



NEW MEXICO ENERGY, MINERALS
& NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION
2040 South Pacheco Street
Santa Fe, New Mexico 87505
(505) 827-7131

February 17, 1997

James Haas, Esq.
Ernest L. Carroll, Esq.
Losee, Carson, Haas & Carroll
P.O. Box 1720
Artesia, NM 88211-1720

William F. Carr, Esq.
Campbell, Carr, Berge & Sheridan, P.A.
P.O. Box 2208
Santa Fe, NM 87504-2208

RE: OCD Case No. 11713, Application of Bass Enterprises Production Co. and Santa Fe Energy
Company for rescission of Division Administrative Order No. NSL-3745

Dear Messrs. Haas and Carr:

Reference is made to the February 14, 1997, letter received from Mr. Carr which was copied to Mr. Haas.

The first issue needing resolution according to Mr. Carr's letter is whether Bass and Enron are entitled to have Order No. NSL-3745 set aside. The answer is YES if they can show that their correlative rights would be violated and NO if they cannot. Whether or not the objection was timely for administrative approval purposes affects only who has the burden of proof in the hearing on the merits. Mewbourne had the burden of proof of showing the unorthodox location is warranted in the administrative application process, which it met, and would also have had that burden in the hearing process if a timely objection was filed. Because the objection was late, which if timely would have resulted in setting the administrative application for hearing. Bass and Santa Fe have the burden of proof at the hearing as to why the unorthodox location should not have been approved (or in this case, should be rescinded).

The Division's authority to grant administrative approvals of unorthodox locations is discretionary and is not mandatory if objections are not received; likewise is its authority to rescind such approvals upon application of affected parties whether or not a timely objection was received during the administrative process. A hearing on the merits will be held to examine the issue of protection of correlative rights, if requested, with the burden of proof in such hearing assigned as stated above.

The issue of whether Order No. NSL-3745 should be rescinded is inseparable from the issue of

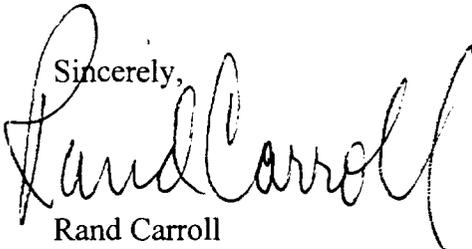
whether an approval of Mewbourne's proposed unorthodox location should be or should have been granted. The advertisement clearly gives notice of the same information that an "application for unorthodox location" sets forth and is therefor sufficient to hold a hearing on the merits. The Division can only determine the issue of whether or not the order should be rescinded based upon a hearing on the merits, the same type of hearing that would have been held if a timely objection had been filed. However, once again as stated above, the burden of proof has now shifted to the objecting part(ies).

The Division has already granted a motion to quash Mewbourne's subpoena for the production of documents from Bass and Santa Fe. A hearing on such motion would entail much of the same evidence as would occur at a hearing on the merits. Once again, and as stated in the letter granting that motion to quash, if at the hearing on the merits scheduled for February 20, 1997, Mewbourne can show the Examiner that the available information is insufficient for it to present its case, it can renew its request for that information at the hearing and the hearing can be postponed to allow the introduction of the additional evidence based upon that information.

In short, the Division intends to proceed to a hearing on the merits on February 20 and will resolve the issues of whether or not to rescind Order No. NSL-3745 and whether or not to require the production of non-public additional information at such hearing. Mewbourne's request for a bifurcated hearing is therefor denied. Order No. NSL-3745 is hereby stayed pending the Examiner decision in Case No. 11713.

If you have any questions, please call me at 505/827-8156.

Sincerely,

A handwritten signature in cursive script that reads "Rand Carroll". The signature is written in black ink and is positioned to the right of the word "Sincerely,".

Rand Carroll
Counsel

cc: William LeMay, Director
Michael Stogner, Examiner
David Catanach, Examiner

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OF COUNSEL
A. J. LOSEE

FAX TRANSMITTAL DATE:

2/14/97

PLEASE DELIVER THE FOLLOWING PAGE(S) TO:

NAME:

Mr. William J. Healy

OF:

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Ernest Carroll

RE:

11713

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February 14, 1997

VIA FACSIMILE

Mr. William J. LeMay
New Mexico Oil Conservation Division
2040 S. Pacheco
Santa Fe, New Mexico 87504

Re: Application of Bass Enterprises Production
Company and Santa Fe Energy Company for an
Order Rescinding Administrative Order NSL-
3745 and Staying the Drilling of the Subject
Well/Case No. 11713

Dear Mr. LeMay:

Enclosed herewith please find Bass' Prehearing Statement for the
above-referenced case set for February 20, 1997.

Very truly yours,

LOSEE, CARSON, HAAS & CARROLL, P.A.


Ernest L. Carroll

ELC:kth
Encl.

xc w/encl: Mr. William F. Carr (by facsimile)
Mr. J. Wayne Bailey, Bass Enterprises Production Co.

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

IN THE MATTER OF THE APPLICATION OF :
BASS ENTERPRISES PRODUCTION CO. AND :
SANTA FE ENERGY COMPANY FOR RESCISSION :
OF ORDER NSL-3745, EDDY COUNTY, NEW MEXICO : CASE NO. 11713

PREHEARING STATEMENT

This prehearing statement is submitted by BASS ENTERPRISES PRODUCTION CO. and SANTA FE ENERGY COMPANY as required by Oil Conservation Division.

APPEARANCES OF PARTIES

APPLICANT

Bass Enterprises Production Co.
and Santa Fe Energy Co.

Ernest L. Carroll
James E. Haas
Losee, Carson, Haas &
Carroll, P. A.
P.O. Box 1720
Artesia, NM 88211-1720

OPPOSITION

Mewbourne Oil Company

William F. Carr
Campbell, Carr, Berge & Sheridan
P.O. Box 2208
Santa Fe, NM 87504-2208

STATEMENT OF THE CASE

Bass and Santa Fe have filed an Application to Rescind Order NSL-3745, which order granted Mewbourne's administrative application for an unorthodox gas well location for its Scanlon Draw "35" State No. 1 Well 660' from the south line and 1980' from the west line of Section 35, Township 18 South, Range 28 East, N.M.P.M., Eddy County, New Mexico.

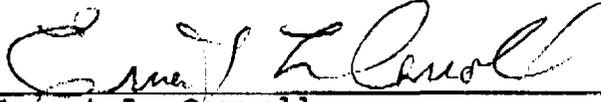
PROPOSED EVIDENCE

APPLICANT

WITNESSES	EST. TIME	EXHIBITS
J. Wayne Bailey, Land	1/4 hour	2
George Hellis, Geologist	1 1/4 hour	13
Terry Payne, Engineer	3/4 hour	6

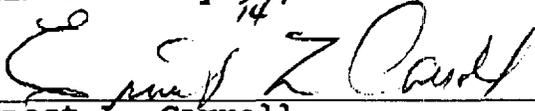
Respectfully submitted,

LOSEE, CARSON, HAAS & CARROLL, P.A.

By: 
 Ernest L. Carroll
 P. O. Box 1720
 Artesia, New Mexico 88211-1720
 (505)746-3505

Attorneys for Bass Enterprises Production Co.
and Santa Fe Energy Company

faxed I hereby certify that I caused to be
~~mailed~~ a true and correct copy of the
 foregoing to all counsel of record
 this February 14th, 1997.


 Ernest L. Carroll