1956 AAPL form. **See Examiner Transcript p. 26.**

(c) interpretations and constructions of any limitations or prohibitions for multiple well proposals under Article 12 of the Joint Operating Agreement-1956 AAPL form. **See Examiner Transcript p. 26.**

(d) that only Fasken Land and Minerals, Ltd. and not Fasken Oil and Ranch, Ltd. can exercise the rights and obligations of Fasken under the Joint Operating Agreement. **See Examiner Transcript p. 22-23.**

(e) the priority of multiple well proposals made pursuant to the Joint Operating Agreement. **See Examiner Transcript p. 11, 26-27.**

### Jurisdiction

(23) The Commission finds that all these contractually related issues and associated legal opinions are irrelevant and inadmissible as to any of the issues properly before the Commission concerning approval of well locations which may adversely affect correlative rights, for reasons which include the following:

(a) The New Mexico state courts have repeatedly recognized that the Commission is the administrative agency with the "experience, technical expertise and specialized knowledge" to deal with geologic and engineering data also as to prevent waste of a valuable resources and protect the correlative rights of all participants.

(b) However, the Commission cannot under the guise of meeting its statutory mandate to prevent waste and protect correlative rights act as an adjudicator of contractual controversies.

(c) Correctly, the Division has refused to adjudicate these issues because the Division does not have jurisdiction to decide contractual disputes. Notably absent from the enumeration of its powers, is the power to interpret contracts and operating agreements and to require specific enforcement of those contract or, in the alternative, to award money damages for any breach of those agreements. **Section 70-2-12.B NMSA 1979.**

(d) Mewbourne and Fasken are already litigating these contract issues and other issues in a Texas State District Court in Midland County, Texas. The appropriate forum and remedies for resolving those contractual disputes exist but resides with the court.

(e) Regardless of those litigation issues, the Commission has and must address issues relating to the prevention of waste and the protection of correlative rights.

(f) the Commission has done so in this case by disregarding all these contractual issues and declaring that both Fasken and Mewbourne have the right to develop the Morrow formations in this spacing unit.

(g) the Commission has done so by focusing on the geologic evidence "...in order to assure the adequate protection of correlative rights, the prevention of waste and in order to prevent the economic loss caused by the drilling of unnecessary wells..."

### **Geological and petroleum engineering dispute**

(24) Fasken, relying upon 2-D seismic data, 3-D seismic data obtained from Matador Petroleum Corporation and subsurface geological data, presented substantial geologic evidence which demonstrated that:

(a) 3-D seismic data shows a major north/south Morrow cutting fault separates the Fasken location and Texaco wells on the west side of this fault from the Mewbourne location on the east side of this fault. Mewbourne's location is on the down thrown side of this fault.

(b) No Morrow sands will communicate or drain across this fault.

(c) The Mewbourne location is at a structural disadvantage in the Morrow because both the Upper and Lower Morrow sands become wet in lower structural positions.

(d) Lower Morrow channel sands trend north-northwest to south-southwest, have a very good permeability, drain long distances, become wet down dip and have more productive potential farther away from areas older wells have drained.

(e) Middle Morrow marine influenced sands trend east-northeast to west-southwest, range from very good to very poor permeability, do not correlate in a north-south direction and did not communicate or drain effectively in a north-south one half mile distance between the Texaco's Levers #1 and #2 wells in Section 12.

(f) Because the Mewbourne location is on the east side of a fault while the Texaco Levers #2 well is on the west side of this fault, a well drilled at the Mewbourne location will not be able to complete with the Texaco Levers #2 well which is draining the Middle Morrow (Green sand) reservoir west of the Mewbourne location.

(g) The Upper Morrow sand is productive in structurally high areas like the Fasken location and wet in structurally low areas like the Mewbourne location.

(h) The Fasken location will be higher and closer to the Conoco Levers #2 well in Section 2 which had a good gas show (I.P. 2.90 MMCFPD) but watered out in the Upper Morrow "A" Sand than the Mewbourne location.

(i) The Cisco has productive potential at the Fasken location because the 3-D seismic shows a time structure with fourway closure, an isochron thin from the 3rd Bone Springs sand to the top of the Cisco and an isochron thick from the top of the Cisco to the Middle Morrow Shale.

(j) In order to minimize the risk involved, it is necessary to drill a well at a location in this spacing unit which can test for both Cisco and Morrow gas Production.

