

**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. 15082
ORDER NO. R-13831**

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

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on January 23, 2014, and on April 3, 2014, at Santa Fe, New Mexico, before Examiner Richard I. Ezeanyim.

NOW, on this 9th day of May, 2014, the Division Director, having considered the testimony, the record and the recommendations of the Examiner,

FINDS THAT:

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

(2) Mewbourne Oil Company ("Applicant" or "Mewbourne"), seeks an order pooling all uncommitted interests in the Wolfcamp formation, South Culebra Bluff-Wolfcamp Gas Pool, underlying the W/2 of Section 35, Township 23 South, Range 28 East, NMPM, Eddy County, New Mexico, to form a standard 320-acre, more or less, gas spacing and proration unit (the "Unit").

(3) The above-described Unit will be dedicated to the Applicant's Layla 35 MD Fee Well No. 2H (API No. 30-015-41730; the "proposed well"), a horizontal well to be drilled from a surface location 150 feet from the South line and 660 feet from the West line (Unit letter M) of Section 35 to a terminus or bottomhole location 330 feet from the North line and 660 feet from the West line (Unit letter D) of Section 35

(4) In addition, Applicant seeks approval to locate its Layla 35 MD Fee Well No. 2H at an unorthodox well location 150 feet from the South line and 660 feet from the

West line (Unit letter M) of Section 35. The completed interval of the horizontal well is to have a penetration point of 330 feet from the South line and 660 feet from the West line (Unit letter M) of Section 35 while the terminus is to be 330 feet from the North line and 660 feet from the West line (Unit letter D) of Section 35. The proposed completed interval of the well is unorthodox.

(5) The proposed gas well is within the South Culebra Bluff-Wolfcamp Gas Pool (pool code: 75750), which is governed by statewide Rule 19.15.15.9A. NMAC, and provides for 320-acre gas proration units with wells to be located no closer than 660 feet from a unit outer boundary.

(6) Applicant appeared at the hearing through counsel and presented land and geologic evidence to the effect that:

- (a) application was made to the Division for administrative approval of the unorthodox locations. Division issued Administrative Order No. NSL-6980 on December 26, 2013, which addressed the location of the proposed well and completed interval that was closer than the standard setback to the Unit boundary;
- (b) the proposed orientation of the horizontal well South to North or North to South is appropriate for the development of the Wolfcamp formation in this area;
- (c) Applicant completed additional notifications by publication in local newspapers due to several unlocatable interests within the Unit; and
- (d) granting of the application for compulsory pooling will not impair correlative rights, will conserve resources and will prevent waste

(7) The Gregory and Ervin Group which represents mineral interest owners appeared at the hearing *per se* and cross-examined Applicant's witnesses, but did not oppose the application. No other party appeared at the hearing, or otherwise opposed the granting of this application.

(8) Cross-examination conducted by the Gregory and Ervin Group related to the status of mineral interest owners, escrow accounting for unleased owners, and proposed contract terms between Applicant and mineral interest owners. No technical evidence regarding the application was offered by the Gregory and Ervin Group.

The Division concludes that:

(9) Approval of the proposed unorthodox location under this application is not required since Administrative Order No. NSL-6980 approved the non-standard location

of the proposed well. Therefore, the portion of the application seeking an unorthodox well location approval should be dismissed.

(10) Two or more separately owned tracts are embraced within the Unit, and/or there are royalty interests and/or undivided interests in oil and gas minerals in one or more tracts included in the Unit that are separately owned.

(11) Applicant is owner of an oil and gas working interest within the Unit. Applicant has the right to drill and proposes to drill the proposed well to a common source of supply within the Unit at the proposed location.

(12) There are interest owners in the Unit that have not agreed to pool their interests.

(13) To avoid the drilling of unnecessary wells, protect correlative rights, prevent waste and afford to the owner of each interest in the Unit the opportunity to recover or receive without unnecessary expense its just and fair share of hydrocarbons, this application should be approved by pooling all uncommitted interests, whatever they may be, in the oil and gas within the Unit.

(14) Mewbourne should be designated the operator of the proposed well and the Unit.

(15) Any pooled working interest owner who does not pay its share of estimated well costs should have withheld from production its share of reasonable well costs plus an additional 200% thereof as a reasonable charge for the risk involved in drilling the proposed well.

(16) Reasonable charges for supervision (combined fixed rates) should be fixed at \$7,000 per month while drilling and \$700 per month while producing, provided that these rates should be adjusted annually pursuant to Section III.1.A.3. of the COPAS form titled "*Accounting Procedure-Joint Operations*."

(17) Testimony presented by the Gregory and Ervin Group involved contractual issues between operator and mineral interest owners. The Division is not authorized to negotiate contract terms between applicant and interest owners. These issues exceed the authority of the Division under Rule 19.15.13 NMAC.

IT IS THEREFORE ORDERED THAT:

(1) Pursuant to the application of Mewbourne Oil Company, all uncommitted interests, whatever they may be, in the oil and gas in the Wolfcamp formation, South Culebra Bluff-Wolfcamp Gas Pool (pool code: 75750), underlying the W/2 of Section 35, Township 23 South, Range 28 East, NMPM, Eddy County, New Mexico (the "Unit"), are hereby pooled.

