

**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. 15512
ORDER NO. R-14221**

**APPLICATION OF MEWBOURNE OIL COMPANY FOR APPROVAL OF A
NON-STANDARD OIL SPACING AND PRORATION UNIT AND
COMPULSORY POOLING, EDDY COUNTY, NEW MEXICO**

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on July 21, 2016, at Santa Fe, New Mexico, and again on August 4, 2016 before Examiner Michael A. McMillan, and again on September 15, 2016, before Examiner Phillip R. Goetze.

NOW, on this 2nd day of February, 2017, 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 approval of a 159.59-acre, more or less, non-standard oil spacing and proration unit and project area (the "Unit") for oil and gas production from the Brushy Canyon formation, Loving; Brushy Canyon, East (Pool code: 40350), comprising Lot 2, SW/4 NE/4 and W/2 SE/4 of Section 3, Township 24 South, Range 28 East, NMPM, Eddy County, New Mexico. Applicant further seeks an order pooling all uncommitted interests in the Unit for the Brushy Canyon formation.

(3) The Unit will be dedicated to the Applicant's Yardbirds 3 D3BO Fee Well No. 1H (the "subject well"; API No. 30-015-42948), a horizontal well drilled from a surface location 185 feet from the North line and 2050 feet from the East line (Lot 2) of Section 3, Township 24 South, Range 28 East to a terminus or bottom hole location 330

feet from the South line and 2050 feet from the East line (Unit O) of Section 3. The completed interval of the subject well in the Brushy Canyon formation is orthodox.

(4) The subject well is within the Loving; Brushy Canyon, East Pool (pool code 40350), and is subject to Division Rule 19.15.15.9(A) NMAC, which provides for 330-foot setbacks from the unit boundaries and standard 40-acre units each comprising a governmental quarter-quarter section. The proposed Unit and project area consists of four adjacent quarter-quarter sections oriented north to south.

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

- (a) The Brushy Canyon formation in this area is suitable for development by horizontal drilling;
- (b) the subject well has been drilled and completed;
- (c) Each quarter-quarter section in the proposed unit can be expected to contribute more or less equally to production from the Brushy Canyon formation.
- (d) notice was provided for compulsory pooling within the Unit to all locatable interest owners subject to pooling proceedings; and
- (e) notice was provided for formation of the non-standard spacing unit to lessees or operators of surrounding tracts;

(6) No other party appeared at the hearing, or otherwise opposed the granting of this application.

The Division concludes that:

- (7) The non-standard spacing and proration unit should be approved.

(8) Subsequent to the hearing, the Applicant filed as drilled Division Form C-102 and C-104 which stated that the bottom hole location was located 336 feet from the South line and 2013 feet from the East line, (Unit O) of Section 3. This revised bottom hole location is an orthodox location; therefore, no notification for non-standard location is required. Further, the as drilled C-102 states that the non-standard project area is 160.07 acres.

(9) 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.

(10) Applicant is owner of an oil and gas working interest within the Unit. Applicant has the right to drill and has drilled the subject well to a common source of supply within the Unit at the described location.

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

(12) 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.

(13) Mewbourne should be designated the operator of the subject well and the Unit.

(14) 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 subject well.

(15) Reasonable charges for supervision (combined fixed rates) should be fixed at \$7,500 per month while drilling and \$750 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."

IT IS THEREFORE ORDERED THAT:

(1) A non-standard 160.07-acre, more or less, oil spacing and proration unit is hereby established for oil production from the Brushy Canyon formation, Loving; Brushy Canyon, East Pool (pool code 40350) consisting of Lot 2, SW/4 NE/4, and the W/2 SE/4 of Section 3, Township 24 South, Range 28 East, NMPM, Eddy County, New Mexico.

(2) Pursuant to the application of Mewbourne Oil Company, all uncommitted interests, whatever they may be, in the oil and gas in the Brushy Canyon formation underlying the Unit, are hereby pooled.

(3) The Unit shall be dedicated to the Applicant's Yardbirds 3 D3BO Fee Well No. 1H (the "subject well"; API No. 30-015-42948), a horizontal well drilled from a surface location 185 feet from the North line and 2050 feet from the East line (Lot 2) of Section 3, Township 24 South, Range 28 East, to a terminus or bottom hole location 336 feet from the South line and 2013 feet from the East line (Unit O) of Section 3. The completed interval of the subject well is located at an orthodox location.

(4) Upon final plugging and abandonment of the subject 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.

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

(6) 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 subject well ("well costs").

(7) Within 30 days from the date the schedule of actual 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."

(8) 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 issuance of the order. 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.

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

(10) 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.

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

(12) Reasonable charges for supervision (combined fixed rates) for the well are hereby fixed at \$7,500 per month while drilling and \$750 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.

(13) Except as provided in Paragraphs (10) and (12) above, all proceeds from production from the subject 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-31, as amended).

(14) 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.

(15) 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.

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

(17) Jurisdiction of this case is retained for the entry of such further Order 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

David R. Catanach

DAVID R. CATANACH
Director

S E A L