Correspondence

Amoco

Case No. 11223

Sept. 1997

CAMPBELL, CARR, BERGE
& SHERIDAN, P.A.
LAWYERS

MICHAEL B. CAMPBELL
WILLIAM F. CARR
BRADFORD C. BERGE
MARK F. SHERIDAN
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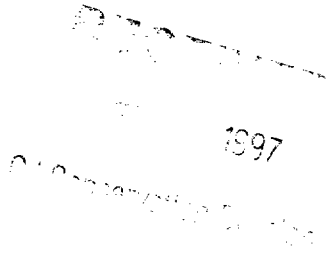
JEFFERSON PLACE
SUITE 1 - 110 NORTH GUADALUPE
POST OFFICE BOX 2208
SANTA FE, NEW MEXICO 87504-2208
TELEPHONE: (505) 988-4421
FACSIMILE: (505) 983-6043
E-MAIL: ccbspa@ix.netcom.com

September 30, 1997

HAND DELIVERED

William J. LeMay, Director
Oil Conservation Division
New Mexico Department of Energy,
Minerals and Natural Resources
2040 South Pacheco Street
Santa Fe, New Mexico 87505



Re: ***Shut-in Request: Section 12, Township 21 South, Range 25 East, NMPM, Eddy County, New Mexico***

Dear Mr. LeMay:

This letter confirms that, pursuant to the Division's request, Texaco Exploration and Production Inc. has shut-in its E. J. Levers Federal "NCT-1" Well No. 1 (API No. 30-015-20683) located 660 feet from the South line and 1980 feet from the West line in Unit N/Lot 14 of Section 12, Township 21 South, Range 25 East, NMPM, Eddy County, New Mexico.

On this date, Texaco filed an application seeking clarification of the Division's "one well rule" as it applies to the current status of the Special Pool Rules and Regulations for the Catclaw Draw-Morrow Gas Pool. In the alternative, Texaco is seeking an exception to these Special Pool Rules to permit a second well on said Section 12. Texaco has requested that its application be set on the Oil Conservation Commission's October 30, 1997 hearing docket so it can be consolidated with the other cases set for hearing on that date concerning the Catclaw Draw-Morrow Gas Pool.

Very truly yours,

WILLIAM F. CARR

45

cc: D. Bruce Pope, Esq.
Texaco Exploration and Production, Inc.
4601 DTC Boulevard
Denver, Colorado 80237

STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
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. 11723
(de novo)

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

CASE NO. 11755
(de novo)

ORDER NO. R-10872

SUBPOENA DUCES TECUM

TO: Texaco Exploration and Production Inc.
c/o William F. Carr
Campbell, Carr, Berge & Sheridan, P.A.
Suite 1
110 North Guadalupe
Santa Fe, New Mexico 87501

Pursuant to N.M. Stat. Ann. §70-2-8 (1995 Repl. Pamp.) and Division Rule 1211, you are hereby ordered to appear at 8:15 a.m. on Thursday, October 9, 1997, at the offices of the New Mexico Oil Conservation Division, 2040 South Pacheco Street, Santa Fe, New Mexico 87505, and produce the documents and records described below, and make them available for inspection and copying by employees or representatives of Mewbourne Oil Company:

DOCUMENTS TO BE PRODUCED: All documents, records, and data regarding the matters itemized below in your possession or under your control pertaining to the Texaco Exploration and Production Inc. E.J. Levers Fed. "NCT-1" Well No. 2 (API No. 30-015-28644),

located in the SE¼NW¼ (Unit F) of Section 12, Township 21 South, Range 25 East, N.M.P.M., Eddy County, New Mexico:

1. Reservoir pressure data including, but not limited to, bottom-hole pressure surveys or pressures, pressure buildup tests, surface pressure readings, daily tubing pressures and casing pressures, drill stem tests, and interference tests, with relevant information as to shut-in times and production rates before shut-in;
2. PVT data, PVT reports, and gas analyses including but not limited to molecular weight and API gravity;
3. All production data including, but not limited to, all well check records (including gauges and/or charts) on a daily basis from initial testing and completion to date, showing actual production of oil, gas, and water, and associated wellhead pressures per day and per month;
4. Chronological reports including details on (a) perforating and perforation locations, (b) stimulation fluids, volumes, rates, and pressures for each treated interval, and (c) swabbing, flowing, and/or pumping results for each interval that was perforated and tested, including pre- and post-stimulation results, as applicable;
5. Any reservoir simulation prepared by you or on your behalf regarding the Morrow reservoir in Section 12-21S-25E or the Catclaw Draw-Morrow Gas Pool, including the model software description, model parameters and

assumptions, model variables, model history, matching data, model predictions, and subsequent modification(s); and

6. Any an all reserve calculations including, but not limited to, estimates of ultimate recovery, production decline curves, pressure decline curves, material balance calculations (including reservoir parameters), and volumetric parameters (including reservoir parameters).

INSTRUCTIONS: This subpoena requires the production of all information described above available to you or in your possession, custody, or control, wherever located. The information shall include data from commencement of drilling the well to the latest available data.

"You" or "your" means Texaco Exploration and Production Inc. and its employees, former employees, officers, directors, agents, contractors, representatives, affiliated companies, and predecessors.

This subpoena was issued at the request of Mewbourne Oil Company, through its attorney, James Bruce, P.O. Box 1056, Santa Fe, New Mexico 87504, (505) 982-2043.

ISSUED this 30th day of September, 1997, at Santa Fe, New Mexico.

NEW MEXICO OIL CONSERVATION DIVISION

WILLIAM J. LeMAY
DIRECTOR

KELLAHIN AND KELLAHIN
ATTORNEYS AT LAW
EL PATIO BUILDING
117 NORTH GUADALUPE
POST OFFICE BOX 2265
SANTA FE, NEW MEXICO 87504-2265

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)

TELEPHONE (505) 982-4285
TELEFAX (505) 982-2047

September 24, 1997

VIA FACSIMILE

Mr. William J. LeMay, Director
Oil Conservation Division
2040 South Pacheco
Santa Fe, New Mexico 87504

Re: **Request for Commission DeNovo hearing**
NMOCD Case 11755 and NMOCD Case 11723
Order R-10872

Dear Mr. LeMay:

Last week I learned that Mr. Bruce, on behalf of Mewbourne Oil Company, had timely filed a denovo application for the October 16, 1997 Commission docket. I advised Mr. Bruce that I and my clients, Fasken Oil and Ranch, Ltd. and Fasken Land and Minerals and their respective witnesses would be available for that docket.

