

**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:**

**CASE NO. 14306  
ORDER NO. R-13099-A**

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

**ORDER OF THE DIVISION**

**BY THE DIVISION:**

This case came on for hearing at 8:15 a.m. on April 16, 2009, at Santa Fe, New Mexico, before Examiners David K. Brooks and Terry Warnell.

NOW, on this 23<sup>rd</sup> day of April, 2009, the Division Director, having considered the testimony, the record and the recommendations of the Examiners,

**FINDS THAT:**

(1) Due public notice has been given, and the Division has jurisdiction of this case and of the subject matter.

(2) Mewbourne Oil Company ("Applicant") seeks an order pooling all uncommitted interests from the surface to the base of the Yeso formation in the NW/4 SE/4 of Section 15, Township 20 South, Range 25 East, NMPM, in Eddy County, New Mexico, to form a standard 40-acre oil spacing and proration unit ("the Unit") for all formations or pools spaced on 40 acres within this vertical extent.

(3) The Unit is to be dedicated to Applicant's proposed Quick Draw 15J Well No. 1 (API No. 30-015-36531), (the "proposed well") to be drilled at a standard location 2310 feet from the South line and 2310 feet from the East line (Unit J) of Section 15.

(4) Applicant previously applied for establishment of exactly this same unit, to be dedicated to this same proposed well, in Case No. 14274. On March 9, 2009, the Division issued Order No. R-13099 in Case No. 14274, pooling all uncommitted interests, "whatever they may be" within the Unit, dedicating the Unit to the proposed

well, and designating Applicant as the operator of the Unit, all as requested by Applicant in that case.

(5) Applicant presented evidence in this case that some persons who are now owners of interests within the Unit, specifically Nadel and Gussman Capitan, LLC and Colkelan Corp. ("additional owners"), were not notified of the hearing in Case No. 14274. The record in this case does not indicate when the additional owners acquired their interests, or when their interests were recorded. The additional owners were duly notified of the hearing in this case.

(6) Neither of the additional owners appeared in this case or in any way indicated to the Division any objection to the pooling of their interests in the Unit as provided in Order No. R-13099.

(7) The additional owners may assert that Order No. R-13099, despite its express inclusion of "all uncommitted interests, whatever they may be," is void as to their interests because they did not receive required notices. See *Johnson v. NMOCD*, 1999 NMSC-021; *Uhden v. NMOCD*, 112 N.M. 528, 817 P.2d 721 (Sup. Ct. 1991). To avoid any uncertainty as to the application of Order No. R-13099 to the additional owners, an order should be issued in this case expressly extending Order No. R-13099 to the additional owners, and allowing the additional owners an appropriate opportunity to elect whether to pay their respective shares of well costs of the proposed well in advance, or out of their share of production.

**IT IS THEREFORE ORDERED THAT:**

(1) Pursuant to the application of Mewbourne Oil Company, all uncommitted interests, whatever they may be, expressly including the interests of Nadel and Gussman Capitan, LLC and Colkelan Corp. ("additional owners"), and their successors in title, in the oil and gas from the surface to the base of the Yeso formation in the NW/4 SE/4 of Section 15, Township 20 South, Range 25 East, NMPM, in Eddy County, New Mexico, are pooled to form a standard 40-acre oil spacing and proration unit for all formations or pools spaced on 40 acres within this vertical extent.

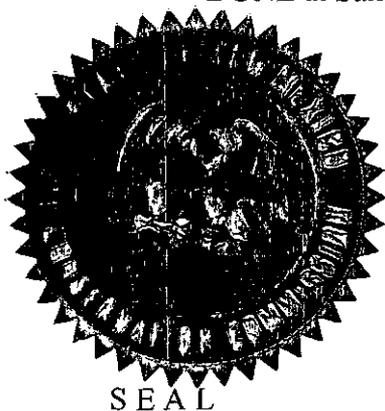
(2) After the effective date of this Order No. R-13099-A, the operator of the Unit shall furnish the Division and each additional owner an itemized schedule of estimated costs of drilling, completing and equipping the proposed well ("well costs").

(3) Within 30 days from the date the schedule of estimated well costs is provided, each of the additional owners shall have the right to pay its share of estimated well costs to the operator in lieu of paying its share of reasonable well costs out of production as provided in Order No. R-13099, and any such owner who pays its share of estimated well costs as provided above shall remain liable for operating costs but shall not be liable for risk charges. Any additional owner who elects not to pay its share of estimated well costs as provided in this paragraph shall thereafter be a "non-consenting working interest owner" under the terms of Order No. R-13099.

(4) As modified hereby, Order No. R-13099 shall be and remain in full force and effect as to all owners of uncommitted interests in the Unit.

(5) Jurisdiction of this case is retained for the entry of such further orders as the Division may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.



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OIL CONSERVATION DIVISION

A handwritten signature in black ink, appearing to read "Mark E. Fesmire".

MARK E. FESMIRE, P.E.  
Director