

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

IN THE MATTER OF THE HEARING CALLED
BY THE OIL CONSERVATION COMMISSION
FOR SUBMITTAL OF CLOSING STATEMENTS
AND DELIBERATIONS IN:

APPLICATION OF TOM M. RAGSDALE TO
REVOKE ORDER NOS. R-20924 and R-20924A,
OR, IN THE ALTERNATIVE, To DECLARE
UNREASONABLE CERTAIN COSTS IMPOSED
BY MEWBOURNE OIL COMPANY.

De Novo Case No. 21902
Division Case No. 21324

REPORTER'S TRANSCRIPT OF PROCEEDINGS

TUESDAY, FEBRUARY 22, 2022

SUBMISSION OF CLOSING STATEMENTS, AND DELIBERATIONS

This matter came on for hearing on Tuesday,
February 22, 2022 before the New Mexico Oil
Conservation Commission via the Webex Virtual
Conferencing Platform hosted by the New Mexico
Energy, Minerals and Natural Resources Department

IN ATTENDANCE:

ADRIENNE SANDOVAL
GREG BLOOM
WILLIAM AMPOMAH
CHRIS MOANDER
FLORENE DAVIDSON:

COMMISSION CHAIR
COMMISSIONER
COMMISSIONER
COMMISSION COUNSEL
COMMISSION SECRETARY

1 REPORTED BY: Mary Therese Macfarlane
 2 New Mexico CCR #122
 3 PAUL BACA COURT REPORTERS
 4 500 Fourth Street NW, Suite 105
 5 Albuquerque, New Mexico 87102
 6 (505) 843-9241

A P P E A R A N C E S

6 FOR TOM M. RAGSDALE:
 7 Sharon T. Shaheen, Esq.
 8 Montgomery & Andrews
 9 325 Paseo de Peralta
 10 Santa Fe NM 87501
 11 (505) 986-2678
 12 sshaaheen@montand.com

10 FOR MEWBOURNE OIL COMPANY:

11 James Bruce, Esq.
 12 Post Office Box 1056
 13 Santa Fe, NM 87504
 14 (505) 982-2043
 15 jamesbruc@aol.com

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1 (Time noted 9:15 a.m.)

2 COMMISSION CHAIR SANDOVAL: All right. Let's
3 jump back up to Item No. 4, which was Continuance of Case
4 No. 21324 for Submittal of Closing Statements and
5 Deliberations.

6 The Commission heard these cases on January
7 13th and part of the 14th. Counsel submitted written
8 closing statements that were timely delivered.

9 Do you want to give, I think, an
10 opportunity to each of the parties to make brief
11 statements?

12 Starting with Ms. Shaheen, I'd say you,
13 know, you were given an opportunity to do the written, and
14 so the majority of your written statement should be in
15 that, but if you have some brief closing statements you
16 would like to make today, you know, please go ahead but be
17 brief.

18 MS. SHAHEEN: Thank you, Madam Chair. Sharon
19 Shaheen on behalf of the applicant Tom M. Ragsdale. I
20 will be brief. I'll just more or less walk through the
21 headings of the closing statement.

22 I understand that the Commissioners were
23 interested in being provided with the applicable law that
24 would allow them to afford the relief that has been
25 requested, so I've done my best to do that in the closing

1 statement. But briefly: Mewbourne admits that they took
2 the risk by drilling before they received a Forced Pooling
3 Order. Mr. Ragsdale never had an opportunity to elect to
4 participate in the 10/152H, which ws the original well
5 that was unsuccessfully drilled twice.

6 On page 2 of the Closing Statement I
7 identify the statutes under which the Commission has
8 jurisdiction and authority to award the relief
9 requested -- that's specifically 70-2-6 and 70-2-11 -- and
10 then Section 70-2-17, which relates to compulsory pooling
11 limits costs to those in drilling "the well," not another
12 well, unless it falls within the regulation that specifies
13 what can be considered a substitute well.

14 I don't think it's disputed here that the
15 well that was drilled is not a substitute well under the
16 regulation that applies here, which is 19.15.13.1 (B)(4).
17 Moreover, it's Mr. Ragsdale's position that Mewbourne
18 failed to satisfy the Notice requirement of 19.15.4.8 by
19 failing to notify the Division and failing to notify
20 nonoperators that were being force pooled that they
21 intended not only to drill the 15/10 2H instead of the
22 10/15 2H but that they were going to impose the costs of
23 drilling the first well unsuccessfully on drilling the
24 second well.