I advised both Mr. Bruce and Ms. Davidson of the Division that due to prior commitments I would not be available for the November 13, 1997 Commission docket and requested the matter be placed on the October 16th docket. I will be unavailable from November 12 through December 1, 1997.

This afternoon I received a copy of the Commission October 16th docket and discover that the Mewbourne-Fasken cases are not included. I am very concerned that if the Commission intends to postpone this case until the November 13th docket that Fasken will be forced to find another attorney. As you know, only Mr. Bruce, Mr. Carr and I have extensive practices before the Commission and Fasken simply will not be able to find adequate counsel for the November 13th docket.

Very truly yours,

W. Thomas Kellahin

cc: James Bruce, Esq.
William F. Carr, Esq.
Fasken Oil and Ranch, Ltd.

10

KELLAHIN AND KELLAHIN
ATTORNEYS AT LAW
EL PATIO BUILDING
117 NORTH GUADALUPE
POST OFFICE BOX 2265
SANTA FE, NEW MEXICO 87504-2265

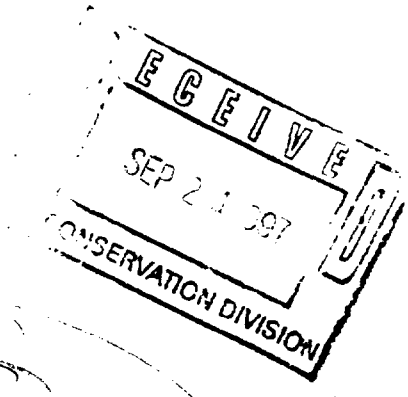
W. THOMAS KELLAHIN*
*NEW MEXICO BOARD OF LEGAL SPECIALIZATION RECOGNIZED SPECIALIST IN THE AREA OF NATURAL RESOURCES-OIL AND GAS LAW

JASON KELLAHIN (RETIRED 1991)

TELEPHONE (505) 982-4285
TELEFAX (505) 982-2047

September 24, 1997

HAND DELIVERED



Mr. William J. LeMay, Director
Oil Conservation Division
2040 South Pacheco
Santa Fe, New Mexico 87504

Re: **Response to Mewbourne Motion to Stay**
NMOCD Case 11755 and NMOCD Case 11723

Dear Mr. LeMay:

On Thursday, September 18, 1997, Mr. Jim Bruce on behalf of Mewbourne hand delivered to you a request to stay Order R-10872 which had approved Fasken's well location and denied Mewbourne's location. Mr. Bruce made that filing without first calling me to determine if it was opposed. In addition, instead of also hand delivering a copy to me, he mailed me a copy which I did not receive until Monday, February 22, 1997. Mr. Bruce has violated Memorandum 3-85 which requires that "a copy of the request for a stay must **concurrently** be furnished the attorneys(s) for the other party(ies) in the case."

On Tuesday, February 23, 1997, I called your office to advise you I was preparing a response to this stay and was told you were out of town. I advised Florene Davidson that I was preparing a response to the stay motion.

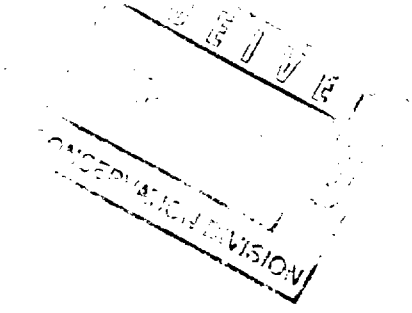
This afternoon, as I was leaving my office to file Fasken's Response to the Motion for a Stay, I received a phone message from Ms. Davidson advising me that you had granted the stay.

I am disturbed that the Division would act on a stay request without either contacting opposing counsel or requiring counsel to first determine if his motion was opposed. Please note my objection. It is obvious the Division needs to issue a revision to Memorandum 3-89 in order to provide due process protection to all parties in this type of proceeding.

Please find enclosed Fasken's response to the Motion for a Stay.

Very truly yours,

W. Thomas Kellahin



cc: Michael E. Stogner, hearing examiner
Rand Carroll, Division attorney
Lyn Hebert, Commission attorney
James Bruce, Esq.
Attorney for Mewbourne Oil Company
William F. Carr, Esq.
Attorney for Penwell Energy, Inc.
Attorney for Texaco, Inc.
Fasken Oil and Ranch, Ltd.
Attn: Sally Kvasnicka
Charles Tighe, Esq.

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

RESPONSE OF
FASKEN LAND AND MINERALS, LTD.
AND
FASKEN OIL AND RANCH, LTD.
TO
MEWBOURNE OIL COMPANY'S
MOTION TO STAY
DIVISION ORDER R-10872

Comes now Fasken Land and Minerals, Ltd. and Fasken Oil and Ranch, Ltd, (collectively "Fasken") by and through its attorneys, Kellahin & Kellahin, and responds to Mewbourne Oil Company's Motion to Stay Division Order R-10872 as follows:

RELEVANT FACTS

1. Fasken 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.

2. Irregular Section 1 consists of 853.62 acres 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, applicant requests 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).

3. Fasken, as operator, proposed to drill the Avalon "1" Federal Com Well No. 2 at an unorthodox gas well location 750 feet from the West line and 2080 from the South line ("the Fasken location") of said Irregular Section 1. **See Exhibit A.**

4. Mewbourne, as a non-operator and working interest owner in this NSP, proposed that the well be at an unorthodox well location 2310 feet from the East line and 660 feet from the south line ("the Mewbourne location") of said Irregular Section 1.

5. Fasken is the applicant in Case 11755 and seeks approval of its proposed location.

6. Mewbourne is the applicant in Case 11723 in which it seeks approval of its proposed well location.

7. The Mewbourne location encroaches upon Section 12 which is operated by Texaco. Section 12 is a 640-acre gas proration and spacing unit in the Catclaw Draw Morrow gas Pool and is simultaneously dedicated to two producing gas wells.

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

9. 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 the Fasken location.