(k) No Cisco potential exists at the Mewbourne location.

(l) that Fasken's location would help Penwell, the offset operator toward whom the location encroached, evaluate its own acreage at the risk of Fasken. Accordingly Penwell did not object.

(25) Fasken presented projection of estimates of ultimate gas recovery and volumetric calculations which confirmed that the Fasken geologic interpretation was of a sufficient size to contain all of the gas to be produced from the Middle Morrow (Fasken's green and blue sands).

(26) Mewbourne disregarded the opportunity to obtain and use the same 3-D seismic data and therefore was unable to provide an interpretation concerning the presence or absence of a fault separating the Mewbourne location from the Texaco Levers #2.

(27) Mewbourne presented subsurface geological interpretations from which it contended that its location was better than the Fasken location because:

(a) its primary objective was a portion of the Middle Morrow (Mewbourne's Green sand) which is currently being produced by the Texaco Levers #2.

(b) that it is Mewbourne's strategy to look for good gas wells such as the Texaco Lever #2 and then to acquire an acreage position and attempt to obtain approval to drill a well as close as possible to that "good well".

(c) Mewbourne had declared that it will not participate in the Fasken well.

(d) At the Examiner's hearing, Mewbourne presented an isopach of its "green sand" with a northeast to south-southwest orientation so that within the subject spacing unit it estimated 26 feet of thickness at the Texaco Levers #2 well, 26 feet for the Mewbourne location and 13 feet of thickness at the Fasken location.

(e) At the Examiner hearing, Mewbourne testified that 13-15 feet of green sand was sufficient to make a commercial well in this interval.

(f) However, at the Commission hearing, Mewbourne changed its green sand map so that the Fasken location now would have less than 8 feet with the Mewbourne location having 22 feet and with the total size of this reservoir being substantially reduced.

(28) Mewbourne then presented petroleum engineering opinions and contended that:

(a) estimates that the Texaco Lever's #2 would ultimately produce 5.5 BCF of gas and that only 3.8 BCF of gas was now remaining

(b) the remaining share of recoverable gas underlying the S/2 of Section 1 was only 1.1 BCF which is only sufficient to recover the costs of a well.

(c) that the Mewbourne location should not be penalized because it should be allowed to recover a volume of gas equal to what was originally under this spacing unit before Texaco's Levers #2 well was produced. Mewbourne argued that this was necessary because Texaco had produced illegal gas.

(d) Mewbourne contends that Texaco drilled its Levers #2 well in violation of the rules affecting this pool.

(29) Texaco presented geological interpretations based exclusively on subsurface geology which demonstrated that:

(a) using the same data used by Mewbourne, Texaco contended that the "green" sand being produced in the Texaco Levers #2 well was oriented such that the Fasken location was substantially better than the Mewbourne location.

(b) if the Mewbourne location was approved, then a substantial penalty was necessary in order to keep the Mewbourne well from draining gas reserves for which it was not entitled.

(c) Texaco recommended that the Mewbourne location be denied, but if approved that it be subject to a 81.4% production penalty.

(30) In order to assure the adequate protection of correlative rights, the prevention of waste and in order to prevent the economic loss caused by the drilling of unnecessary wells, the Commission should approve the Fasken location and deny the Mewbourne location for the following reasons:

(a) that the seismic data available to all parties, but used only by Fasken, allowed Fasken to present a more complete and thorough geological evaluation which the Commission adopts in this case.

(b) the Commission should require parties in a spacing unit to drill a location for which there is no objection if there is evidence supporting a reasonable opportunity to drill a well at such a location.

(c) although both location are risky, the Fasken location affords an opportunity to explore for Cisco gas production which is not available at the Mewbourne location.

(d) by electing not to participate in the Fasken well, Mewbourne is not assuming any risk if the Commission approves the Fasken location.

(e) Fasken's interpretation of the location of a fault separating the Mewbourne location from the Texaco Levers #2 well is reasonable and thus the Texaco Levers #2 well is draining the Middle Morrow (green) reservoir on west side of a fault separating the Texaco well from the Mewbourne location.

(f) only the Fasken location will provide that opportunity to produce these reserves before they are produced by the Texaco Levers #2 well.