25 This was never disclosed to anyone, and in

1 fact it appears to be Mewbourne's method of operating as
2 Mr. -- as their witness testified, that they don't provide
3 information about drilling unless someone has already
4 elected to participate.

5 So finally, the rights and obligations of
6 an interest owner under a Forced Pooling Order are not
7 dictated by the provisions of the JOA, and that's
8 explained in the Closing Statement, without production
9 from the well that was first attempted to be drilled.
10 That's the 10/15 2H. Mewbourne has no recourse, because a
11 co-tenant, which is what Mr. Ragsdale was at the time,
12 must -- the operator of a well that's drilled as a
13 co-tenant has no recourse for costs except from production
14 from that well. There was no production from that well so
15 under the common law Mr. Ragsdale has no obligation to pay
16 those estimated costs that Mewbourne was improperly
17 demanding.

18 If anyone has any questions I'm happy to
19 make an effort to answer them. Thank you.

20 COMMISSION CHAIR SANDOVAL: Thank you. Thanks,
21 Ms. Shaheen.

22 Mr. Bruce, would you like to make a brief
23 statement?

24 MR. BRUCE: Yes, but very brief. I think it's
25 set forth in Mewbourne's written closing.

1 I would just comment on Ms. Shaheen's
2 statement that this is how Mewbourne operates, they are
3 not giving out any information. There's a reason for
4 that, and there's a reason why it's an industry custom
5 that they don't give out well information before someone
6 elects. It's because if you force pool someone and you
7 make a well and they haven't elected yet but you're forced
8 to give them information, then they will come in
9 risk-free, and that's not the way the industry practices.

10 Other than that, I would say that, simply
11 put, under the statutes and under the regulations
12 Mewbourne contained everything in its applications that
13 were called for.

14 And the only other thing I would mention,
15 there was a lot of discussion about whether the junked
16 toll (phonetic) costs were reasonable. Even Mr. Ragsdale
17 did not say they were unreasonable, he just says it's for
18 a separate well.

19 But anyway, everything is set forth in the
20 argument, and I'll close there. Thank you, Madam Chair.

21 COMMISSION CHAIR SANDOVAL: Thank you.

22 All right. I think at this point the
23 record of this application hearing is closed -- or this
24 hearing is closed. The Commission, I think, will
25 immediately deliberate so we can reach a final decision on

1 the application.

2 I move that the meeting be closed pursuant
3 to administrative adjudicatory deliberations exception to
4 the Open Meetings Act, Section 10-15-1(H)(3) to deliberate
5 in Case No. 21324.

6 Is there a second to the motion?

7 COMMISSIONER BLOOM: Madam Chair, I'll so
8 second.

9 MR. MOANDER: Madam Chair, would you like me to
10 call the roll call?

11 COMMISSION CHAIR SANDOVAL: Yes, please.

12 MR. MOANDER: Commissioner Ampomah.

13 COMMISSIONER AMPOMAH: Approved.

14 MR. MOANDER: Commissioner Bloom.

15 COMMISSIONER BLOOM: Approved.

16 MR. MOANDER: Madam Chair.

17 COMMISSION CHAIR SANDOVAL: Approved.

18 MR. MOANDER: Motion carries.

19 COMMISSION CHAIR SANDOVAL: We will keep this
20 meeting live, and -- so I'll stay logged on to this so
21 everybody doesn't get kind of kicked out, and
22 Commissioners, we can hop onto the other platform.

23 COMMISSIONER BLOOM: Madam Chair, could we log
24 off of this one, myself and Commissioner Ampomah, and then
25 join the other one and later come back to this?

1 COMMISSION CHAIR SANDOVAL: If you wanted to,
2 you can. I'll stay logged in so this doesn't die, but you
3 guys can log out, if you would like to.

4 COMMISSIONER BLOOM: Thank you. Be there
5 shortly.

6 COMMISSION CHAIR SANDOVAL: We will be back in
7 a little while. Thanks everyone.

8 (Note: In recess at 9:24 a.m.)

9 (Note: Proceedings resumed at 11:51 a.m.)

10 COMMISSION CHAIR SANDOVAL: All right. let's
11 see. Let me make sure we are recording.

12 COMMISSIONER BLOOM: Madam Chair, I can't see
13 Mr. Bruce, but perhaps --

14 COMMISSION CHAIR SANDOVAL: Good point. Mr.
15 Bruce, are you there?

16 MR. BRUCE: I'm here, Madam Chair. I can hear
17 you. Thank you.

18 COMMISSION CHAIR SANDOVAL: Okay. Thank you.

19 All right. It is 11:52. We are back to
20 the Commission meeting and the record is now open. The
21 discussion during closed session was limited to Agenda
22 Item No. 4, which is the continuation of De Novo Case No.
23 21324.