10. Fasken contends its proposed location is the optimum location in the proposed spacing unit at which to drill to test for Morrow gas production, while Mewbourne contends its location is the optimum location.

11. Both Fasken and Mewbourne propose to dedicate the southern 297.88 acres of Irregular Section 1 to which ever well is drilled and if it is capable of gas production from the top of the Wolfcamp to the base of the Morrow formation.

12. Both well locations are within one mile of 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 5: A standard gas proration unit...shall be 640-acres."

13. 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.

14. 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.

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

A. MEWBOURNE'S MOTION FOR A STAY

1. Contrary to Mewbourne's contention, Order R-10872 is not contrary to Division policy and law.

(a) Order R-10872 is consistent with Division policy:

Mewbourne misunderstands Division Memorandum 3-89. This memorandum states that unopposed unorthodox well locations "will have to be supported by substantial evidence." In summary, this memorandum was

intended to discourage the practice of requesting approval of unopposed unorthodox well location which were being submitted **without** substantial geological evidence to support the request.

In this case, Fasken presented the following substantial evidence which demonstrated that:

(a) 3-D seismic data shows a major north/south Morrow cutting fault separates the Fasken location and Texaco wells from the Mewbourne location. 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 form 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 in a north-south one half mile distance between the Texaco's Levers #1 and #2 wells in Section 12.

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

(g) 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.

No Cisco potential exists at the Mewbourne location.

(h) 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.

The Fasken fact situation is exactly what Division Memorandum 3-89 was intended to encourage. Mewbourne's claim is groundless.

(b) Order R-10872 complies with the case law established in the Viking Petroleum and in the Fasken cases

Mewbourne relies upon **Fasken v. the Oil Commission**, 87 NM 292 (1975) and **Viking Petroleum, Inc. v. Oil Conservation Commission**, 100 NM 451 (1983) for its contention that the order is void because it failed to disclose the basis and reasons of the Division decision. Mewbourne is wrong.

Fasken, supra., requires that: (a) the order contain sufficient findings to disclose the reasoning of the Commission in reaching its ultimate findings and (b) that those findings must have substantial support in the record. In **Fasken**, the Commission failed to make any findings why it had denied Fasken's unopposed application when all it had before it was Fasken's testimony in support of granting the application. **Fasken**, supra, does **not** require that those findings be exhaustive.

In **Viking Petroleum, Inc.** supra, the Court affirmed the Commission order and rejected a "substantial evidence" argument. In doing so the Court declared that it would defer to the Commission's special expertise and affirmed the order because it contained findings sufficient to show the basis of the order and the reasoning of the Commission in reaching its conclusion.

Neither **Fasken** nor **Viking Petroleum** require elaborate or exhaustive findings. It is not necessary for Order R-10872 to recite all of the "substantial evidence" which supports the Division's decision to approve the Fasken location and deny the Mewbourne location. What is required is that the record itself provides substantial evidence to support that decision. As set forth above, such evidence is in the record.

It is also obvious that the order contains sufficient findings to disclose both the basis and reasoning of the Division. A reading of Findings (14) and (15) discloses that Examiner Stogner reviewed all of the technical evidence presented by Fasken, Mewbourne and Texaco and decided that a well was necessary in the subject spacing unit. In addition, a reading of Finding (16) discloses why he approved the Fasken location and denied the Mewbourne location: that "..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 Division approved the Fasken location

and denied the Mewbourne location. Those findings are sufficient and disclose the following:

(a) only one well was 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.

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

(c) it protected the correlative rights of Fasken and Mewbourne by approving the Fasken location which was unopposed and therefore did not require any production penalty.

(d) it prevented waste by affording the opportunity to test the Cisco formation at the Fasken location and potentially produce new gas that might not otherwise be explored.

While Mewbourne has correctly cited the **Viking Petroleum** and **Fasken** cases, it has incorrectly applied them to this case.

2. Order R-10872 correctly ignored the Operating Agreement.

Mewbourne complains that by awarding operations to Fasken the Division has ignored the Operating Agreement. What Mewbourne wants is for the Division to adjudicate the dispute between Fasken and Mewbourne over various items in this operating agreement including who can operate and when and how wells can be proposed. Mewbourne and Fasken are already litigating those contract issues and other issues in a Texas State District Court in Midland County, Texas.

Correctly, the Division has refused to litigate these issues because the Division does not have jurisdiction to decide contractual disputes. Regardless of those litigated issues, the Division has and must address prevention of waste and correlative rights. It did so in Order R-10872

3. The Division did have jurisdiction over Case 11755.

Mewbourne is grasping at straws with its contention that Fasken Land and not Fasken Oil is the proper applicant. 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 Fasken Oil interplead as parties. Fasken submitted the following evidence:

> 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.

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.

At all times prior to the hearing held on April 3 and 4, 1997, Mewbourne Oil Company had acquiesced to Fasken Oil and Ranch, Ltd. as the successor operator to Monsanto Company of the 1970 Joint Operating Agreement. 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. The Division granted that request.

It may be helpful for the Division to recall Mr. Carroll's question to Mr. Bruce at the May 1, 1997 hearing:

"Q: (by Carroll) Mr. Bruce, has Mewbourne been prejudiced by naming Fasken Oil and Ranch Limited, rather than Fasken Land and Mineral in the original application?"

"A: (by Bruce) ...I think if you dismiss Fasken's application, they can bring it later."

The point is that Mewbourne's objection was frivolous and was intended only to delay the Division from hearing evidence on Fasken's proposed location. The Division correctly denied Mewbourne's motion.

4. Mewbourne's request for a Stay.

Under the current circumstances and at this present time, Fasken does not oppose Mewbourne's request for a temporary stay of the drilling of the Fasken approved location.

B. MOTION TO SHUT-IN WELL

In its Motion, Mewbourne also seeks to shut-in a Texaco well pending the Commission's order in this matter. That issue is directed at Texaco and not Fasken. Accordingly, Fasken chooses not to respond at this time to this issue.

