

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

**IN THE MATTER OF THE APPLICATION
OF MEWBOURNE OIL COMPANY FOR
CANCELLATION OF A DRILLING PERMIT
AND APPROVAL OF A DRILLING PERMIT
LEA COUNTY, NEW MEXICO.**

CASE NO. 13492

2005 MAY 13 AM 10 16

**CHESAPEAKE OPERATING, INC.'S
RESPONSE TO
JOINT MOTION TO LIMIT DRILLING OPERATIONS**

CHESAPEAKE OPERATING, INC. ("Chesapeake") for its response to the Joint Motion of Kaiser Francis Oil Company and Samson Resources Company to limit Chesapeake's drilling of its KF "4" State Well No 1 (API #30-025-37129) currently drilling at a depth of below 4800 feet and located in Unit X of Irregular Section 4, T21S, R35E, Lea County, New Mexico, states:

This Joint Motion is incorrectly captioned as a "motion to limit drilling operations" when in fact it is nothing more than a Motion to Stay. It is once more an attempt to do what Mewbourne failed to do when the Division denied Mewbourne's application for an emergency order.

On April 27, 2005, Chesapeake spudded the K-F "4" State Well No. 1. By Wednesday, May 11, 2005, Chesapeake, in accordance with a Division approved permit, is drilling below 4,800 feet and continuing towards a total depth of approximately 12,100 feet with the hope of reach that depth in about 2-1/2 weeks.

Relying upon a claim that a trespass is occurring, the Movants seek a Stay allegation that it is necessary in order to protect the status quo, prevent further damage to Movants and that no harm or prejudice will occur to Chesapeake. Movants are wrong on all counts. **For convenience, a locator map is attached as Exhibit "A"**

**MOVANTS ERRONEOUSLY RELIED
UPON AN ALLEAGTION OF TRESPASS**

There is no trespass occurring in this case.¹ Chesapeake is doing that which the District Court has allowed it to do. On May 3, 2005, Samson argued that the only issue was "Trespass" contending that as a matter of law Chesapeake had no property interest in the SW/4 and their entry was a trespass.² This is the same argument that Movants advance before the Honorable William A. McBee, Judge of the Fifth Judicial District, State of New Mexico in Case CV-2005-275 MC heard on May 3, 2005. After hearing the same facts Movants are now alleging, Judge McBee denied Movants' Petition for Injunctive Relief and a Restraining Order stating that this is a matter for the Division. **See Petition attached as Exhibit "B"**

Movants have conveniently omitted the critical fact that Chesapeake has 100% of the working interest ownership ("WIO") in the SW/4 of Section 5, which is 50% of the WIO in this spacing unit and therefore there is no property right violation as contented by Movants. Such issues are not within the jurisdiction of the Division. See Continental Oil Company v. Oil Conservation Division,

¹ Movants motion at paragraph 5 incorrectly asserts a legal conclusion that were rejected by the District Court on May 3, 2005, when the Judge refused to stop Chesapeake's drilling.

² Counsel for Kaiser-Francis and Mr. John Bemis of the SLO appeared by telephone conferencing.

70NM310 (1962). Consistent with Division Order R-13215, so heavily relied upon by Movants, and based upon the Commission order the Pride Case, Order R-12108-C, the District Court denied the Injunction because Chesapeake's entry did not violate a property right even though the entry was upon a tract in which it had no ownership.³

All of Section 4 consists of State of New Mexico Oil & Gas Leases issued by the Commissioner of Public Lands (SLO"). See **Locator Map attached as Exhibit "A"**. This is an Irregular Section containing 960 acres and for convenience Chesapeake's spacing unit is the S/2 while the competing Mewbourne proposed unit contains lots 9, 10, 15, 16, and the SE/4 will be referred to as the E/2.

WIO for the S/2 spacing unit: Chesapeake AFE \$2,012,000.
Completed well costs

Chesapeake	50%	\$1,006,000.
Mewbourne	7.1875%	\$ 144,612.
Kaiser-Francis	36.5625%	\$ 735,637.
Samson	6.25%	\$ 125,750.

WIO for the E/2 spacing unit:

Chesapeake	0%
Mewbourne	7.1875%
Kaiser-Francis	36.5625%
Samson	56.25%

³ See Order R-12108-C at page 6 "The Commission accordingly concludes that an owner who would have a right to drill at its proposed location in the event of a voluntary agreement or

Regardless of the orientation, the SLO royalty stays the same, as does the WIO for Mewbourne and Kaiser-Francis. Chesapeake with 50% interest in its spacing unit will have 0% interest in the Mewbourne spacing unit while Samson's interest increases from 6.250% to 56.25 %

Movants' as they did before the District Court, have again solicited the involvement of Mr. John Bemis, Assistant Commissioner for Oil and Gas for the SLO and have including his letter dated May 4, 2005. It is undisclosed by the Movants why they think the SLO should actively be engaged with this case. The SLO's unprecedented action is contrary to the fact that the SLO for decades has yielded to the primary jurisdiction of the Division to resolve disputes on state lands concerning rules and regulations for drilling and spacing unit orientations including these now before the Division. Counsels for Chesapeake have asked Mr. Bemis for an explanation. **See letter dated May 6, 2005, attached as Exhibit "C"**

Chesapeake Permian, L.P. is the current lessee of a State of New Mexico lease that is included in Chesapeake's spacing unit, and has the right to drill and operator its well under the name of Chesapeake Operating, Inc. as it is doing so in compliance with the decision of the District Court and the Division.

Movants continue to argue that Chesapeake's drilling well is on a portion of Chesapeake's spacing unit in which Chesapeake has no interest. The Division has already rejected this argument by Order R-12343 as it did in the Pride case where it held that "the compulsory pooling statute NMSA 1978, 70-2-17) provides sufficient flexibility to allow the operator of a pooled unit to conduct operations anywhere on that unit, regardless of whether the owner of the land on which the well is located has consented thereto" **See Order R-12108, findings**

compulsory pooling of the unit it propose to dedicate to the well has the necessary good faith claim of title to permit it to file an APD even though it has not yet filed a pooling application"

(18), (19) and (23) as favorably cited by counsel for Movants when he represented E.G.L. Energy Production against Devon's motion to Stay in Case 3048 and 13049.