24 On Case No. 21324, is there a motion
25 containing -- I guess going -- I could state this better.

1 I would make a motion on the following
2 items:

3 1: That there was a question on whether
4 the notice was valid in this case.

5 Per 19.15.4.8 the requirements were met for
6 basic requirements of Notice.

7 There is also the issue of, then,
8 revocation of said Notice -- Compulsory Pooling, I'm
9 sorry, Orders. Those -- there was proper Notice
10 requirement per 19.15.4.8 and there was not enough
11 evidence that was supported at the hearing that those
12 Orders were entered into unlawfully, and therefore are not
13 revoked.

14 The next item was costs.

15 MR. MOANDER: Madam Chair, before I forget I was
16 just reminded politely we need a Motion to Reconvene and
17 to open session, and the discussion -- point out that only
18 matters subject to deliberations in this case were
19 discussed.

20 COMMISSION CHAIR SANDOVAL: I did say that
21 matters during the --

22 MR. MOANDER: Motion to Re-open.

23 COMMISSION CHAIR SANDOVAL: Then do I get to do
24 the whole song and dance again?

25 MR. MOANDER: Yes, you do, Madam Chair.

1 COMMISSION CHAIR SANDOVAL: Okay. That was a
2 trial run.

3 Okay. Is there a motion to re-open
4 session, and only matters in Case No. 21324 were discussed
5 during the closed session.

6 COMMISSIONER BLOOM: Madam Chair, I so move.

7 COMMISSIONER AMPOMAH: Madam Chair, I do second.

8 COMMISSION CHAIR SANDOVAL: Would you do a roll
9 call vote.

10 MR. MOANDER: Yes, Madam Chair.

11 Commissioner Ampomah.

12 COMMISSIONER AMPOMAH: Approved.

13 MR. MOANDER: Commissioner Bloom.

14 COMMISSIONER BLOOM: Approved.

15 MR. MOANDER: Madam Chair.

16 COMMISSION CHAIR SANDOVAL: Approved.

17 MR. MOANDER: The motion carried.

18 COMMISSION CHAIR SANDOVAL: Okay. Fabulous.

19 Well, I'm going to try to do this again,
20 and maybe I'll be better at it. We'll see.

21 I make a motion on the following items that
22 were disputed within Case No. 21324.

23 The first item was whether proper Notice
24 was given. Per 19.15.4.8 Mewbourne did meet the basic
25 requirements of a Notice and therefore proper Notice was

1 given to the applicant.

2 Regarding revocation of the Compulsory
3 Pooling Orders, the Notice requirements under 19.15.4.8
4 were met, and there was not sufficient evidence presented
5 at the hearing that the Orders were entered into
6 unlawfully, therefore the Orders are not revoked.

7 Regarding costs and whether they were
8 appropriate, the costs were deemed appropriate. There was
9 no evidence to refute the costs of the drilling and
10 plugging of the 10/15 2H and 2HY wells, therefore the
11 costs are appropriate.

12 The Compulsory Pooling Order and issues on
13 basically whether or not Mewbourne was allowed to move
14 forward without having a valid Compulsory Pooling Order,
15 through, you know, 70-2-17(C) Mewbourne was able to move
16 forward and drill the wells prior to having that Order;
17 however, if they move forward prior to having an Order,
18 Mewbourne does that on its own risk, and so the costs were
19 not -- should not have been allocated further.

20 On the next item, whether the 15/10 2H and
21 2HY wells constitute a substitute well, under 19.15.13.8
22 and 70-2-17(C), particularly the 19.15.13.8 only applies
23 to sites with Compulsory Pooling Orders, and because there
24 was no Compulsory Pooling Order at the time that the
25 wells, the 10/15 2H and 2HY wells were junked or when the

1 15/10 wells were staked, substitute wells are not allowed
2 and do not apply because there was not --

3 MR. MOANDER: Madam Chair, your audio broke up
4 there. You kind of froze in your... (Note: Pause.)

5 COMMISSION CHAIR SANDOVAL: Did I freeze? Can
6 you guys hear me?

7 MR. MOANDER: Sounds better now, Madam Chair.
8 We heard you maybe through the statement that substitute
9 wells maybe you would want to start there.

