

**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:**

**APPLICATION OF MAGNUM HUNTER PRODUCTION, INC.  
FOR COMPULSORY POOLING,  
EDDY COUNTY, NEW MEXICO**

**CASE NO. 13642**

2006 JUN 24 PM 12 15

**CHESAPEAKE ENERGY CORPORATION'S  
MOTION TO DISMISS**

Chesapeake Energy Corporation ("Chesapeake") moves that the New Mexico Oil Conservation Division dismiss this case because the applicant, Magnum Hunter Production, Inc. ("Magnum") prematurely filed this case and failed to comply with the custom and practice of the Division concerning Section 70-2-17.C NMSA 1978 by instituting an application for compulsory pooling prior to conducting good faith efforts to reach a voluntary agreement with Chesapeake.

And in support states:

**RELEVANT FACTS**

(1) Chesapeake, upon information, believes the working interest ownership within the Morrow formation in the E/2 of Section 33, T17S, R30E, Eddy County, NM is as follows:

- (a) Cimarex Energy Co. = 50%
- (b) Chesapeake Energy Corporation = 40.625%
- (c) CBS Partners, Ltd. = 9.375%

*Cam 9/24/1*

(2) By letter dated December 22, 2005, Cimarex Energy Co. sent a well proposal and AFE to Chesapeake for its Full Tank "33" Well No. 1 to be dedicated to a 320-gas spacing unit consisting of the E/2 of Section 33. T17S, R30E, Eddy County, NM

(3) Five days after, on December 27, 2005, Chesapeake received this well proposal.

(4) On January 3, 2006, Magnum Hunter on behalf of Cimarex Energy filed an application for compulsory pooling of the E/2 of Section 33.

(5) By letter dated January 10, 2006, Magnum Hunter send notice of the hearing of this case to Chesapeake.

(6) On January 16, 2006, Chesapeake received a copy of Magnum Hunters compulsory pooling application.

(7) On January 23, 2006, Lynda Townsend on behalf of Chesapeake talked with Mr. Jon Tate of Cimarex and advised him that there was no need to pool Chesapeake because Chesapeake was willing to elect as to this well but would need time to review a joint operation agreement. Mr. Tate advised that this well would be dedicated to a laydown N/2 unit and not a standup E/2 unit as proposed.

### **ARGUMENT**

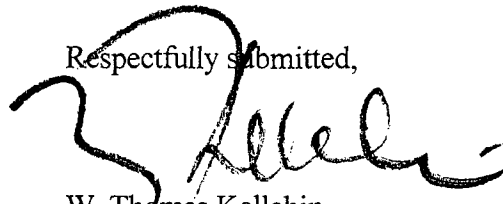
It has been the Division's longstanding interpretation of NMSA 1978 Section 70-2-17.C of the New Mexico Oil & Gas Act that an applicant is first required to make a good faith effort to obtain the voluntary commitment of interests in a spacing unit before seeking their compulsory pooling. Generally, that effort is commence by sending a written well proposal letter, including an AFE, that specifies the spacing unit, the well locations, estimated costs and depth and then waiting approximately 30-day thereafter before filing. The waiting period follows the industry's custom set forth in standard Joint Operating Agreements and is meaningful because it provides a period for the party to received the proposal, respond and to obtain further information from the proposing party or otherwise and then make an informed decision.

It is premature for any party, including Magnum, to proceed with compulsory pooling at this time for a spacing unit for the E/2 of this section. In addition, it appears to constitute "bad faith" for Mangum Hunter to proceed to hearing a pooling case for a spacing unit that is now different from the one now wants.

Magnum's actions in these cases are contrary to this practice and if allowed by the Division will encourage Magnum and others to use compulsory pooling as a negotiating weapon rather than as a remedy of last resort. The Division's files are replete with cases that were dismissed for the same reasons that Magnum's case should be dismissed. For example, See NMOCD Cases 9939, 106635, 106636, 11107, 11434, 11461, 11927, 11999 and 12014.

To the best of Chesapeake's knowledge there are no expiring leases or other deadlines that constitute an emergency such that the Division should commence hearing Magnum's pooling case at this time. To do so, will require the Division to proceed to hearing cases in a piecemeal fashion that ultimately may have been unnecessary.

Respectfully submitted,



W. Thomas Kellahin  
Attorney for Chesapeake

**CERTIFICATION OF SERVICE**

I hereby certify that a copy of this pleading was served upon the following counsel of record this 24th day of January 2006, by facsimile.

Gail McQuesten, Esq.  
Oil Conservation Division  
1220 South St. Francis Drive  
Fax: 505-476-3462

James Bruce, Esq.  
Attorney for Magnum Hunter  
Fax: (505) 982-2151



W. Thomas Kellahin