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March 2, 2012

Ms. Florene Davidson, Secretary
NM Oil Conservation Commission
1220 S. St. Francis Drive
Santa Fe, NM 87505

**Hand Delivered**

**Re: NMOCD Case No. 14763: Application of Mack Energy Corporation for Compulsory Pooling**

Dear Ms. Davidson:

On behalf of Siana Oil and Gas LLP and Tom Ragsdale, enclosed for filing is an original and five copies of Siana's Motion to Stay Order No. R-13519.

Very truly yours,

J. Scott Hall

JSH:kw

cc: Mr. Tom Ragsdale
Tom Zabel, Esq.
Jim Bruce, Esq.

355421

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



**APPLICATION OF MACK ENERGY CORPORATION FOR COMPULSORY POOLING, LEA COUNTY, NEW MEXICO**

**CASE NO. 14763**

**MOTION TO STAY ORDER NO. R-13519**

Siana Oil and Gas LLP and Tom M. Ragsdale, by and through their undersigned attorneys, Montgomery & Andrews, P.A. (J. Scott Hall), move pursuant to Rule 19.15.4.23.B NMAC that the Division Director enter an order staying, in-part, Order No. R-13519 and directing the Applicant, Mack Energy Corporation, to abstain from conducting a fracture stimulation operation on the Cockburn "A" State Well No. 5 located in the SE/4 NW/4 of Section 32, Township 17 South, Range 33 East, NMPM, in Lea County, New Mexico. Fracture stimulation is unnecessary and presents an unwarranted risk of damage or loss to the well or to production. The Applicant will not be prejudiced if the stay is granted.

As grounds for this motion, Siana and Mr. Ragsdale state:

Mack Energy Corporation applied to the Division for an order authorizing it to re-enter and perform a fracture stimulation of the Cockburn A State Well No. 5 producing from the Abo formation. Although it has been producing the well since 2004, Mack Energy also sought, for the first time, (1) the consolidation of interests to be dedicated to the well, (2) designation of Mack Energy as operator, (3) approval and allocation of the costs of the fracture stimulation, (4) authorization to recover well costs along with monthly overhead and supervision charges, and (5) imposition of a 200% risk penalty.

Mr. Ragsdale owns working interests in the SE/4 NW/4 of Section 32 which Mack Energy seeks to force pool. Siana Oil and Gas and Mr. Ragsdale opposed Mack Energy's Application for the reasons that (1) the Applicant did not satisfy its statutory obligations to make diligent and good faith efforts to negotiate a voluntary agreement before filing its compulsory pooling application, and (2) the proposed fracture stimulation is unnecessary. In addition, citing the provisions of N.M.S.A 1978, §70-2-18 (A) and (B)[1] of the Oil and Gas Act, Siana and Mr. Ragsdale asked the Division to require Mack Energy to provide an accounting for production revenues and expenses due to its previous failure to consolidate the interests in the well or obtain authorization for the recovery of any costs.

A hearing on Mack Energy's Application was held before Division Examiners on January 5, 2012. Testifying at the hearing, Mr. Ragsdale, a petroleum engineer, estimated that the Cockburn well produces approximately 20 to 25 barrels of oil per day and indicated that the well is producing at an efficient and economic rate, with a flat decline curve. Mr. Ragsdale also testified to the effect that the fracture stimulation necessarily entails risk and that the well and its current production could be adversely affected by the proposed operation. Testimony of Tom Ragsdale, Transcript of Hearing, Pg. 93:2 – Pg. 94:22, Exhibit "A", attached.

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[1] N.M.S.A. 1978 §70-2-18 (1977) ("A. Whenever the operator of any oil or gas well shall dedicate lands comprising a standard spacing or proration unit to an oil or gas well, it shall be the obligation of the operator, if two or more separately owned tracts of land are embraced within the spacing or proration unit, or where there are owners of royalty interests or undivided interests in oil or gas minerals which are separately owned or any combination thereof, embraced within such spacing or proration unit, to obtain voluntary agreements pooling said lands or interests or an order of the division pooling said lands, which agreement or order shall be effective from the first production. Any division order that increases the size of a standard spacing or proration unit for a pool, or extends the boundaries of such a pool, shall require dedication of acreage to existing wells in the pool in accordance with the acreage dedication requirements for said pool, and all interests in the spacing or proration units that are dedicated to the affected wells shall share in production from the effective date of the said order.

