

**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. 13285
ORDER NO. R-12174**

**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 June 24, 2004, at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this 22nd day of July, 2004, the Division Director, having considered the testimony, the record and the recommendations of the Examiner,

FINDS THAT:

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

(2) The applicant, Mewbourne Oil Company ("Applicant"), seeks an order pooling all uncommitted mineral interests from a subsurface depth of 4,500 feet to the base of the Morrow formation underlying the N/2 of Section 5, Township 20 South, Range 25 East, NMPM, Eddy County, New Mexico, in the following manner:

the N/2 to form a standard 320-acre spacing and proration unit for any formations and/or pools spaced on 320 acres within this vertical extent, which presently include but are not necessarily limited to the Undesignated North Cemetery-Atoka Gas Pool, Cemetery-Morrow Gas Pool and the Dagger Draw-Strawn Gas Pool;

the NW/4 to form a standard 160-acre spacing and proration unit for any formations and/or pools spaced on 160 acres within this vertical extent, which presently include but are not necessarily limited to the North Dagger Draw-Upper Pennsylvanian Pool; and

the SE/4 NW/4 to form a standard 40-acre spacing and proration unit for any formations and/or pools spaced on 40 acres within this vertical extent.

(3) The above-described units ("the Units") are to be dedicated to the applicant's Tombstone "5" Federal Com Well No. 2, to be drilled at a standard gas well location 1650 feet from the North line and 1450 feet from the West line (Unit F) of Section 5.

(4) The well location for the Tombstone "5" Federal Com Well No. 2 is standard with respect to the proposed 320 and 160-acre units, but is unorthodox with respect to the proposed 40-acre unit.

(5) Two or more separately owned tracts are embraced within the Units, and/or there are royalty interests and/or undivided interests in oil and gas minerals in one or more tracts included in the Units that are separately owned.

(6) Applicant is an owner of an oil and gas working interest within the Units. Applicant has the right to drill and proposes to drill its Tombstone "5" Federal Com Well No. 2 to a common source of supply at a standard gas well location within the SE/4 NW/4 of Section 5.

(7) There are interest owners in the proposed Units that have not agreed to pool their interests.

(8) To avoid the drilling of unnecessary wells, protect correlative rights, prevent waste and afford to the owner of each interest in the Units the opportunity to recover or receive without unnecessary expense its just and fair share of hydrocarbons, this application should be approved by pooling all uncommitted interests, whatever they may be, in the oil and gas within the Units.

(9) The applicant should be designated the operator of the subject well and of the Units.

(10) Any pooled working interest owner who does not pay its share of estimated well costs should have withheld from production its share of reasonable well costs plus an additional 200% thereof as a reasonable charge for the risk involved in drilling the well.

(11) Reasonable charges for supervision (combined fixed rates) should be fixed at \$6,000.00 per month while drilling and \$600.00 per month while producing, provided that these rates should be adjusted annually pursuant to Section III.1.A.3. of the COPAS form titled "*Accounting Procedure-Joint Operations.*"

(12) Prior to producing the Tombstone "5" Federal Com Well No. 2 in any pool spaced on 40 acres, the applicant should be required to obtain Division approval for the unorthodox oil well location.

IT IS THEREFORE ORDERED THAT:

(1) Pursuant to the application of Mewbourne Oil Company, all uncommitted interests, whatever they may be, in the oil and gas from a subsurface depth of 4,500 feet to the base of the Morrow formation underlying the N/2 of Section 5, Township 20 South, Range 25 East, NMPM, Eddy County, New Mexico, are hereby pooled in the following manner:

the N/2 to form a standard 320-acre spacing and proration unit for any formations and/or pools spaced on 320 acres within this vertical extent, which presently include but are not necessarily limited to the Undesignated North Cemetery-Atoka Gas Pool, Cemetery-Morrow Gas Pool and the Dagger Draw-Strawn Gas Pool;

the NW/4 to form a standard 160-acre spacing and proration unit for any formations and/or pools spaced on 160 acres within this vertical extent, which presently include but are not necessarily limited to the North Dagger Draw-Upper Pennsylvanian Pool; and

the SE/4 NW/4 to form a standard 40-acre spacing and proration unit for any formations and/or pools spaced on 40 acres within this vertical extent.

These Units shall be dedicated to the applicant's Tombstone "5" Federal Com Well No. 2, to be drilled at a standard gas well location 1650 feet from the North line and 1450 feet from the West line (Unit F) of Section 5.