Respectfully submitted,

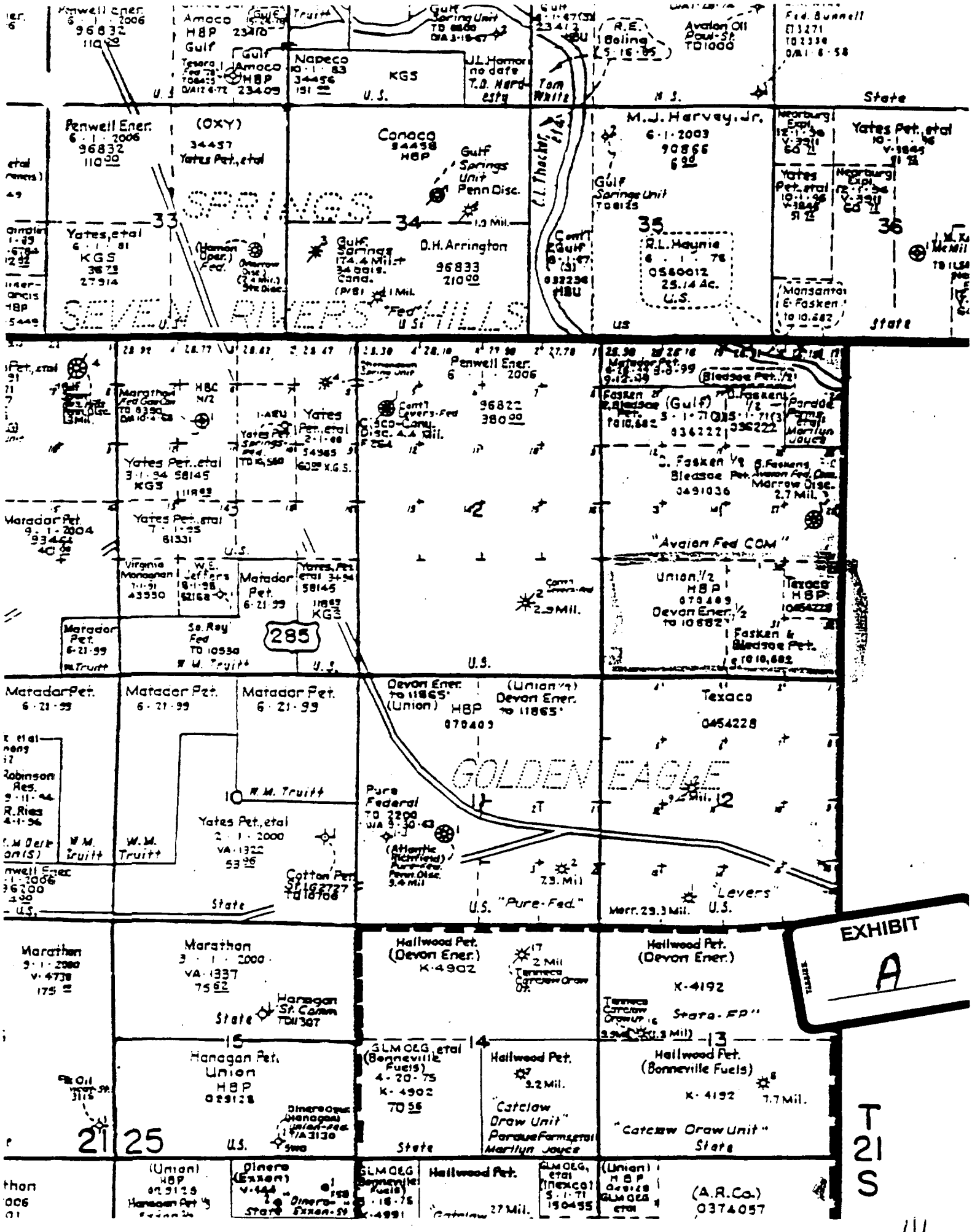
KELLAHIN AND KELLAHIN

By: _____
W. Thomas Kellahin

CERTIFICATE OF SERVICE

I hereby certify that a copy of this motion was mailed to all counsel of record this 24 day of September, 1997.

W. Thomas Kellahin


SPANISH
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GOLDEN EAGLE
Penwell Ener. 6-1-2006 96832 110.00
(OXY) 34457 Yates Pet.,etal
Amoco HBP 23410
Gulf
Napeco 10-1-83 34456 191
KGS
U.S.
Conoco 34458 HBP
Gulf Springs Unit
Penn Disc.
Yates,etal 6-1-81 KGS 36.75 27914
Gulf Springs 174.4 Mil. 34 gals. Cond. (P/B)
D.H.Arrington 96833 210.00
M.J.Harvey,Jr. 6-1-2003 90866 6.00
Gulf Springs Unit TD 8125
R.L.Haynie 6-1-76 056012 25.14 Ac. U.S.
Yates Pet.,etal 10-1-96 V-3844 51.12
Nearburg Expl. 12-1-96 V-3911 60.71
Monsanto E.Fasken to 10,682
State
Penwell Ener. 6-1-2006 96822 380.00
Comm Lovers-Fed
Marathon Fed Com TD 8390
HBC N/2
Yates Pet.,etal 2-1-88 54985 60.00 K.G.S.
Yates Pet.,etal 3-1-94 58145 KGS 11863
Yates Pet.,etal 7-1-95 61331
Matador Pet. 9-1-2004 93464 40.00
Virginia Monaghan 7-1-91 43550
W.E.Jeffers 8-1-98 62168
Matador Pet. 6-21-99
Sa.Ray Fed TD 10536
W.M.Truitt
285
U.S.
2.9 Mil.
Fasken (Gulf) 5-1-71 036222
Fasken & Bledsoe Pet. to 10,682
Bledsoe Pet. 1/2
Pardue Farms,etal Marilyn Joyce
Fasken & Bledsoe Pet. 3491036
Morrow Disc. 2.7 Mil.
"Avalon Fed COM"
Union 1/2 HBP 070489
Devon Ener. 1/2 to 10682
Texaco HBP 0464228
Fasken & Bledsoe Pet. to 10,682
Matador Pet. 6-21-99
Devon Ener. to 11865' (Union) HBP 070403
(Union 1/2) Devon Ener. to 11865'
Texaco 0464228
W.M.Truitt
Yates Pet.,etal 2-1-2000 VA-1322 53.96
Cotton Pet. SF162727 to 10706
Pure Federal TD 2200 U/A 9-30-63
(Atlantic Richfield) Penn Disc. 9.4 Mil
2.3 Mil.
U.S. "Pure-Fed."
"Levers" Merr. 29.3 Mil.
Marathon 9-1-2000 V-4738 175
Marathon 9-1-2000 VA-1337 75.62
Hanagan St. Comm TD 11387
Hanagan Pet. Union HBP 029128
Dinero Oper. Co. U/A 3130 SWD
Hallwood Pet. (Devon Ener.) K-4902
2 Mil
Hallwood Pet. (Devon Ener.) K-4192
State-FP"
GLM OLG,etal (Bonneville Fuels) 4-20-75 K-4902 70.56
Hallwood Pet. 9.2 Mil.
"Catclaw Draw Unit" Pardue Farms,etal Marilyn Joyce
Hallwood Pet. (Bonneville Fuels) K-4192 7.7 Mil.
"Catclaw Draw Unit" State
(Union) HBP 029128
Dinero (Exxon) V-444 2 State
GLM OLG,etal (Nexco) 5-1-71 190455
(A.R.Co.) 0374057
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EXHIBIT A