Movants, after having the District Court reject their trespass claim, continue to wrongfully assert it but now turn to a claim that a stay of Chesapeake's logging, testing, completion and producing is now necessary.

CRITERIA FOR A STAY ORDER

On May 3, 2005, the Division Director, after hearing most of these arguments by Movants, denied their request for an emergency order. **See Division Order R-12343 attached as Exhibit "D"**

Now, the Movants seeks the extraordinary relief of what amounts to a stay of Order R-12343 to stop Chesapeake from continuing drilling its well this time based, in part, upon an allegation of maintaining the status quo.

Rule 1220(b) of the Rules and Regulations of the Oil Conservation Division, 19 NMAC 15.N.1220 (B), permit the Director to enter a stay of a Division order "...if a stay is necessary to prevent waste, protect correlative rights, protect public health and the environment or prevent gross negative consequences to any affected party..."⁴

Movants argue that a stay is needed to maintain the status quo or preclude any party from gaining an unfair advantage over another party while the matter is pending before the commission. The Commission in Cases 13048-13048 specifically rejected this argument. **See Order R-11962-A attached as Exhibit "D"**

⁴ See J. Scott Hall response in behalf of E.G.L. Resources to Devon's Motion to Stay. NMOCD Cases 13049 and 13048.

As is further explained in the attached affidavit of Mr. David DeLaO, Chesapeake's Drilling Engineer, Movants want the Division to preclude Chesapeake from completing, testing and producing this well. Of all the "stake holders" in this well, Chesapeake, with 50% of this wellbore costs and paying all those costs at this point, has the most to lose if there are completion problems, etc. Perhaps the Movants do not know that Chesapeake's drilling program for this well is not equal too or greater than that used by Mewbourne for the Osudo "9" Well No. 1⁵

If the Movants want all this data, then they have the option of electing to participate pursuant to a compulsory pooling order after the well is completed--an option that they can exercise after the fact in the knowledge about the well's success. They have the choice to: (1) placing the entire risk of failure upon Chesapeake, (2) elect to participate, pay their share and receive the data pursuant to a compulsory pooling order or (3) sign a Joint Operation Agreement and pay their share and receive the data.

**NO HARM IS CAUSED BY CHESAPEAKE'S
DRILLING, COMPLETION AND TESTING AND PRODUCTION
OF THIS WELL**

Movants actions are contrary to their best interest and those of Chesapeake, as well as those of the SLO, all of whom should act quickly to minimize the drainage that may have occurred and certainly will occur if Mewbourne continues to take all the gas with its Osudo "9" Well No. 1 in the NW/4 of Section 9--a high capacity well that is being produced in excess of 18mmfcdpd. Movants make no effort to explain how that action by Mewbourne "maintains the status quo" or how this Stay does not impair Chesapeake correlative rights.

⁵ See Affidavit of David DeLaO, Chesapeake's drilling engineer, attached as Exhibit "G"

Both Kaiser-Francis and Samson have elected to participate with Chesapeake in other wells drilled and completed in the same manner as the subject wellbore. For them to now complain is contrary to their past behavior. One wonders if all of this is simply in effort by Samson and Kaiser-Francis, neither of whom has any interest in Mewbourne's Osudo "9" Well No. 1, to help them obtain data for there wells that they are unable to otherwise obtain. Movants want the Division to believe that wells are drilled and competed by "committee" when in fact the Operator makes all these choices as did Mewbourne when it drilled the Osudo "9" Well No. 1. There is no harm to Movants—they get to second-guess Chesapeake's decisions after the fact and do so without risk. Contrary to the affidavit of Mr. Jim Wakefield incorporated into Movants' motion, Chesapeake's operations for this well meets or exceed industry standard.

A STAY CAUSES IRREPARABLE HARM TO CHESAPEAKE

The circumstances for Chesapeake are not materially different from the arguments made by EGL in opposing Devon's original request that the Division stay of that portion of Order R-11962 that allowed EGL to operate the Rio Blanco 4-1. **See Cases 13048 and 13049**

As explained in Mr. DeLaO and Mr. Finnell's affidavit, Chesapeake, with its operations in-progress, will incur significant harm, including monetary damages, if Movants are successful in interrupting drilling operations, including:

- (1) Drilling and Completion costs are increasing, required equipment and services to complete wells are in high demand and in short supply;
- (2) Production revenues will be delayed;

- (3) If Chesapeake's completion is stayed by the Division, the Mewbourne will be allowed continue to produce its Osudo "9" Well No. 1, in which is has a 25% interest, a well that has in 65 days cum 0.88Bcf of gas and is now experiencing a decline to both rate and pressure such that it will have drained the S/2 of Section 4 in which they have 7.1875% interest while Chesapeake is prevented from completing and producing the K-F State No. 1 to protect itself.⁶**

Most importantly a Stay will deny Chesapeake its right to attempt to obtain wellbore data that may be despositive of Mewbourne attempt to alter and re-orient this spacing unit. As set forth in Mr. DeLaO and Mr. Finnell's affidavit, that data may include any or all of the following:

- (1) If required, Chesapeake can obtain reservoir pressure data throughout the whole Morrow interval using drill stem tests or repeat formation tests run via wireline (to determine bottom-hole pressures);
- (2) Chesapeake's well is utilizing a larger borehole allowing Chesapeake the opportunity to obtain a complete suite of open-hole logs, including sonic, porosity, electric, formation imaging, magnetic resonance imaging, etc.
- (3) By virtue of being able to obtain more and better quality log data than Mewbourne failed to obtain, Chesapeake will be able to measure the porosity, permeability, saturations, pressure, etc. throughout the entire Morrow interval (this data is paramount to calculating accurate estimates of Original-Gas-In-Place and Recoverable Gas Reserves (by contract, Mewbourne will not be able to determine the reservoir rock properties by virtue of its indication that it does not run open-hole logs);
- (4) Chesapeake's borehole will be cased and cemented so that Chesapeake will have the capability to perforate, isolate, test and produce selected intervals within the Morrow formation.

