

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

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

Case No. 23365

Case No. 23366

**APPLICATION OF EARTHSTONE OPERATING, LLC,
FOR A HORIZONTAL SPACING UNIT AND
COMPULSORY POOLING, LEA COUNTY, NEW MEXICO**

Case No. 23475

Case No. 23477

**EARTHSTONE OPERATING, LLC'S RESPONSE TO MEWBOURNE
OIL COMPANY'S NOTICE OF FILING ADDITIONAL DOCUMENT**

These matters concern competing compulsory pooling applications for the acreage in the E/2 E/2 and W/2 E/2 of Sections 7 and 18, Township 21 South, Range 35 East, NMPM, Lea County, New Mexico. These matters came before the Oil Conservation Division (the "Division") on a contested hearing on September 21, 2023, on the competing applications of Earthstone Operating, LLC, OGRID No. 331165 ("Earthstone") and Mewbourne Oil Company ("Mewbourne").

On December 12, 2023, without request or notice, Mewbourne filed a "Notice of Filing Additional Document," which attached as Exhibit X an e-mail sent by the New Mexico State Land Office ("SLO"). Earthstone files this response to point out to the Division that the attachment adds nothing to the record of the September 21, 2023 Hearing, and that Earthstone complied with the SLO's guidance in the email attached as Exhibit X.

RESPONSE TO EXHIBIT X

In Paragraph 25 of Earthstone's Proposed Findings of Fact and Conclusions of Law ("FOF & COL"), Earthstone discussed Mewbourne's contacts with the SLO in the context of

Mewbourne's failure to negotiate in good faith. *See* FOF ¶ 25 ("Mewbourne also communicated solely with the [SLO], without including Earthstone in those communications, when it sought the SLO's approval to drill in the NWDU, and represented to the NWDU that Earthstone had no interest in the NWDU, which is false."). Earthstone pointed out that "[t]he SLO has told the parties that it will reserve and withhold judgment on granting to Earthstone or Mewbourne drilling approval to operate the proposed wells until the Division makes its decision on these competing applications." *Id.* ¶ 26.

Nothing has changed the SLO's position that it is reserving and withholding judgment on granting Earthstone approval to operate the proposed wells until the Division makes its decision. And Exhibit X doesn't reflect otherwise.

All that Exhibit X reflects is that the SLO came "across a number of APDs . . . or wells that traverse unit boundaries where the operator of the proposed well or wells is NOT the unit operator," and that such APDs "can prove extremely problematic on many levels." Exhibit X at 3. The SLO's findings in review of APDs, and its observation that improper APDs or wells that traverse unit boundaries, is inapposite to the Division's inquiry in these cases.

The record in these cases, including Earthstone's communications with the SLO (*see* Earthstone Ex. E; Transcript from the Hearing at 200:9-13), reflect that Earthstone did not apply for APDs and is going through the proper channels to receive approval to operate the proposed wells, including, *first*, by applying for a compulsory pooling order from the Division. So the record in front of the division shows that – even before the SLO sent this email on November 7, 2023 – Earthstone complied with SLO's requirements and proceeded in the way in which Exhibit X reflects that the SLO requests: to make the SLO "aware of an issue," and allow the SLO "to find a resolution to potential barriers to development." Exhibit X at 4.

As Earthstone's proposed Finding of Fact No. 26 and Exhibit E reflect, Earthstone has not applied for APDs and is going through the exact process that Mewbourne's late-filed Exhibit X reflects that the SLO requests of companies seeking to drill wells that traverse unit boundaries. For this reason, Exhibit X does not add to the record before the Division or add support to Mewbourne's applications. Rather, it supports that the Division properly should make the appropriate decision based on the competing Applications before it. And it supports that, after that is done, Earthstone, if it is properly awarded the compulsory pooling order, will work with the SLO to seek its "assist[ance] to find a resolution to potential barriers to development." Exhibit X at 4.

Respectfully submitted,

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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 December 27, 2023:

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