

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

**APPLICATION OF ASCENT ENERGY, LLC  
FOR COMPULSORY POOLING,  
EDDY COUNTY, NEW MEXICO**

**Case Nos. 21277 and 21278  
(Division Case Nos. 16481 and  
16482)**

**AMENDED APPLICATIONS OF APACHE  
CORPORATION FOR COMPULSORY  
POOLING AND APPROVAL OF A HORIZONTAL  
SPACING UNIT AND POTASH DEVELOPMENT  
AREA, EDDY COUNTY, NEW MEXICO**

**Case Nos. 21279 and 21280  
(Division Case Nos. 20171 and  
20202)**

**MEWBOURNE OIL COMPANY'S  
RESPONSE TO APACHE CORPORATION'S  
MOTION TO STAY THE *DE NOVO* HEARING IN CASE NOS. 21277-21280**

Mewbourne Oil Company ("Mewbourne") submits the following response to Apache Corporation's ("Apache") Motion to Stay the *De Novo* Hearing in Case Nos. 21277-21280. For the reasons explained below, it is Mewbourne's position that: (1) the *de novo* hearing should be stayed to allow the Oil Conservation Division ("Division") to determine how to proceed with respect to the competing compulsory pooling applications that are pending before it and that impact the applications that will be addressed by the Oil Conservation Commission ("Commission") in the above-referenced cases; and (2) if the Division determines that it should proceed to resolve the competing applications that are pending before it, the *de novo* hearing should be stayed until the Division issues decisions regarding those applications. In support of this response, Mewbourne states the following.

1. In Commission Case Nos. 21277 and 21278, Ascent seeks orders pooling uncommitted interests in the Bone Spring and Wolfcamp formations in 320-acre horizontal spacing units comprised of the W/2 W/2 of Sections 28 and 33, Township 20 South, Range 30 East in Eddy County.

2. In Commission Case Nos. 21279 and 21280, Apache seeks orders approving potash development areas in the N/2 of Sections 28 and 29 and the NE/4 of Section 30, Township 20 South, Range 30 East in Eddy County. Apache's applications also sought compulsory pooling, but Apache withdrew that request at the hearing before the Oil Conservation Division ("Division").

3. Apache's and Ascent's applications were heard by the Division in August 2019. The Division subsequently granted Ascent's applications, and both Mewbourne and Apache timely filed applications seeking a *de novo* hearing before the Commission. The *de novo* hearing is currently set for September 17, 2020.

4. Mewbourne, a working interest owner in the W/2 of Section 33, appeared at the Division hearing on Ascent's and Apache's applications but did not oppose the applications because Mewbourne and Ascent had previously entered into a letter agreement that involved a trade of Mewbourne's acreage in the W/2 of Section 33 for acreage elsewhere in Eddy County.<sup>1</sup>

5. Approximately seven months after the Division hearing, Ascent declined to complete the trade, causing Mewbourne to file competing pooling applications concerning the W/2 of Sections 28 and 33. Mewbourne's applications, Case No. 21361 through 21364, are presently pending before the Division. Two of Mewbourne's applications involve the W/2 W/2 of Sections

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<sup>1</sup> Apache's claim that Mewbourne failed to present evidence at the Division hearing is irrelevant, as Mewbourne was a party to the proceeding and was not required to present evidence to preserve its right to a *de novo* hearing. See NMSA 1978 § 70-2-13; 19.15.4.23.A NMAC.

28 and 33 (Division Case Nos. 21362 and 21364), and two of Mewbourne's applications involve the E/2 W/2 of Sections 28 and 33 (Case Nos. 21361 and 21363).

6. Mewbourne's applications involve acreage that overlaps with the acreage addressed in Apache's and Ascent's applications that will be heard at the *de novo* hearing. Because Mewbourne holds 50% of the working interest in its proposed spacing units and in the spacing units proposed by Ascent – which exceeds Ascent's interest – there is a strong basis for Mewbourne's applications and its opposition to Apache's and Ascent's applications.<sup>2</sup> Mewbourne also has drilled and completed over 400 horizontal wells in Eddy County, New Mexico, while Ascent has not completed any horizontal wells in Eddy County, New Mexico.<sup>3</sup>

7. Because Mewbourne's applications involve acreage that overlaps with Ascent's applications and also conflicts with Apache's applications and to protect Mewbourne's correlative rights, promote efficiency, and avoid inconsistent decisions, Mewbourne filed a motion requesting that the Division Director refer its applications to the Commission for a hearing in conjunction with Apache's and Ascent's applications. Apache opposes Mewbourne's motion, while Ascent agrees that Mewbourne's applications regarding the W/2 W/2 of Sections 28 and 33 should be referred to the Commission for a joint hearing. Ascent has argued that Mewbourne's applications regarding the E/2 W/2 of Sections 28 and 33 should be heard by the Division after the *de novo* hearing.<sup>4</sup> Ascent also stated that it intended to file competing pooling applications regarding the E/2 W/2 of Sections 28 and 33 and would seek to refer those applications to the Commission if Mewbourne's motion for referral is granted.