⁶ See affidavit of David DeLaO attached as Exhibit "G"

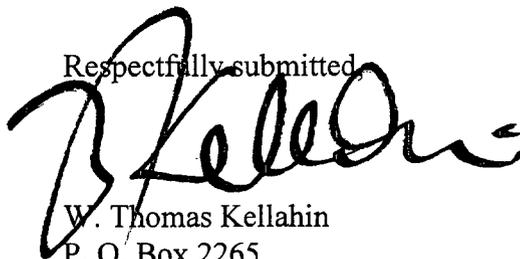
CONCLUSION

Despite having adequate remedy in District Court for damages, Movants tell the Division that a stay is needed to prevent irreparable harm. The Movants continue to ignore the fact that Chesapeake's has obtained an approved permit from the Division for this well site based upon Chesapeake's designation of a standard 320-acre gas spacing unit and full compliance with Division rules. The Movants have ignored the fact that Chesapeake has filed a compulsory pooling application to pool all interest in the SE/4 of this section including those of Movants.

In order to grant Movants this relief, the Division must contravene the Commission's order in the TMBR/Sharp Case and in the Pride Case. Such action would be arbitrary and capricious and violate the Oil & Gas Act. Finally, Chesapeake's attempt to drill, test, complete and produce this well in the SE/4 of this section is wanted by all parties—the only dispute is whether Chesapeake will be allow to share in the results of that effort.

Wherefore, Chesapeake requests that the Division deny Movants' motion.

Respectfully submitted,



W. Thomas Kellahin
P. O. Box 2265
Santa Fe, New Mexico 87504
(505) 982-4285
Attorney for Chesapeake Operating, Inc.

CERTIFICATE OF SERVICE

I, W. Thomas Kellahin, certify that a true and correct copy of this pleading was hand delivered or sent via facsimile on May 13, 2005 as follows:

James Bruce, Esq.,
P. O. Box 1056
Santa Fe, New Mexico 87504
Attorney for Mewbourne Oil Company
Fax 505-982-2151

J. Scott Hall, Esq.
P. O. Box 1986
Santa Fe, New Mexico 87504
Attorney for Kaiser-Francis Oil Company
Fax: 505-989-9857

Gail MacQuesten, Esq.
New Mexico Oil Conservation Division
1220 South St. Francis Drive
Santa Fe, New Mexico 87504
Fax: 505-476-3462

William Jones, Hearing Examiner
New Mexico Oil Conservation Division
1220 South St. Francis Drive
Santa Fe, New Mexico 87505
Fax (505) 476-3462



W. Thomas Kellahin

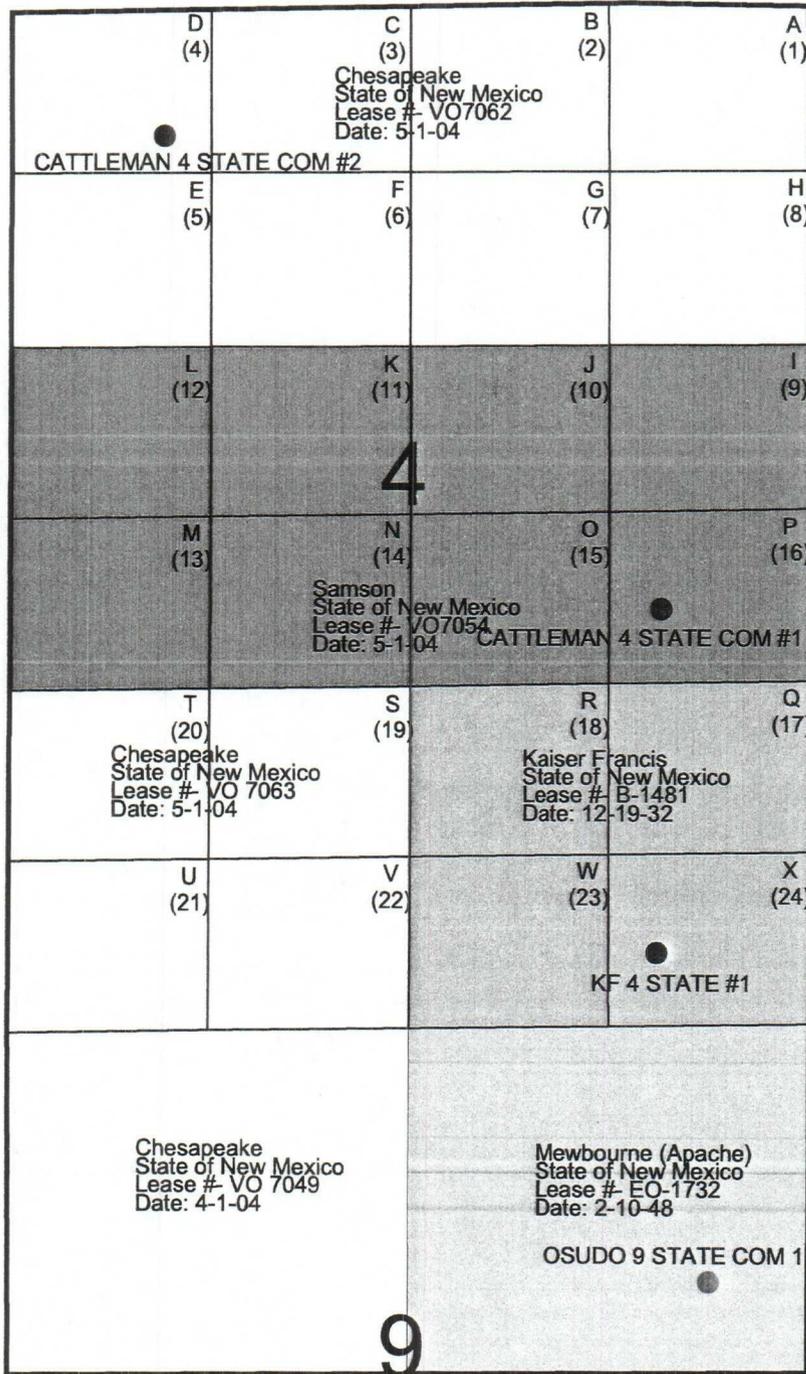


EXHIBIT
A

Leases
 Chesapeake
 Kaiser Francis
 Mewbourne
 Samson




 Chesapeake Energy Corporation
 Osudo Prospect
 21S-35E



Scale: 1:18000	Projection: No Projection
Date: 05/12/2005	Author: Brian Weaver

**FIFTH JUDICIAL DISTRICT COURT
STATE OF NEW MEXICO
COUNTY OF LEA**

SAMSON RESOURCES COMPANY

Plaintiff,

vs.

