

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

RECEIVED

APPLICATION OF OXY USA WTP LIMITED
PARTNERSHIP FOR RESCISSION OF THE
APPROVAL OF AN APPLICATION FOR PERMIT
TO DRILL, AND FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO.

MAR 22 2004
OIL CONSERVATION Case No. 13,226
DIVISION

RESPONSE OF TOM BROWN, INC.
IN OPPOSITION TO
REQUEST FOR EMERGENCY ORDER

Tom Brown, Inc. ("Tom Brown") submits this response in opposition to the request for emergency order filed by OXY USA WTP Limited Partnership ("OXY") on March 18, 2004, requesting a stay of the drilling permit ("APD") obtained by Tom Brown.

FACTS

The relevant facts are as follows:

1. Tom Brown and OXY own the following working interests in Section 15, Township 22 South, Range 27 East, N.M.P.M.:

<u>Quarter Section</u>	<u>Ownership</u>
NW¼	100% Tom Brown, and OXY et al. (all depths)
SW¼	100% Tom Brown (<u>below</u> base of Wolfcamp formation)
SE¼	100% Tom Brown (all depths)
NE¼	100% Tom Brown (all depths)

2. On January 21, 2004 Tom Brown applied for and received an APD for its proposed Forni Well No. 2, located 660 feet from the south and west lines of Section 15. The APD dedicates a S½ unit to

the well.¹

3. OXY has proposed its Redemption Well No. 1, at the same location as Tom Brown's well, with a W $\frac{1}{2}$ well unit, and has filed a compulsory pooling case for that well unit. The pooling hearing was held on March 4, 2004.

4. Tom Brown has also obtained an APD for a Morrow test with a N $\frac{1}{2}$ unit. Due to royalty ownership in Section 15, developing the section on laydown units is the only way to ensure that all royalty owners will receive their equitable share of production.

5. Before the March 4th hearing, OXY filed a motion for stay, requesting that Tom Brown's APD be stayed pending the outcome of the pooling hearing. That application was denied by the Division on or about February 27, 2004.

6. In early January 2004, before it received a well proposal from OXY, Tom Brown scheduled a rig to commence drilling this location in early March. Before the March 4th hearing, Tom Brown built a location for its well, and has now commenced drilling its well. Tom Brown has not hidden this fact from anyone.

ARGUMENT

OXY's request for an emergency order must be denied for several reasons:

A. The request for an emergency order is simply a renewed motion for stay. The issues in OXY's request for an emergency order were addressed with respect to the motion for stay,

¹ Despite OXY's assertions, Tom Brown's APD is valid, and substantially complies with Division rules.

which has already been denied by the Division. OXY has not presented new data to justify a stay.

B. Both Tom Brown's APD and OXY's APD are for a well located 660 feet from the south and west lines of Section 15. Thus the well, whether drilled now or later, will be at the exact same location. If the Division denies OXY's pooling application, then Tom Brown is doing what it has the right to do -- drill its well. If the Division grants OXY's pooling application, then OXY may get a free look at the well data. It is hard to fathom how OXY is harmed by this course of events.

C. It is Tom Brown's opinion that the offsetting Marbob well, in the NE~~1~~⁴NE~~4~~ of Section 21, is draining the Morrow reservoir, which both parties agree is the primary zone. In an attempt to minimize drainage (whether the eventual unit is a laydown or a standup), Tom Brown has elected to commence the well.² (An affidavit on this issue will be submitted Monday -- Tom Brown's engineer is absent from the office today.)

D. Tom Brown is drilling on a well unit it owns 100% as to the primary Morrow reservoir. Therefore, its APD does not violate any property right of OXY.

With respect to the underlying pooling case, Tom Brown has presented data that Morrow reserves underlie all of Section 15. In addition, OXY itself presented data that all of Section 15 is

² Tom Brown is majority working interest owner in any well unit, and thus must be operator of the well.

productive from the Wolfcamp formation. Thus, OXY's argument that the units must be standup units is without merit.

CONCLUSION

For the reasons stated above, Tom Brown requests that the Division deny OXY's request for an emergency order.

