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W. THOMAS KELLAHIN*

*NEW MEXICO BOARD OF LEGAL SPECIALIZATION
RECOGNIZED SPECIALIST IN THE AREA OF
NATURAL RESOURCES-OIL AND GAS LAW

JASON KELLAHIN (RETIRED 1991)

October 21, 1994

VIA FACSIMILE AND HAND DELIVERED

OCD
Rec.
10/24/94
FD

Mr. Michael E. Stogner
Hearing Examiner
Oil Conservation Division
310 Old Santa Fe Trail
Santa Fe, New Mexico 87504

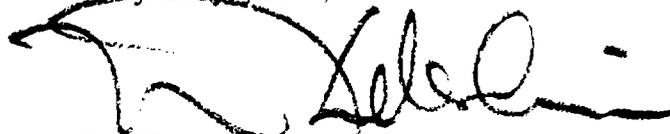
RECEIVED
OCT 24 1994
CAMPBELL, CARR, et al

Re: **Prehearing Statement**
MOTION TO DISMISS and MOTION TO COMPEL
NMOCD Case 11107
Application of Maralo, Inc.
for Compulsory Pooling
Eddy County, New Mexico

Dear Mr. Stogner:

On behalf of Bass Enterprises Production Company, an adversely affected interest owner, please find enclosed our Prehearing Statement including our MOTION TO DISMISS the referenced case filed by Maralo, Inc. This case is currently set for hearing on the Examiner's Docket scheduled for October 27, 1994.

Very truly yours,



W. Thomas Kellahin

cc: Via facsimile to:

William F. Carr, Esq., Attorney for applicant
Wayne Bailey, Bass Enterprises

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. 11107

APPLICATION OF MARALO, INC.
FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO.

PRE-HEARING STATEMENT

This pre-hearing statement is submitted by BASS ENTERPRISES
PRODUCTION CO., as required by the Oil Conservation Division.

APPEARANCE OF PARTIES

APPLICANT

Maralo, Inc.

ATTORNEY

William F. Carr, Esq.
P. O. Box 2208
Santa Fe, New Mexico 87504
(505) 988-4421

OPPOSITION PARTY

Bass Enterprises Production
201 Main Street
Fort Worth, Texas 76102
(817)390-8671
Attn: Wayne Bailey

ATTORNEY

W. Thomas Kellahin
KELLAHIN AND KELLAHIN
P.O. Box 2265
Santa Fe, NM 87504
(505) 982-4285

STATEMENT OF CASE

OPPOSITION PARTY

BASS ENTERPRISES PRODUCTION COMPANY ("Bass"), moves the Division to dismiss this case for the following reasons:

(1) On Friday, September 2, 1994, Bass Enterprises Production Company received a letter from Maralo Inc. ("Maralo") which is referenced a "Farmout Request" and in which Maralo requested Bass to farmout its interest in the NW/4 of Section 30, T23S, R30E, NMPM, Eddy County, New Mexico. See Exhibit "A" attached.

(2) Maralo did not indicate to Bass that there was any urgency to this matter nor did Maralo request a reply to the farmout by any specific date.

(3) Maralo failed to put Bass on notice that Maralo would institute compulsory pooling actions against Bass in the absence of Bass' immediate acquiesces to Maralo's request.

(4) Without waiting for a response from Bass, on Tuesday, September 6, 1994, counsel for Maralo filed a Compulsory Pooling application. See Exhibit "B" attached.

(5) Maralo provided Bass with less than two (2) full regular business days in which to review and respond to Maralo's request for a farmout.

(6) Contrary to the custom and practice before the Division and in violation of Section 70-2-17 (c) NMSA (1978), Maralo has prematurely instituted compulsory action against Bass without first undertaking a good faith and reasonable effort to form a spacing unit on a voluntary basis for the drilling of the subject well.

(7) Maralo seeks to use the compulsory pooling statute as a negotiation strategy against Bass rather than as a remedy of last resort when all efforts for obtaining a voluntary agreement have failed.

(9) Maralo has acted in bad faith in instituting this compulsory pooling case.

(10) Maralo's application is premature and must be dismissed.

WHEREFORE Bass Enterprises Production Company requests that the Division Hearing Examiner grant this motion and dismiss Oil Conservation Division Case 11107.

PROPOSED EVIDENCE

OPPOSITION PARTY:

WITNESSES

EST. TIME

EXHIBITS

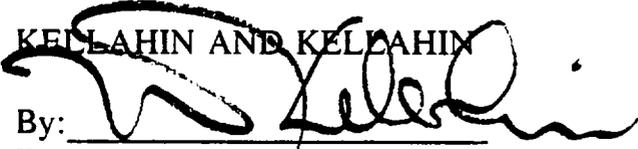
Counsel for Bass is unable to adequately prepare opposition because of Maralo's failure to file a prehearing statement in compliance with Division Memorandum 2-90.

PROCEDURAL MATTERS

(1) Motion to Dismiss Bass Enterprises Production Co. from this case for failure of Maralo to comply with Section 90-2-17(c) NMSA (1978); and

(2) Motion to Compel Maralo, Inc. to file a prehearing statement in accordance with Division Memorandum 2-90 and to continue this case pending compliance therewith.