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:

APPLICATION OF MEWBOURNE OIL COMPANY FOR A NON-STANDARD GAS SPACING AND PRORATION UNIT AND AN UNORTHODOX GAS WELL LOCATION, EDDY COUNTY, NEW MEXICO. CASE NO. 11723

APPLICATION OF FASKEN OIL AND RANCH, LTD. FOR A NON-STANDARD GAS SPACING AND PRORATION UNIT AND TWO ALTERNATIVE UNORTHODOX GAS WELL LOCATIONS, EDDY COUNTY, NEW MEXICO. CASE NO. 11755

ORDER NO. R-10872

RESPONSE OF
TEXACO EXPLORATION AND PRODUCTION INC.
TO MOTION OF MEWBOURNE OIL COMPANY
FOR A STAY OF DIVISION ORDER NO. R-10872
AND TO SHUT-IN AN EXISTING WELL

Having been unsuccessful in its efforts to obtain approval of a virtually unpenalized unorthodox gas well location which is 60% feet closer to the offsetting spacing unit than permitted by Oil Conservation Division Rules, Mewbourne Oil Company ("Mewbourne") now seeks the shut-in of the offsetting Texaco Exploration and Production Inc. ("Texaco") well on which Mewbourne tried to encroach.

Texaco opposes this motion because its correlative rights will be impaired if it is required to shut-in production on its spacing unit while it attempts to comply with rules

which are less than clear. Furthermore, a shut-in of a Texaco well in Section 12 will result in Texaco being treated differently than other operators in this pool who also have drilled second wells on spacing units since the repeal of Order R-1670-O.

In ruling on the Mewbourne motion, Texaco requests that the Commission clarify the rules which govern the development of the Catclaw Draw-Morrow Gas Pool, and withdraw the Division's request of September 10, 1997 to shut-in a well in Section 12, Township 21 South, Range 25 East, NMPM, Eddy County, New Mexico.

HISTORY OF THE DEVELOPMENT OF THE CATCLAW DRAW-MORROW GAS POOL RULES:

1. The Catclaw Draw-Morrow Gas Pool was created on June 12, 1971 by Division Order No. R-4157. This Order also adopted Special Pool Rules and Regulations for this pool including provisions for 640-acre spacing and proration units with wells required to be drilled at least 1650 feet from the outer boundary of the dedicated spacing unit.

2. This pool was prorated by Order No. R-1670-O, dated January 1, 1974, which incorporated the Special Pool Rules and Regulations for the Catclaw Draw-Morrow Gas Pool.

3. In 1980 the spacing requirements for this pool were amended to provide for 320-acre units. (Order No. R-4157-C). In 1981, the rules were again changed to provide for 640-acre spacing with operators authorized to drill a second well on each spacing unit (Order

No. R-4157-D).

4. The Catclaw Draw-Morrow Gas Pool has been developed on an effective 640-acre spacing pattern since 1971.

5. In 1988 and again in 1990, William J. LeMay, Director of the Division issued memoranda to the industry which prohibited continuous and concurrent production of more than one well on a single spacing unit in non-prorated pools unless an exception to the applicable pool rules was obtained after notice and hearing.

6. New General Rules and Regulations for the Prorated Gas Pools of New Mexico were adopted by Division Order No. R-8170 on March 28, 1986. This Order repealed Order No. R-1670 and promulgated Special Pool Rules for many of the prorated pools including the Catclaw Draw-Morrow Gas Pool. The Special Pool Rules for the Catclaw Draw-Morrow Gas Pool provide for 640-acre spacing and 1650 foot set backs for wells in this pool but are silent on authorization of second wells on spacing or proration units.

CASES 11723 AND 11755:

7. In Case 11723, Mewbourne Oil Company ("Mewbourne") seeks approval of a 297.88-acre non-standard gas spacing and proration unit in the S/2 equivalent of Section 1, Township 21 South, Range 25 East, NMPM, Eddy County New Mexico to be dedicated to a well to be drilled to the Morrow formation, Catclaw Draw-Morrow Gas Pool, at an unorthodox gas well location 660 feet from the South line and 2310 feet from the East line

of said Section 1 ("the Mewbourne location"). Mewbourne proposed this location because it is "as close to the South line of the Operating Unit as possible."

8. In Case 11755, Fasken Oil and Ranch, Ltd. ("Fasken") also seeks approval of a 297.88-acre non-standard gas spacing and proration unit in the S/2 equivalent of Section 1, Township 21 South, Range 25 East, NMPM, Eddy County, New Mexico, which Fasken proposes to be dedicated to a well to be drilled to the Morrow formation, Catclaw Draw-Morrow Gas Pool, at either the Mewbourne location 660 feet from the South line and 2310 feet from the East line of said Section 1 or, in the alternative, at a location 2080 feet from the South line and 750 feet from the West line of Section 1 ("the Fasken location").

9. Texaco is the operator of the standard 632.36 acre spacing and proration unit comprised of Section 12, Township 21 South, Range 25 East, NMPM, Eddy County, New Mexico which is the direct South offset to the acreage which is the subject of the Mewbourne and Fasken applications. The Texaco spacing unit is currently dedicated to the:

(a) E. J. Levers Federal "NCT-1" Well No. 1 (API No. 30-015-20683) located at a previously approved unorthodox gas well location (approved by Decretory Paragraph No. (6) of Division Order No. R-4157-D, dated June 21, 1971) 660 feet from the South line and 1980 feet from the West line (Lot 14/Unit N) of said Section 12; and,

(b) E. J. Levers Federal "NCT-1" Well No. 2 (API No. 30-015-28644) at a

standard gas well location 2448 feet from the North line and 1980 feet from the West line (Lot 6/Unit F) of said Section 12.

