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W. THOMAS KELLAHIN*

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RECOGNIZED SPECIALIST IN THE AREA OF
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JASON KELLAHIN (RETIRED 1991)

October 8, 1997

Mr. Michael E. Stogner
Oil Conservation Division
2040 South Pacheco
Santa Fe, New Mexico 87504

HAND DELIVERED

1997

Rand Carroll, Esq.
Oil Conservation Division
2040 South Pacheco
Santa FE, New Mexico 87504

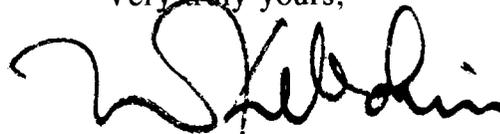
HAND DELIVERED

Re: MOTION TO QUASH MEWBOURNE'S SUBPOENA
NMOCD Case 11755 and Case 11723
Application of Fasken Oil and Ranch, Ltd.
Company for two alternate unorthodox well
locations and a non-standard gas proration
and spacing unit, Eddy County, New Mexico

Gentlemen:

On behalf of Fasken Oil and Ranch, Ltd. and Fasken Land and Minerals, Ltd. please find enclosed our Motion to Quash the subpoena issued at the request of Mewbourne Oil Company in the referenced cases.

Very truly yours,



W. Thomas Kellahin

cc: James Bruce, Esq.
Attorney for Mewbourne Oil Company
William F. Carr, Esq.
Attorney for Texaco, Inc.
Fasken Oil and Ranch, Ltd.
Attn: Sally Kvasnicka

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**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:**

1997

**APPLICATION OF FASKEN OIL AND
RANCH, LTD AND FASKEN LAND AND
MINERALS, LTD FOR A NON-STANDARD
GAS PRORATION AND SPACING UNIT AND
TWO ALTERNATIVE UNORTHODOX GAS WELL
LOCATIONS, EDDY COUNTY, NEW MEXICO.**

CASE 11755

**APPLICATION OF MEWBOURNE OIL COMPANY
FOR AND UNORTHODOX GAS WELL LOCATION,
EDDY COUNTY, NEW MEXICO**

CASE 11723

**FASKEN'S MOTION TO QUASH
SUBPOENA**

Fasken Oil and Ranch, Ltd. and Fasken Land and Minerals, Ltd. ("Fasken") by its attorneys, hereby moves the Division to quash the Subpoena Duces Tecum issued at the request of Mewbourne Oil Company ("Mewbourne") on October 3, 1997 and accepted on October 7, 1997 which commands Fasken to produce on October 9, 1997 the following documents:

"All seismic records in tape form, a shot point map and coverage plat along with interpretation of the data which relate to the two proposed well, insofar as such data pertains to the Cisco, Canyon and Morrow formations."

In support of its Motion to Quash, Fasken states:

(1) In Case 11755, Fasken is the operator of the proposed nonstandard spacing unit consisting of the southern 297.88 acres of Irregular Section 1, T21S, R25E and seeks approval of two alternate unorthodox well locations:

(a) The "Fasken" location is 750 feet from the West line of Section 1 which encroaches towards Irregular Section 2 operated by Penwell; and

(b) The "Mewbourne" location is 660 feet from the South line of Section 1 which encroaches towards Section 12 operated by Texaco.

(2) In Case 11723, Mewbourne is a non-operating working interest owner in a proposed nonstandard spacing unit consisting of the southern 297.88 acres of Irregular Section 1, T21S, R25E and seeks approval of an unorthodox gas well location ("the Mewbourne location") 660 feet from the South line of Section 1 which encroaches towards Section 12 operated by Texaco.