KELLAHIN AND KELLAHIN

By: 

W. Thomas Kellahin

P.O. Box 2265

Santa Fe, New Mexico 87504

(505) 982-4285

LAND RECEIVED			
SEP 2 1994			
WRS	JWB	<input checked="" type="checkbox"/>	TCS
DDC	HBF	<input type="checkbox"/>	WWC
HGM	JTW	<input type="checkbox"/>	SF

Maralo^{INC.}

August 31

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Bass Enterprises Production Co.
201 Main St., Suite 2900
Fort Worth, Texas 76102



Attn: Wayne Bailey

Re: Farmout Request
NW/4 Section 30,
T-23-S, R-30-E, NMPM,
Gold Rush Pros. (NM-241)
Eddy County, New Mexico

Dear Wayne:

This letter will serve as Maralo Inc.'s formal request for a farmout of Bass' remaining leasehold interest in the captioned acreage. The following terms and conditions are requested for a farmout:

1. Maralo will drill or cause to be drilled a test well to adequately test the Bone Springs formation at a depth of approximately 7,900' on or before December 31, 1994 at a legal location in the NE/4 NW/4 of Section 30, T-23-S, R-30-E, NMPM, Eddy County, New Mexico.
2. Upon establishment of commercial production from said well, Maralo proposes to earn the following:
 - a. One hundred percent (100%) of Bass' leasehold interest in the NW/4 of said Section 30, with Bass delivering Maralo an eighty percent (80%) Net Revenue Interest Lease.
 - b. After payout of the costs of said well, Bass shall have a one-time option to convert said reserved ORRI to a twenty-five percent (25%) working interest in said well and its proration unit, proportionately reduced.
3. In the event the drilling of said well results in a dry hole, and no acreage is earned, Maralo will have the option to drill a similar test on the captioned farmout acreage, within one hundred eighty (180) days of the plugging of the initial well. If the drilling of said second well results in the establishment of commercial production, Maralo shall earn the same interest outlined above.

Bass Enterprises Production Co.
August 31, 1994
Page -2-

4. All rights earned by Maralo shall be limited in depth from the surface down to one hundred feet (100') below the deepest perforation in said well made by Maralo.

5. In order for Maralo to maintain its earned acreage outside of the proration unit established for the initial test well, Maralo must commence a continuous development program which would allow no more than one hundred eighty (180) days to elapse between the completion or plugging of the previous well and the commencement of actual drilling operations on the next succeeding well.

6. There shall be no obligation upon Maralo to commence operations on said well pursuant to the terms of the formal agreement, and the only penalty for failure to commence said operations will be the forfeiture of all rights that might be earned by said operations.

We have also enclosed herein for Bass' review and possible execution two copies of Maralo's AFE to drill the G R "30" State #1 well. If Bass desires to participate in this well instead of farming out its interest as detailed herein, please execute said AFE at your earliest convenience.

Please advise as soon as possible if the foregoing terms meet with your approval and begin preparation of a formal agreement. Should you have any questions concerning this request, please feel free to contact the undersigned.

Yours very truly,



Mark Wheeler, CPL
District Landman

MW/pjd:NM-241(9)

xc: Joe Pulido
John Thoma

CAMPBELL, CARR, BERGE
& SHERIDAN, P.A.
LAWYERS

MICHAEL B. CAMPBELL
WILLIAM F. CARR
BRADFORD C. BERGE
MARK F. SHERIDAN

PATRICIA A. MATTHEWS
MICHAEL H. FELDEWERT
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POST OFFICE BOX 2208
SANTA FE, NEW MEXICO 87504-2208
TELEPHONE: (505) 968-4421
TELECOPIER: (505) 963-6043

September 6, 1994

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Bass Enterprises Production Company
201 Main Street
Fort Worth, TX 76102
Attn: Wayne Bailey

LAND RECEIVED		
SEP 12 1994		
WRS	JWB	TCS
DDC	HBF	WWC
HCM	JTW	SF

Re: Application of Maralo, Inc., for Compulsory Pooling, Eddy County, New Mexico

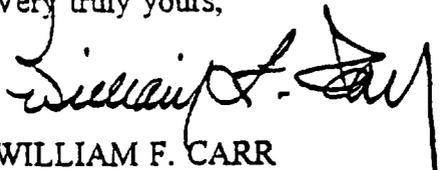
Dear Mr. Bailey:

This letter is to advise you that Maralo, Inc., has filed the enclosed application with the New Mexico Oil Conservation Division seeking the force pooling of certain mineral interests in all formations to the base of the Bone Spring formation. in and under the NE/4 NW/4 of Section 30, Township 23 South, Range 30 East, N.M.P.M., Eddy County, New Mexico. Maralo, Inc., proposes to dedicate the referenced pooled units to its GR 30 State Well No. 1 located at a standard oil well location 330 feet from the North line and 1980 feet from the West line in the NE/4 NW/4 of said Section 30.

This application has been set for hearing before a Division Examiner on September 29, 1994. You are not required to attend this hearing, but as an owner of an interest that may be subject to pooling, you may appear and present testimony. Failure to appear at that time and become a party of record will preclude you from challenging the matter at a later date.

Parties appearing in cases have been requested by the Division (Memorandum 2-90) to file a Prehearing Statement substantially in the form prescribed by the Division. Prehearing statements should be filed by 4:00 o'clock p.m. on the Friday before a scheduled hearing.

Very truly yours,


WILLIAM F. CARR
ATTORNEY FOR MARALO, INC.
WFC:mlh
Enc.