B. Any operator failing to obtain voluntary pooling agreements, or failing to apply for an order of the division pooling the lands dedicated to the spacing or proration unit as required by this section, shall nevertheless be liable to account to and pay each owner of minerals or leasehold interest, including owners of overriding royalty interests and other payments out of production, either the amount to which each interest would be entitled if pooling had occurred or the amount to which each interest is entitled in the absence of pooling, whichever is greater.)

Mack Energy Corporation's consulting petroleum engineer, Michael McCoy testified at the hearing to the effect that while it is certainly the objective to increase production from the well, the fracture stimulation operation does involve operational risks, engineering risks, geologic risks, as well as mechanical risks that can be associated with an older wellbore. These risks, Mr. McCoy testified, are in addition to the economic risks. Testimony of Michael McCoy, Transcript of Hearing, Pg. 66:23 - Pg. 70:5. Exhibit "A", attached. There was no testimony or other evidence that the fracture stimulation operation is necessary to maintain production from the well or to preserve the lease.

Following the hearing, on February 21, 2012, the Division entered Order No. R-13519 granting Mack Energy Corporation's Application for Compulsory Pooling. The Division also directed Mack Energy to furnish an itemized schedule of estimated costs for the fracing procedure and a schedule of actual costs within ninety days of the completion of the operation. Mack Energy was also directed to render an accounting of all costs charged to the interest owners since October 2010.

Order No. R-13519, Order ¶¶ (2), (6) and (8) (February 21, 2012).

The Division's rule on stays of orders provides, in part, as follows:

" ...The director may grant a stay pursuant to a motion for stay or upon the director's own initiative, after according parties who have appeared in the case notice and an opportunity to respond, ***if the stay is necessary to prevent waste, protect correlative rights, protect public health or the environment or prevent gross negative consequences to an affected party***".

19.15.4.23.B NMAC (emphasis added).

On March 1, 2012, Siana Oil and Gas and Mr. Ragsdale filed their Application for Hearing De Novo and the matter is set for hearing before the Commission on May 17, 2012. If before then a stay is not granted and Mack Energy proceeds to perform the fracture stimulation, Siana and Mr. Ragsdale will be prevented from further challenging the Application and the propriety of the proposed operation. Their right to a de novo hearing will effectively be negated.

*See* Order No. R-10872-A, Case No. 11723, *Application of Mewbourne Oil Company for an Unorthodox Well Location and a Non-Standard Gas Proration Unit, Order No. R-10872-A* (September 24, 1997), Findings ¶ (4). Exhibit "B", attached.

Significantly, the Applicant Mack Energy Corporation owns no interest in the Cockburn "A" State Well No. 5 or in any of the lands dedicated to the well. Transcript of Hearing, Pg. 48:5-10. Exhibit "A", attached. Consequently, it bears none of the risks and can in no way be prejudiced by a stay pending resolution of the hearing de novo in this matter. Conversely, granting the stay will preserve the status quo with respect to the mechanical condition of the well and the current ability of the well to produce. A stay is the only means by which the Division Director can be certain that waste will be prevented and correlative rights protected. A stay is also proper in order to preserve the movants' right to a de novo hearing and avoid the accrual of gross negative consequences to an affected party in accordance with the Division's rules.

WHEREFORE, Siana Oil and Gas LLP and Tom M. Ragsdale request the Division Director enter an order of partial stay substantially in the form of the proposed order attached hereto as Exhibit "C".

Respectfully submitted,
MONTGOMERY & ANDREWS, P.A.

By: _____

J. Scott Hall, Esq.
Post Office Box 2307
Santa Fe, New Mexico 87504
(505) 982-3873
Attorneys for Siana Oil and Gas LLP and
Tom M. Ragsdale

**Certificate of Service**

I hereby certify that a true and correct copy of the foregoing was served on counsel of record on the 2 day of March, 2012.

James Bruce, Esq.
P. O. Box 1056
Santa Fe, NM 87504
(505) 982-2151 fax
Attorney for Mack Energy Corporation

J. Scott Hall

355080-5

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.: 14763

APPLICATION OF MACK ENERGY CORPORATION FOR COMPULSORY POOLING, LEA COUNTY, NEW MEXICO.

REPORTER'S TRANSCRIPT OF PROCEEDINGS
EXAMINER HEARING

BEFORE: WILLIAM V. JONES, Technical Examiner
DAVID K. BROOKS, Legal Examiner

January 5, 2012

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, WILLIAM V. JONES, Technical Examiner, and DAVID K. BROOKS, Legal Examiner, on January 5, 2012, at the New Mexico Energy, Minerals and Natural Resources Department, 1220 South St. Francis, Drive, Room 102, Santa Fe, New Mexico.

