



STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION

2040 S. PACHECO
SANTA FE, NEW MEXICO 87505
(505) 827-7131

April 3, 1997

File

William F. Carr, Esq.
Campbell, Carr, Berge & Sheridan, P.A.
P.O. Box 2208
Santa Fe, NM 87504-2208

James Haas, Esq.
Ernest L. Carroll, Esq.
Losee, Carson, Haas & Carroll
P.O. Box 1720
Artesia, NM 88211-1720

RE: Motion for Reconsideration of Mewbourne Oil Company in
OCD Case No. 11713: Application of Bass Enterprises Production Co. and Santa Fe
Energy Company for rescission of Division Administrative Order No. NSL-3745

Dear Messrs. Carr and Haas:

Reference is made to the above-referenced Motion for Reconsideration filed March 26, 1997 by Mr. Carr which was copied to Mr. Haas.

Upon reconsidering this matter and the issues involved, the Division stands by its prior decision to stay Administrative Order No. NSL-3745 and allow and hold a hearing on the Application to Rescind filed by Bass and Santa Fe (together referred to as "Bass"). However, the circumstances under which such an Application to Rescind will be entertained by the Division are and will be very limited and it is the particular facts and circumstances of this case that allow the subject application to be heard. The normal rule is that the 20 day period allowed for the filing of objections to unorthodox location administrative applications in Rule 104.F.(4) will be strictly followed.

In this case, the following factors have persuaded the Division to hear the Bass objection to Mewbourne's proposed unorthodox location even though Bass' objection was received two days past the 20-day deadline of December 25:

- (1) a good faith effort was made by Bass to comply with the 20 day period expiring December 25, i.e., (i) Bass mailed the objection on December 20, 5 days prior to expiration of the 20 day period, which, if not for the Christmas holiday mail rush which fell in the interim, should normally have been sufficient time for the objection to reach the Division and (ii) counsel for Bass represented to the Division that an attempt was

made to fax the objection to the Division on the date that the objection was mailed but for some reason the fax did not reach the Division (Note: the Division fax machine printout did not show any faxes received from the office of counsel for Bass on that day);

(2) the good faith effort to comply resulted in a filing only two days late; and

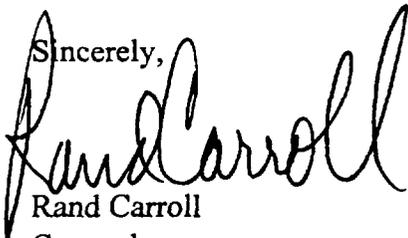
(3) the burden of proof will be placed on Bass to show that its correlative rights are being violated and so the case is styled as Bass' "Application to Rescind" rather than Mewbourne's "Application for an Unorthodox Location" where the burden would have been on Mewbourne to show that Bass' correlative rights were not being violated.

Caution is thus advised in the future to counsel for Bass since this is notice to Bass and counsel for Bass that future objections to administrative applications will have to meet the 20 day deadline and a similar type situation will not result in their objection being heard. Counsel should in the future ensure that the objection is filed within the 20 day period and that documentation of that filing is obtained.

The letter order dated February 17, 1997 is withdrawn and this letter will be substituted in its place. The Division believes its position as stated in this letter will better serve the needs of industry as well as allow the Division to better perform its regulatory function.

If you have any questions, please call me at 505/827-8156.

Sincerely,

A handwritten signature in cursive script that reads "Rand Carroll". The signature is written in black ink and is positioned above the typed name and title.

Rand Carroll
Counsel

cc: William LeMay, Director
Michael Stogner, Examiner
David Catanach, Examiner