Respectfully submitted,



James Bruce
Post Office Box 1056
Santa Fe, New Mexico 87504
(505) 982-2043

Attorney for Tom Brown, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was served upon the following counsel of record this 19th day of March, 2004:

Via fax

William F. Carr
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Santa Fe, New Mexico 87504
(505) 983-6043

Via fax

Gail MacQuesten
Oil Conservation Division
1220 South St. Francis Drive
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James Bruce

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APPLICATION OF OXY USA WTP LIMITED
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OIL CONSERVATION
DIVISION

Case No. 13,226

SUPPLEMENTAL
RESPONSE OF TOM BROWN, INC.
IN OPPOSITION TO
REQUEST FOR EMERGENCY ORDER

Tom Brown, Inc. ("Tom Brown") submits this supplemental response in opposition to the request for emergency order filed by OXY USA WTP Limited Partnership ("OXY") on March 18, 2004, in which OXY requested a stay of the drilling permit ("APD") obtained by Tom Brown.

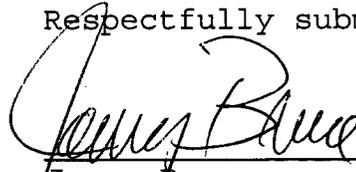
As noted in the original response, It is Tom Brown's opinion that the offsetting Marbob well, in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 21, is draining the Morrow reservoir, which both parties agree is the primary zone. In an attempt to minimize drainage, Tom Brown has elected to commence the well. Commencing the well protects the correlative rights of the interest owners in Section 15, regardless of whether the eventual well unit is a standup or a laydown. See Affidavit of Russ Mathis, attached as Exhibit A.

Tom Brown also notes that a stay will require the drilling rig to be moved to another location, at a needless cost of tens of thousands of dollars. Thus, granting a stay will cause economic waste.

CONCLUSION

Tom Brown requests that the Division deny OXY's request for an emergency order.

Respectfully submitted,



James Bruce
Post Office Box 1056
Santa Fe, New Mexico 87504
(505) 982-2043

Attorney for Tom Brown, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was served upon the following counsel of record this 22nd day of March, 2004:

Via fax and U.S. Mail
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1220 South St. Francis Drive
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James Bruce

BEFORE THE NEW MEXICO OIL CONSERVATION DIVISION

APPLICATION OF OXY USA WTP LIMITED PARTNERSHIP FOR RESCISSION OF THE APPROVAL OF AN APPLICATION FOR PERMIT TO DRILL, AND FOR COMPULSORY POOLING, EDDY COUNTY, NEW MEXICO.

Case No. 13,226

AFFIDAVIT OF RUSS MATHIS

STATE OF TEXAS)
)
COUNTY OF MIDLAND)

Russ Mathis, being duly sworn upon his oath, deposes and states:

- 1. I am over the age of 18, and have personal knowledge of the matters stated herein.
- 2. I am a reservoir engineer employed by Tom Brown, Inc. I am familiar with the engineering matters involved in this case.
- 3. Tom Brown, Inc. has commenced drilling its Forni Well No. 2 in the SW¹/₄SW¹/₄ of Section 15, Township 22 South, Range 27 East, N.M.P.M. The Forni Well No. 2 is immediately offset to the southwest by Marbob Energy Corporation's Walterthon Well No. 1, located in the NE¹/₄NE¹/₄ of Section 21.
- 4. The Walterthon Well No. 1 is producing at a rate of approximately 3 MMCF/day. Its production is voluntarily restricted by the operator, and could be substantially increased. At a price of \$5.00/MCF, the value of the gas produced is in excess \$15,000.00/day.
- 5. The Forni Well No. 2 will be in competition for gas produced from the Walterthon Well No. 1. Therefore, the correlative rights of the interest owners in Section 15 are being impaired by any delay in drilling the Forni Well No. 2.

Russ Mathis
Russ Mathis

SUBSCRIBED AND SWORN TO this 2nd day of March, 2004 by Russ Mathis.

Cathy Scott
Notary Public

My Commission expires:

