

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 MEWBOURNE OIL COMPANY FOR CASE NO. 11723
A NON-STANDARD GAS SPACING AND PRORATION
UNIT AND AN UNORTHODOX GAS WELL LOCATION,
EDDY COUNTY, NEW MEXICO.

APPLICATION OF FASKEN OIL AND RANCH, LTD. CASE NO. 11755
FOR A NON-STANDARD GAS SPACING AND PRORATION
UNIT AND TWO ALTERNATIVE UNORTHODOX GAS WELL
LOCATIONS, EDDY COUNTY, NEW MEXICO.

ORDER NO. R-10872

**RESPONSE OF
TEXACO EXPLORATION AND PRODUCTION INC.
TO MOTION OF MEWBOURNE OIL COMPANY
FOR A STAY OF DIVISION ORDER NO. R-10872
AND TO SHUT-IN AN EXISTING WELL**

Having been unsuccessful in its efforts to obtain approval of a virtually unpenalized unorthodox gas well location which is 60% feet closer to the offsetting spacing unit than permitted by Oil Conservation Division Rules, Mewbourne Oil Company ("Mewbourne") now seeks the shut-in of the offsetting Texaco Exploration and Production Inc. ("Texaco") well on which Mewbourne tried to encroach.

Texaco opposes this motion because its correlative rights will be impaired if it is required to shut-in production on its spacing unit while it attempts to comply with rules

which are less than clear. Furthermore, a shut-in of a Texaco well in Section 12 will result in Texaco being treated differently than other operators in this pool who also have drilled second wells on spacing units since the repeal of Order R-1670-O.

In ruling on the Mewbourne motion, Texaco requests that the Commission clarify the rules which govern the development of the Catclaw Draw-Morrow Gas Pool, and withdraw the Division's request of September 10, 1997 to shut-in a well in Section 12, Township 21 South, Range 25 East, NMPM, Eddy County, New Mexico.

**HISTORY OF THE DEVELOPMENT OF THE CATCLAW
DRAW-MORROW GAS POOL RULES:**

1. The Catclaw Draw-Morrow Gas Pool was created on June 12, 1971 by Division Order No. R-4157. This Order also adopted Special Pool Rules and Regulations for this pool including provisions for 640-acre spacing and proration units with wells required to be drilled at least 1650 feet from the outer boundary of the dedicated spacing unit.

2. This pool was prorated by Order No. R-1670-O, dated January 1, 1974, which incorporated the Special Pool Rules and Regulations for the Catclaw Draw-Morrow Gas Pool.

3. In 1980 the spacing requirements for this pool were amended to provide for 320-acre units. (Order No. R-4157-C). In 1981, the rules were again changed to provide for 640-acre spacing with operators authorized to drill a second well on each spacing unit (Order

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No. R-4157-D).

4. The Catclaw Draw-Morrow Gas Pool has been developed on an effective 640-acre spacing pattern since 1971.

5. In 1988 and again in 1990, William J. LeMay, Director of the Division issued memoranda to the industry which prohibited continuous and concurrent production of more than one well on a single spacing unit in non-prorated pools unless an exception to the applicable pool rules was obtained after notice and hearing.

6. New General Rules and Regulations for the Prorated Gas Pools of New Mexico were adopted by Division Order No. R-8170 on March 28, 1986. This Order repealed Order No. R-1670 and promulgated Special Pool Rules for many of the prorated pools including the Catclaw Draw-Morrow Gas Pool. The Special Pool Rules for the Catclaw Draw-Morrow Gas Pool provide for 640-acre spacing and 1650 foot set backs for wells in this pool but are silent on authorization of second wells on spacing or proration units.

CASES 11723 AND 11755:

7. In Case 11723, Mewbourne Oil Company ("Mewbourne") seeks approval of a 297.88-acre non-standard gas spacing and proration unit in the S/2 equivalent of Section 1, Township 21 South, Range 25 East, NMPM, Eddy County New Mexico to be dedicated to a well to be drilled to the Morrow formation, Catclaw Draw-Morrow Gas Pool, at an unorthodox gas well location 660 feet from the South line and 2310 feet from the East line

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of said Section 1 ("the Mewbourne location"). Mewbourne proposed this location because it is "as close to the South line of the Operating Unit as possible."

