

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

**APPLICATION FOR AN ACCOUNTING FROM
MEWBOURNE OIL COMPANY UNDER
ORDER NOS. 21292 AND R-21293 AND TO DECLARE
CERTAIN ACCOUNTING PRACTICES IMPROPER**

Case No. _____

APPLICATION

Siana Oil & Gas Co. (“Applicant” or “Siana”) files this application pursuant to 19.15.4.12(A) NMAC, seeking an order that requires Mewbourne Oil Company (“Mewbourne”) to provide an accounting for the drilling and operation of the wells drilled and operated pursuant to Order Nos. R-21292 and R-21293 (“Orders”), which were previously issued in Case Nos. 21156 and 21157, respectively. In addition, Applicant seeks relief for Mewbourne’s numerous violations of the Orders. In support, Applicant states as follows:

1. The Orders were issued on April 28, 2020.
2. In Case No. 21156, Order No. R-21292 pooled a 240-acre horizontal spacing unit (“HSU”) located in the W2 E2 of Section 26 and the W2 SE4 of Section 23, all in Township 21 South, Range 34 East, dedicated to the Inland 26/23 B2OJ State Com Well No. 1H, API# 30-025-46931 (“OJ Well”).
3. In Case No. 21157, Order No. R-21293 pooled a 240-acre HSU in the E2 E2 of Section 26 and the E2 SE4 of Section 23, all in Township 21S, Range 34 East, dedicated to the Inland 26/23 B2PI State Com Well No. 1H, 30-025-45283 (“PI Well”). The OJ Well and PI Well will be referred to collectively as the “Wells.”
4. Applicant is the owner of record of 10% working interest in each spacing unit and well.

5. Applicant elected to participate in and paid estimated drilling and completion costs (“D&C Costs”) of \$798,750.00 for the OJ Well. Applicant elected to participate in and paid estimated D&C Costs of \$803,750.00 for the PI Well.

6. Mewbourne’s AFEs and related cash calls were inflated because the AFEs were pre-COVID-19 (January 2020) and based on pre-COVID prices. In particular, the estimated costs for fracing were down approximately 40% after COVID mandates were enacted, due to the collapse of the price of oil related to COVID-19, among other things. When Mewbourne made its cash calls post-COVID (May 2020), Siana expressly asked in writing for revised AFEs. But Mewbourne refused to provide AFEs that would reflect accurate estimated costs at the time the AFEs were submitted to Siana.

7. The Wells were placed on production and put down the gas sales line on March 16, 2021. Thus, the Wells were completed on or before March 16, 2021.

8. Rule 19.15.16.19(A) NMAC requires an operator to file a completion report, in the form of the Division’s Form C-105, within 45 days after the completion of a well drilled for oil or gas.

9. Upon information and belief, Mewbourne failed to file a completion report for the OJ Well, in violation of Rule 15.16.15.19(A) NMAC.¹ In addition, Mewbourne failed to file a completion report for the PI Well, in violation of Rule 15.16.15.19(A) NMAC.

10. Mewbourne has failed to provide the accounting of actual well costs for the OJ Well as required by paragraph 24 of the Order, thus violating the Order. In addition, Mewbourne

¹ Review of the well files in the online OCD imaging system indicates that no C-105 form has been filed for either well. Siana has requested that Mewbourne provide Siana with copies of the C-105 forms, but Mewbourne has refused to provide them.

has failed to provide the accounting of actual well costs for the PI Well as required by paragraph 24 of the Order, thus violating the Order.

11. Mewbourne has failed to provide an itemized schedule of the reasonable charges for operating and maintaining the OJ Well, in violation of paragraph 27 of the applicable order. In addition, Mewbourne has failed to provide an itemized schedule of the reasonable charges for operating and maintaining the PI Well, in violation of paragraph 27 of the applicable order.

12. Mewbourne refuses to recognize that Siana has exercised its right and elected to take its share of production in kind.

13. Siana performed a detailed analysis of the Joint Interest Billings (“JIB Analysis”) submitted by Mewbourne to Siana on all of the wells operated by Mewbourne in which Siana has an interest. In light of the JIB Analysis, Siana determined that its proportionate share of the actual well costs for drilling and completing (1) the OJ Well is approximately \$207,225.27 less than the estimated well costs that Siana paid; and (2) the PI Well is approximately \$198,911.16 less than the estimated well costs that Siana paid. The total prepayment overage for the Wells is approximately \$406,136.43 (“Prepayment Overage”), assuming that all costs and charges are legitimate and reasonable.

14. Thus, the estimated costs for the OJ Well were overstated by approximately 35 percent. The estimated costs for the PI Well were overstated by approximately 33 percent. Yet Mewbourne refused to revise its AFEs in light of the circumstances, despite Siana’s express request by letter dated July 13, 2020, directed to Mewbourne’s upper management.

15. The JIB Analysis further revealed that Mewbourne improperly deducted lease operating expenses (“LOE”) for the Wells from the Prepayment Overage.

16. In the past, Mewbourne has improperly deducted LOE for other wells from revenues due to Siana for production from unrelated wells, which violates New Mexico law and other applicable agreements and compulsory pooling orders.