(3) These cases were consolidated for hearing before the Division

(4) Fasken introduced without objection at the Examiner hearing held on April 3, 1997 part of a 3-D seismic interpretation made by Fasken based upon seismic data owned by Matador Petroleum Corporation ("Matador") and licensed to Fasken within the southern portion of Irregular Section 1 which demonstrated the relative merits of the Fasken location when compared to the Mewbourne location and consisted of:

- (a) Fasken Exhibit 10: Shot point and coverage map
- (b) Fasken Exhibit 11: Top of Cisco Time Structure map
- (c) Fasken Exhibit 12: Third Bone Springs-Cisco Isochron
- (d) Fasken Exhibit 13: Cisco-Middle Morrow Shale Isochron
- (e) Fasken Exhibit 14: West/East seismic x-section line 70 thru Mewbourne location
- (f) Fasken Exhibit 15: South/North seismic x-section line 80 thru Fasken location, and
- (g) Fasken Exhibit 16: West/East seismic x-section line 84 thru Fasken location

(5) In addition Fasken used other seismic data, including the Matador seismic data, to locate certain faults in the Morrow which demonstrated that Mewbourne's proposed location was on the downthrown side of a fault and consisted of:

(a) Fasken Exhibit 3: Top of Morrow Structure map.

(6) The Matador "seismic data" which Mewbourne seeks is not owned by Fasken. It is owned by Matador and has been licensed to Fasken.

(7) Fasken has signed an agreement with Matador which precludes Fasken from disclosing the subject seismic data to Mewbourne or any other third party and is therefore unable to comply with this subpoena. **See Exhibit "A" attached.**

(8) Matador is the owner of the requested seismic data which is the confidential business information and the trade secrets of Matador.

(9) The data in question has a substantial economic value and Matador's desire to keep it a secret is reasonable under the circumstances.

(10) Matador's seismic data gives it an opportunity or advantage over competitors who seek to obtain the data without paying for it.

(11) Matador's seismic data if disclosed to Mewbourne will allow Mewbourne to gain valuable data at no cost and to use that data to unfairly compete with the parties who paid for the data.

(12) Matador's seismic data is worth in excess of \$50,000 and Matador and by letter dated February 28, 1997 Matador offered the seismic data to Mewbourne.¹ **See Exhibit "B" attached.**

(13) The other seismic data used by Fasken is publicly available seismic data which Mewbourne can purchase on its own.

¹ At a meeting held on February 26, 1997, Matador offered to license the seismic data to Mewbourne for \$50,000.00. That offer has been extended to Mewbourne several times on the same terms and Mewbourne has at all times refused to purchase the data.

**Motion to Quash Subpoena
Case Nos. 11755 and 11723
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(14) Mewbourne obviously does not need this data in preparation of this case because it has waited more than six months before seeking to obtain it.

(15) If Mewbourne now believes it needs this data, then it is free to purchase it from Matador.

(16) At the hearing held on April 3, 1997, Fasken's interpretation of the seismic data was introduced into evidence **without objection** by Mewbourne and after Mewbourne had a full and complete opportunity to cross-examine the witnesses who had utilized this seismic data. See Transcript page 199 (emphasis added).

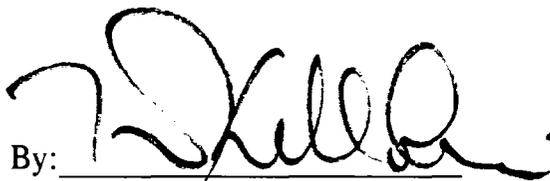
(17) The subpoena is unreasonable and should be quashed because:

(a) it constitutes an undue burden upon Fasken to devote considerable time, expense and effort for the collection and processing of data which is otherwise available to Mewbourne; and

(b) Mewbourne waived its opportunity to obtain this data when Fasken's interpretations of this data were admitted without objection at the examiner hearing.

Therefore, Fasken Oil and Ranch, Ltd. respectfully requests that the New Mexico Oil Conservation Division Quash the Subpoena issued at the request of Mewbourne.

KELLAHIN AND KELLAHIN

By: 

W. Thomas Kellahin
P.O. Box 2265
Santa Fe, New Mexico 87504
(505) 982-4285

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing pleading was transmitted by facsimile this 8th day of October, 1997 to the offices of:

James Bruce, attorney for Mewbourne Oil Company
William F. Carr, attorney for Texaco

A handwritten signature in cursive script, appearing to read "W. Carr", is written over a horizontal line. The signature is fluid and somewhat stylized.

MA. DOR PETROLEUM CORPORATION

415 W. WALL, SUITE 1101
MIDLAND, TX 79701
(915) 687-5955

December 5, 1994

Barbara Fasken
Attn: Sally Kvasnicka, Land Manager
Fasken Oil & Ranch Interests
303 W. Wall, Suite 1900
Midland, TX 79701-5116

Re: Eagle Prospect
Section 1, T21S, R25E
Eddy County, New Mexico

Dear Ms. Kvasnicka:

Pursuant to our Seismic Farmout Agreement with you, we have completed our 3-D seismic program over the captioned acreage and are currently in possession of the final processed data. Enclosed are copies of such data for your review.