No. _____

CHESAPEAKE OPERATING, INC.

Defendant.

**PLAINTIFF'S ORIGINAL COMPLAINT FOR
TEMPORARY RESTRAINING ORDER AND INJUNCTIVE RELIEF**

TO THE HONORABLE JUDGE OF SAID COURT:

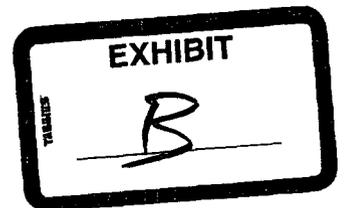
COME NOW SAMSON RESOURCES COMPANY Plaintiff in the above-entitled and numbered cause, and file this their Original Complaint for Temporary Restraining Order and Injunctive Relief against CHESAPEAKE OPERATING, INC., ("Chesapeake"), Defendant herein and in support thereof would respectfully show the Court the following:

I.

PARTIES AND SERVICE

1. Plaintiff Samson Resources Company, is an Oklahoma Corporation authorized to do business and doing business in the State of New Mexico.

2. Defendant, Chesapeake Operating, Inc. ("Chesapeake") is an Oklahoma Corporation authorized to do business and doing business in the State of New Mexico and may be served with process through its registered agent CSC of Lea County, 1819 N. Turner Street G; Hobbs, New Mexico 88240.



II.**JURISDICTION AND VENUE**

4. Pursuant to New Mexico Statute 38-3-1(D), venue is mandatory in Lea County, New Mexico, because the real property, ownership of which is at issue, is located there.

5. This Court has jurisdiction over the parties and the subject matter of this action.

III.**FACTS GIVING RISE TO THE COMPLAINT****No Ownership Interest**

6. Plaintiff Samson, owns leasehold interests in the SE 1/4 of Section 4, Township 21 South, Range 35 East, in Lea County, New Mexico as to all depths below 5,200' ("leasehold property").

7. Samson obtained those leasehold interests from Wilson Oil Company, Ltd. through an Amendment to Term Assignment of Oil and Gas Leases dated March 4, 2004. A copy of which is attached hereto as Exhibit A.

8. At the time of the assignment to Samson an operating agreement dated June 30, 1981, existed between Wilson Oil Company, as non-operator, and Coquina Oil Company, as operator, in relation to the leasehold property and other properties. This operating agreement was in effect up until March 24, 2005. A copy of this operating agreement is attached hereto as Exhibit B.

9. As of March 24, 2005 a new operating agreement took effect by and between Samson, Mewbourne Oil Company ("Mewbourne") and Kaiser-Francis Oil Company ("Kaiser") covering the leasehold property and other properties. A copy of the new operating agreement is attached hereto as Exhibit C.

10. On March 10, 2005, Chesapeake filed through the New Mexico Oil Conservation Division ("OCD") an Application for Permit to Drill for the leasehold property which clearly sets forth its intention to drill a well on the leasehold property. In the application Chesapeake represented that it is the operator. No operating agreements existed then or exist now which name Chesapeake as an operator on the leasehold property. A copy of the Application is attached hereto as Exhibit D.

11. On March 11, 2005, Chesapeake was granted the permit to drill on the leasehold property based on their application to the OCD.

12. On March 30, 2005, Mewbourne, as operator under the March 24th operating agreement, filed with the OCD its application for Permit to Drill on the leasehold property based on its agreement with Samson and Kaiser. The OCD denied the application because of its prior approval of Chesapeake's application. A copy of that denial is attached hereto as Exhibit E.

13. On April 26, 2005 Mewbourne filed with the OCD a new application for cancellation of Chesapeake's permit and approval of Mewbourne's permit. That request is still pending before the OCD.

14. On April 27, 2005, Floyd Steed who is employed by Samson went to the leasehold property and discovered that Chesapeake has almost completed the build-out of the leasehold property in preparation to move a rig onto the leasehold property to commence drilling operations. Mr. Steed was advised by Chesapeake representatives at the site, that the rig would be moved onto the leasehold property today (4/27/05). See affidavit of Mr. Steed attached hereto as Exhibit F.

15. Samson has completed a thorough review of its lease along with the pre-existing and current operating agreements and determined that Chesapeake has no interest in the leasehold property. See affidavit of Rita Bures attached hereto as Exhibit G.

16. Despite Samson informing Chesapeake of their lack of an interest in the leasehold property and its request that Chesapeake cease operations, Chesapeake continues to prepare for drilling. As a result of Chesapeake's actions Samson has been forced to file this pleading.

IV.

TRESPASS

17. Plaintiffs incorporate by reference the factual information contained in Paragraphs 1-16 of this Complaint.

18. By entering upon and preparing the leasehold property for drilling operations Chesapeake has committed a trespass upon the property interest of Samson. Chesapeake has no interest in the leasehold property and is not a signatory to any valid operating agreement covering the leasehold property. Consequently, Chesapeake has no rights to engage in drilling operations on the leasehold property and should be prohibited in engaging in such operations.

19. As a result of Chesapeake's trespass Samson has been damaged in that the legitimate designated operator Mewbourne has been prevented from securing a permit to drill. Until Chesapeake's permit is withdrawn or revoked Samson will be unable to enjoy the bounties of its property and further develop the property.

20. As a result of Chesapeake's trespass, Samson has been damaged in an amount with in the jurisdictional limits of this Court.

V.

