

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

IN THE MATTER OF THE HEARINGS CALLED
BY THE OIL CONSERVATION DIVISION FOR
THE PURPOSE OF CONSIDERING:

APPLICATIONS OF EARTHSTONE OPERATING,
LLC FOR A SPACING AND PRORATION UNIT
AND COMPULSORY POOLING, LEA COUNTY,
NEW MEXICO.

Case Nos. 23475 & 23477

APPLICATIONS OF MEWBOURNE OIL COMPANY
FOR COMPULSORY POOLING, LEA COUNTY,
NEW MEXICO.

Case Nos. 23365 & 23366

MEWBOURNE'S REPLY IN SUPPORT OF ITS MOTION TO DISMISS

Mewbourne Oil Company ("Mewbourne") submits this reply to the response of Earthstone Operating, LLC ("Earthstone") to Mewbourne's motion to dismiss. In support thereof, Mewbourne states:

The facts have been set out in the motion and response, so Mewbourne will not re-state them. Mewbourne will just briefly reply to several arguments made by Earthstone.

I. **MEWBOURNE'S APPLICATIONS WILL NOT IMPAIR CORRELATIVE RIGHTS OR CAUSE WASTE.**

Earthstone states many times that Mewbourne's applications will impair Earthstone's correlative rights and cause waste. That is highly implausible, for the following reasons:

- (a) Both companies' applications request virtually the same relief. If that is the case, where is the violation of correlative rights?
- (b) Earthstone did not specify in its response the violations of correlative rights which Mewbourne's applications may cause. That is because there are none. In fact,

Mewbourne seeks to pool the E/2 of Section 18 so that the working interest owners therein do not have to drill one mile laterals (which Earthstone obviously does not want to do).

(c) The only waste which would occur is if Earthstone's applications were granted, it drilled its wells, and the State Land Office would not allow the wells to produce. That would mean 20 million dollars or so would have been spent drilling wells which would not be producible. That is waste.

II. THERE IS NO COVENANT RUNNING WITH THE LAND.

Earthstone goes on and on about a covenant which disallows Mewbourne from pooling or drilling in the E/2 of Section 18. There is no such thing.

(a) Mewbourne spent several years putting the NWDU together. When the application came to hearing (several times), certain working interest owners objected, and the proceedings were delayed for a number of months. Mewbourne came to terms with certain objectors and removed a few tracts from the original unit proposal, just to remove obstacles to the unit getting approved. Mewbourne was anxious to commence drilling. To date it has drilled or is in the process of drilling six (6) two mile laterals wells completely inside the unit area.

(b) There was no express or binding agreement from Mewbourne not to drill on uncommitted lands, and Earthstone cannot identify any such agreement.

(c) A Division order does not create such a covenant; it merely approves of the unit agreement. And, under NMAC 19.2.100.51.D, the Commissioner of Public Lands may approve a unit without the Division's approval. It is merely a matter of comity between state agencies.

III. MEWBOURNE IS NOT USING THE SLO TO CIRCUMVENT DIVISION REGULATION.

Earthstone basically states the Mewbourne is using the SLO to override Division authority. Completely incorrect.

(a) Mewbourne filed pooling applications and is complying with Division rules by filing its applications. One of those rules is that a party, such as Earthstone, cannot produce hydrocarbons from unitized land without the SLO's permission. **NMAC 19.15.16.15.B (6)**. It does not have that permission. However, Mewbourne does have the written permission from the SLO to drill out of the unit.

(b) Earthstone's position is that Mewbourne may not pool unit lands with non-unit lands, but Earthstone may pool unit lands with non-unit lands. Mewbourne is confused. There are any number of cases where unit and non-unit acreage has been pooled, voluntarily or under a Division order.

(c) Earthstone states that Mewbourne does not have operating rights in the E/2 of Section 18. That is currently correct, but that's why pooling applications were filed. That is what NMSA 1978 §70-2-17.C is all about.

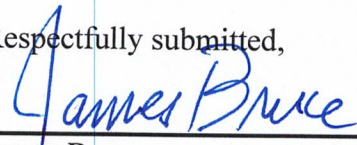
IV. MEWBOURNE IS NOT SEEKING TO POOL VAST ACREAGE OUTSIDE THE UNIT.

Earthstone makes an argument that Mewbourne will be using the unit to pool thousands of acres outside the unit. That is pure speculation.

(a) The NWDU was proposed and advanced as a way to drill numerous two mile laterals within the unit.

(b) As noted above, Mewbourne decided to drill outside of the unit's boundary in this instance so that the owners in the E/2 of Section 18 would not have to drill one mile laterals. It has no plans to drill outside the unit other than in these cases.

WHEREFORE, Mewbourne requests that the Division to dismiss Case Nos. 23475 and 23477.

Respectfully submitted,


James Bruce
Post Office Box 1056
Santa Fe, New Mexico 87504
(505) 982-2043
jamesbruc@aol.com

Attorney for Mewbourne Oil Company

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was served upon the following counsel of record this 30th day of May, 2023 by e-mail:

- Darin Savage - Darin@abadieschill.com
- Michael Feldewert - mfeldewert@hollandhart.com
- Adam Rankin - agrarkin@hollandhart.com
- Julia Broggi - jbroggi@hollandhart.com
- Paula Vance - pmvance@hollandhart.com
- Blake C. Jones - blake.jones@steptoe-johnson.com


James Bruce

VERIFICATION

STATE OF TEXAS)
) ss.
COUNTY OF MIDLAND)

Adriana Salgado, being duly sworn upon her oath, deposes and states that: She is a landman for Mewbourne Oil Company; she is authorized to make this verification on its behalf; she has read the foregoing motion, and knows that the facts set forth in Paragraphs II(a), II(b), IV(a), and IV(b) are true and correct to the best of her knowledge, information, and belief.

ASalgado
Adriana Salgado

SUBSCRIBED AND SWORN TO before me this 3rd day of May, 2023 by Adriana Salgado.

My Commission Expires: 01/11/2026

Alejandra Kirksey
Notary Public