(g) the Middle Morrow gas reserves east of this fault in Sections 1 and 12 are not being produced by Texaco and therefore the drilling of the Mewbourne location can be postponed.

(h) only one well should be approved in the spacing unit because two might cause economic loss by the drilling of a second well which might not be necessary at this time.

(i) denial of the Mewbourne location protects Texaco's correlative rights by not subjecting Texaco to encroachment for which they objected and it avoids having to impose a production penalty which in all probability would not protect Texaco.

(j) it protects the correlative rights of Fasken and Mewbourne by approving the Fasken location which is unopposed and therefore does not require any production penalty.

(k) it prevents waste by affording the opportunity to test the Cisco formation at the Fasken location and potentially produce new gas that might not otherwise be produced or discovered.

#### **The proposed non-standard gas proration and spacing unit**

(31) The formation of this 297.88-acre non-standard gas spacing and proration unit is a reasonable request because:

(a) a full sized, as nearly as possible, standard shaped 640-acre spacing and proration unit cannot be formed within this irregularly shaped section because the needed acreage will not be offered by the U. S. Bureau of Land Management for mineral leasing.

(b) the formation of the mutually requested 297.88 gas spacing and proration unit was not the subject of any opposition, is in the best interest of conservation, and will serve to prevent waste and should be therefore be approved.

#### **The Texaco Request**

(32) Commission finds that it is not necessary to grant Texaco's request for an exception to the Catclaw Draw-Morrow Gas Pool Rules because Texaco is not in violation of those rules because:

(a) The Commission had the authority to adopt rules and regulations and to issues orders and to interpret those orders and rules. In addition, the Commission has continuing jurisdiction over all of this orders and rules.

(b) On August 26, 1981, the Division issued Order R-4157-D which rescinded Orders R-4157, R-4157-A, R-4157-B and R-4157-C and adopted rules for this pool including:

Rule 5(A): 640-acre gas spacing units

Rule 2(A): initial well to be drilled not closer than 1650 feet to an outerboundary,

Rule 2(B): authorizing the drilling of a second well in a 640-acre spacing unit provided that well also was not closer than 1650 feet to the outer boundary. (an "infill well")

(c) Although gas prorationing was suspended in the Catclaw Draw-Morrow Gas Pool by Division Order R-10328, issued by the Commission in Case 11211 on March 27, 1995, that order did not rescind Order R-4157-D which was issued on April 1, 1981.

(d) On March 28, 1996, the Commission issued Order R-8170 which adopted new General Rules and Regulations for prorated gas pools in New Mexico and repealed the prior prorationing rules (Order R-1670) and contains a summary of the special pool rules for these pools but in summarizing the Catclaw Draw-Morrow Gas Pool rules failed to refer to the rule which permits the "infill well".

(e) By issuing Order R-8170, the Commission was adopting new General Rules dealing with prorationing and was not modifying the special rules for Catclaw Draw-Morrow Gas Pool.

(f) Rule 2(B) of the special pool rules for Catclaw Draw-Morrow Gas Pool is still in full force and effect and has been since being made effective on September 1, 1981.

(33) Having determined that:

(a) Rule 2(B) of the special pool rules for Catclaw Draw-Morrow Gas Pool is still in full force and effect and has been since being made effective on September 1, 1981;

(b) Texaco's E. J. Levers Federal "NCT-1" Well No. 2 was drilled in compliance with Division rules it is not necessary to either (a) grant simultaneous dedication for wells in this pool or to (b) grant an exception from these rules for its E. J. Levers Federal "NCT-1 Wells No 1 and 2 located in Section 12, T21S, R25E, Eddy County, New Mexico.

(c) it is not necessary to grant an exception from these rules for its E. J. Levers Federal "NCT-1 Wells No 1 and 2 located in Section 12, T21S, R25E, Eddy County, New Mexico.

(d) Fasken's request for a declaration that all gas production from Texaco Exploration and Production, Inc. ("Texaco") E. J. Levers Federal "NCT-1" Well No. 2 be declared "illegal gas" should be denied.

Therefore, Texaco's application for clarification of the rules to be applied to second wells on spacing units in the Catclaw-Draw Morrow gas Pool should be **approved** based upon the findings contained in this order.

