

STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DIVISION
OIL CONSERVATION DIVISION

2015 JUL 12 P 4:43

APPLICATION OF MATADOR PRODUCTION
COMPANY FOR A NON-STANDARD SPACING
AND PRORATION UNIT AND COMPULSORY
POOLING, LEA COUNTY, NEW MEXICO.

Case No. 15363

MOTION FOR CONTINUANCE

Jalapeno Corporation and Yates Energy Corporation ("Jalapeno") by and through counsel the Gallegos Law Firm, P.C., requests that the Division enter its order continuing the hearing on the application in this case currently scheduled for August 20, 2015. As grounds for this Motion, Jalapeno states as follows:

1. This case was filed by applicant Matador Production Company on July 21, 2015. Matador requested that the hearing be set for August 20, 2015.
2. Matador seeks approval of a non-standard oil spacing unit in the Wolfcamp formation comprised of four separate lots in the W/2 W/2 of Section 31, T-18-S, R-35-E, Lea County, New Mexico. Matador seeks to pool all mineral interest owners in order to drill the Airstrip 31 18 35 RN State Com. Well No. 201H to "a depth sufficient to test the Wolfcamp formation." Jalapeno owns working interests affected by the compulsory pooling application.
3. Jalapeno received a copy of Matador's compulsory pooling application on August 5, 2015. Jalapeno retained undersigned counsel after it received the application, but will not have sufficient time to prepare for the August 20 hearing in light of the short notice provided by Matador. This case involves complex issues that make this far from a routine proceeding.

4. Jalapeno essential witness Emmon Yates cannot be available on August 20, 2015. Jalapeno has not had an opportunity to retain expert witnesses who will be required to present geological and engineering testimony in this proceeding.

5. Matador has refused Jalapeno's counsel's request to consent to a continuance on the grounds that related discussions have been ongoing between the parties since March 2015. Such discussions are of course required by a party prior to initiating a compulsory pooling application and do not justify scheduling a hearing which does not provide an affected party with adequate notice and opportunity to prepare. *Uhden v. New Mexico Oil Conservation Commission*, 1991-NMSC-089, ¶ 10, 112 N.M. 528.

6. Prior to receipt of Matador's application, Jalapeno believed the parties were still involved in good faith negotiations. While Matador had threatened Jalapeno with a force pooling application, Jalapeno had no idea whether or when to expect such an application would be filed. Conversely, Matador has had abundant time to prepare for the hearing given that it knew when it would file the application. Unlike Jalapeno, Matador has had ample time to prepare witnesses and exhibits for the hearing. See letter from Matador counsel Jim Bruce, attached as Exhibit A, indicating that Matador has already retained "several technical experts" who plan to testify at the hearing. Matador is attempting to gain an unfair advantage in this proceeding by scheduling the hearing on such short notice.

7. This case raises several important issues which need to be fully developed in order for the Division to conduct a meaningful hearing, including:

- (a) Whether Matador has made sufficient effort to secure voluntary participation where Jalapeno consented to a prior Heyco (now Matador) proposal for a Bone Spring well covering the same acreage, which proposal was abruptly withdrawn and replaced with the present far more costly Wolfcamp proposal, and in light of the current state of negotiations between the parties;
- (b) Why Matador's proposed costs for drilling the well are unreasonably high;
- (c) Whether Matador's request for a 200% risk penalty is warranted under the facts;
- (d) Whether OCD Order No. R-11992, which adopted Rule 19.15.1.35 NMAC (now Rule 19.15.13.8—Charge for Risks), and which in turn adopted a blanket 200% risk factor in compulsory pooling applications and unlawfully imposed the burden of proof on an opponent of a compulsory pooling application to justify a different risk factor, is in violation of the legislative mandate set forth in NMSA 1978 § 70-2-17 and contrary to the standard burden of proof rules which are typically imposed on the movant in any proceeding;
- (e) Whether the Division has the authority under the current statutes, rules and regulations to approve Matador's compulsory pooling application for a requested project area non-standard oil spacing and proration unit that comprises four (4) complete, contiguous and existing spacing units for a horizontal well in the Wolfcamp formation;

8. Many, if not most of the documents relevant to these issues are in the possession, custody and control of Matador. Jalapeno will submit a Request for Subpoena to the Division to secure the necessary documents from Matador.

9. There is no policy or business justification for a Division hearing on such short notice which deprives affected parties of the due process opportunity to adequately prepare and present evidence and argument on the issues raised by the application.

WHEREFORE, Jalapeno requests that the Division vacate the August 20, 2015 hearing on Matador's application and reschedule the hearing at a time that allows adequate preparation and investigation and that is mutually convenient to all parties.

Respectfully submitted,

GALLEGOS LAW FIRM, P.C.

By


J.E. GALLEGOS
MICHAEL J. CONDON

460 St. Michael's Drive, Bldg. 300
Santa Fe, New Mexico 87505
(505) 983-6686

*Attorneys for Jalapeno Corporation and Yates
Energy Corporation*

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served on counsel of record by electronic mail this 12th day of August, 2015.

James Bruce
P.O. Box 1056
Santa Fe, NM 87504
jamesbruc@aol.com


J.E. Gallegos

JAMES BRUCE
ATTORNEY AT LAW

POST OFFICE BOX 1056
SANTA FE, NEW MEXICO 87504

369 MONTEZUMA, NO. 213
SANTA FE, NEW MEXICO 87501

(505) 982-2043 (Phone)
(505) 660-6612 (Cell)
(505) 982-2151 (Fax)

jamesbruc@aol.com

August 11, 2015

Via e-mail

J.E. Gallegos
Gallegos Law Firm PC
Suite 300
460 St. Michaels Drive
Santa Fe, New Mexico 87505

Re: OCD Case 15363/Matador Production Company/Airstrip well

Dear Gene:

Matador does not agree to a continuance of the above case. This decision is made reluctantly, but is based on the following:

1. Matador has been in discussions with your clients for almost five months. It appears a deal may soon be made with Yates Energy. Matador would like to come to terms with Jalapeno, but at this point it seems unlikely.

Attached as Exhibit A is a summary of communications between Matador and your clients. As you can see, Matador has expended significant time and manpower to work with your clients, and feels that this matter must come to a conclusion.

2. Your clients have been aware of Matador's plans to drill the Airstrip well for the past five months, and that is sufficient time for them to prepare for a pooling hearing.

3. Based on your entry of appearance filed on August 6th, Matador made arrangements for several technical experts to travel to Santa Fe for the hearing on August 20th.

4. Due to the extended discussions with interest owners in the well unit, Matador has already moved the commencement date of the well multiple times. It is back on the

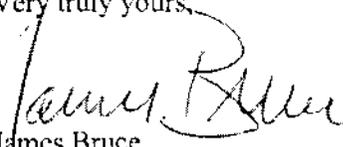


drilling schedule for October, and Matador needs to obtain a pooling order by September against everyone who does not commit its interest so that election letters may be sent to uncommitted interest owners.

For the foregoing reasons, Matador declines to agree to your requested continuance.

Please call me if you would like to discuss this further.

Very truly yours,



James Bruce