

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

**APPLICATION OF ROCKWOOD RESOURCES, LLC, et al.,
TO REOPEN MEWBOURNE OIL COMPANY'S
POOLING CASE NO. 21390, LEA COUNTY, NEW MEXICO**

**Reopen Case No. 22539
Re: Case No. 21390; Order No. R-21527**

**APPLICATION OF ROCKWOOD RESOURCES, LLC, et al.,
TO REOPEN MEWBOURNE OIL COMPANY'S
POOLING CASE NO. 21391, LEA COUNTY, NEW MEXICO**

**Reopen Case No. 22540
Re: Case No. 21391; Order No. R-21528**

**REPLY TO MEWBOURNE'S RESPONSE TO MOTION TO ESTABLISH
FACTS AND LEGAL CONCLUSIONS FOR THE PURPOSE OF HOLDING
AN EVIDENTIARY HEARING ON MARCH 3, 2022**

Rockwood Resources, LLC ("Rockwood"), Christine Brock, and Rebecca J. Babbitt (collectively referred to herein as "Rockwood Group"), through its undersigned attorneys, hereby files this Reply ("Rockwood's Reply) to Mewbourne Oil Company's Response to Motion to Establish Facts and Legal Conclusions for the Purpose of Holding an Evidentiary Hearing on March 3, 2022 ("Mewbourne's Response"). In support, the Rockwood Group states the following:

1. Rockwood's Reply is directed toward Mewbourne's arguments in Section II.D, p. 8 of Mewbourne's Response, in which Mewbourne criticizes Rockwood for allegedly attempting to bypass established procedures. Rockwood respectfully submits that the history of interactions between Rockwood and Mewbourne and the unique circumstances of these cases warranted the request to present facts and legal arguments in the present cases in order to promote administrative efficiency.

2. After locating Christine Brock and Rebecca Babbitt, working interest (“WI”) owners whom Mewbourne claimed were unlocatable, Rockwood entered into agreements to purchase their WI. Rockwood then contacted Mewbourne about the Babbitt WI prior to the end of the election period. Mewbourne acknowledged Rockwood’s right to elect to participate in its proposed wells with respect to the Babbitt WI. However, after Rockwood contacted Mewbourne three days later with respect to the Brock WI, Mewbourne refused the election and became unresponsive by not returning phone calls or emails on all matters, even ceasing to provide Rockwood with well reports on the Babbitt WI. Thus, Mewbourne left Rockwood in the dark about the status of its election for the Babbitt WI and the status of Rockwood’s request to participate in the wells with respect to the Brock WI.

3. Rockwood considered these matters to be very time sensitive. The well reports Rockwood had received indicated that Mewbourne was relying on what Rockwood believed to be improperly acquired pooling orders to move forward with drilling the wells whose completion and production were imminent. Mewbourne also recognizes the factor of time in these matters. *See* Mewbourne’s Response, p. 7. After Mewbourne went radio silent and refused to engage in good-faith negotiations, Rockwood became concerned that additional delay would harm its rights.

4. After the Rockwood Group filed its applications to reopen, counsel for Rockwood reached out to Mewbourne’s counsel to discuss how the parties might proceed. During phone conversations, Rockwood’s counsel continued to ask for the well reports and expressed Rockwood’s intent to file a motion requesting some form of review of the facts on March 3, 2022, whether through an evidentiary hearing or some form of summary judgement request. Counsel for Mewbourne expressed Mewbourne’s intent to file a motion to dismiss. Based on these conversations, Rockwood reasonably assumed that some form of motion hearing would be held in

lieu of a status conference and filed its motion in an effort to demonstrate the need for a review of the facts and law. (“Rockwood’s Motion”).

5. In its Motion, Rockwood, for the benefit of both the Division and Mewbourne, narrowed the review of facts and law down to one essential fact and one essential legal argument in order to promote administrative efficiency. Rockwood realized that the request came with a short fuse, but given the time sensitivity involved, Mewbourne’s unresponsiveness and the fact that a motion hearing would be likely be inevitable on March 3, 2022, Rockwood had exhausted its options and filed the Motion. The issues addressed in Rockwood’s motion were closely related to the same issues that would be addressed in Mewbourne’s Motion, and therefore, Rockwood respectfully submits that filing the Motion was proper.

6. The exchange of motions and responses has been both productive and revelatory in these proceedings to identify and define with precision the main issue that the Division should decide - whether Mewbourne satisfied its obligation to exercise reasonable diligence to locate the WI owners. Mewbourne suggests that it exercised reasonable diligence by taking two steps: (1) serving a WI owner at their last known address as shown in the BLM and/or county records; and (2) serving the WI owner by publication when the mailed service was returned as undeliverable. *See* Mewbourne’s Motion, p. 5-6. Mewbourne’s evidence shows that these were the only two steps taken and accomplished by Mewbourne. *See id.*, at p. 6 and Exhibit 2. Mewbourne contends that it fulfilled its obligation to exercise reasonable diligence by locating the last known address of a WI owner based on a review of BLM and/or county records rendering its service by publication valid.

7. In contrast, Rockwood argues that three steps are required for the satisfaction of notice by publication: (1) an applicant must attempt personal service using the last known address

of record, whether from the BLM Serial Register or county records; (2) if personal service fails under this condition, the applicant must “exercise reasonable diligence” to locate the owner, which includes utilizing basic internet search engines and sites; and (3) if these two steps are unsuccessful, reasonable diligence has been satisfied and the applicant may rely on notice by publication as a last resort. Rockwood has shown that New Mexico case law involving the state-assisted appropriation of property interests requires the satisfaction of these three steps, which are clearly codified in Rule 19.15.4.12(B). *See* Rockwood’s Response, ¶¶ 11-13 and 15. Review of Mewbourne’s facts and legal arguments demonstrate that Mewbourne did not satisfy all three requirements, and therefore, Ms. Brock, Ms. Babbitt, and Delbert R. Utter did not receive proper notice, which is a fundamental, constitutionally protected right.

8. For the foregoing reasons, Rockwood respectfully requests that the Division review the evidence currently provided to the extent that, at this point in the proceedings, it may establish, if warranted, facts and law conclusions in the present cases, and that Rockwood’s request for such review during the scheduled motion hearing on March 3, 2022, be granted, to the extent the Division finds it to be procedurally appropriate.

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 March 1, 2022:

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