

**BEFORE THE NEW MEXICO OIL CONSERVATION DIVISION**

**APPLICATION OF TAP ROCK RESOURCES, LLC  
FOR COMPULSORY POOLING, LEA COUNTY,  
NEW MEXICO.**

**Case No. 21340  
Order No. R 21521**

**MOTION TO SET ASIDE ORDER NO. R 21521 AS TO CERTAIN PARTIES**

SRO Land & Minerals, LP, Monroe Properties, Inc., and Lee M. Stratton Living Trust, Mary Elizabeth Stratton, Trustee, predecessor to MES Land & Minerals LP, by their undersigned attorney, move the Oil Conservation Division (“Division”) for an order to set aside Order No. R-21521 as to them. As grounds therefor they state:

1. On June 9, 2020, Tap Rock Resources, LLC (“Tap Rock”) filed its application for compulsory pooling for spacing units to test the Wolfcamp formation comprised of the following described lands in Lea County, New Mexico:

Township 25 South, Range 36 East, NMPM

Section 18: Lots 1-4 and the E/2W/2 (the W/2),

Section 19: Lots 1-4 and the E/2W/2 (the W/2).

2. Under the application, Tap Rock proposed to drill its Blue Marlin Fed Com. Well Nos. 201H, 205H, 211H, 202H, 212H, and the 215H.

3. Movants own mineral interests within the spacing units committed to Tap Rock’s proposed wells.

4. At the time of Tap Rock’s application, Movants’ mineral interests were held under an oil and gas lease which had been assigned to Tap Rock, and therefore, were not uncommitted mineral interests as generally alleged in the application.

5. Tap Rock sent well proposals to Movants through correspondence dated March 10, 2020, despite the fact that Movants' mineral interests were held by Tap Rock under the oil and gas lease. As such, Movants could not have validly joined in drilling any of the proposed wells.

6. By letter dated April 14, 2020 addressed to SRO Land & Minerals, LP, Monroe Properties, Inc. and Lee M. Stratton Living Trust, Mary Elizabeth Stratton, Trustee, predecessor to MES Land & Minerals LP, Tap Rock gave a Notice of Force Majeure ("Notice"), pursuant to Paragraph 29 of the lease. The Notice cited reasons for Tap Rock's inability to comply with the terms of the lease. A copy of that Notice is attached hereto as Exhibit A. Despite response to the Notice by Movants' attorney, the Notice was not rescinded by Tap Rock.

7. The effect of the Notice, to Movants' understanding, was that the terms of the lease were suspended until Tap Rock rescinded the Notice. In any event, there was never a determination by a court, other tribunal or agreement of the parties whether the Notice was proper. Without rescission of the Notice, the lease was effectively in effect on October 22, 2020 the date of the hearing.

8. On October 16, 2020, the term of the leasehold interests covered under the oil and gas lease held by Tap Rock ended, unless extended by force majeure as asserted by Tap Rock.

9. On October 22, 2020 Tap Rock's application went to hearing by affidavit. Included in Tap Rock's evidentiary filing was the Affidavit of Taylor Ford, Tap Rock's landman. Ms. Ford's Summary of Communications were identical with regard to communications with Movants. The entries state:

3/10/20-Sent well proposals

3/17/20-Tap Rock spoke with Jairus O'Malley, but no agreement was made.

Present-Tap Rock reached out to SRO several time to discuss lease extension, but offer was still declined

10. The last sentence of Paragraph 7 of Ms. Taylor's affidavit states:

...Tap Rock has either attempted to reach the above parties or is trying to come to a mutual agreement, whether that be to a JOA or an Oil and Gas Lease.

11. Attached hereto as Exhibit B is the Affidavit of M. Jairus O'Malley, stating that Tap Rock did not communicate with Movants after the Notice dated April 14, 2020, or after notice of the hearing given by Tap Rock's counsel on July 2, 2020.

12. Upon information and belief, Tap Rock simply waited for the term of the Movants' lease to end on October 16, 2020, six days before the compulsory pooling hearing.

13. Especially considering the effect of the Notice which would have extended the lease beyond October 16, 2020, Movants were never unleased mineral owners. If, indeed, they became unleased mineral owners on October 16, 2020 then well proposals and hearing notices would have been necessary to comply with due process requirements of the Oil Conservation Division.

14. Only after an order was issued by the Division on November 2, 2020 did Tap Rock make a well proposal under the Division's order.