10 COMMISSION CHAIR SANDOVAL: For the substitute
11 wells under -- I turned my video off so hopefully it's
12 better.

13 Under 19.15.13.8, that only applies to
14 wells that have a Compulsory Pooling Order, and because
15 there was no valid Compulsory Pooling Order at the time
16 that the 10/15 wells were junked or when the 15/10 well
17 was initially staked, the provisions for allocating
18 substitute well costs are not appropriate.

19 Okay. So then as to the participation of
20 the applicant in the 15/10 wells, it was found that the
21 applicant received the elections letter and failed to make
22 a timely reply, and the submission of a check is not
23 adequate to show participation on its own.

24 Wrapping all of that up, the costs of the
25 10/15 junked wells should not have been allocated to the

1 applicant.

2 Is there a second on that very long motion?

3 MR. MOANDER: Madam Chair, one last item just to
4 make sure the motion is complete. Referring to the
5 re-opening of Cases 20580 and 20809, will the Commission
6 be reopening those cases?

7 COMMISSION CHAIR SANDOVAL: No.

8 MR. MOANDER: Okay. All right. Just wanted to
9 make sure that got in there.

10 COMMISSION CHAIR SANDOVAL: Thank you.

11 COMMISSIONER BLOOM: Madam Chair, I'll second
12 your motion.

13 COMMISSION CHAIR SANDOVAL: Thank you.

14 Is there any discussion from the
15 commissioners prior to voting on the motion?

16 COMMISSIONER BLOOM: None for me, Madam Chair.
17 Thank you.

18 COMMISSIONER AMPOMAH: Yeah, Madam Chair. A
19 quick one.

20 So with regards to the applicant
21 participation, you know I thought we discussed that
22 applicant had the option to go to the OCD --

23 MR. MOANDER: Dr. Ampomah, I would posit that
24 more as a question and not discussion of the deliberations
25 on the record, please.

1 COMMISSIONER AMPOMAH: Okay. Thank you.

2 COMMISSION CHAIR SANDOVAL: I think, you know,
3 I've laid out where the Commission landed on all the kind
4 of disparate items here that, and ultimately short of the
5 final decision, so I think the majority of my discussion
6 on this would have been stated within the motion.

7 Mr. Moander, after the motion and the
8 second, would you please do a roll call vote.

9 MR. MOANDER: Yes, Madam Chair.

10 Commissioner Ampomah.

11 COMMISSIONER AMPOMAH: Approved.

12 MR. MOANDER: Commissioner Bloom.

13 COMMISSIONER BLOOM: Approved.

14 MR. MOANDER: Madam Chair.

15 COMMISSION CHAIR SANDOVAL: Approved.

16 MR. MOANDER: The motion carries.

17 COMMISSION CHAIR SANDOVAL: Mr. Moander, are you
18 drafting the Order?

19 MR. MOANDER: Yes, Madam Chair, I will draft the
20 Order.

21 COMMISSION CHAIR SANDOVAL: And we will vote on
22 that final, or we will address that Final Order, what is
23 the next? Is it the 10th?

24 MR. MOANDER: I believe that's right, Madam
25 Chair.

1 COMMISSION CHAIR SANDOVAL: Okay.

2 MR. MOANDER: And just to clarify, you would
3 like that Order available for entry at the next OCC
4 meeting?

5 COMMISSION CHAIR SANDOVAL: Yes.

6 MR. MOANDER: All right. Thank you.

7 COMMISSION CHAIR SANDOVAL: All right. Well,
8 with that, why don't we break for lunch. It's 12:05 right
9 now. Come back at 1:00 o'clock and we will start with
10 Agenda Item No. 5, which is Case 21744.

11 MR. BRUCE: Thank you, Madam Chair.

12 (Time noted 12:05 p.m.)

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1 STATE OF NEW MEXICO)

2 : ss

3 COUNTY OF TAOS)

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5 REPORTER'S CERTIFICATE

6 I, MARY THERESE MACFARLANE, New Mexico Reporter
7 CCR No. 122, DO HEREBY CERTIFY that on Tuesday,
8 February 22, 2022 the proceedings in the above-captioned
9 matter were taken before me; that I did report in
10 stenographic shorthand the proceedings set forth herein,
11 and the foregoing pages are a true and correct
12 transcription to the best of my ability and control.

13 I FURTHER CERTIFY that I am neither employed by
14 nor related to nor contracted with (unless excepted by the
15 rules) any of the parties or attorneys in this case, and
16 that I have no interest whatsoever in the final
17 disposition of this case in any court.

18

/s/ Mary Macfarlane

19

20

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