**IT IS THEREFORE ORDERED THAT:**

(1) The request of both Fasken Land and Minerals, Ltd. and Fasken Oil and Ranch, Ltd. ("Fasken"), as the applicant in Case 11755 and Mewbourne Oil Company ("Mewbourne"), as the applicant in Case 11723, to establish a non-standard 297.88-acre gas spacing and proration unit for the Catclaw Draw-Morrow Gas Pool production comprising Lots 29,30,31 and 32 and the SW/4 (S/2 equivalent) of Irregular Section 1, Township 21 South, Range 25 East, NMPM, Eddy County, New Mexico, is hereby **approved**.

(2) Fasken's proposed unorthodox Morrow and Cisco gas well location for said 297.88-acre unit being 2080 feet from the South line and 750 feet from the West line (Unit L) of said Irregular Section 1 is hereby **approved**.

(3) Mewbourne's proposed unorthodox Morrow gas well location for said 297.88-acre unit being 660 feet from the South line and 2310 feet from the East line (Lot 31/Unit W) of said Irregular Section 1 is hereby **denied**.

(4) Texaco Exploration and Production, Inc. ("Texaco") application for clarification of the rules to be applied to second wells on spacing units in the Catclaw-Draw Morrow gas Pool is hereby **approved**.

(5) Fasken's request for a declaration that all gas production from Texaco Exploration and Production, Inc. ("Texaco") E. J. Levers Federal "NCT-1" Well No. 2 be declared "illegal gas" is hereby **denied**.

(6) Jurisdiction of this cause is retained for the entry of such further order as the Division may deem necessary.

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

WILLIAM J. LEMAY, Chairman

WILLIAM WEISS, member

JAMI BAILEY, member

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

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

ADV 1 - 1997  
Oil Conservation Division

APPLICATION OF MEWBOURNE OIL  
COMPANY FOR AN UNORTHODOX GAS  
WELL LOCATION AND A NON-STANDARD  
GAS PRORATION UNIT, EDDY COUNTY,  
NEW MEXICO.

Case No. 11,723  
(de novo)

APPLICATION OF FASKEN OIL AND  
RANCH, LTD. FOR A NON-STANDARD  
GAS PRORATION AND SPACING UNIT  
AND AN UNORTHODOX GAS WELL  
LOCATION, EDDY COUNTY,  
NEW MEXICO.

Case No. 11,755  
(de novo)

APPLICATION OF TEXACO EXPLORATION  
AND PRODUCTION INC. FOR CLARIFICATION,  
OR IN THE ALTERNATIVE, AN EXCEPTION  
TO, THE SPECIAL POOL RULES AND  
REGULATIONS FOR THE CATCLAW DRAW-MORROW  
GAS POOL, EDDY COUNTY, NEW MEXICO.

Case No. 11,808

Order No. R-10872-B

ORDER OF THE COMMISSION  
(Proposed by Mewbourne Oil Company)

BY THE COMMISSION:

This cause came on for hearing at 9:00 a.m. on October 30, 1997 at Santa Fe, New Mexico, before the Oil Conservation Commission, hereinafter referred to as the "Commission."

NOW, on this \_\_\_\_\_ day of December, 1997, the Commission, a quorum being present, having considered the pleadings filed herein, the testimony, the exhibits, and the record, and being fully advised in the premises,

FINDS THAT:

(1) In Case 11723, Mewbourne Oil Company ("Mewbourne") seeks approval of a non-standard 297.88 acre gas spacing and proration unit in the Catclaw Draw-Morrow Gas Pool comprised of Lots 29-32 and the SW¼ (S¼ equivalent) of Section 1, Township 21 South, Range

25 East, NMPM, to be dedicated to a well to be drilled at an unorthodox gas well location 660 feet from the South line and 2310 feet from the East line (Unit W) of Section 1.

(2) In Case 11755, Fasken Oil and Ranch, Ltd. ("Fasken") also seeks approval of the above-described non-standard gas spacing and proration unit, for a well to be drilled at an unorthodox gas well location 2080 feet from the South line and 750 feet from the West line (Unit T) of Section 1.

(3) In Case 11808, Texaco Exploration and Production Inc. ("Texaco") seeks clarification of the rules for the Catclaw Draw-Morrow Gas Pool regarding second wells on a well unit, or in the alternative an exception to Division rules for its E.J. Levers "NCT-1" Well Nos. 1 and 2, located in Units N and F, respectively, of Section 12, Township 21 South, Range 25 East, NMPM, to allow both wells to produce simultaneously.