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<sup>2</sup> See Self-Affirmed Statement of T. Jolly, attached as Exhibit A.

<sup>3</sup> See *id.*

<sup>4</sup> As Mewbourne has explained in its briefing before the Division, it would violate Mewbourne's correlative rights for the Division to hear the applications involving the E/2 W/2 of Sections 28 and 33 *after* the *de novo* hearing because the applications conflict with Apache's applications that will be heard at the *de novo* hearing. Ascent's proposed process would also potentially result in multiple *de novo* hearings when all of the issues can and should be resolved in one hearing.



8. Mewbourne's motion for referral is currently pending before the Division.

9. On August 4, 2020, Ascent filed applications seeking to pool the E/2 W/2 of Sections 28 and 33 (Division Case Nos. 21393 and 21394). Ascent's applications ask the Division to deny Mewbourne's applications in Case Nos. 21361 through 21364 and state that Ascent's applications are part of its development plan that is addressed in the cases pending before the Commission.

10. On August 5, 2020, Apache filed a motion with the Commission requesting a stay of the September 17, 2020 *de novo* hearing so that the Division can address the competing applications that are pending before it. Apache's motion also states that Apache intends to file competing pooling applications.

11. It is Mewbourne's position that the Commission should ultimately hold one *de novo* hearing on the competing applications that are pending before the Commission (Commission Case Nos. 21277-21280) and the Division (Division Case Nos. 21361-21364 and 21393-21394). The applications involve conflicting development proposals, as Mewbourne and Ascent's applications cover the W/2 of Sections 33 and 28, and Apache's applications cover the N/2 of Sections 28 and 29 and the NE/4 of Section 30. Thus, Mewbourne's and Ascent's applications overlap entirely and conflict with Apache's applications. Further, Ascent admits in its recent compulsory pooling applications (Case Nos. 21393 and 21394) that the applications are "an integral component" of its plan to develop the entire W/2 of Sections 28 and 33, which is pending before the Commission in Case Nos. 21277-21278.

12. If Mewbourne's, Ascent's, and Apache's competing applications are not consolidated for a *de novo* hearing, there is a risk of inconsistent decisions, and multiple *de novo* hearings may be required. It would be inefficient, and waste resources of the Commission and the

parties, for the Commission to hold multiple hearings on the pending applications when they all involve competing proposals. A joint hearing would also ensure that the parties' correlative rights are protected in accordance with the requirements of the Oil and Gas Act by allowing the Commission to evaluate all of the competing proposals in one hearing and issue one decision.

13. As a result of the above, the *de novo* hearing should be stayed pending the Division's determination regarding treatment of the pending competing applications. If the Division proceeds to hear the competing applications that are pending before it instead of referring them to the Commission, the *de novo* hearing should be stayed until the applications are resolved by the Division so that one *de novo* hearing can be held on all of the competing applications. The stay is appropriate, would protect the parties' correlative rights, and would conserve resources of the parties and the Commission.

For the foregoing reasons, Mewbourne requests that the Commission enter an order staying the *de novo* hearing in the above-captioned matters pending the Division's determination regarding treatment of the competing applications and, if the Division proceeds to hear the applications that are pending before it, staying the *de novo* hearing until the applications are resolved.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 13<sup>th</sup> day of August, 2020, I served a true and correct copy of the foregoing pleading on the following counsel of record by electronic mail:

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

APPLICATIONS OF MEWBOURNE OIL  
COMPANY FOR COMPULSORY POOLING,  
EDDY COUNTY, NEW MEXICO

Case Nos. 21361-21364

SELF-AFFIRMED STATEMENT OF  
TYLER JOLLY

1. I am over 18 years of age and am competent to provide this Self-Affirmed Statement. I have personal knowledge of the matters addressed herein.
2. I am a landman for Mewbourne Oil Company ("Mewbourne"). I have had direct involvement with Mewbourne's development of the horizontal spacing units that are the subject of Mewbourne's applications in Case Nos. 21361-21364. I am also familiar with: (1) Mewbourne's negotiations and agreements with Ascent Energy, LLC ("Ascent") regarding the acreage in the W/2 of Sections 28 and 33, Township 20 South, Range 30 East in Eddy County that is the subject of Mewbourne's applications; and (2) the circumstances surrounding Ascent's applications in Oil Conservation Division ("Division") Case Nos. 16481 and 16482<sup>1</sup> and Apache Corporation's ("Apache") applications in Division Case Nos. 20171 and 20202.<sup>2</sup>
3. I have previously testified before the Division, and my qualifications as an expert in petroleum land matters were accepted.
4. Mewbourne owns 100% of the working interest in the W/2 of Section 33, Township 20 South, Range 30 East in Eddy County and has the right to drill wells thereon. Mewbourne also has support from working interests in the W/2 of Section 28, Township 20 South, Range 30 East.