8. In Case 11755, Fasken Oil and Ranch, Ltd. ("Fasken") also seeks approval of a 297.88-acre non-standard gas spacing and proration unit in the S/2 equivalent of Section 1, Township 21 South, Range 25 East, NMPM, Eddy County, New Mexico, which Fasken proposes to be dedicated to a well to be drilled to the Morrow formation, Catclaw Draw-Morrow Gas Pool, at either the Mewbourne location 660 feet from the South line and 2310 feet from the East line of said Section 1 or, in the alternative, at a location 2080 feet from the South line and 750 feet from the West line of Section 1 ("the Fasken location").

9. Texaco is the operator of the standard 632.36 acre spacing and proration unit comprised of Section 12, Township 21 South, Range 25 East, NMPM, Eddy County, New Mexico which is the direct South offset to the acreage which is the subject of the Mewbourne and Fasken applications. The Texaco spacing unit is currently dedicated to the:

- (a) E. J. Levers Federal "NCT-1" Well No. 1 (API No. 30-015-20683) located at a previously approved unorthodox gas well location (approved by Decretory Paragraph No. (6) of Division Order No. R-4157-D, dated June 21, 1971) 660 feet from the South line and 1980 feet from the West line (Lot 14/Unit N) of said Section 12; and,
- (b) E. J. Levers Federal "NCT-1" Well No. 2 (API No. 30-015-28644) at a

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standard gas well location 2448 feet from the North line and 1980 feet from the West line (Lot 6/Unit F) of said Section 12.

10. Cases 11723 and 11755 were consolidated and came on for hearing before Oil Conservation Division Examiner Michael E. Stogner on April 3, 1997.

11. Texaco appeared at the April 3, 1997 Examiner Hearing and presented evidence in opposition to the Mewbourne location since it was only 660 feet from the South line of Section 1 or 60% closer to the offsetting Texaco operated tract than authorized by Division rules.

12. On September 12, 1997, the Division entered Order No. R-10872 which denied the Mewbourne application, approved the Fasken location and approved the requested non-standard Morrow spacing and proration unit comprised of the S/2 equivalent of Section 1.

13. Order No. R-10872 contained the following findings:

- (3) The Catclaw Draw-Morrow Gas Pool is governed by the *"General Rules and Regulations for the Prorated Gas Pools of New Mexico/Special Rules and Regulations for the Catclaw Draw-Morrow Gas Pool,"* as promulgated by division Order No. R-8170, as amended, which requires standard 640-acre gas spacing and proration units with wells to be located no closer than 1650 feet from the outer boundary of a proration unit nor closer than 330 feet from any governmental quarter-quarter section or subdivision inner boundary.
- (4) Although **technically classified as a "Prorated Gas Pool,"** gas prorationing was suspended in the Catclaw Draw-Morrow Gas Pool by Division Order No. R-10328, Issued by the New Mexico Oil Conservation Commission in Case No. 11211 on March 27, 1995, due to the fact that there were no "prorated wells" in the pool (Emphasis added).

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- (5) The Catclaw Draw-Morrow Gas Pool is currently subject to the spacing and well location provisions of the "*Special Rules and Regulations for the Catclaw Draw-Morrow Gas Pool*," as described above, as well as Division General Rule 104.D(3), which restricts the number of producing wells within a single gas spacing unit within non-prorated pools to only one. Producing wells within said pool are allowed to produce at capacity.

14. On September 10, 1997, at a meeting between Texaco and the Division at which counsel for Mewbourne was requested by the Division to attend, Texaco was advised that the "one well rule" for non-prorated spacing units had been "**essentially put into effect on March 27, 1995 when prorationing was suspended in the Catclaw Draw-Morrow Gas Pool,**" and the Division requested Texaco to shut-in one well in Section 12 until Division approval was obtained for a second well on this spacing unit.

15. Mewbourne Oil Company filed for a hearing *de novo* in Cases 11723 and 11755 and on September 18, 1997, filed its Motion seeking a Stay of Division Order No. R-10872 and the shut-in of the offsetting E. J. Levers Federal "NCT-1" Well No. 2 "pending the hearing *de novo* and until Texaco applies to and obtains an order of the Division allowing it to produce the well."

ARGUMENT

Although the rules which govern the development of the Catclaw Draw-Morrow Gas Pool have frequently changed, the one thing which is clear is that the pool has been developed on an effective 320-acre spacing pattern as is shown on the plat attached as Exhibit A.