TORTIOUS INTERFERENCE WITH THE LEASEHOLD INTEREST

21. Plaintiffs incorporate by reference the factual information contained in Paragraphs 1-20 of this Complaint.

23. Chesapeake's filing of the Application for Permit to Drill with the OCD and attempts to engage in drilling constitutes a deliberate and malicious interference with the contractual relationships between Samson, Mewbourne and Kaiser as to the leasehold property subject to the operating agreement.

24. Chesapeake willfully and intentionally committed acts calculated to cause damage to Samson and its lawful business and ownership of the leasehold property.

25. Chesapeake's acts are the proximate cause of damage to Samson in that Samson has lost the opportunity or lost time in which to develop and drill wells.

VI.

APPLICATION FOR TEMPORARY RESTRAINING ORDER

26. Samson would further show that an immediate and irreparable injury will occur if Chesapeake is not immediately enjoined from drilling its well on the leasehold property.

27. In order for Chesapeake to drill its well it will commit a trespass on the leasehold property. In doing so, Chesapeake will cause irreparable damage to the leasehold property and invade Samson's mineral interest.

28. In addition, Chesapeake's drilling of its well will interfere with Samson's peaceful possession and use of its property.

VII.**APPLICATION FOR PRELIMINARY INJUNCTION**

29. Under New Mexico law, a party seeking a preliminary injunction must show; 1) the party will suffer irreparable injury unless the injunction is granted; 2) the threatened injury outweighs any damage the injunction might cause the party against whom the injunction is sought; 3) issuance of the injunction will not be adverse to the public's interest; and 4) there is a substantial likelihood the party seeking injunctive relief will prevail on the merits. *National Trust for Historic Preservation v. City of Albuquerque*, 874 P.2d 798, 803 (Ct. App. 1994).

30. Pursuant to the facts shown above, Samson has satisfied all prongs of the test entitling it to a Preliminary Injunction.

VIII.**DEMAND FOR TRIAL BY TWELVE-MEMBER JURY**

31. Samson hereby demands that all matters triable by jury in this complaint on file herein be tried before a jury of twelve persons.

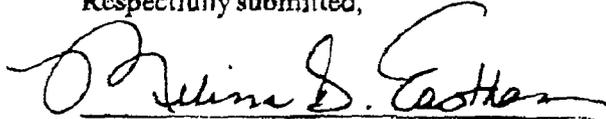
PRAYER FOR RELIEF AND REQUEST FOR PERMANENT INJUNCTION

WHEREFORE, Plaintiffs respectfully request the Court enter judgment awarding Plaintiffs the following relief:

- a. All direct and consequential damages of Chesapeake's breaches of its duties as described herein;
- b. That Chesapeake has no right to locate its proposed well on the leasehold property
- c. An award of costs, reasonable attorneys' fees as attorneys' fees and pre-judgment and post-judgment interest at the highest lawful statutory or contractual rate;

- d. That the Court upon review of the verified complaint, enter a Temporary Restraining Order in accordance with New Mexico Rule of Civil Procedure 1-066; and upon satisfaction of the bond or cash deposit requirements established by said Court, direct issuance of said Order by the Clerk, the Sheriff or server being instructed to serve upon Defendant the Temporary Restraining Order and applicable documents restraining the Defendant and their agents, employees, representatives and any other parties in concert or participation therewith, from commencing the drilling its well as planned in the Application for Permit to Drill and that Chesapeake also be cited to appear and answer to the application for temporary restraining order;
- e. That the Court set a hearing in accordance with said law for a temporary injunction and issue a temporary injunction affirming the same matters requested under the Temporary Restraining Order;
- f. That, after final hearing, the Court issue a permanent injunction enjoining Chesapeake from drilling its as planned in the Application for Permit to Drill; and
- j. Such other and further relief, at law or in equity, to which they may be justly entitled.

Respectfully submitted,



David W. Lauritzen
New Mexico State Bar No. 9226
Melissa D. Eastham
New Mexico State Bar No. 8072

OF

COTTON, BLEDSOE, TIGHE & DAWSON
A Professional Corporation
P. O. Box 2776
Midland, Texas 79702
(432) 684-5782
(432) 684-3137 (Fax)

ATTORNEYS FOR PLAINTIFFS

VERIFICATION

STATE OF TEXAS

COUNTY OF Midland

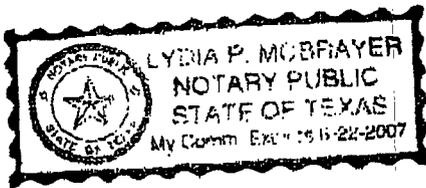
BEFORE ME, the undersigned Notary Public, on this day personally appeared Rita Buress, Senior Landman for Samson Resources Company, who, after being duly sworn, stated under oath that she is the duly authorized representative of Samson Resources Company, that she has read the above Original Complaint for Temporary Restraining Order and Injunctive Relief of Samson Resources Company, and that every statement contained therein is within her personal knowledge, is reflected in public records and to the best of her knowledge and belief is true and correct.

Rita Buress

Rita Buress
Senior Landman, Samson Resources Company

SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned Notary Public, on this 27th day of April 2005.

Lydia P. McBrayer
Notary Public, State of Texas



PEGASUS PLACE
125 WEST FOURTH STREET
POST OFFICE BOX 298
ROSWELL, N.M. 80202-0298

Phil Brewer

ATTORNEY & COUNSELOR

TELEPHONE: 505-625-0298
FACSIMILE: 505-625-0299
E-MAIL: pbrewer@pegasusplace.com

May 6, 2005

Mr. John H. Bemis
Assistant Commissioner
for Oil and Gas
New Mexico Commissioner of Public Lands
Post Office Box 1148
Santa Fe, New Mexico 87504-1148

VIA FACSIMILE
(505) 827-5766
AND REGULAR MAIL

RE: Section 4, Township 21 South, Range 35 East, N.M.P.M.,
Lea County, New Mexico

Dear Mr. Bemis:

Tom Kellahin and I thank you for your letter of May 4, 2005 relating to the mineral development under the above captioned lands and we would be happy to comply with the request set forth at the bottom of Page 1 of your letter were it not for the concerns discussed hereinafter. First, you were present, in person or telephonically, at the hearings held before the New Mexico Oil Conservation Division and the Lea County District Court on May 3, 2005. Mr. Kellahin and I presume that you also had the opportunity to familiarize yourself with the pleadings filed in these actions, but you certainly heard the arguments of Chesapeake's counsel regarding Chesapeake's authority to conduct the presently ongoing drilling activity in Section 4. Neither Mr. Kellahin nor I can think of anything to tell you with respect to said authority beyond that which you have already heard and/or read. Second, if anything more could be reported, we are hesitant, given the fact that counsel for Mewbourne, Samson, and Kaiser-Francis were copied with your letter, to disclose what might be considered our attorney-client work product by means other than as expressly provided in NMOCD and District Court rules. Third, Mr. Kellahin and I have reviewed the statutes and regulations pertaining to the operation of the New Mexico State Land Office and we have not been able to discover anything that would serve as the basis for your request, particularly given the fact that, as noted above, it



appears that you may have some sympathy for the position that is being taken by adverse parties in a pending dispute. Fourth, since the State's royalty will be the same whichever spacing unit is approved by NMOCD, we are confused by the Commissioner's Office taking such an apparent position.

While Chesapeake appreciates the fact that good relations with the Commissioner's Office to be a necessary aspect of its ongoing business in New Mexico, Mr. Kellahin and I have, with all due respect to you and your position, advised our client that trying to guess what additional information you are seeking and providing whatever that might be to you is not legally required and should not be pursued. Neither Mr. Kellahin nor I wish to increase the adversarial nature of the dispute that exists with regard to the development of Section 4, but we would be remiss in not pointing out that the tenor and perceived purpose of your letter indicate a desire for the Commissioner's Office to become involved in said dispute beyond the scope of your jurisdiction. This would, again with all respect, constitute an unprecedented move by your agency to usurp the jurisdiction of NMOCD to determine the spacing that will best prevent waste, protect correlative rights, etc. and we hope that we have misunderstood the intent underlying your letter. If either Mr. Kellahin or I may be of further assistance to you in a way that will not cause us concern as to the legal requirement therefor, we will be happy to do so. We otherwise appreciate your understanding of our position.

Very truly yours,



Phil Brewer

PTB:elh



**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. 13492
ORDER NO. R-12343**

**APPLICATION OF MEWBOURNE OIL COMPANY FOR CANCELLATION OF
A DRILLING PERMIT AND APPROVAL OF A DRILLING PERMIT, LEA
COUNTY, NEW MEXICO.**

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing of Applicant's Application for Emergency Order on May 3, 2005, at Santa Fe, New Mexico, before Division Director, Mark E. Fesmire, P.E.

NOW on this 5th day of May, 2005, the Division Director, having reviewed the papers filed in this matter and considered the arguments of counsel,

FINDS THAT:

(1) Due notice has been given, and the Division has jurisdiction of the parties to this case and of the subject matter.

(2) In its application in this case, Mewbourne Oil Company (Applicant) asks the Division to cancel its approval of an Application for Permit to Drill (APD) issued to Chesapeake Operating, Inc. (Chesapeake) for its proposed KF 4 State Well No. 1 (API No. 30-025-37129), located 660 feet from the South line and 990 feet from the East line of Section 4, Township 21 South, Range 35 East, NMPM, in Lea County, New Mexico, and to approve Applicant's APD for its proposed Osudo 4 State Com. Well No. 1, to be located in the same section, 660 feet from the South line and 1650 feet from the East line thereof.



(3) In its Application for Emergency Order, Applicant alleges that Chesapeake owns no interest in the drill site of its KF 4 State Well No. 1; but has nevertheless commenced the drilling of said well without first securing either voluntary or compulsory pooling of such tract with any tract in which Chesapeake has an ownership interest. Applicant accordingly seeks an emergency order halting the drilling of the KF 4 State No. 1 pending the hearing of this case on the merits.

(4) The following facts are apparently undisputed:

(a) Section 4 of Township 21 South, Range 35 East, NMPM, is an irregular section consisting of approximately 960 acres.

(b) Chesapeake owns no interest in the tract on which its KF 4 State Well No. 1 well is located. It may have some rights based upon approval of an Authority for Expenditure (AFE) for the well by another working interest owner, but such AFE was not circulated pursuant to an operating agreement, and Chesapeake does not premise its position on this AFE approval. Chesapeake instead premises its position on the Division's approval of its APD.

(c) Chesapeake is the owner of a working interest in a tract in the west half of said Section 4 that could be pooled with the drill site tract to form a standard lay-down 320-acre spacing unit consisting of the geographical south 1/3 of irregular Section 4. However, no voluntary agreement or compulsory pooling order creating such a unit exists.

(d) Applicant is the owner of a working interest in the drill site tract and is a party to an operating agreement to which Chesapeake is not a party covering acreage that could constitute a standard stand-up 320 acre unit in the east part of irregular Section 4 that would include the drill site tract of the KF-4 State No. 1 well, as well as the proposed drill site of Applicant's Osudo 4 State Com. Well No. 1.

(e) The Division approved Chesapeake's APD for its KF-4 State Well No. 1 on March 11, 2005. Applicant subsequently filed an AFE for its proposed Osudo 4 State Com. Well No. 1. Either location would constitute a standard location for a Morrow well. However, because Applicant proposed a location in the same quarter section as that proposed in Chesapeake's previously approved APD, Applicant's APD was denied.

(f) On or about April 24, 2005, Chesapeake commenced drilling its KF-4 State Well No. 1.

(5) Although Applicant proposed a different location for its well, it did not offer any evidence tending to show that its proposed location would more effectively develop either a stand-up or a lay-down unit than would the location at which Chesapeake has commenced its well. Absent such a showing the Division cannot conclude that Applicant's correlative rights will be irreparably infringed.

(6) Instead Applicant premised its plea for an emergency order upon its contention that the Division's approval of Chesapeake's APD did not give Chesapeake the right to drill a well on land where it did not have an ownership interest prior to securing either voluntary or compulsory pooling.