17. In a telephone conversation regarding these accounting issues, Mewbourne's general counsel stated that it was Mewbourne's policy to deduct LOE from overage prepayments related to D&C Costs, for any Mewbourne-operated well in which a working interest owner has an interest. Mewbourne's general counsel indicated that Mewbourne did not distinguish between wells when deducting LOE.

18. In addition, upon information and belief, Mewbourne is imposing charges for supervision of the OJ Well that exceed the rates specified in paragraph 26 of the applicable order. Upon information and belief, Mewbourne is imposing charges for supervision of the PI Well that exceed the rates specified in paragraph 26 of the applicable order.

19. Mewbourne has elected, without the approval or consent of Siana and without notifying Siana, to hold all revenues attributable to Siana's interest in the Wells in suspense. Yet, at the same time, Mewbourne is issuing JIBs for all related costs and has issued four new AFEs for additional wells on the same properties.

20. Mewbourne's accounting practices are in violation of the Orders and New Mexico law.

21. Siana does not have the necessary accounting from Mewbourne to be able to ascertain whether the D&C Costs and operating costs are reasonable and therefore reserves its right to object to any costs that are identified in the accounting.

22. In sum, Mewbourne's violations of the Orders and New Mexico law include but may not be limited to the following:

Violations of Order No. R-21292 and other New Mexico law:

- A. Netting OJ Well LOE from OJ Well D&C costs violates paragraphs 22-25 of the Orders.
- B. Netting LOE for other wells from OJ Well D&C costs violates paragraphs 22-25 and paragraph 28 of the Order.
- C. Failing to refund the difference between the estimated costs paid and the actual costs violates paragraph 25 of the Order.
- D. Failing to file Form C-105 (completion report) violates 19.15.16.19(A) NMAC.
- E. Imposing supervision charges in excess of the rates specified in Exhibit A to the force pooling order (\$8000/month for drilling and \$800/month for production, with annual adjustments pursuant to COPAS) violates paragraph 26 of the Order.
- F. Keeping the undisputed interest in suspense violates the New Mexico Proceeds Payment Act.

Violations of Order No. 21293 and other New Mexico law:

- G. Netting PI Well LOE from the PI Well D&C costs violates paragraphs 22-25 of the Order.
- H. Netting LOE for other wells from PI Well D&C costs violates paragraphs 22-25 and paragraph 28 of the Order.
- I. Failing to refund the difference between the estimated costs paid and the actual costs violates paragraph 25 of the Order.
- J. Failing to file Form C-105 (completion report) violates 19.15.16.19(A) NMAC.
- K. Imposing supervision charges in excess of the rates specified in Exhibit A to the force pooling order (\$8000/month for drilling and \$800/month for production, with annual adjustments pursuant to COPAS) violates paragraph 26 of the Order.
- L. Keeping the undisputed interest in suspense violates the New Mexico Proceeds Payment Act.

23. the Division may enter orders effecting pooling after notice and hearing, which orders “shall be upon such terms and conditions as are just and reasonable and will afford to the owner or owners of each tract or interest in the unit the opportunity to recover or received *without unnecessary expense* his just and fair share of the oil or gas, or both.” NMSA 1978, § 70-2-17 (emphasis added). Pursuant to NMSA 1978, Section 70-2-6, the Division has “jurisdiction, authority and control of and over all persons, matters or things necessary or proper

to enforce effectively the provisions of this state relating to the conservation of oil or gas.” Further, paragraph 35 of the Orders provides that the Division retains jurisdiction of these matters for the entry of such orders as may be deemed necessary.

WHEREFORE, Applicant respectfully requests (1) that this matter be heard before the Division on the January 6, 2021, docket; (2) that the Division determine Mewbourne’s accounting practices are in violation of Order Nos. 21292 and 21293 and New Mexico law; (3) that the Division enter an order requiring Mewbourne to provide an accounting to Applicant and to immediately return any funds improperly withheld, with interest; and (4) that the Division provide any and all other relief appropriate to ensure that Mewbourne acts in compliance with the Orders and with New Mexico law.

Respectfully submitted,

MONTGOMERY & ANDREWS, P.A.

By: /s/Sharon T. Shaheen

Sharon T. Shaheen
P.O. Box 2307
Santa Fe, NM 87504-2307
(505) 986-2678
sshaheen@montand.com

Attorney for Applicant

CERTIFICATE OF SERVICE

I hereby certify that on November 29, 2021, a true and correct copy of the foregoing was served by electronic mail on the following counsel:

Dana S. Hardy
Michael Rodriguez
218 Montezuma
Santa Fe, NM 87501
505-982-4554
dhardy@hinklelawfirm.com
mrodriguez@hinklelawfirm.com

and

Reagan Butts, General Counsel
Mewbourne Oil Company
3620 Old Bullard Rd
Tyler, TX 72701
(903) 561-2900
rbutts@mewbourne.com

Attorneys for Mewbourne Oil Co.

/s/Sharon T. Shaheen
Sharon T. Shaheen