(2) Applicant has been issued Division Order NSL-6890 for approval of the non-standard locations of the proposed well. Therefore, Applicant's request for approval of an unorthodox well location in this application is **dismissed**.

(3) The Unit shall be dedicated to the Applicant's **Layla 35 MD Fee Well No. 2H** (API No. 30-015-41730; the "proposed well") to be drilled at an unorthodox well location 150 feet from the South line and 660 feet from the West line (Unit letter M) of Section 35. The completed interval of the horizontal well is to have a penetration point of 330 feet from the South line and 660 feet from the West line (Unit letter M) of Section 35 while the terminus is to be 330 feet from the North line and 660 feet from the West line (Unit letter D) of Section 35.

(4) The operator of the Unit shall commence drilling the proposed well on or before May 31, 2015, and shall thereafter continue drilling the proposed well with due diligence to test the Wolfcamp formation.

(5) In the event the operator does not commence drilling the proposed well on or before May 31, 2015, Ordering Paragraph (1) shall be of no effect, unless the operator obtains a time extension from the Division Director for good cause demonstrated by satisfactory evidence.

(6) Should the proposed well not be drilled and completed within 120 days after commencement thereof, then Ordering Paragraph (1) shall be of no further effect, and the unit and project area created by this order shall terminate, unless operator appears before the Division Director and obtains an extension of the time for completion of the proposed well for good cause shown by satisfactory evidence.

(7) Upon final plugging and abandonment of the proposed well and any other well drilled on that Unit pursuant to Division Rule 19.15.13.9 NMAC, the Unit created by this Order shall terminate, unless this Order has been amended to authorize further operations.

(8) Mewbourne Oil Company (OGRID 14744) is hereby designated the operator of the well and the Unit.

(9) After pooling, uncommitted working interest owners are referred to as pooled working interest owners. ("Pooled working interest owners" are owners of working interests in the Unit, including unleased mineral interests, who are not parties to an operating agreement governing the Unit.) After the effective date of this order, the operator shall furnish the Division and each known pooled working interest owner in the Unit an itemized schedule of estimated costs of drilling, completing and equipping the proposed well ("well costs").

(10) Within 30 days from the date the schedule of estimated well costs is furnished, any pooled working interest owner shall have the right to pay its share of estimated well costs to the operator in lieu of paying its share of reasonable well costs out

of production as hereinafter provided, and any such owner who pays its share of estimated well costs as provided above shall remain liable for operating costs but shall not be liable for risk charges. Pooled working interest owners who elect not to pay their share of estimated well costs as provided in this paragraph shall thereafter be referred to as "non-consenting working interest owners."

(11) The operator shall furnish the Division and each known pooled working interest owner (including non-consenting working interest owners) an itemized schedule of actual well costs within 90 days following completion of the proposed well. If no objection to the actual well costs is received by the Division, and the Division has not objected, within 45 days following receipt of the schedule, the actual well costs shall be deemed to be the reasonable well costs. If there is an objection to actual well costs within the 45-day period, the Division will determine reasonable well costs after public notice and hearing.

(12) Within 60 days following determination of reasonable well costs, any pooled working interest owner who has paid its share of estimated costs in advance as provided above shall pay to the operator its share of the amount that reasonable well costs exceed estimated well costs and shall receive from the operator the amount, if any, that the estimated well costs it has paid exceed its share of reasonable well costs.

(13) The operator is hereby authorized to withhold the following costs and charges from production from each well:

- (a) the proportionate share of reasonable well costs attributable to each non-consenting working interest owner; and
- (b) as a charge for the risk involved in drilling the well, 200% of the above costs.

(14) The operator shall distribute the costs and charges withheld from production, proportionately, to the parties who advanced the well costs.

(15) Reasonable charges for supervision (combined fixed rates) for the well are hereby fixed at \$7,000 per month while drilling and \$700 per month while producing, provided that these rates shall be adjusted annually pursuant to Section III.1.A.3. of the COPAS form titled "*Accounting Procedure-Joint Operations*." The operator is authorized to withhold from production the proportionate share of both the supervision charges and the actual expenditures required for operating the well, not in excess of what are reasonable, attributable to pooled working interest owners.

(16) Except as provided in Paragraphs (13) and (15) above, all proceeds from production from the proposed well that are not disbursed for any reason shall be held for the account of the person or persons entitled thereto pursuant to the Oil and Gas Proceeds Payment Act (NMSA 1978 Sections 70-10-1 through 70-10-6, as amended). If not

disbursed, such proceeds shall be turned over to the appropriate authority as and when required by the Uniform Unclaimed Property Act (NMSA 1978 Sections 7-8A-1 through 70-8A7-8A-28, as amended).

(17) Any unleased mineral interests shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for the purpose of allocating costs and charges under this order. Any well costs or charges that are to be paid out of production shall be withheld only from the working interests' share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

(18) Should all the parties to this compulsory pooling order reach voluntary agreement subsequent to entry of this Order, this order shall thereafter be of no further effect.

(19) The operator of the well and Unit shall notify the Division in writing of the subsequent voluntary agreement of all parties subject to the compulsory pooling provisions of this Order.

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

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



STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

JAMI BAILEY
Director