10. Cases 11723 and 11755 were consolidated and came on for hearing before Oil Conservation Division Examiner Michael E. Stogner on April 3, 1997.

11. Texaco appeared at the April 3, 1997 Examiner Hearing and presented evidence in opposition to the Mewbourne location since it was only 660 feet from the South line of Section 1 or 60% closer to the offsetting Texaco operated tract than authorized by Division rules.

12. On September 12, 1997, the Division entered Order No. R-10872 which denied the Mewbourne application, approved the Fasken location and approved the requested non-standard Morrow spacing and proration unit comprised of the S/2 equivalent of Section 1.

13. Order No. R-10872 contained the following findings:

(3) The Catclaw Draw-Morrow Gas Pool is governed by the *"General Rules and Regulations for the Prorated Gas Pools of New Mexico/Special Rules and Regulations for the Catclaw Draw-Morrow Gas Pool,"* as promulgated by division Order No. R-8170, as amended, which requires standard 640-acre gas spacing and proration units with wells to be located no closer than 1650 feet from the outer boundary of a proration unit nor closer than 330 feet from any governmental quarter-quarter section or subdivision inner boundary.

(4) Although **technically classified as a "Prorated Gas Pool,"** gas prorationing was suspended in the Catclaw Draw-Morrow Gas Pool by Division Order No. R-10328, Issued by the New Mexico Oil Conservation Commission in Case No. 11211 on March 27, 1995, due to the fact that there were no "prorated wells" in the pool (Emphasis added).

(5) The Catclaw Draw-Morrow Gas Pool is currently subject to the spacing and well location provisions of the *"Special Rules and Regulations for the Catclaw Draw-Morrow Gas Pool,"* as described above, as well as Division General Rule 104.D(3), which restricts the number of producing wells within a single gas spacing unit within non-prorated pools to only one. Producing wells within said pool are allowed to produce at capacity.

14. On September 10, 1997, at a meeting between Texaco and the Division at which counsel for Mewbourne was requested by the Division to attend, Texaco was advised that the "one well rule" for non-prorated spacing units had been **"essentially put into effect on March 27, 1995 when prorationing was suspended in the Catclaw Draw-Morrow Gas Pool,"** and the Division requested Texaco to shut-in one well in Section 12 until Division approval was obtained for a second well on this spacing unit.

15. Mewbourne Oil Company filed for a hearing *de novo* in Cases 11723 and 11755 and on September18, 1997, filed its Motion seeking a Stay of Division Order No. R-10872 and the shut-in of the offsetting E. J. Levers Federal "NCT-1" Well No. 2 "pending the hearing *de novo* and until Texaco applies to and obtains an order of the Division allowing it to produce the well."

ARGUMENT

Although the rules which govern the development of the Catclaw Draw-Morrow Gas Pool have frequently changed, the one thing which is clear is that the pool has been developed on an effective 320-acre spacing pattern as is shown on the plat attached as Exhibit A.

In 1986, Order No. R-8170 repealed the existing order which governed the development of the prorated pools, and adopted a new prorationing order because the existing proration rules had become "difficult to follow in reading said amended order." (Finding 5). Although this new order was silent on the drilling of a second well on each standard spacing or proration unit in the Catclaw Draw-Morrow Gas Pool, development with second wells continued in this pool and operators were not required to obtain special exceptions to the pool rules for these wells. (A second Catclaw Draw well on a standard spacing unit was drilled in Section 25, Township 21 South, Range 25 East in 1990 and in Section 17, Township 21 South, Range 25 East in 1994). These wells were approved by the Division and have been permitted to produce continuously and concurrently with the existing wells on the spacing unit.

In July, 1995, consistent with what other operators had been doing, Texaco filed an Application for Permit to Drill the E. J. Levers Federal "NCT-1" Well No. 2. This application was approved by the Division, and thereupon the well was drilled. A copy of this

Application for Permit to Drill is attached hereto as Exhibit B.

Since 1986, no question has been raised by the Division concerning the drilling of a second well on standard units in this pool -- until now. Now, almost two years after first production from the Levers Federal "NCT-1" Well No. 2, the Division has a different interpretation of the pool rules.

In Finding 4 of Order No. R- 10872 entered on September 12, 1997, the Division characterizes the Catclaw Draw-Morrow Gas Pool as "**technically classified as a 'Prorated Gas Pool'**" (Emphasis added). Then it finds that wells drilled in this "technically" Prorated Gas Pool are subject to the Division's "one well rule" whereas wells drilled in this pool when "non-technical" "Prorated Gas Pools" may have two wells on each spacing unit. (See Finding 5).

Furthermore, the Division, in requesting that Texaco shut-in a well in Section 12, then stated that the "one well rule" ... "**was essentially put into effect** on March 27, 1995 when prorationing was suspended" (emphasis added). When the Division asserts as here that a pool is "technically" prorated and that it is "essentially" subject to the "one well rule," an affected operator is entitled to clarification of the meaning of Division rules.

Texaco seeks clarification of the rules for the Catclaw Draw-Morrow Gas Pool and also seeks the denial of the Motion of Mewbourne to shut-in the E. J. Levers Federal "NCT-1" well No. 2. Under the Oil and Gas Act, Texaco has the opportunity to produce without

waste its just and fair share of the recoverable reserves in the Catclaw Draw-Morrow Gas Pool. It availed itself of this right by drilling its E. J. Levers wells in Section 12 under the authority of the Division's approval of its C-101. To now shut-in a Texaco well in Section 12 based on a new and unique reading of the rules for this pool denies Texaco the opportunity to produce it share of the reserves in this pool thereby violating its correlative rights.