REPORTED BY: Irene Delgado, NM CCR 253
Paul Baca Professional Court Reporters
500 Fourth Street, NW, Suite 105
Albuquerque, New Mexico 87102

**EXHIBIT A**

A P P E A R A N C E S

FOR THE APPLICANT:
JIM BRUCE
P.O. Box 1056
Santa Fe, NM 87501

FOR SIANA OIL AND GAS AND TOM RAGSDALE:
MONTGOMERY & ANDREWS
SCOTT HALL
P.O. Box 2307
Santa Fe, NM 87504-2307

I N D E X

so we are not parties listed on the agreement at the time being.

Q. Semester agreement?

A. Yes.

Q. So the record is clear on this, the operator has no ownership interest in this well or the acreage?

A. No, sir.

Q. No other right to be out there that we know of?

A. They are just the operator. They own no interest at all.

Q. Okay. Thank you, Ms. Sanders.

THE WITNESS: Thank you.

EXAMINER BROOKS: Any redirect, Mr. Bruce?

MR. BRUCE: No, sir.

EXAMINER BROOKS: Very good. Witness may step down, and you may call your next witness.

MR. BRUCE: Call Mr. McCoy to the stand.

EXAMINER BROOKS: Looks like a speeding bullet here.

MICHAEL McCOY

(Sworn, testified as follows:)

DIRECT EXAMINATION

BY MR. BRUCE:

Q. Would you please state your name and city of residence for the record?

A. I'm Michael McCoy, and I live in Woodlands, Texas.

haven't -- we make a recommendation to our clients, and then our clients --

EXAMINER JONES: Okay.

THE WITNESS: They are the operators of the well, so they make --

EXAMINER JONES: Okay. Would they use a dead string or bottom hole pressure?

THE WITNESS: In this well I assume that we are pumping down the casing without a dead string.

EXAMINER JONES: It's a real high rate?

THE WITNESS: Yes.

EXAMINER JONES: So basically they didn't ask you to do a post frac model, match of what your refrac looks like?

THE WITNESS: No. If we go out in the well, we can do that.

EXAMINER JONES: You can do that?

THE WITNESS: Yes.

EXAMINER JONES: I don't have any more questions.

EXAMINER BROOKS: Well, I don't have any knowledge, so my questions may sound very -- but I ask you to do the best you can. We talked a little bit about risk.

THE WITNESS: Yes, sir.

EXAMINER BROOKS: What are some of the things -- we go over this again -- what are the some of the things that could go wrong in this?

THE WITNESS: Well, there is any number of things that can go wrong in a frac job where we are dealing with a lot of equipment. You have several pumps, and they are all mechanical that we can have equipment breakdown that changes the job, the way we are pumping it. And we have pumps out there that are designed to pump 80 barrels a minute, and if we have a mechanical problem with the pumps and it went down to 60 or 40 barrels a minute, it increases the chances of screening out on the job and not placing the amount that we want in the formation, so there is --

EXAMINER BROOKS: And that would reduce -- that would result in reduced incremental production?

THE WITNESS: Yes, sir. Yeah.

EXAMINER BROOKS: Okay. Go ahead.

THE WITNESS: And the fluid chemistry is really quite complex. We started to talk about it, 25 pound bore cross-link system, it all needs to be handled right. There needs to be a lot of quality control. It's done every day in the business, but also every day there is problems that happen. And what Ely makes their business on is trying to put the quality assurance and quality control into the jobs so those problems don't occur so that we don't have the equipment problems, we don't have the fluid problems so that the jobs can be pumped successfully. And, you know, there could be problems with the casing and the different points in

the well, you know, we are -- it's always -- there is always more questions when you are going into an older wellbore than a brand new well, so those things are all risks.

EXAMINER BROOKS: Well, I don't know if you can do this, but I'm going to try to get there. I'm trying to get where we have some handle on the distinction between risk in the sense of risk of increased costs and risk in the sense of risk of reduced returns.

THE WITNESS: Uh-huh.

EXAMINER BROOKS: What kind of things, other than what you told us about, about not getting enough pressure and not getting enough -- was it pressure or fluid that you don't get enough of if you don't do --

THE WITNESS: I don't know. It could be either, but your question is what could increase the costs from the --

EXAMINER BROOKS: Right now what I'm really trying to focus on is what could reduce the flow -- what could reduce the -- not so much what could increase the cost of the work, but what could reduce the returns that you get in terms of incremental production.

THE WITNESS: Oh. Well, we made assumptions based on a limited set of data and what the reservoir rock properties are and the fluid properties are and the pressure distribution in the reservoir, so we are making assumptions over the whole reservoir, over the drainage area from just a

small amount of data, and we could be off on those. And we used the best data we had, the available data, but that could be off, and that could change the prediction; it could lower it.