This data is for the sole use and benefit of Fasken Oil & Ranch Interests and is not to be distributed to any third party without the previous written consent of Matador Petroleum.

If you have any questions or would like to discuss the interpretation of this data, please contact me at the above address. If you have any questions regarding our agreement or our development plans in the area, please do not hesitate to contact Barry Osborne, our Land Manager in our Dallas office, at (214) 373-8793.

Please acknowledge your receipt of this data by signing the letter in the space provided below and returning a copy to me at the above address for our records. We look forward to working with you on this project.

Sincerely,

Louis L. Lint

Louis L. Lint
Staff Geophysicist

LLL/pl
Enclosure

RECEIVED this 7th day of December, 1994.

By: *Joseph J. Fargy*
Title: *Chief Geophysicist*

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MATADOR PETROLEUM CORPORATION

SUITE 158, PECAN CREEK
8340 MEADOW ROAD
DALLAS, TEXAS 75231-3751
(214) 987-3650
FAX: (214) 691-1415

February 28, 1997

Mr. Steve Cobb
Mewbourne Oil Company
500 West Texas, Suite 1020
Midland, TX 79701

Via Fax & Mail

Re: Election to Participate
Mewbourne's Proposed Catclaw Draw
"1" Federal #1 Well
2310' FEL and 660' FSL
Section 1, T21S, R25E
Eddy County, NM

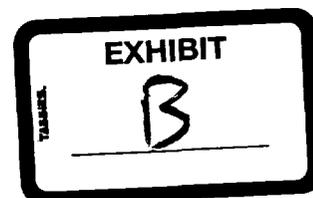
Dear Steve:

Matador Petroleum Corporation has received Mewbourne Oil Company's letter dated January 20, 1997, which proposed the referenced well to be drilled at an unorthodox location and dedicated to a 297.88 acre non-standard gas proration and spacing unit consisting of the southern portion of Section 1 for the production from the Catclaw Draw-Morrow Gas Pool, Eddy County, New Mexico ("Mewbourne Location"). Matador is also in receipt of a well proposal from Fasken Oil and Ranch, Ltd. for a well to be located 2080' FSL and 750' FWL of Section 1, T21S, R25E, Eddy County, New Mexico, to be dedicated to the same non-standard spacing unit proposed by Mewbourne ("Fasken Location").

Matador has concluded the Fasken Location is better situated for the geological potential in this section, however, in order to preserve our right to participate in the Mewbourne Location in the event that such location prevails in the current on-going discussions, Matador formally elects to participate in your well proposal. Matador specifically reserves its right to protest the Mewbourne Location in any hearing conducted before the New Mexico Oil Conservation Division and to support the Fasken Location should any election between the two arise. Matador also reserves the right to protest Mewbourne's status to request an unorthodox well location before the New Mexico Oil Conservation Division as a non-operator of the unit. Our seismic data, which has been offered to you, indicates your prospect location is on the down-dip side of a fault. We are having trouble understanding why you do not wish to take this information into account.

Further, Section 31 of the Joint Operating Agreement, provides that "no well shall be drilled on the unit area for the joint account until both operator and each working interest owner have

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Mr. Steve Cobb
February 28, 1997
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approved title to the land upon which the well is to be drilled...". Our review of the title situation as well as the ownership as set forth in the Joint Operating Agreement indicates that there are some title issues that are yet to be resolved due to the complicated nature of the beneficial interest unit, as well as the nature of the transactions that have taken place in acquiring title to the various interests in this section. We, therefore, do not approve title and object to any party proceeding with the drilling of a well until our concerns to title have been satisfied and we have received and approved a specific title opinion addressing these concerns.

If you have any questions, please do not hesitate to give me a call. We want to see a well drilled in this area and hope that we can work out a well proposal that is agreeable to everyone and is the best possible location.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Barry Osborne', with a horizontal line extending to the right from the end of the signature.

C. Barry Osborne

CBO/dm

cc: W.I. Owners