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

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

APPLICATION OF ASCENT ENERGY, LLC FOR COMPULSORY POOLING, EDDY COUNTY NEW MEXICO

Case Nos. 21393 & 21394

APPLICATION OF MEWBOURNE OIL COMPANY FOR COMPULSORY POOLING, EDDY COUNTY, NEW MEXICO

Case Nos. 21361, 21362, 21363, & 21364

APPLICATION OF APACHE CORPORATION FOR COMPULSORY POOLING AND APPROVAL OF A HORIZONTAL SPACING UNIT FOR A POTASH DEVELOPMENT AREA AND PILOT PROJECT, EDDY COUNTY, NEW MEXICO

Case Nos. 21489, 21490, & 21491

OVERVIEW OF STATUS OF CASES AND REQUEST FOR A STATUS CONFERENCE

Matador Production Company ("Matador") successor in interest to Ascent Energy, LLC, respectfully submits its "Overview of the Status of Cases and Request for a Status Conference" to the Oil Conservation Division ("Division") in response to the Hearing Examiner's request to brief the cases and provide the Division with an update of their status. Matador requests a status

conference on December 7, 2023, pursuant to the overview of the cases and their procedural posture provided as follows:

1. In Case Nos. 16481 and 16482, which initiated the proceeding of the above-referenced cases, the Division granted Ascent, pursuant to Order No. R-21258, operatorship of two units, and rights to the pooled interests, in the Bone Spring formation and in the Wolfcamp formation underlying the W/2 W/2 of Sections 28 and 33, Township 20 South, Range 30 East, NMPM, Eddy County, New Mexico ("W/2 W/2 Lands"). These cases were part of a contested hearing held August 20, 2019, during which Apache Corporation ("Apache"), presented competing applications in Case Nos. 20171 and 20202 to develop and operate a horizontal spacing unit in the Bone Spring formation and Wolfcamp formation underlying the N/2 of Sections 28 and 29, and the NE/4 of Section 30, Township 20 South, Range 30 East, NMPM, Eddy County, New Mexico (Apache's "Laydown Plan"). Mewbourne Oil Company ("Mewbourne") made an entry of appearance and attended the hearing as a party of record for Case Nos. 16481, 16482, 20171 and 20202.

2. After the Division issued Order No. R-21258, both Mewbourne and Apache requested a *de novo* hearing before the Oil Conservation Commission ("Commission"), pursuant to NMSA 1978 Section 70-2-13; the *de novo* hearings before the Commission were assigned Case Nos. 21277, 21278, 21279 and 21280. In preparation for the *de novo* hearings, Mewbourne filed applications, Case Nos. 21362 and 21364, that challenged Ascent's right to the W/2 W/2 Lands, and filed applications, Case Nos. 21361 and 21363, for the pooling of the E/2 W/2 of Sections 28 and 33, Township 20 South, Range 30 East, NMPM, Eddy County, New Mexico ("E/2 W/2 Lands"). Similarly, having been granted its request to stay the *de novo* hearing, Apache pursued

a Laydown Plan for the N/2 of Sections 28 and 29, and the NE/4 of Section 30 by filing new competing applications for the same lands in Case Nos. 21489, 21490 and 21491.

3. After extensive briefing on procedural matters and issues involving questions of the proper disposition of these cases, both at the level of the Division and the Commission, the Commission initiated the first steps of the *de novo* hearings by consolidating the parties' competing applications and remanding them to the Division for a set of contested hearings. The Division exercised jurisdiction over the cases in this part of the process by deciding to proceed as follows: (1) hear Apache's horizontal spacing application; (2) hear Mewbourne's pooling and spacing applications for the W/2 W/2 Lands, along with hearing its applications for the E/2 W/2 Lands; and (3) hear Ascent's pooling and spacing applications for the E/2 W/2 Lands. The Division also decided not to hear Ascent's original applications involving the W/2W/2 Lands (Case Nos. 16481 and 16482).

4. After completion of the contested hearings at the Division level, the cases are then to be moved to the Commission and consolidated for the final phase of the proceedings, that being, having a consolidated *de novo* hearing before the Commission pursuant to Mewbourne's and Apache's original applications for *de novo* hearings.

5. In this two-part adjudicative process, the parties are currently situated with their cases before the Division where the first part of the series of contested hearings are scheduled to be held. If the cases are heard by the Division, the cases will then be moved to the Commission for a final set of contested hearings *de novo.*

6. Since Mewbourne and Apache filed their applications for *de novo* hearings at the Commission level pursuant to Section 70-2-13 within the proper time frame, they should have a statutory right to a *de novo* hearing before the Commission. Because the Division and Commission

will adhere to the statutory obligations of the Oil and Gas Act ("Act"), it appears that at this point in the proceedings, the Commission would be obligated to hear the competing cases *de novo* pursuant to the applications which have been accepted of record, a status the Commission itself has confirmed. *See* OCC Order No. R-21454-A. After the Commission consolidated and remanded the competing applications to the Division, the parties went through a period of extensive briefing to determine whether all of the competing applications needed to be heard at the Division level prior to the Commission hearing them or whether certain cases should be considered non-essential to Commission's *de novo* proceedings and therefore dismissed or heard separately. It was at that point in the proceedings that the Division might have been able to exercise its authority and discretion to dismiss certain applications as non-essential or unnecessary to the *de novo* process; however, the Commission had already articulated to the Division certain directives. *See id.* In the end, in accordance with the Commission's directive, the Division ruled that all the competing cases were part of this two-tiered approach to the *de novo* process and were to be heard at the Division level first and then moved to the Commission for the final hearing *de novo. See* "Order on Ascent Energy's Motion to Dismiss" at OCD Order No. R-21675. This appears to be the present status of the procedural posture for the cases; however, the current Division and Commission might see matters differently upon an updated consideration of the issues.

7. If the parties are able to resolve their differences and settle matters in these cases, then the parties, the Division, and the Commission would be able to avoid a significant expenditure of time, energy, and resources moving these cases through the adjudicatory process that still requires contested hearings by both the Division and the Commission.

8. Therefore, Matador respectfully requests that the cases be continued to December 7, 2023, which would allow the parties a final opportunity to see if their ongoing negotiations can

reach a resolution. Matador asks that the Division hold a status conference on December 7, 2023, to assess the progress and status of the negotiations, and if the parties have not been able to reach a resolution; then at that point, Matador recommends that a date should be set to move forward with the contested hearings. Counsel has been informed of this Overview and Request and has been provided a copy it by email. Apache has stated that it would be providing its own brief as a separate filing. Mewbourne does not object to the request for a status conference but has stated that it will be providing a separate notice for clarification of its position on the matters. No objections have been expressed at the time of this submission.

Respectfully submitted,

ABADIE & SCHILL, PC

/s/ Darin C. Savage

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was filed with the New Mexico Oil Conservation Division and was served on counsel of record via electronic mail on October 4, 2023:

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