EXAMINER BROOKS: And there are proverbs about making assumptions.

MR. BRUCE: Not biblical, I take it?

EXAMINER BROOKS: Not biblical. So you would say then the biggest risk of diminished returns as compared to your estimates would be that the reservoir properties are actually not what you believe them to be?

THE WITNESS: Yes, sir, that's a big risk. The other risk is that we don't get the frac job pumped the way that we -- one set of assumptions is a reservoir. The other set of assumptions is the frac job.

EXAMINER BROOKS: So the other risk would be that the frac job doesn't go off as planned?

THE WITNESS: Yes, sir.

EXAMINER BROOKS: That you don't pump enough fluid --

THE WITNESS: Right.

EXAMINER BROOKS: -- or pressure into the oil well?

THE WITNESS: Yes, sir. What we need to do is place the total amount of sand that we have designed, and there can be a number of reasons that causes the job to go short and we

don't get the sand placed. The sand is really what gives you the conductivity and the flow path back into the reservoir -- I mean back into the wellbore from the reservoir. So if you don't have that, it doesn't really work in these conventional types of treatments like this.

EXAMINER BROOKS: Now, if you did it, and you did a job of this kind and it didn't go well, would it be feasible to do -- to do another frac job on the well to try to improve the results?

THE WITNESS: Yes, sir. We would -- we would try to determine why it didn't go as planned.

EXAMINER BROOKS: Yeah.

THE WITNESS: And then make a determination if it made sense, but we frequently refrac wells.

EXAMINER BROOKS: Of course that would cost a lot more money, right?

THE WITNESS: Yes, sir.

EXAMINER BROOKS: Okay. Now, this chart that you have, the second page of Exhibit 10, this is your forecast of the -- now, is this a forecast of total production from the well after the frac job, or is this a forecast of incremental production from the well as a result of the frac job?

THE WITNESS: This is a total oil production from the -- not -- it's not incremental; it's total.

EXAMINER BROOKS: It's what you expect the well to

TOM RAGSDALE

(Sworn, testified as follows:)

DIRECT EXAMINATION

BY MR HALL:

Q. For the record, please state your name, sir.

A. Tom Ragsdale.

Q. Mr. Ragsdale, where do you live, and by whom are you employed?

A. I live in Midland, Texas, employed by Siana Oil and Gas Company.

Q. Could you tell us the relationship between you and Siana?

A. Siana is an operating company. Siana Oil and Gas Company is an operating gas company in Texas that I own 100 percent, and Siana Operating is our New Mexico entity for the properties we operate in New Mexico.

Q. We have already heard testimony here today that the interests in the well we are talking about are owned by you individually. Is that right?

A. That's correct.

Q. And are those interests managed by Siana for you?

A. No, they are not.

Q. Have you ever testified before the Division or any of its Examiners and gave your credentials as a matter of record?

of return, the return on investment, it just doesn't seem to have any relative meaning. We have a good producing well right now. We may drain the reserves over time with the -- with the completion that we have in place right now. And it's got some -- it's got a fair amount of risk to the frac job itself. I just don't see that a 300 percent -- the recovery cost plus 2, which is 300 percent, I don't see that as fair.

Q. What's -- can you estimate the current production rate?

A. The well is making about 20, 25 barrels a day of oil.

Q. How would you characterize the decline curve on the wells?

A. It's a very nice, flat, long -- it's a very typical Abo well producing for a long time.

Q. Is there some risk that the fracture stimulation job could adversely affect current production rate?

A. We can always frac into a water zone, so certainly -- I mean, we can lose the well. There's always that risk. I mean, if there was no risk, we would be fracking everything.

Q. Do you believe that the operator ought to be compensated for a risk that actually reduces recoveries from the well?

A. No, sir.

Q. In your opinion, is there any geologic risk involved here?

A. The only geologic risk would be fracking into a water zone that's, you know, above the formation of interest or below the formation of interest.

Q. In your opinion as a petroleum engineer, is there the same mechanical risk involved in fracture stimulation as is involved with a new drill?

A. When you -- that's a difficult question, and I think that's difficult question for anybody to answer. But when you are drilling a well, you are looking for oil and gas, so a dry hole is a complete loss, and that's a higher risk. I wouldn't quantify this as high risk as a new drill where you are searching for oil and gas, in overall terms.