(4) Section 1 is within the Catclaw Draw-Morrow Gas Pool, which has pool rules requiring 640 acre units, with wells to be no closer than 1650 feet to the unit's outer boundary and no closer than 330 feet to a quarter-quarter section line. Prorating in the pool was suspended by Commission Order No. R-10328, and wells in the pool are allowed to produce at capacity.

(5) Order No. R-4157-D found that wells in the Catclaw Draw-Morrow Gas Pool were only capable of draining 320 acres, and the pool has been effectively developed on 320 acre spacing. **See Mewbourne Exhibit 8.** Half of the wells in the pool are at unorthodox locations.

(6) Section 1 is comprised of 863.62 acres of land. The middle one-third of the section is federal land which is unleased due to a wildlife study, and cannot be included in the well unit. As a result, approval of the non-standard gas spacing and proration unit is proper and necessary, and should be approved.

(7) All working interest owners in the S $\frac{1}{2}$  of Section 1 are subject to an A.A.P.L. Model Form Operating Agreement - 1956, dated April 1, 1970 ("Operating Agreement"). Mewbourne is the largest working interest owner in the S $\frac{1}{2}$  of Section 1. The Operating Agreement contains a procedure to implement the drilling of a well proposed thereunder.

(8) Pursuant to the Operating Agreement, Mewbourne proposed its well to the working interest owners in January 1997. Fasken subsequently proposed its well in February 1997. Fasken advised Mewbourne that it elected to participate in Mewbourne's well, but was going to oppose Mewbourne's location at the Division. Mewbourne refused to participate in a well at Fasken's location.

(9) The geologic evidence presented in this matter by Mewbourne shows that:

(a) The primary zone of interest in Section 1 is the Morrow.

(b) The primary Morrow zone is the Middle Morrow, the producing zone in Texaco's Levers Well No. 2, which trends in a north/northeast - south/southwest direction.

(c) Mewbourne's proposed well is a development well, which minimizes the risk to all of the interest owners in the S½ of Section 1.

(d) Faulting in the Morrow does not adversely affect producibility in the Morrow, and in fact may increase productivity.

(e) Development of the pool occurred primarily in the early 1970's and early 1980's. The Texaco Levers Well No. 2, in Unit F of Section 12, was completed on January 13, 1996, and has produced 2.2 BCF of gas from the Middle Morrow.

(f) There is no commercial Morrow production north of Texaco's Levers Well No. 2.

(10) The geologic and geophysical evidence presented in this matter by Fasken shows that:

(a) Fasken's location has potential in the Cisco formation. However, the well is a wildcat in the Cisco, and the chances of success in that zone are 10% at best.

(b) The Cisco is based on seismic, but seismic has never found a Cisco pool which is a satellite to a large Cisco pool, such as the Springs-Cisco Pool to the northwest of Fasken's location.

(c) Fasken's maps show the Morrow to trend in an east-west or a northwest-southeast direction, with little or no Morrow pay at Mewbourne's location.

(d) Fasken's interpretation of the Middle Morrow in Section 1 indicates that the reservoir is not connected with the producing Middle Morrow formation in Texaco's Levers Well No. 2, and is therefore not being drained by Texaco's well.

(e) Fasken's Morrow location is midway between a non-commercial Morrow well in Unit P of Section 1 and a dry Morrow well in Unit R of Section 2.

(f) Mewbourne's location may be fault-separated from the Texaco Levers Well Nos. 1 and 2.

(11) The geologic evidence presented in this matter by Texaco is in general agreement with that presented by Mewbourne, except that Texaco's maps indicate that there are large areas north of Section 12 which are productive in the Morrow.

(12) Mewbourne presented reservoir engineering evidence in this matter which shows that:

(a) The gas in place figures for Sections 1 and 12 are as follows:

	<u>Sec. 1</u>	<u>Sec. 12</u>	<u>Total</u>
1/13/96	1.80 BCF	3.95 BCF	5.75 BCF
10/1/97	1.11 BCF	2.44 BCF	3.55 BCF

Thus, 690 MMCF (0.69 BCF) has been drained from the S $\frac{1}{2}$  of Section 1 by Texaco's Levers Well No. 2.