Mewbourne contends that its correlative rights will be impaired if the Levers well is not shut-in. An examination of Mewbourne's argument shows that the Texaco well in Section 12 is 2448 feet from the Mewbourne lease, whereas the Mewbourne location is proposed to be only 660 feet from the Texaco lease. Mewbourne described its proposed location in a law suit it recently filed against Fasken in District Court in Midland, Texas as being "as close to the South line of the Operating Unit as possible." Accordingly, if the Mewbourne location should ever be drilled, there could be net drainage to the Mewbourne tract. Furthermore, the longer Mewbourne can keep the offsetting Texaco well in Section 12 shut-in, the more hydrocarbons there will be in the ground for Mewbourne to drain. In this case, the correlative rights of Texaco, not Mewbourne, will be impaired. The requested shut-in of Texaco's well will only penalize the operator who has developed its reserves, to the benefit of the operator who has not.

CONCLUSION

Texaco availed itself of its right to produce its fair share of the reserves under Section 12 by drilling a second well thereon after receiving Division approval for that well. In developing this acreage, its exercised its correlative rights. To now determine that it must shut this well in until additional Division approvals are obtained would be arbitrary, capricious, unreasonable and punitive.

Respectfully submitted,

CAMPBELL, CARR, BERGE
& SHERIDAN, P.A.

By: _____
WILLIAM F. CARR
Post Office Box 2208
Santa Fe, New Mexico 87504-2208

ATTORNEYS FOR TEXACO
EXPLORATION AND PRODUCTION INC.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Response was mailed this 24th day of September, 1997 to the following counsel of record:

Rand Carroll, Esq.
Oil Conservation Division
2040 South Pacheco Street
Santa Fe, New Mexico 87505

Lyn Hebert, Esq.
Oil Conservation Division
New Mexico Energy, Minerals
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Kellahin & Kellahin
Post Office Box 2265
Santa Fe, New Mexico 87504-2265

William F. Carr

Artesia, NM 88210

Form 3160-3
(December 1990)

SUBMIT IN TRIPLICATE

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

FORM APPROVED
Budget Bureau No. 1004-0136
Expires: December 31, 1991

APPLICATION FOR PERMIT TO DRILL OR DEEPEN

5. Lease Designation and Serial No.: NM 0454228

6. If Indian, Alottee or Tribe Name:

7. If Unit or CA, Agreement Designation:

1a. Type of Work: DRILL ☒ DEEPEN ☐

1b. Type of Well: OIL WELL ☐ GAS WELL ☒ OTHER — SINGLE ZONE ☒ MULTIPLE ZONE ☐

8. Well Name and Number: E. J. LEVERS '12' FEDERAL NCT-1

2. Name of Operator: TEXACO EXPLORATION & PRODUCTION INC. 22351

2 17665

3. Address and Telephone No.: P.O. Box 3109, Midland Texas 79702 688-4606

9. API Well No.: 30-015-28644

4. Location of Well (Report location clearly and in accordance with any State requirements.*)

At Surface: 2448' Unit Letter F : 1980' Feet From The NORTH Line and 1980 Feet From The WEST Line

10. Field and Pool, Exploratory Area: 74320 CATCLAW DRAW MORROW PRO GAS

At proposed prod. zone: SAME

11. SEC., T., R., M., or BLK. and Survey or Area: Sec. 12, Township 21-S, Range 25-E

14. Distance in Miles and Direction from Nearest Town or Post Office*: 7 MILES NW FROM CARLSBAD

12. County or Parish: EDDY

13. State: NM

15. Distance From Proposed* Location to Nearest Property or Lease Line, Ft. (also to nearest drlg. unit line, if any): 1980'

16. No. of Acres in Lease: 632.36

17. No. of Acres Assigned To This Well: 632.36

18. Distance From Proposed Location* to Nearest Well, Drilling, Completed or Applied For, On This Lease, Ft.: 2982'

19. Proposed Depth: 10550'

20. Rotary or Cable Tools: ROTARY

21. Elevations (Show whether DF,RT, GR, etc.): GR-3249'

22. Approx. Date Work Will Start*: 9/1/95

23. PROPOSED CASING AND CEMENT PROGRAM

SIZE OF HOLE	GRADE, SIZE OF CASING	WEIGHT PER FOOT	SETTING DEPTH	QUANTITY OF CEMENT
17 1/2	WC50, 13 3/8	54.5#	400'	400 SACKS - CIRCULATE
11	WC50, 8 5/8	28#	2250'	600 SACKS - CIRCULATE
7 7/8	K55,L80, P110, 5 1/2	17 & 23#	10550'	1350 SACKS - TOC @ 2900'

CEMENTING PROGRAM:
SURFACE CASING - 300 SACKS CLASS C W/ 4% GEL, 2% CACL2 (13.5 PPG, 1.74 CF/S, 9.11 GW/S). F/B 100 SACKS CLASS C W/ 2% CACL2 (14.8 PPG, 1.34 CF/S, 6.3 GW/S).

INTERMEDIATE CASING - 500 SACKS 35/65 POZ CLASS H W/ 6% GEL, 5% SALT, 1/4# FLOCELE (12.4 PPG, 2.14 CF/S, 11.9 GW/S). F/B 100 SACKS CLASS H (15.6 PPG, 1.19 CF/S, 5.2 GW/S).

PRODUCTION CASING - 1ST STAGE - 500 SACKS 50/50 POZ CLASS H W/ 2% GEL, 5% SALT, 1/4# FLOCELE (14.2 PPG, 1.35 CF/S, 6.3 GW/S). DV TOOL @ 8000'. 2ND STAGE - 750 SACKS 35/65 POZ CLASS H W/ 6% GEL, 5% SALT, 1/4# FLOCELE (12.4 PPG, 2.14 CF/S, 11.9 GW/S). F/B 100 SACKS CLASS H (15.6 PPG, 1.19 CF/S, 5.2 GW/S).

ESTIMATED DAYS TO T.D.: 30 DAYS

THERE ARE NO OTHER OPERATORS IN THIS QUARTER QUARTER SECTION.

APPROVAL SUBJECT TO
GENERAL REQUIREMENTS AND
SPECIAL STIPULATIONS
ATTACHED

In Above Space Describe Proposed Program: If proposal is to deepen, give data on present productive zone and proposed new productive zone. If proposal is to drill or deepen directionally, give pertinent data on subsurface locations and measured true vertical depths. Give blowout preventer program, if any.