Q. All right. In your opinion, is the current -- is the well producing at an efficient -- an economic recovery rate?

A. Yes, sir, it's very economic.

Q. And do you wish to avoid disturbing the current rate of production?

A. Yes, sir.

Q. Okay. Thank you, Mr. Ragsdale. Mr. Ragsdale, were Exhibits 2, 3, 4 and 5 copies of the assignments and correspondence received from Mack that are maintained in your

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

APPLICATION OF MEWBOURNE OIL COMPANY FOR AN UNORTHODOX GAS WELL LOCATION AND A NON-STANDARD GAS PRORATION UNIT, EDDY COUNTY, NEW MEXICO.

CASE NO. 11723

APPLICATION OF FASKEN OIL AND RANCH, LTD. FOR A NON-STANDARD GAS PRORATION AND SPACING UNIT AND TWO ALTERNATE UNORTHODOX GAS WELL LOCATIONS, EDDY COUNTY, NEW MEXICO.

CASE NO. 11755

Order No. R-10872-A

ORDER STAYING ORDER NO. R-10872

BY THE DIVISION:

This matter came before the Division upon the motion of Mewbourne Oil Company for a stay of Division Order No. R-10872.

NOW, on this 24th day of September, 1997, the Division Director, having considered the motion and being fully advised in the premises,

FINDS THAT:

(1) The above cases were consolidated for hearing, and were heard by the Division on April 3, 1997 and May 1, 1997. On September 12, 1997 the Division entered Order No. R-10872, granting the application of Fasken Oil and Ranch, Ltd. and denying the application of Mewbourne Oil Company.

(2) Mewbourne Oil Company filed an Application for Hearing De Novo with the Division on September 17, 1997.

(3) Mewbourne Oil Company has complied with Division Memorandum 3-85 and filed its motion for a stay on September 18, 1997.

(4) If a stay is not granted, Fasken Oil and Ranch, Ltd. may drill its proposed well. As a result, by the time this matter is decided by the Oil Conservation Commission, Mewbourne Oil Company's right to a de novo hearing will effectively be negated. As a result, a stay of Order No. R-10872 is proper.

**EXHIBIT B**

IT IS THEREFORE ORDERED THAT:

(1) Division Order No. R-10872 is hereby stayed in its entirety until the Oil Conservation Commission issues its order on the de novo application filed herein.

(2) Jurisdiction of this cause 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

WILLIAM J. LEMAY
Director

SEAL

fd/

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

**APPLICATION OF MACK ENERGY CORPORATION FOR COMPULSORY POOLING, LEA COUNTY, NEW MEXICO**

**CASE NO. 14763**
**ORDER NO. R-13519-A**

## ORDER STAYING ORDER NO. R-13519

**BY THE DIVISION**

This matter came before the Division Director pursuant to Rule 19.15.4.23 (B) on the motion of Siana Oil and Gas LLP and Tom M. Ragsdale for a partial stay of Division Order No. R-13519.

NOW, on this ____ day of March, 2012, the Division Director, having considered the motion and being fully advised in the premises,

**FINDS THAT:**

(1) The above matter was heard by the Division on January 5, 2012. On February 21, 2012 the Division entered Order No. R-10872 granting the application of Mack Energy Corporation.

(2) Siana Oil and Gas LLP and Tom M. Ragsdale filed an Application for Hearing De Novo with the Division on March 1, 2012 and the matter is tentatively set for hearing before the Oil Conservation Commission on May 17, 2012.

(3) The motion filed by Siana Oil and Gas and Mr. Ragsdale seeks a partial stay of the provisions of Order No. R-10872 authorizing Mack Energy Corporation to re-enter the Cockburn "A" State Well No. 5 located in the SE/4 NW/4 of Section 32, Township 17 South, Range 33 East, NMPM, in Lea County, New Mexico and conduct a fracture stimulation operation on the well and the producing formation.

(4) If a stay is not granted, Mack Energy Corporation may proceed to conduct the fracture stimulation. As a result, by the time this matter is decided by the Oil Conservation Commission, the right of Siana Oil and Gas and Mr. Ragsdale to a de novo hearing will effectively be negated. Accordingly, a partial stay of Order No. R-13519 is proper.

**EXHIBIT C**

**IT IS THERFORE ORDERED THAT**:

(1) Those provisions of Division Order No. R-13519 authorizing Mack Energy Corporation to re-enter and perform a fracture stimulation of the Cockburn A State Well No. 5 are hereby stayed. Mack Energy Corporation is further directed to abstain from conducting such re-entry and fracture stimulation until the Oil Conservation Commission issues its order on the de novo application filed herein.

(2) Jurisdiction of this cause 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

SEAL

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