(7) The jurisdiction of the Division, however, is limited to matters involving correlative rights, prevention of waste and protection of public health, safety and the environment. Applicant made no showing that the cancellation of Chesapeake's APD prior to hearing of the merits of this application is necessary to prevent injury to the correlative rights of any party, prevent waste, nor protect human health, safety or the environment.

(8) Absent a showing of irreparable harm with respect to a right or interest that the Division has jurisdiction to address, the Division should not grant an interim emergency order prior to hearing the case on its merits.

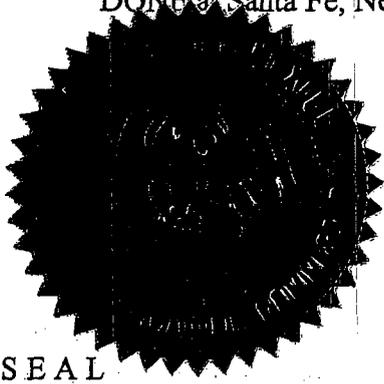
IT IS THEREFORE ORDERED THAT:

(1) The Application of Mewbourne Oil Company for Emergency Order is denied.

(2) Jurisdiction of this case is retained for the entry of such further orders as the Division may deem necessary.

Case No. 13492
Order No. R-12343
Page 4

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.



SEAL

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

MARK E. FESMIRE, P.E.
Director

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

IN THE MATTER OF THE APPLICATION OF
DEVON ENERGY PRODUCTION COMPANY, L.P.
FOR COMPULSORY POOLING,
LEA COUNTY, NEW MEXICO

CASE NO. 13048

IN THE MATTER OF THE APPLICATION OF
EGL RESOURCES, INC.
FOR COMPULSORY POOLING,
LEA COUNTY, NEW MEXICO

CASE NO. 13049

ORDER No. R-11962-A

**ORDER ON MOTIONS OF
DEVON ENERGY PRODUCTION COMPANY, L.P.
FOR A STAY OF DIVISION ORDER NO. R-11962 AND AN EMERGENCY
STAY OF DRILLING ACTIVITIES**

BY THE DIVISION DIRECTOR:

This matter has come before the Director of the Oil Conservation Division (OCD) on the Motions of Devon Energy Production Company, L.P. (Devon) for a stay of Order R-11962 pending the entry of an Order in the case *de novo* pending before the New Mexico Oil Conservation Commission (Commission). The Director on this 30th day of May 2003, having reviewed the motions and the response of EGL Resources, Inc. (EGL),

FINDS AS FOLLOWS:

1. This matter is before the Commission pursuant to the applications of both Devon and EGL for a hearing *de novo* pursuant to NMSA, Section 70-2-13 and Rule 1220(A), 19 NMAC 15.N.1220.A.
2. After filing for hearing *de novo*, Devon on May 27, 2003, filed a motion for a stay pursuant to Rule 1220.B, 19 NMAC 15.N.1220.B. of Division Order No. R-11962 pending the entry of an Order by the Commission. On May 28, 2003, Devon filed a Motion for an Emergency Order Staying EGL from commencing operations on the well that is the subject of Cases Number 13048 and 13049.

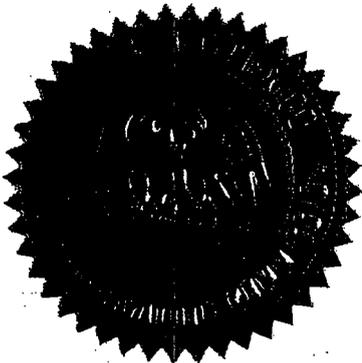


3. EGL filed a response on May 29, 2003, opposing both Devon Motions.
4. Rule 1220.B provides that a stay pending review by the Commission may be granted if unopposed or "under other circumstances [as necessary] to prevent waste, protect correlative rights, protect public health and the environment or prevent gross negative consequences to any affected party."
5. Devon argues that a stay is needed to maintain the status quo or preclude any party from gaining an unfair advantage over another party while the matter is pending before the Commission.
6. EGL argues that Devon has failed to establish that the requirements of Rule 1220.B have been met, because it has alleged only generalized concerns and does not assert it will suffer harm if the order is not granted. EGL also argues it will suffer significant harm if the drilling operations are interrupted.

IT IS THEREFORE ORDERED THAT:

1. The Motions of Devon for a stay of Division Order No. R-11962 and an emergency stay of EGL's drilling activities related to that order are hereby denied because Devon has not met the requirements of Rule 1220.B. Devon has not alleged the stay is needed to prevent waste, protect correlative rights, or protect public health and the environment. It also has not alleged sufficient facts to justify a finding that a stay is necessary to prevent gross negative consequences to Devon.

DONE at Santa Fe, New Mexico, on the day and year designated above.



SEAL

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

Lori Wrotenbery
LORI WROTENBERY
Director

**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 PURPOSES OF CONSIDERING:**

CASE NO. 13492

**APPLICATION OF MEWBOURNE OIL COMPANY FOR
CANCELLATION OF A DRILLING PERMIT AND
APPROVAL OF A DRILLING PERMIT
LEA COUNTY, NEW MEXICO.**

**AFFIDAVIT OF DAVID DeLaO
AND
JEFFREY FINNELL**

**STATE OF OKLAHOMA §
 § ss.
COUNTY OF OKLAHOMA §**

Before me, the undersigned authority, personally appeared David DeLaO and Jeffrey Finnell who being fully sworn stated:

A. Name and qualifications as experts are as follows:

David DeLaO

Education: BS Petroleum Engr--Texas Tech University--1984
Experience: 21 yrs. Drilling/Production Engineer,

Jeffrey Finnell

Education: BS Petroleum Engr—University of Oklahoma —1986
Experience: 16 yrs. Completion/Production Engineer,
Certification: Registered Professional

B. We are over the age of majority and competent to make this Affidavit.



We are personally knowledgeable and familiar with the facts and circumstances of Chesapeake's K-F 4 State Well No. 1 including drilling and completion and testing and producing. We are familiar with Mewbourne's Osudo "9" Well No. 1 and the customs and practices of the industry and Chesapeake drilling and completion operations.