(2) The operator of the Units shall commence drilling the proposed well on or before November 1, 2004 and shall thereafter continue drilling the well with due diligence to test the Morrow formation.

(3) In the event the operator does not commence drilling the proposed well on or before November 1, 2004, Ordering Paragraph (1) shall be of no effect, unless the operator obtains a time extension from the Division Director for good cause.

(4) Should the subject well not be drilled and completed within 120 days after commencement thereof, Ordering Paragraph (1) shall be of no further effect, and the units created by this Order shall terminate unless the operator appears before the Division Director and obtains an extension of time to complete the well for good cause demonstrated by satisfactory evidence.

(5) Upon final plugging and abandonment of the subject well, the pooled units created by this Order shall terminate, unless this order has been amended to authorize further operations.

(6) Mewbourne Oil Company is hereby designated the operator of the subject well and of the Units.

(7) After pooling, uncommitted working interest owners are referred to as pooled working interest owners. ("Pooled working interest owners" are owners of working interests in the Units, including unleased mineral interests, who are not parties to an operating agreement governing the Units.) After the effective date of this order, the operator shall furnish the Division and each known pooled working interest owner in the Units an itemized schedule of estimated costs of drilling, completing and equipping the subject well ("well costs").

(8) Within 30 days from the date the schedule of estimated well costs is furnished, any pooled working interest owner 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 hereinafter provided, 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. Pooled working interest owners who elect not to pay their

share of estimated well costs as provided in this paragraph shall thereafter be referred to as "non-consenting working interest owners."

(9) The operator shall furnish the Division and each known pooled working interest owner (including non-consenting working interest owners) an itemized schedule of actual well costs within 90 days following completion of the proposed well. If no objection to the actual well costs is received by the Division, and the Division has not objected within 45 days following receipt of the schedule, the actual well costs shall be deemed to be the reasonable well costs. If there is an objection to actual well costs within the 45-day period, the Division will determine reasonable well costs after public notice and hearing.

(10) Within 60 days following determination of reasonable well costs, any pooled working interest owner who has paid its share of estimated costs in advance as provided above shall pay to the operator its share of the amount that reasonable well costs exceed estimated well costs and shall receive from the operator the amount, if any, that the estimated well costs it has paid exceed its share of reasonable well costs.

(11) The operator is hereby authorized to withhold the following costs and charges from production:

- (a) the proportionate share of reasonable well costs attributable to each non-consenting working interest owner; and
- (b) as a charge for the risk involved in drilling the well, 200% of the above costs.

(12) The operator shall distribute the costs and charges withheld from production, proportionately, to the parties who advanced the well costs.

(13) Reasonable charges for supervision (combined fixed rates) are hereby fixed at \$6000.00 per month while drilling and \$600.00 per month while producing, provided that these rates shall be adjusted annually pursuant to Section III.1.A.3. of the COPAS form titled "*Accounting Procedure-Joint Operations*." The operator is authorized to withhold from production the proportionate share of both the supervision charges and the actual expenditures required for operating the well, not in excess of what are reasonable, attributable to pooled working interest owners.

(14) Except as provided in Ordering Paragraphs (11) and (13) above, all proceeds from production from the well that are not disbursed for any reason shall be placed in escrow in Eddy County, New Mexico, to be paid to the true owner thereof upon demand and proof of ownership. The operator shall notify the Division of the name and address of the escrow agent within 30 days from the date of first deposit with the escrow agent.

(15) Any unleased mineral interest shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for the purpose of allocating costs and charges under this order. Any well costs or charges that are to be paid out of production shall be withheld only from the working interests' share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

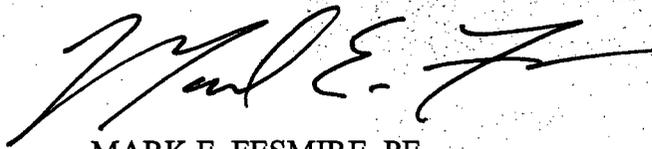
(16) Should all the parties to this compulsory pooling order reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

(17) The operator of the well and Units shall notify the Division in writing of the subsequent voluntary agreement of all parties subject to the forced pooling provisions of this order.