15. The circumstances of Tap Rock's handling of this matter strongly indicate that as to Movants, the Division's compulsory pooling order be set aside, and that Movants be given sufficient time, not less than 90 days from the date of the Division's order, to evaluate the well proposals.

15. Tap Rock should not be allowed to effectively force pool with only six days of notice for Movants' unleased mineral interests.

WHEREFORE, Movants request:

A. That Order No. R-21521 be set aside as to Movants;

B. In the alternative, that Movants be given at least 90 days from the date of the Division's order, within which to evaluate Tap Rock's well proposals or negotiate oil and gas leases.

B. For such other relief as the Division deems appropriate.

Respectfully submitted,

PADILLA LAW FIRM, P.A.

/s/ Ernest L. Padilla

Ernest L. Padilla

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**CERTIFICATE OF SERVICE**

I hereby certify that I caused a copy of this Motion to Set Aside to be served on this 11<sup>th</sup> day of December, 2020, by electronic mail to the following:

James Bruce

jbruc@aol.com

/s/ Ernest L. Padilla

Ernest L. Padilla



April 14, 2020

Via Certified Mail

SRO Land & Minerals, L.P.  
9575 Katy Freeway, Suite 440  
Houston, Texas 77024

Monroe Properties, Inc.  
Lee M. Stratton Living Trust  
c/o Monroe Properties, Inc.  
306 West Wall Street, Suite 435  
Midland, Texas 79701

**Re: Notice of Force Majeure  
Paid Up Oil and Gas Lease with Security Agreement dated October 16, 2017 by and  
between SRO Land & Minerals, L.P., Monroe Properties, Inc. and Lee M. Stratton Living  
Trust, Mary Elizabeth Stratton, Trustee, as Lessor, and Ameredev New Mexico, LLC, as  
Lessee, a memorandum of which is recorded at Book 2126 Page 151 (the "Lease")**

Dear Sir or Madam:

Tap Rock Resources II, LLC ("Tap Rock") is the successor in interest and title to Ameredev New Mexico, LLC under the Lease. Tap Rock would like to call your attention to Paragraph 29 of the Lease, which provides as follows:

Should LESSEE be prevented from complying with any express or implied covenant of this Lease, or from conducting construction, drilling or reworking, operations, or from producing oil and gas, after a good faith effort, by reason of war, rebellion, riots, strikes, acts of God or any order, rule or regulation of Governmental Authority having jurisdiction, or as a result of any cause beyond the control of LESSEE and which, by the exercise of due diligence, LESSEE would not have been able to avoid or overcome and only if such events materially affect LESSEE's ability to perform its obligations to perform hereunder, except for any obligation to pay any amounts otherwise due under this Lease, then while LESSEE is prevented from performing its obligations hereunder, LESSEE's obligation to perform hereunder shall be suspended, and LESSEE shall not be liable for damages for failure to comply therewith; and this Lease shall be extended while and so long as LESSEE is prevented by any such cause from construction, drilling or reworking operations, or producing oil and gas from the Lease Premises, but in no event no longer than one (1) year; provided, however, that nothing herein shall be construed to suspend the payment of rentals during the Primary Term or the payment of royalty or any other payment obligations otherwise due under this Lease.



Tap Rock hereby notifies you that certain events, despite a good faith effort on behalf of both Tap Rock and its predecessor lessees, have occurred that have prevented and delayed Tap Rock from conducting drilling, production and other operations on Lease Premises and lands pooled therewith. Specifically, the following:

1. The lease premises are in close proximity to sensitive environmental habitat that will be included in the pooled unit for the Lease Premises. Tap Rock's predecessor in interest and title, Lilis Energy Inc. / Impetro Oil & Gas, LLC worked to submit federal applications for permits to drill on the unit ("Initial APD"). However, the surface location and other infrastructure in such applications and permits were denied because, among other things, a portion of the surface of the unit constitutes habitat for the Lesser Prairie Chicken. Tap Rock is working in conjunction with the Bureau of Land Management to find alternative access routes and surface to develop the Lease, but as of today's date has not found an accessible route. Even after the necessary Bureau of Land Management approval is obtained, Tap Rock anticipates that such approval will require the no "activities that produce noise or involve human activity" will be conducted between March 1 and June 15 except during daylight hours. As you are probably aware, drilling and completion activities are 24-hour operations so these restrictions will likely further delay operations on the Lease Premises.
  2. The New Mexico State Department of Cultural Affairs—Historic Preservation Division also removed the Initial APD from eligibility from the BLM for concerns related to the "potential to adversely affect an area of potential cultural significance." Again, Tap Rock is diligently working to submit revised APD's that will not be in a potential culturally significant area and will apprise you of the development of such amended plans.
  3. In addition to the issues described immediately above, obtaining other state and federal authorizations and permits to conduct operations has been delayed due to, among other things, the COVID-19 pandemic. As state and federal offices attempt to address the pandemic, contact with personnel in such offices has been heavily restricted or delayed. The delays caused by COVID-19 have compounded the effect of existing backlogs at the state and federal agencies for permits and authorizations. This has further prevented and delayed Tap Rock from obtaining the permits and authorizations to conduct operations.
  4. Further, the COVID-19 pandemic has caused a number of equipment and service providers to curtail (or otherwise restrict) the number of personnel available to conduct operations on the leased premises and lands pooled therewith. This has caused delays in Tap Rock's ability to obtain necessary services and materials to conduct such operations.
  5. Finally, hydrocarbon storage and transportation in the vicinity of the Lease Premises is currently at or near capacity with market conditions continuing to
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deteriorate daily. As such, even if Tap Rock were able to commence production from the Lease Premises at this time, it is unlikely that Tap Rock could obtain a satisfactory market for such production and it is also equally unlikely that sufficient storage or transportation capacity would be available at this time.

Tap Rock continues to work diligently to overcome these issues in an expeditious manner and will keep you apprised of any updates to the development plans regarding the Lease. In the meantime, Tap Rock please be advised that Tap Rock is entitled to the protections afforded by Paragraph 29 of the Lease.

Should you have any questions regarding the above, please contact the undersigned.

Sincerely,

**TAP ROCK RESOURCES II, LLC**

A handwritten signature in black ink that reads "Taylor Ford". The signature is written in a cursive, slightly slanted style.

**Taylor Ford**

Landman

Office: 720.459.3726

Cell: 806.445.7213

[tford@taprk.com](mailto:tford@taprk.com)

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BEFORE THE NEW MEXICO OIL CONSERVATION DIVISION

APPLICATION OF TAP ROCK RESOURCES, LLC  
FOR COMPULSORY POOLING, LEA COUNTY,  
NEW MEXICO.

Case No. 21340

AFFIDAVIT OF M. JAIRUS O'MALLEY

STATE OF TEXAS        }

COUNTY OF HARRIS     }

M. JAIRUS O'MALLEY, first being duly sworn, deposes and states:

1. I am over the age of 18, and am Vice President-Land of SRO Land Management, GP, LLC, general partner of SRO Land & Minerals, L.P.

2. I have conducted negotiations with Tap Rock Resources, LLC ("Tap Rock") relative to extending the oil and gas lease or entering into a pooling agreement for:

SRO Land & Minerals, L.P. ("SRO"),  
Monroe Properties, Inc. ("Monroe"), and  
MES Land & Minerals LP ("MES"),

which are related through familial relations.

3. At all material times Tap Rock held the oil and gas leasehold interests of the mineral estate owned by the foregoing entities.

4. The last communication which we received from Tap Rock was its Notice of Force Majeure dated April 14, 2020 which to my understanding suspended the term of the oil and gas lease covering the mineral interests of the SRO, Monroe, MES entities. We never have received any communication rescinding the Notice of Force Majeure.

5. But for the effect of the Notice of Force Majeure, the oil and gas lease would have expired on October 16, 2020.





6. After October 16, 2020, Tap Rock did not send us well proposals as to the unleased mineral interests held by the three entities, and went to hearing on October 22, 2020, without notice of the hearing to SRO, Monroe, and MES.

7. By letter dated March 10, 2020 we did receive well proposals from Tap Rock, but such proposals were not applicable to SRO, Monroe and MES because they were not working interest owners and were lessors under the oil and gas lease.

8. In my opinion Tap Rock did not communicate with SRO, Monroe and MES in good faith as to lease extensions or offers for voluntary agreement. In fact, Tap Rock's Summary of Communications contains erroneous entries as to its efforts to extend the oil and gas lease. The notation "Present-Tap Rock reached out to SRO several time to discuss lease extension, but offer was still declined" is absolutely false.

Further Affiant sayeth naught.

  
M. JAIRUS O'MALLEY

SUBSCRIBED AND SWORN to before me this 10th day of December, 2020, by M. Jairus O'Malley.

  
Notary Public in and for the State of Texas

My Commission Expires:  
February 3, 2024