OPINIONS

C. Our expert opinions are as follows:

- (1) The geological and engineering data derived from the drilling and completion and testing of the K-F "4" State Well No. 1 is owned by the Operator and shared with the working interest owners who have elected and paid the share of the well costs
- (2) This data is the proprietary and confidential business information of the operator and is shared with participating joint interest partners and appropriate regulatory agencies.
- (3) Contrary to Mr. Wakefield affidavit dated May 12, 2005 and the allegations made in Paragraphs 14 and 18 of Movants' Motion to Limit Drilling Operations:

a. Rebuttal to paragraphs 14:

- i. Experienced operators may disagree over the appropriate means to complete and test a well, but Chesapeake is an experienced operator in SE New Mexico in general and specifically in the Morrow. Unless requested before the completion, joint interest partners are not given detailed plans of the completion on the majority of our wells.
- ii. Chesapeake experience in the Morrow in SE NM is extensive. Chesapeake has two drilling rigs in SE NM dedicated to developing the Morrow. A minimum of five pulling units are presently working on projects involving the Morrow. The number of projects we have ongoing in this zone is a reflection of the success we have experienced.

b. Rebuttal to paragraph 18:

- i. 18A: Chesapeake will incur costs of no less than \$1.6MM. It is not economically prudent to delay the completion especially since Mewbourne continues to produce the Osudo 9 State Com #1 at the highest rates possible.

- ii. 18B: As non-participating parties it is not reasonable for Chesapeake to deny "free and uninterrupted access" to the Movants
- iii. 18C: Chesapeake has solicited bids and awarded the logging job to Halliburton Logging Services for a logging suite which exceeds stated logging suite by Movant. Chesapeake plans to run at TD a conventional quad-combo with Spectral GR (Gamma Ray combo, Spectral GR, Dual Laterolog MSFL, Spectral Density, Compensated Neutron, Sonic) from TD to casing and GR/Neutron to surface. This is more extensive than stated by Movants.
- iv. Furthermore, Movants' requested logging suite is in excess of that performed by Mewbourne in the evaluation of the offsetting Osudo 9 State Com #1. In that wellbore Mewbourne had planned to run a triple-combo suite only up to 10,000' and GR/Neutron to surface. They chose not to evaluate over 6,000' of openhole. Chesapeake objected and requested that logs be obtained to casing or at the very minimum up to 8,000' which would cover at least most of the Bone Spring interval. Mewbourne denied such request until Chesapeake notified Mewbourne in writing of our intent to obtain the additional interval at our sole expense and possession. Mewbourne then relented. Chesapeake has no plans to DST the wellbore or to take core samples.
- v. 18D: Chesapeake's plans to comply with the approved APD that requires cementing from TD to +/-4,800'. This will protect all encountered reserves.
- vi. 18E: Chesapeake will consider selling the wellbore to Movants should Chesapeake fail to encounter any commercial pay zones.
- vii. 18F: It is Chesapeake's opinion that this motion is an attempt by Mewbourne to delay the completion of the KF 4 State #1. This will be harmful to Chesapeake, the State of New Mexico, and all parties with interest in the S/2 section 4 by denying the right of protection of correlative rights and the prevention of waste.
- viii. Mewbourne's Osudo 9 State Com #1 began production on 3/08/05, Initial rate was 3,050 MCFPD FTP: 4,200 psi on a 10/64" choke. Production peaked on 4/18/2005 at 22,199 MCFPD and 1,200# FTP on a 32/64" choke. As of 5/11/05 the rate has decreased to 17,342 MCFPD and 875# FTP on a 48/64# choke. In 65 days the well has produced 13.8 MBO and 0.886 BCF. Mewbourne is producing the Osudo 9 State Com #1 at the highest possible rate while attempting to prevent or delay Chesapeake.

- ix. 18G: With respect to strict confidentiality, the best way to assure that is to deny this information to Movants.
- (4) Chesapeake is meeting or exceeding all of the drilling, evaluation and completing procedures suggested by Movants.
 - (5) The limitation and conditions set forth in this Motion to Limit Drilling Operations are a departure from industry custom and practices.
 - (6) Chesapeake's drilling, logging, completion and testing program for the K-F "4" State Well No. 1 are equal to or greater than those used by Mewbourne for the Osudo "9" Well No. 1 and the industry customs and practices.
 - (7) Mr. Wakefield seeks to restrict Chesapeake from retrieval of core samples that Chesapeake does not plan to obtain.
 - (8) Chesapeake plans to obtain all of the log data that are stated in the motion to limit drilling operations.
 - (9) It is not the custom and practice of Chesapeake nor is its experience in dealing with Mewbourne for the Osudo "9" Well No. 1 that the Operator obtains the working interests owners consent for the appropriate means of testing and completing a well.
 - (10) Chesapeake is a prudent, competent and experienced operator that has risked 50% of the costs of this well and is highly motivated to obtain a successful wellbore.
 - (11) The custom and practice of the industry and of Chesapeake is to restrict access to all parts of the well site, daily drilling reports, mud log reports and such other information that is derived during the drilling and completion to the working interest owner who has signed a Joint Operation Agreement, approved the AFE and paid that share of the well's costs.
 - (12) Chesapeake will set casing in a manner acceptable to Chesapeake and will meet or exceed industry practice and OCD rules.
 - (13) Chesapeake will test and produce this wellbore in a manner acceptable to Chesapeake and in compliance with OCD rules.

(14) If Chesapeake is preclude from logging, completing, testing and produce this well, Chesapeake will be cause irreparable harm that includes:

- a. Uncompensated drainage by Mewbourne's Osudo "9" Well No. 1
- b. Possibility of making recovery of reserves uneconomical
- c. Loss of the expected drilling suspended cost of \$1.6MM (gross)

FURTHER AFFIANTS SAYETH NOT:

David DeLaO

David DeLaO

Jeffery Finnell

Jeffery Finnell

STATE OF OKLAHOMA

COUNTY OF OKLAHOMA

§
§
§



SUBSCRIBED AND SWORN TO before me this 13th day of May 2005, by David DeLaO and Jeffery Finnell.

Wendy Cunningham
Notary Public

