

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

APPLICATION OF CHESAPEAKE OPERATING,
INC. FOR AN UNORTHODOX OIL WELL
LOCATION, LEA COUNTY, NEW MEXICO.

Case No. 11,844
(De Novo)

MOTION TO QUASH SUBPOENA DUCES TECUM

Chesapeake Operating, Inc. ("Chesapeake ") moves the Division or the Commission for an order quashing the subpoena *duces tecum* issued to Marathon Oil Company ("Marathon") on November 14, 1997, and in support thereof, states:

I. FACTS.

Chesapeake applied for an unorthodox location in the Strawn formation for a well to be drilled 2523 feet from the North line and 2370 feet from the East line of Section 19, Township 16 South, Range 36 East. The well unit is the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 19. Marathon is the lessee of the SE $\frac{1}{4}$ of Section 19.

The application was heard on September 4, 1997. Marathon appeared at the hearing in opposition to the location, and proposed a penalty based on the well's footage from the quarter-quarter section line. At the hearing, Chesapeake introduced its 3-D seismic interpretation of the area around the proposed well. Order No. R-10891 approved the location, and imposed a penalty of 34% on the well, assessed against the depth bracket allowable.

Marathon filed an application for hearing *de novo* on October 24, 1997, and the hearing is currently scheduled for December 11, 1997. On November 14, 1997, a subpoena *duces tecum* was issued against Chesapeake, at Marathon's request, demanding the production

of certain 3-D seismic data in the possession of Chesapeake.

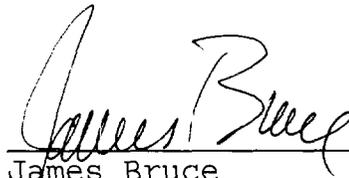
II. ARGUMENT.

1. Chesapeake has offered to sell the data to Marathon. See the letter from Chesapeake to Marathon, attached hereto as Exhibit A. The Division's ruling of October 10, 1997 in Cases 11723/11755 (*de novo*) establishes that where the subpoenaed data can be purchased, a subpoena for that data will be quashed. Thus, the subpoena must be quashed in this case.

2. The 3-D seismic data subpoenaed by Marathon is the confidential business information of Chesapeake, which has substantial economic value. The information gives Chesapeake an advantage over competitors, and thus Chesapeake's desire to keep it a trade secret is reasonable under the circumstances. Requiring Chesapeake to turn over the data will give Marathon valuable data at no cost, and allow Marathon to unfairly compete with the parties who paid for the data. As a result, the subpoena should be quashed in its entirety.

3. The amount of data requested by Marathon is overly broad for the purposes of the *de novo* hearing: Marathon has requested data one mile in each direction from the proposed well. However, data one-fourth of a mile in each direction from the proposed well is adequate for Marathon's purposes. Thus, in the event the subpoena is not entirely quashed, the data to be turned over should be limited to data within one-fourth mile of the proposed well.

WHEREFORE, Chesapeake requests that the subpoena be quashed.



James Bruce
P.O. Box 1056
Santa Fe, New Mexico 87504
(505) 982-2043

Attorney for Chesapeake Operating,
Inc.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Entry of Appearance was sent by facsimile transmission this 24th day of November, 1997 to:

William F. Carr
Campbell, Carr, Berge & Sheridan, P.A.
P.O. Box 2208
Santa Fe, New Mexico 87504
(505) 983-6043



James Bruce

CHESAPEAKE OPERATING, INC.

P.O. BOX 18495
OKLAHOMA CITY, OKLAHOMA 73154-0496
405/848-8000, EXT. 416
405/879-9360 FAX

LAND DEPARTMENT

MIKE HAZLIP, CFL
LANDMAN

November 24, 1997

VIA FACSIMILE (915) 687-8471
AND FEDERAL EXPRESS

Mr. John J. Chapman, Jr.
Marathon Oil Company
P. O. Box 552
Midland, Texas 79702-0552

Re: Marathon's Appeal of OCD Ruling
Chesapeake's proposed Gandy 1-19 well
2,523' FNL and 2,370' FEL Sec. 19-T16S-R36E
Lea County, New Mexico

Dear Mr. Chapman:

Chesapeake is in receipt of your letter dated November 20, 1997, directed to Robert Hefner, wherein Marathon proposed the sale of its "Southwest Midway" data set and a withdraw of Marathon's appeal of the OCD ruling of Chesapeake's unorthodox location for the captioned well, for a specific six (6) square mile block of Chesapeake's data.

Chesapeake is not amenable to selling its data covering the subject six square miles requested by Marathon as part of a resolution to Marathon's appeal. However, if Marathon will dismiss its appeal of OCD Order R-10291, Chesapeake is agreeable to the following:

- 1) Chesapeake will provide Marathon a license to its data covering all of Section 19-T16S-36E at a cost of \$15,500.00 per square mile.
- 2) Chesapeake and Marathon shall agree not to oppose each other's drilling of unorthodox locations at any point along the north line of the SE/4 of Section 19-T16S-R36E, so long as such locations are no closer to the north line of the quarter section than Chesapeake's Gandy 1-19 drillsite. Any such well would be subject to the same production penalty as was imposed on the Gandy 1-19 by OCD Order R-10291.

Chesapeake is still interested in purchasing Marathon's "Southwest Midway" data set but is not interested in discussing this purchase nor the sale of any more of



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Chesapeake's data until the Section 19 issue is resolved. If Marathon is agreeable to the foregoing, please so indicate by signing in the space provided below and return to my attention.

Most sincerely,



Mike Hazlip

AGREED TO AND ACCEPTED this _____ day of November, 1997

MARATHON OIL COMPANY

By: _____

Title: _____