(b) Drainage is non-radial, along the trend of the Morrow reservoir. The Texaco Levers Well No. 2 is not draining from the south or southwest because of competing wells located in those directions. The Levers Well No. 2 is not draining reserves northwest of Section 12 because that area is dry in the Morrow, and is not draining the middle third of Section 1 because that acreage has been proven non-commercial in the Morrow. Thus, the S $\frac{1}{2}$  of Section 1 is being drained by the Levers Well No. 2.

(c) If Mewbourne is not allowed to drill its location, the Levers Well No. 2, which will produce 5.5 BCF, will drain the S $\frac{1}{2}$  of Section 1. Mewbourne's unorthodox location is necessary to protect the correlative rights of interest owners in the S $\frac{1}{2}$  of Section 1.

(d) If the fault theorized by Fasken is present, Mewbourne's location may not compete with Texaco's Levers Well No. 2, and the unorthodox location will not affect Texaco's correlative rights.

(13) Neither Texaco nor Fasken presented any evidence as to gas in place under each section, and the Commission adopts the figures presented by Mewbourne.

(14) Based on the foregoing, the Commission finds that:

(a) Mewbourne's location is a development prospect which is likely to encounter the same Middle Morrow sands from which Texaco's Levers Well No. 2 is producing. Moving a well too far to the north unacceptably increases the risk in drilling to the Morrow.

(b) Fasken's location has a small chance of success in the Cisco, and a substantially greater risk in the Morrow than Mewbourne's location. Thus, Fasken's location increases the risk in the Morrow, the primary zone of interest in the S½ of Section 1.

(c) If Mewbourne's location is on the downthrown side of a localized fault, it may nevertheless drain around the fault, and in addition may benefit from natural fracturing of the Morrow formation.

(d) Fasken's election to join in the Mewbourne well indicates less than complete conviction in its map of the Middle Morrow, which shows no reservoir at Mewbourne's location.

(e) The Division's and the Commission's orders on the pool rules and prorationing of the Catclaw Draw-Morrow Pool have inadvertently created ambiguity regarding whether a second well is allowed on a well unit without simultaneous dedication approval.

(f) Texaco has an advantage over the S½ of Section 1, and in order to prevent waste and protect correlative rights, Mewbourne's location should be approved.

**IT IS THEREFORE ORDERED THAT:**

(1) A non-standard gas spacing and proration unit in the Catclaw Draw-Morrow Gas Pool comprised of Lots 29-32 and the SW¼ (S½ equivalent) of Section 1, Township 21 South, Range 25 East, NMPM, is hereby approved.

(2) The unorthodox gas well location 660 feet from the South line and 2310 feet from the East line (Unit W) of Section 1, sought by Mewbourne in Case 11723, is hereby approved.

(3) The application of Fasken in Case 11755 is approved as to the Cisco formation. However, Mewbourne's well shall be drilled first. If Mewbourne's well does not result in a well capable of producing gas from the Morrow formation in paying quantities, then Fasken may drill to the Morrow formation at its location.

(4) Texaco's request for a clarification of the rules for the Catclaw Draw-Morrow Gas Pool and Division Rule 104.D(3) is approved, and Texaco may produce its Levers Well Nos. 1 and 2 simultaneously.

(5) OPTION A: Due to the ambiguity created by the Division's and the Commission's orders, Texaco did not obtain a simultaneous dedication order on its wells in Section 12 before commencing the Levers Well No. 2. Thus, Texaco had the opportunity to produce 2.2 BCF of gas without applying for simultaneous dedication and giving

notice thereof to offsetting owners, which notice offsetting owners could reasonably have expected to receive before Texaco drilled a second well. Therefore, no penalty is imposed upon Mewbourne's well location.

OPTION B: A penalty is imposed upon Mewbourne's well equal to 23% of the deliverable volume from the well into the transporter's pipeline, provided that a minimum allowable of 2,000 MCF/day is established so that the well can effectively compete with Texaco's wells. In the alternative, if Mewbourne drills its well at any location 990 feet from the South line and at least 1650 feet from the East or West line of Section 1, which location is hereby approved, no penalty on production shall be imposed.

(6) Jurisdiction of this cause is retained for the entry of such further orders as the Division or the Commission may deem necessary.

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

WILLIAM J. LEMAY  
Chairman

JAMI BAILEY  
Member

WILLIAM WEISS  
Member