

**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:**

**CASE NO. 13492
ORDER NO. R-12343**

**APPLICATION OF MEWBOURNE OIL COMPANY FOR CANCELLATION OF
A DRILLING PERMIT AND APPROVAL OF A DRILLING PERMIT, LEA
COUNTY, NEW MEXICO.**

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing of Applicant's Application for Emergency Order on May 3, 2005, at Santa Fe, New Mexico, before Division Director, Mark E. Fesmire, P.E.

NOW on this 5th day of May, 2005, the Division Director, having reviewed the papers filed in this matter and considered the arguments of counsel,

FINDS THAT;

(1) Due notice has been given, and the Division has jurisdiction of the parties to this case and of the subject matter.

(2) In its application in this case, **Mewbourne** Oil Company (Applicant) asks the Division to cancel its approval of an Application for Permit to Drill (APD) issued to Chesapeake Operating, Inc. (Chesapeake) for its proposed **KF 4** State Well No. 1 (API No. 30-025-37129), located 660 feet from the South line and 990 feet from the East line of Section 4, Township 21 South, Range 35 East, **NMPM**, in Lea County, New Mexico, and to approve **Applicant's** APD for its proposed **Osudo 4** State Com. Well No. 1, to be located in the same section, 660 feet from the South line and 1650 feet from the East line thereof.

(3) In its Application for Emergency Order, Applicant alleges that Chesapeake owns no interest in the drill site of its KF 4 State Well No. 1; but has nevertheless commenced the drilling of said well without first securing either voluntary or compulsory pooling of such tract with any tract in which Chesapeake has an ownership interest. Applicant accordingly seeks an emergency order halting the drilling of the KF 4 State No. 1 pending the hearing of this case on the merits.

(4) The following facts are apparently undisputed:

(a) Section 4 of Township 21 South, Range 35 East, NMPM, is an irregular section consisting of approximately 960 acres.

(b) Chesapeake owns no interest in the tract on which its KF 4 State Well No. 1 well is located. It may have some rights based upon approval of an Authority for Expenditure (AFE) for the well by another working interest owner, but such AFE was not circulated pursuant to an operating agreement, and Chesapeake does not premise its position on this AFE approval. Chesapeake instead premises its position on the Division's approval of its APD.

(c) Chesapeake is the owner of a working interest in a tract in the west half of said Section 4 that could be pooled with the drill site tract to form a standard lay-down 320-acre spacing unit consisting of the geographical south 1/3 of irregular Section 4. However, no voluntary agreement or compulsory pooling order creating such a unit exists.

(d) Applicant is the owner of a working interest in the drill site tract and is a party to an operating agreement to which Chesapeake is not a party covering acreage that could constitute a standard stand-up 320 acre unit in the east part of irregular Section 4 that would include the drill site tract of the KF-4 State No. 1 well, as well as the proposed drill site of Applicant's Osudo 4 State Com. Well No. 1.

(e) The Division approved Chesapeake's APD for its KF-4 State Well No. 1 on March 11, 2005. Applicant subsequently filed an AFE for its proposed Osudo 4 State Com. Well No. 1. Either location would constitute a standard location for a Morrow well. However, because Applicant proposed a location in the same quarter section as that proposed in Chesapeake's previously approved APD, Applicant's APD was denied.

(f) On or about April 24, 2005, Chesapeake commenced drilling its KF-4 State Well No. 1.

(5) Although Applicant proposed a different location for its well, it did not offer any evidence tending to show that its proposed location would more effectively develop either a stand-up or a lay-down unit than would the location at which Chesapeake has commenced its well. Absent such a showing the Division cannot conclude that Applicant's correlative rights will be irreparably infringed.

(6) Instead Applicant premised its plea for an emergency order upon its contention that the Division's approval of Chesapeake's APD did not give Chesapeake the right to drill a well on land where it did not have an ownership interest prior to securing either voluntary or compulsory pooling.

(7) The jurisdiction of the Division, however, is limited to matters involving correlative rights, prevention of waste and protection of public health, safety and the environment. Applicant made no showing that the cancellation of Chesapeake's APD prior to hearing of the merits of this application is necessary to prevent injury to the correlative rights of any party, prevent waste, nor protect human health, safety or the environment.

(8) Absent a showing of irreparable harm with respect to a right or interest that the Division has jurisdiction to address, the Division should not grant an interim emergency order prior to hearing the case on its merits.

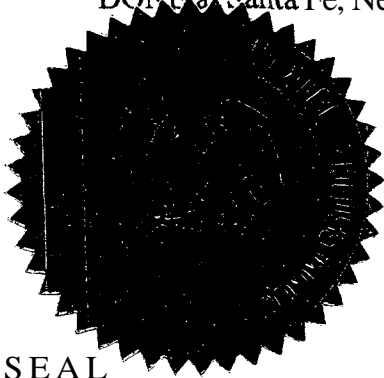
IT IS THEREFORE ORDERED THAT ;

(1) The Application of Mewbourne Oil Company for Emergency Order is denied.

(2) Jurisdiction of this case is retained for the entry of such further orders as the Division may deem necessary.

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DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.



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MARK E. FESMIRE, P.E.
Director