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<sup>1</sup> Oil Conservation Commission Case Nos. 21277 and 21278.

<sup>2</sup> Oil Conservation Commission Case Nos. 21279 and 21280.



5. In January 2019, Mewbourne submitted well proposals for the following wells in the W/2 of Sections 28 and 33: (1) the Sidecar 33/28 B3MD Fed Com #1H well, to be horizontally drilled from a surface location in Lot 1 in Section 4, Township 21 South, Range 29 East to a bottom hole location in Unit D in Section 28, Township 20 South, Range 30 East; (2) the Sidecar 33/28 B3NC Fed Com #1H well, to be horizontally drilled from a surface location in Lot 1 in Section 4, Township 21 South, Range 29 East to a bottom hole location in Unit C in Section 28, Township 20 South, Range 30 East; (3) the Sidecar 33/28 W0MD Fed Com #1H well, to be horizontally drilled from a surface location in Lot 1 in Section 4, Township 21 South, Range 29 East to a bottom hole location in Unit D in Section 28, Township 20 South, Range 30 East; and (4) the Sidecar 33/28 W0NC Fed Com #1H well, to be horizontally drilled from a surface location in Lot 1 in Section 4, Township 21 South, Range 29 East to a bottom hole location in Unit C in Section 28, Township 20 South, Range 30 East.

6. After Mewbourne submitted its well proposals, it entered into a letter agreement with Ascent that involved a trade of Mewbourne's acreage in the W/2 of Section 33 for acreage elsewhere in Eddy County. At Ascent's request, Mewbourne then expended significant time, money, and resources, including completion of a quiet title action, to finalize the agreed upon trade.

7. Because Mewbourne and Ascent reached an agreement regarding Mewbourne's acreage in Section 33, Mewbourne did not file pooling applications regarding its four Sidecar 33-28 wells and did not oppose Ascent's pooling applications in Division Case Nos. 16481 and 16482 that include Mewbourne's acreage in Section 33. Mewbourne also did not oppose Apache's applications in Division Case Nos. 20171 and 20202.



8. Mewbourne participated in the August 20, 2019 hearing on Ascent's and Apache's applications through counsel.

9. In March of 2020, Ascent notified Mewbourne that Ascent would not comply with its agreement to trade Mewbourne's acreage in the W/2 of Section 33.

10. On April 14, 2020, the Division issued Order No. R-21258 approving Ascent's applications in Case Nos. 16481 and 16482 and denying Apache's applications in Case Nos. 20171 and 20202.

11. Mewbourne filed applications for *de novo* hearings in Case Nos. 16481, 16482, 20171, and 20202 on May 4, 2020.

12. In June of 2020, Mewbourne re-submitted its well proposals for the four Sidecar 33-28 wells mentioned above and filed the above-captioned compulsory pooling applications on July 6, 2020. Mewbourne would have submitted its compulsory pooling applications after it initially proposed the wells in January 2019 if it had been aware that Ascent would not comply with its agreement to trade Mewbourne's acreage in Section 33.

13. Mewbourne holds a 50% interest in the proposed horizontal spacing units for the Sidecar 33-28 wells as well as in Ascent's proposed horizontal spacing units. Mewbourne also has drilled and completed over 400 horizontal wells in Eddy County, New Mexico, while Ascent has not drilled or completed any horizontal wells in Eddy County, New Mexico. These facts, as well as the history of negotiations between Mewbourne and Ascent, provide a strong basis for Mewbourne's pooling applications and for Mewbourne's opposition to Ascent's pooling applications.

14. Apache does not hold an interest in Mewbourne's proposed horizontal spacing units.

15. Because the applications discussed above involve competing development plans and Mewbourne would have filed its applications prior to the August 2019 hearing and opposed Ascent's and Apache's applications but for its agreement with Ascent, I believe a joint hearing is appropriate to protect Mewbourne's correlative rights. A joint hearing would also conserve resources and promote efficiency.

16. I affirm that my testimony in paragraphs 1 through 15 above is true and correct and is made under penalty of perjury under the laws of the State of New Mexico. My testimony is made as of the date handwritten next to my signature below.

  
Tyler Jolly

7-15-2020  
Date