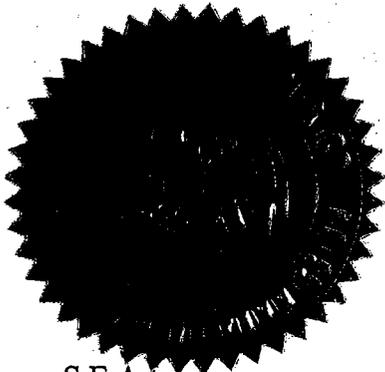
(18) Jurisdiction of this case is retained for the entry of such further orders as the Division may deem necessary.

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

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION



MARK E. FESMIRE, PE
Director



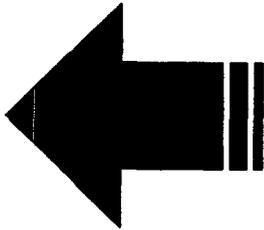
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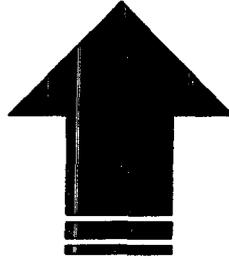
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Form Type = "Case Form"
CODE128 type barcode



Landscape Feed
New Form Follows...



Portrait Feed
New Form Follows...

This is a Patch T type separator sheet.



Form Type = "Case Form"
CODE128 type barcode

DUMMY SHEET

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:)
)
 APPLICATION OF MEWBOURNE OIL COMPANY)
 FOR COMPULSORY POOLING, EDDY COUNTY,)
 NEW MEXICO)
 _____)

CASE NO. 13,285

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID R. CATANACH, Hearing Examiner

June 24th, 2004

Santa Fe, New Mexico

2004 JUL 8 AM 10 08

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID R. CATANACH, Hearing Examiner, on Thursday, June 24th, 2004, at the New Mexico Energy, Minerals and Natural Resources Department, 1220 South Saint Francis Drive, Room 102, Santa Fe, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

* * *

I N D E X

June 24th, 2004
 Examiner Hearing
 CASE NO. 13,285

PAGE

APPLICANT'S WITNESS:

D. PAUL HADEN (Landman)

Direct Examination by Mr. Bruce	3
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REPORTER'S CERTIFICATE	13
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* * *

E X H I B I T S

Applicant's	Identified	Admitted
Exhibit 1	4	10
Exhibit 2	5	10
Exhibit 3	6	10
Exhibit 4	9	10
Exhibit 5	10	10

* * *

A P P E A R A N C E S

FOR THE APPLICANT:

JAMES G. BRUCE
 Attorney at Law
 P.O. Box 1056
 Santa Fe, New Mexico 87504

* * *

1 WHEREUPON, the following proceedings were had at
2 8:53 a.m.:

3 EXAMINER CATANACH: Call Case 13,285, the
4 Application of Mewbourne Oil Company for compulsory
5 pooling, Eddy County, New Mexico.

6 Call for appearances.

7 MR. BRUCE: Mr. Examiner, Jim Bruce of Santa Fe,
8 representing Mewbourne Oil Company. I have one witness.

9 EXAMINER CATANACH: Any additional appearances?
10 Okay, will the witness please stand to be sworn?
11 (Thereupon, the witness was sworn.)

12 D. PAUL HADEN,
13 the witness herein, after having been first duly sworn upon
14 his oath, was examined and testified as follows:

15 DIRECT EXAMINATION

16 BY MR. BRUCE:

17 Q. Would you please state your name and city of
18 residence?

19 A. My name is Paul Haden. I live in Midland, Texas.

20 Q. Who do you work for?

21 A. Mewbourne Oil Company.

22 Q. And what's your job with Mewbourne?

23 A. As a landman.

24 Q. Have you previously testified before the Division
25 as a landman?

1 A. Yes, I have.

2 Q. And were your credentials as an expert petroleum
3 landman accepted as a matter of record?

4 A. Yes, they were.

5 Q. Are you familiar with the land matters involved
6 in this case?

7 A. Yes, I am.

8 MR. BRUCE: Mr. Examiner, I'd tender Mr. Haden as
9 an expert petroleum landman.

10 EXAMINER CATANACH: He is so qualified.

11 Q. (By Mr. Bruce) Mr. Haden, could you identify
12 Exhibit 1 and describe what Mewbourne seeks in this case?

13 A. Exhibit Number 1 is a land plat of the area. It
14 indicates our proposed spacing unit, shaded yellow, with
15 our proposed location indicated by a red dot, of which our
16 proposed spacing unit is in the north half of Section 5 of
17 Township 20 South, Range 25 East.

