

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

**APPLICATION OF MEWBOURNE OIL COMPANY
FOR APPROVAL OF EXPANSION OF A UNIT AREA,
LEA COUNTY, NEW MEXICO.**

CASE NO. 21418

**APACHE’S REPLY IN RESPONSE TO
MEWBOURNE’S OPPOSITION TO JOINT MOTION FOR CONTINUANCE**

Apache Corporation (“Apache”) hereby replies to Mewbourne Oil Company’s (“Mewbourne”) Response in Opposition to Joint Motion for Continuance. In response to Mewbourne’s arguments, Apache states:

1. Apache never agreed to the Pre-Hearing Order and deadlines that Mewbourne unilaterally submitted to the Division without approval from the parties. On November 11, 2020, Counsel for Mewbourne circulated a draft Pre-Hearing Order with proposed dates of December 5, 2020 for pre-hearing statements, December 5, 2020 for objections, and December 7, 2020 for a hearing. *See* Email and Draft Pre-Hearing Order, attached as **Exhibit A**. Later that day, counsel for certain other interested parties mentioned that Mewbourne revised the draft Pre-Hearing Order to reflect a December 3, 2020 hearing. Apache never received this draft with updated dates. Counsel for the parties discussed a continuance due to a determination that the hearing would be contested. Then, without providing dates to and obtaining approval from Apache, Mewbourne unilaterally submitted the Pre-Hearing Order without notifying Apache. The Pre-Hearing Order was entered on November 13, 2020, setting the hearing date and deadlines (including November 27, 2020 for pre-hearing statements) without Mewbourne ever proposing such dates to Apache.

2. Adhering to Mewbourne’s schedule and denying the motion for a continuance is unfairly prejudicial. Mewbourne unilaterally set the deadline to submit evidence on the day after Thanksgiving—a day the Division and most operators and their counsel are closed. In fact, counsel for Apache’s office is closed on Thanksgiving and the day afterwards. For obvious reasons, requiring the parties to compile and prepare the exhibits and written testimony over Thanksgiving is unreasonable and unnecessary. The Division should not adhere to the unreasonable and prejudicial deadlines set by Mewbourne.

3. Mewbourne’s Response demonstrates a continuance is not only beneficial but could resolve the matters in dispute. Mewbourne points out that “optional offers regarding the unit” are currently on the table amongst the parties, indicating negotiations are ongoing. Allowing additional time by way of granting a continuance will afford the parties an opportunity to potentially reach agreement, obviating the need for a contested hearing, or narrow the issues for a contested hearing.

4. Despite there being no requirement to demonstrate a party’s specific arguments in advance of a contested hearing, it is apparent that Mewbourne lacks authority to expand the unit and Apache contests the proposal on such basis, among others. The existing unit that Mewbourne seeks to expand arises from a Unit Agreement—a private and voluntary contract that requires approval from the parties to the agreement to change the terms. Several parties, including Apache, are opposed to expansion and do not consent to expansion of the unit or any other modification to the unit at this time. Mewbourne seeks to expand the unit, despite being opposed, to more than six times its existing size in both the Bone Spring and Wolfcamp formations to hold acreage at a time where drilling activity has plummeted. Mewbourne is effectively seeking compulsory unitization, which is not allowed in New Mexico for primary production.

5. It is also important to note that expanding a unit to 13,272.13 acres presents obvious potential impairment to Movants' correlative rights and conservation that will be addressed during a contested hearing, which is just another reason why the December 3rd hearing date will not work—presentation of this case will not be simple and uncomplicated.

6. Apache remains opposed to an expansion of the unit and requests that the hearing unilaterally set by Mewbourne for December 3, 2020 be continued for the reasons mentioned above and in the Motion.

WHEREFORE, Movants respectfully request that the Division continue the hearing on this case from December 3, 2020 to the February 21, 2021, Examiner Hearing Docket or to a special hearing date in February.

Respectfully submitted,

**MODRALL, SPERLING, ROEHL, HARRIS
& SISK, P.A.**

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CERTIFICATE OF SERVICE

I hereby certify that on November 25, 2020, I served a copy of the foregoing document to the following counsel of record via Electronic Mail to:

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By: /s/ Lance D. Hough
Lance D. Hough

Lance D. Hough

From: jamesbruc@aol.com
Sent: Tuesday, November 10, 2020 8:56 AM
To: Earl E. DeBrine; Lance D. Hough; Deana M. Bennett
Subject: Mewbourne/Wilson Deep Unit
Attachments: moc-PHO-wilson deep.DOCX

EXTERNAL EMAIL: Please do not click any links or open any attachments unless you trust the sender and are expecting this message and know the content is safe.

Attached is a draft pre-hearing order. Let me know if its OK to file.

Jim

EXHIBIT A

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

**APPLICATION OF MEWBOURNE OIL COMPANY
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Case No. 21418

PRE-HEARING ORDER

This Pre-Hearing Order follows a status conference held on October 22, 2020, and the submission of a proposed stipulated pre-hearing order via email to the Examiner by the parties.

1. The hearing on this matter will commence following the completion of the Division's regular hearing docket on December 7, 2020, and continue as necessary through completion.

2. The hearing will be recorded and transcribed by a court reporter.

3. The hearing will be conducted using the Webex meeting platform; sign-in information will be sent to the parties closer to the date of the hearing. The Hearing Officer may modify the format of the hearing consistent with available resources and public distancing directives in place at the time of the hearing.

4. The parties shall file with the pre-hearing statement required by NMAC 19.15.4.13.B the following additional information, all of which is due no later than 5 p.m on December 5, 2020:

- a. a list of material facts not in dispute;
- b. a list of disputed facts and issues;
- c. identification of the witnesses and their qualifications; and
- d. a full narrative of the direct testimony and exhibits for each witness.

5. Any evidentiary objections to the filed direct testimony or any exhibit shall be filed no later than 5:00 p.m. on December 5, 2020, and will be addressed at the commencement of the hearing.

6. All witnesses filing direct testimony shall attend the hearing and will be subject to cross examination by counsel for the parties and the Division Examiners.

7. A courtesy copy of all documents filed with the Division Hearings staff shall also be sent to the Hearing Officer via e-mail.

**STATE OF NEW MEXICO
OIL CONSERVATION DIVISION**

**FELICIA L. ORTH
HEARING EXAMINER**

Date: _____

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