24. I hereby certify that the foregoing is true and correct

SIGNATURE C. Wade Howard TITLE Eng. Assistant DATE 7/31/95

TYPE OR PRINT NAME C. Wade Howard

(This space for Federal or State office use)

PERMIT NO. _____ APPROVAL DATE _____

Application approval does not warrant or certify that the applicant holds legal or equitable title to those rights in the subject lease which would entitle the applicant to conduct operations thereon.

APPROVED BY _____ TITLE _____ DATE _____

CONDITIONS OF APPROVAL, IF ANY:

Title 18 U.S.C. Section 1001 makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

Destination/Authority 10-84 ver 2.0

EXHIBIT B

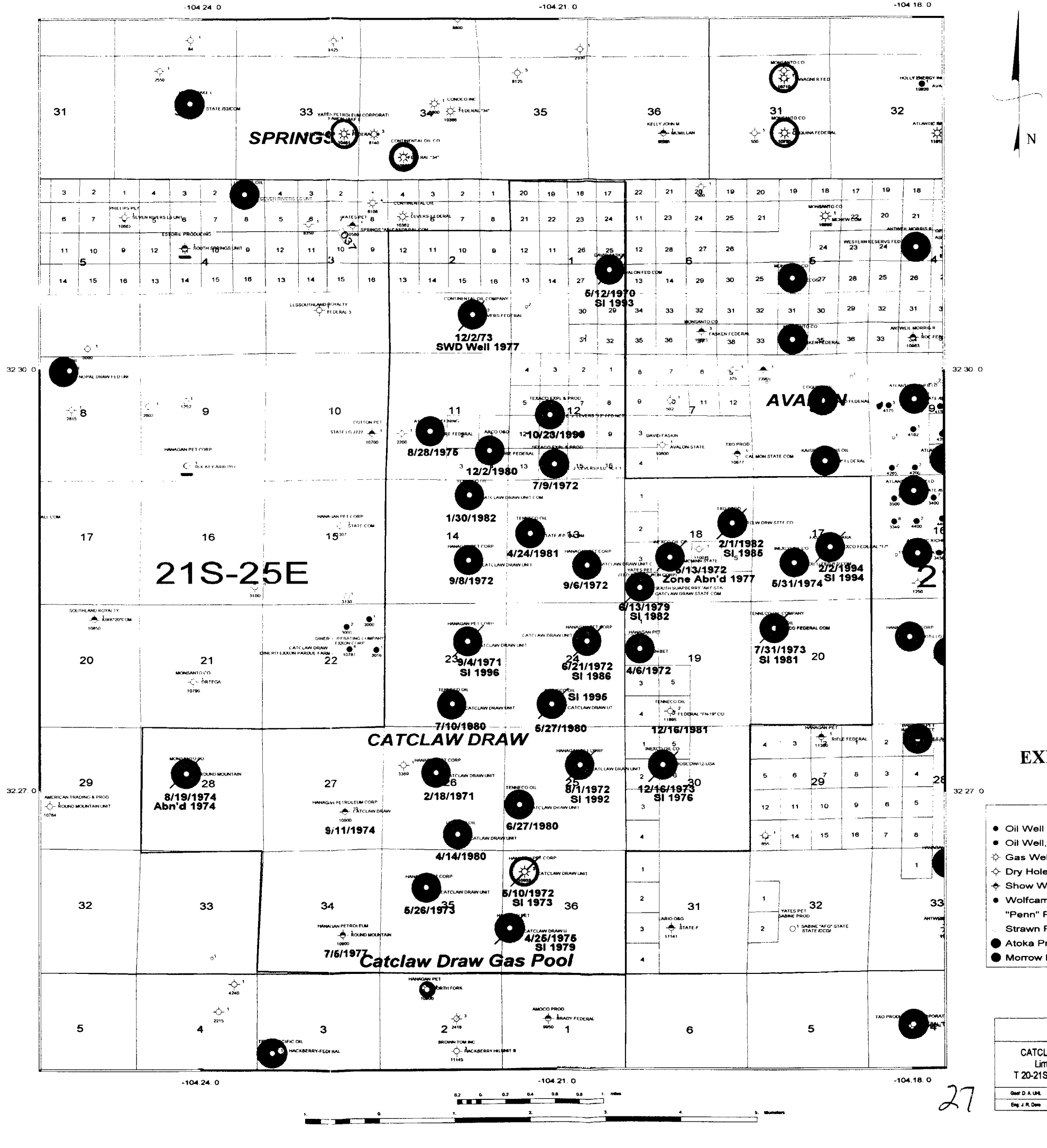

EXHIBIT A

LEGEND

- Oil Well
- Oil Well, Plugged
- Gas Well
- Dry Hole
- Show Well
- Wolfcamp Production
- "Penn" Production
- Strawn Production
- Atoka Production
- Morrow Production

TEXACO E & P

CATCLAW DRAW (Morrow) FIELD
Limits of Catclaw Draw Pool
T 20-21S, R25-26E, Eddy Co., N. Mex.

Geol: D. A. Uhl.	Geoph: L. D'Antoni.	Cl.
Eng: J. R. Dore	Date: 4/15/88	Scale: 1:2000

KELLAHIN AND KELLAHIN
ATTORNEYS AT LAW
EL PATIO BUILDING
117 NORTH GUADALUPE
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W. THOMAS KELLAHIN*
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JASON KELLAHIN (RETIRED 1991)

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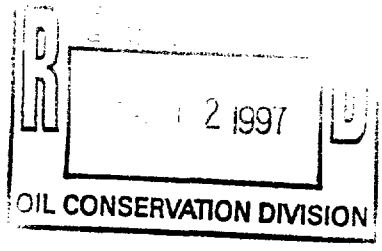
September 12, 1997



HAND DELIVERED

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

Re: ***NMOCD Case 11723***
Application of Mewbourne Oil Company
for an unorthodox gas well location and
a non-standard gas proration unit, Eddy County, New Mexico

Gentlemen:

I wish to inform you that on behalf of Fasken Oil and Ranch, Ltd., ("Fasken"), I am hereby withdrawing its Motion to Dismiss the referenced case which I filed on March 3, 1997.

Very truly yours,

W. Thomas Kellahin

cfx: James Bruce, Esq.
Attorney for Mewbourne
William F. Carr, Esq.
Attorney for Texaco, Inc.
Fasken Oil and Ranch, Ltd.
Attn: Sally Kvasnicka
Charles L. Tighe, Esq.