18 Q. And you seek to force pool depths from the
19 surface to the base of the Morrow formation?

20 A. Yes, we do.

21 Q. As to 320-acre units?

22 A. Yes, sir.

23 Q. And do you also seek to force pool the northwest
24 quarter for 160-acre units and the southeast quarter,
25 northwest quarter for 40-acre units?

1 A. That's correct.

2 Q. What is the well's location?

3 A. The proposed well location is 1650 feet from the
4 north line and 1450 feet from the west line of Section 5.

5 Q. What is the ownership of the well unit?

6 A. The ownership of the well unit is indicated by my
7 Exhibit Number 2. That shows the leasehold ownership in
8 the south half of the southeast of the northwest quarter,
9 which is a 20-acre tract. Also shows the ownership in the
10 north half of the southeast of the southwest quarter, which
11 is a 20-acre tract. Also shows the ownership in the
12 northwest quarter, which is 160.15 acres. And it also
13 shows the unit ownership for the north half, which is 320.6
14 acres.

15 Q. And are the parties you are seeking to pool noted
16 with an asterisk?

17 A. That's correct.

18 Q. Okay. First of all, there's a couple of parties
19 who you could not locate. Which two parties are those on
20 this list?

21 A. That would be Howard Y. Williams, Jr., and
22 Richard Kiene and his wife Rita A. Kiene.

23 Q. Okay, we'll get to those in a minute, but could
24 you first identify Exhibit 3 and discuss your
25 correspondence with the locatable interest owners?

1 A. Exhibit Number 3, first of all, it lists a
2 summary of my communications with the poolees. It begins
3 with Nearburg Exploration Company, L.L.C., of which we
4 initially proposed the well in February of '04 with an AFE.
5 That initial well proposal was 1650 feet from the north and
6 990 from the west.

7 However, because of drainage issues, as indicated
8 by the Bureau of Land Management, they would not allow us
9 to locate our proposed well there, so we located it at the
10 current proposed location, 1650 from the north and 1450
11 from the west.

12 Nearburg has indicated that they voluntarily
13 elected to be force pooled under the order because their
14 interest was so small. Also, their net revenue interest
15 was less than 75 percent.

16 The same thing goes for EOG Resources, Inc.,
17 which indicates the working interest percentage out beside
18 their name. Again, the first proposed well was in February
19 of '04. We later re-proposed in April of '04 for the
20 current proposed location. EOG also has indicated that
21 they wanted to be pooled under the order, they didn't want
22 to fool with giving us a term assignment. Their interest
23 also was less than 75-percent net revenue interest. They
24 indicated they would give me a letter stating that they --
25 what they chose to do. I have not received that. This is

1 verbal communication with Patrick Tower.

2 Let's move on the interest of Louis Berney. He
3 has a small working interest. I proposed the well in
4 February, '04, with an AFE and again re-proposed in April
5 of '04.

6 Let's move on to Mr. David A. Metts. He has a
7 small working interest. There again, I proposed in
8 February, '04, and April of '04. By virtue of a phone
9 conversation with Mr. Metts, he wanted for us to pay him
10 \$500 an acre. We had offered \$150 per acre, which that
11 price is what we had been paying in the area. He said he
12 wasn't interested in giving us an assignment on that basis,
13 so he asked for us to just pool him.

14 On the next page, Leslea Ingram Cole, we had
15 proposed the well to her in February, '04, also in April of
16 '04. At first she agreed to give us a term assignment. I
17 sent her the term assignment with her check. We never
18 received the executed assignment back from her. Apparently
19 she cashed the check, which was a minimal amount of
20 interest -- I mean amount of money. As you can see, her
21 working interest is very small.

22 The same story goes for her brother, Joseph T.
23 Ingram. We proposed the well in February, '04, followed up
24 with a proposal in April of '04 with AFE. We again sent
25 him a term assignment, he never executed it, cashed the

1 check. So we're pooling him on that basis.

2 Kaiser-Francis Oil Company was proposed, the
3 letter of February, '04, also again in April of '04. They
4 have since elected to join in the well. We're in the
5 process of having a joint operating agreement executed by
6 them.

7 Q. And if Kaiser-Francis does sign, will you so
8 notify the OCD?

9 A. Yes, we will.

10 Q. And as to the rest of Exhibit 3, does that
11 contain copies of your correspondence and phone notes with
12 the various parties?