In 1986, Order No. R-8170 repealed the existing order which governed the development of the prorated pools, and adopted a new prorationing order because the existing proration rules had become "difficult to follow in reading said amended order." (Finding 5). Although this new order was silent on the drilling of a second well on each standard spacing or proration unit in the Catclaw Draw-Morrow Gas Pool, development with second wells continued in this pool and operators were not required to obtain special exceptions to the pool rules for these wells. (A second Catclaw Draw well on a standard spacing unit was drilled in Section 25, Township 21 South, Range 25 East in 1990 and in Section 17, Township 21 South, Range 25 East in 1994). These wells were approved by the Division and have been permitted to produce continuously and concurrently with the existing wells on the spacing unit.

In July, 1995, consistent with what other operators had been doing, Texaco filed an Application for Permit to Drill the E. J. Levers Federal "NCT-1" Well No. 2. This application was approved by the Division, and thereupon the well was drilled. A copy of this

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Application for Permit to Drill is attached hereto as Exhibit B.

Since 1986, no question has been raised by the Division concerning the drilling of a second well on standard units in this pool -- until now. Now, almost two years after first production from the Levers Federal "NCT-1" Well No. 2, the Division has a different interpretation of the pool rules.

In Finding 4 of Order No. R- 10872 entered on September 12, 1997, the Division characterizes the Catclaw Draw-Morrow Gas Pool as "**technically classified as a 'Prorated Gas Pool'**" (Emphasis added). Then it finds that wells drilled in this "technically" Prorated Gas Pool are subject to the Division's "one well rule" whereas wells drilled in this pool when "non-technical" "Prorated Gas Pools" may have two wells on each spacing unit. (See Finding 5).

Furthermore, the Division, in requesting that Texaco shut-in a well in Section 12, then stated that the "one well rule" ... "**was essentially put into effect** on March 27, 1995 when prorationing was suspended" (emphasis added). When the Division asserts as here that a pool is "technically" prorated and that it is "essentially" subject to the "one well rule," an affected operator is entitled to clarification of the meaning of Division rules.

Texaco seeks clarification of the rules for the Catclaw Draw-Morrow Gas Pool and also seeks the denial of the Motion of Mewbourne to shut-in the E. J. Levers Federal "NCT-1" well No. 2. Under the Oil and Gas Act, Texaco has the opportunity to produce without

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waste its just and fair share of the recoverable reserves in the Catclaw Draw-Morrow Gas Pool. It availed itself of this right by drilling its E. J. Levers wells in Section 12 under the authority of the Division's approval of its C-101. To now shut-in a Texaco well in Section 12 based on a new and unique reading of the rules for this pool denies Texaco the opportunity to produce its share of the reserves in this pool thereby violating its correlative rights.

Mewbourne contends that its correlative rights will be impaired if the Levers well is not shut-in. An examination of Mewbourne's argument shows that the Texaco well in Section 12 is 2448 feet from the Mewbourne lease, whereas the Mewbourne location is proposed to be only 660 feet from the Texaco lease. Mewbourne described its proposed location in a law suit it recently filed against Fasken in District Court in Midland, Texas as being "as close to the South line of the Operating Unit as possible." Accordingly, if the Mewbourne location should ever be drilled, there could be net drainage to the Mewbourne tract. Furthermore, the longer Mewbourne can keep the offsetting Texaco well in Section 12 shut-in, the more hydrocarbons there will be in the ground for Mewbourne to drain. In this case, the correlative rights of Texaco, not Mewbourne, will be impaired. The requested shut-in of Texaco's well will only penalize the operator who has developed its reserves, to the benefit of the operator who has not.

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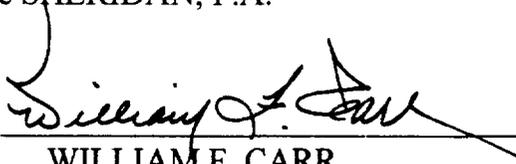
CONCLUSION

Texaco availed itself of its right to produce its fair share of the reserves under Section 12 by drilling a second well thereon after receiving Division approval for that well. In developing this acreage, its exercised its correlative rights. To now determine that it must shut this well in until additional Division approvals are obtained would be arbitrary, capricious, unreasonable and punitive.

Respectfully submitted,

CAMPBELL, CARR, BERGE
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CERTIFICATE OF SERVICE

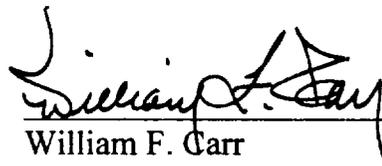
I hereby certify that a copy of the foregoing Response was mailed this 24th day of September, 1997 to the following counsel of record:

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