

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

**APPLICATIONS OF TAMAROA OPERATING LLC FOR  
FOR APPROVAL OF A NON-STANDARD SPACING  
AND PRORATION UNIT AND COMPULSORY  
POOLING, CHAVEZ COUNTY, NEW MEXICO**

**Case Nos. 21634**

**D.K. BOYD PRE-HEARING STATEMENT**

D. K. Boyd submits the following Pre-Hearing Statement in this proceeding in accordance with Rules of the Division.

**APPEARANCES**

APPLICANT

Tamaroa Operating, LLC

ATTORNEY

Dana S. Hardy  
Dioscoro "Andy" Blanco  
Hinkle Shanor LLP  
P.O. Box 2068  
Santa Fe, NM 87504  
(505) 982-4554  
dhardy@hinklelawfirm.com  
dblanc@hinklelawfirm.com

OPPONENT

D.K. Boyd

ATTORNEY

J.E. Gallegos  
Michael J. Condon  
Gallegos Law Firm, P.C.  
460 St. Michael's Drive, Bldg. 300  
Santa Fe, NM 87505  
(505) 983-6686  
jeg@gallegoslawfirm.net  
mjc@gallegoslawfirm.net

### **STATEMENT OF THE CASE**

The applicant purposes to drill a Devonian oil well. Such a well according to Division Rules is to be dedicated to forty-acre spacing. The well is to be located in the NE4NE4 of Section 30, Township 9 South, Range 29 East, Chavez County, acreage in which applicant has the right to drill. Yet, it seeks to pool the adjoining DK Boyd ("Boyd") forty-acres in the NW4NW4 of Section 29 and locate its well **ten feet** (10') from the Boyd land.

Applicant, without filing this case, is able to drill the proposed well in a standard location on its forty acres. Rather than do so, the applicant would misuse this compulsory pooling procedure to capture the oil reserves from Boyd's adjoining quarter section.

### **Motion to Dismiss**

The spacing unit for a purposed Devonian oil well is forty-acres. NMAC 19.15.15.9 (A). The Division's pooling authority exists when, and only "When two or more separately owned tracts of land are embraced within a spacing or proration unit [and] . . . such owner or owners have not agreed to pool their interests . . . the division . . . shall pool all or any part of such lands or interests or both in the spacing or proration unit as a unit." NMSA 1978 §70-2-17(C).

The spacing unit for the applicant's well is its NE4NE4 of Section 30. Boyd is not an owner in that spacing unit. The circumstances do not exist for any legitimate imposition of statutory pooling and the Division accordingly is without authority to proceed. There is no need for an evidentiary hearing. The application must be dismissed on motion.

### **Additional Grounds for Denial**

Were the application to be heard on the merits, to which Boyd objects, Boyd opposes the merits on the following grounds:

1. The purpose of the application is to violate the correlatives rights of Boyd by combining the geologically favorable Devonian reserves underlying Boyd’s NW4NW4 of Section 29 in order to accomplish drainage by applicant’s extraordinarily unorthodox proposed well in Section 30.

2. The applicant seeks to avoid the setback requirements of the Division in order to locate a well in a position to expropriate the reserves of Boyd underlying Section 29. There is no proper reason set forth in the Application for the ten feet from boundary line unorthodox location. The obvious reason is to wrongfully capture Boyd reserves.

3. Granting of the application would constitute a violation of NMSA 1978 §70-2-17(A) requiring that the orders of the Division afford Boyd the “opportunity to produce his just and equitable share of the oil or gas, or both, . . . under such property . . .” The applicant seeks to produce Boyd’s share of the oil or gas and deny the correlative rights of Boyd to that production.

4. A risk penalty of 200% as requested by the applicant, or any risk penalty, upon drilling of a well authorized in this proceeding, is not justified and should not be allowed. Rule 19.15.13.8 NMAC allowing an automatic 200% risk penalty without proof and allowing the penalty to apply to surface facilities is contrary to law.

**OPPONENT’S PROPOSED EVIDENCE**

WITNESSES	EST.TIME	EXHIBITS
Michael Stewart, Engineer	45 minutes	10 Approx.
D. K. Boyd, Owner	30 minutes	5 Approx.

**PROCEDURAL MATTER**

Boyd moves to dismiss owing to lack of statutory authority for the Division to entertain this force pooling case. By granting the motion, the Division will avoid the

expenditure of time and resources of the Division and of the parties for an evidentiary hearing.

Respectfully submitted,

GALLEGOS LAW FIRM, P.C.  
By /s/ J. E. Gallegos  
J.E. GALLEGOS  
MICHAEL J. CONDON  
460 St. Michael's Drive, Bldg. 300  
Santa Fe, New Mexico 87505  
(505) 983-6686  
jeg@gallegoslawfirm.net  
mjc@gallegoslawfim.net

*Attorneys for D.K. Boyd*

### **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served on counsel of record by electronic mail this 28th day of January, 2021:

Dana S. Hardy  
Dioscoro "Andy" Blanco  
P.O. Box 2068  
Santa Fe, NM 87504-2068  
(505) 982-4554  
dhardy@hinklelawfirm.com  
dblanc@hinklelawfirm.com

*Attorneys for Mewbourne Oil Company*

/s/ J. E. Gallegos  
J. E. Gallegos