13 A. Yes, it does.

14 Q. With respect to Mr. and Mrs. Kiene and Mr.
15 Williams, what records were searched to locate them?

16 A. We initially searched the public records of being
17 in Santa Fe, also in Eddy County, New Mexico. The
18 conveyance to them back in the early 1970s did not list
19 their address at all, so we from the very start were at a
20 dead-end with them. We have not been able to locate them
21 via Internet or otherwise.

22 Q. In your opinion, has Mewbourne made a good-faith
23 effort to obtain the voluntary joinder of the interest
24 owners in the well?

25 A. Yes, we have.

1 Q. Would you identify Exhibit 4 and discuss the cost
2 of the well?

3 A. Exhibit Number is an authorization for
4 expenditure, also known as an AFE. It describes the name
5 of our well, which is the Tombstone 5 Federal Com Number 2
6 well. It indicates the proposed location at 1650 from the
7 north and 1450 from the west. It also sets out the
8 estimated well cost. The cost estimated for -- to casing
9 point, is \$509,300, and the completed well cost is
10 \$922,600.

11 Q. Is this cost in line with the cost of other wells
12 drilled in this area of Eddy County?

13 A. Yes, for this depth at 9700 feet.

14 Q. And does Mewbourne request that it be designated
15 operator of the well?

16 A. Yes, we do.

17 Q. Do you have a recommendation for the overhead
18 rates?

19 A. We are recommending \$6000 per month for a
20 drilling and \$600 per month for a producing well.

21 Q. And are these amounts similar to those normally
22 charged by operators in this area for wells of this depth?

23 A. Yes, and also the same numbers that are agreed
24 with some working interest owners who have signed their JOA
25 dated May 12th, '04.

1 Q. Do you request that these overhead rates be
2 adjusted periodically as provided by the COPAS accounting
3 procedure?

4 A. Yes, we do.

5 Q. And does Mewbourne request that the maximum cost-
6 plus-200-percent risk charge be assessed against
7 nonconsenting interest owners?

8 A. Yes, we do.

9 Q. And finally, were the locatable nonconsenting
10 interest owners notified of this hearing?

11 A. Yes, they were.

12 Q. And is that reflected in Exhibit 5?

13 A. That's correct.

14 Q. Were Exhibits 1 through 5 prepared by you or
15 under your supervision, or compiled from company business
16 records?

17 A. Yes, they were.

18 Q. And in your opinion is the granting of this
19 Application in the interests of conservation and the
20 prevention of waste?

21 A. That's correct.

22 MR. BRUCE: Mr. Examiner, I'd move the admission
23 of Mewbourne Exhibits 1 through 5.

24 EXAMINER CATANACH: Exhibits 1 through 5 will be
25 admitted.

1 MR. BRUCE: And one final thing, Mr. Examiner,
2 the well location would be unorthodox for oil well zones,
3 but we are waiting to see if those are productive before we
4 file for unorthodox location approval.

5 EXAMINATION

6 BY EXAMINER CATANACH:

7 Q. Mr. Haden, the primary target in this well, I
8 assume, is a gas zone?

9 A. Yes, Morrow.

10 Q. On the overhead rates, did you want to request
11 the adjustment of those rates?

12 A. Yes, we do, under the COPAS accounting procedure.

13 Q. Okay. And you're pooling those interests from a
14 depth of 4500 feet to the base of the Morrow?

15 A. Right, because there are some depth severances in
16 the chain of title as to the southeast of the northwest
17 quarter, to be more specific.

18 Q. As to the southeast of the northwest quarter. So
19 if you -- Any shallower zones than that, oil zones, may be
20 a problem later on?

21 A. We don't expect any shallow zones.

22 EXAMINER CATANACH: I think that's all I have.

23 Mr. Bruce?

24 MR. BRUCE: I have nothing further, Mr. Examiner.

25 EXAMINER CATANACH: Okay, there being nothing

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further, Case 13,285 will be taken under advisement.

THE WITNESS: Thank you.

EXAMINER CATANACH: Thank you.

(Thereupon, these proceedings were concluded at
9:08 a.m.)

* * *

I do hereby certify that the foregoing is
a complete record of the proceedings in
the Examiner hearing of Case No. 13285,
heard by me on June 24 2004.
David R. Catanach, Examiner
Oil Conservation Division