NEW MEXICO ENERGY, MINERALS
& NATURAL RESOURCES DEPARTMENT

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

March 4, 1997

Mewbourne Oil Company
Attn: James Bruce
P. O. Box 1056
Santa Fe, New Mexico 87504

Telefax No. (505) 982-2151

Fasken Oil and Ranch, Ltd.
Kellahin and Kellahin
Attn: W. Thomas Kellahin
P. O. Box 2265
Santa Fe, New Mexico 87504

Telefax No. (505) 982-2047

Re: *Case No. 11,723, Application of Mewbourne Oil Company for authorization to drill a well at an unorthodox gas well location 660' FSL & 2310' FEL (Lot 31-Unit W) of irregular Section 1, Township 21 South, Range 25 East, N.M.P.M. Catclaw Draw-Morrow Gas Pool and to dedicate said well to a non-standard 297.88-acre gas spacing and proration unit to comprise Lots 29, 30, 31, and 32 and the SW/4 (S/2 equivalent) of said Section 1*

Dear Messrs. Bruce and Kellahin:

Reference is made to: **(i)** Fasken Oil & Ranch, Ltd.'s request for continuance in the above-referenced case from the March 6, 1997 hearing to the hearing scheduled for April 3, 1997; **(ii)** Mr. Bruce's letter in response thereto dated March 3, 1997; **(iii)** Fasken's motion to dismiss Case No. 11,723 dated March 4, 1997; and, **(iv)** to Mr. Bruce's response "faxed" on March 4, 1997. Postponement for four weeks is not an unreasonable request since a similar application by Fasken to drill its proposed Avalon "1" Federal Com Well No. 2 on the same acreage at an unorthodox gas well location 2080' FSL & 750' FWL (Unit S) of said Section 1 is scheduled for hearing at that time. At the April 3, 1997 hearing the Division will also hear the evidence discussed in Fasken's motion to dismiss.

Therefore, a continuance of Case 11,723 to the April 3, 1997 docket is hereby approved and Fasken's motion to dismiss is denied at this time.

Sincerely,

Michael E. Stogner
Chief Hearing Officer/Engineer

cc: Oil Conservation Division - Artesia
William J. LeMay, Director - OCD, Santa Fe
Rand Carroll, Counsel - OCD, Santa Fe
File: Case 11,723
Fasken Oil & Ranch, Ltd. Case File

JAMES BRUCE
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March 4, 1997

Case 11755

Via Fax

Michael E. Stogner
New Mexico Oil Conservation Division
2040 South Pacheco Street
Santa Fe, New Mexico 87505

Re: Case 11723; Application of Mewbourne Oil Company ("Mewbourne") for an unorthodox gas well location and a non-standard gas proration unit

Mewbourne's proposed Catclaw Draw "1" Fed. Well No. 1
660 feet FSL & 2310 feet FEL
S½ of Section 1, Township 21 South, Range 25 East
Eddy County, New Mexico

Dear Mr. Stogner:

This letter is Mewbourne's response in opposition to Fasken Oil & Ranch, Ltd.'s ("Fasken") Motion to Dismiss. In its Request for Continuance, filed February 27th, Fasken took the position that both the Mewbourne and Fasken applications were valid, and that "approval of one case will result in the denial of the other case." **Request for Continuance, ¶(6).** Now, realizing that assertion is incorrect, Fasken changes gears and requests a dismissal to escape its duty to drill Mewbourne's proposed well. The Motion must be denied, for the following reasons:

1. The Operating Agreement ("JOA") only gives Fasken the right to conduct operations "on the Unit Area." **See Motion to Dismiss, ¶(5).** Thus, Fasken, provided it elects to participate in the cost and risk of drilling and completing a well, has the right and obligation to drill and operate the well, but does not have absolute control over the filing of regulatory applications. Indeed, if Fasken elects not to participate in the well, or repudiates a prior election to participate, it would have no role in the regulatory process.

2. The JOA does not prohibit a working interest owner from

seeking regulatory approvals for a proposed well, and thus Mewbourne's application is permissible.

3. In ¶(9) of its Motion, Fasken attributes language to the JOA which simply does not exist. Once a well proposal is made, the JOA provides for the drilling of that well in a timely manner. Thus, while nothing precludes a second well proposal, the first proposal has priority.

4. Fasken discusses title issues in ¶(12) of its Motion. However, those issues have nothing to do with who may apply to the Division for approval of an unorthodox well location.[1]

5. Mewbourne made a valid well proposal under the JOA, and has the right to seek all necessary approvals therefor. Obviously, Fasken will not seek approval of Mewbourne's well location. To grant Fasken's Motion grants an operator a veto over any well proposal, which is contrary to the JOA. Therefore, in order to protect its interests, Mewbourne must be allowed to proceed with its application, especially since it appears that Fasken may have repudiated its previously announced election to participate in Mewbourne's well proposal.

For the foregoing reasons, Mewbourne requests that Fasken's Motion to Dismiss be denied. Because of witness travel arrangements, Mewbourne requests a decision on Fasken's Motion as soon as possible. Thank you.

Very truly yours,

James Bruce

James Bruce

Attorney for Mewbourne Oil Company

cc: Rand Carroll (via fax)
W.Thomas Kellahin (via fax)
William F. Carr (via fax)
Ralph Moore (via fax)

[1]In addition, Matador reserved the right to object to Mewbourne's application; it has not yet objected thereto.