

989-9857



TRANSMITTAL COVER SHEET

OIL CONSERVATION DIVISION  
1220 S. ST. FRANCIS DRIVE  
SANTA FE, NM 87505  
(505) 476-3440  
(505)476-3462 (Fax)

PLEASE DELIVER THIS FAX:

TO: J. Scott Hall

FROM: Michael E. Stogner

DATE: April 20, 2004

PAGES: 6

SUBJECT: Application of Energen Resources Corp.

IF YOU HAVE TROUBLE RECEIVING THIS FAX, PLEASE CALL THE OFFICE  
NUMBER ABOVE.

*Mr. Hall, Please provide the Division w/ a proposed  
advertisement in this matter. Thanks.*

A handwritten signature, likely of Michael E. Stogner, located at the bottom right of the page.

# MILLER STRATVERT

PROFESSIONAL ASSOCIATION

Ranne B. Miller  
Alice T. Lorenz  
Gregory W. Chase  
Stephen M. Williams  
Stephan M. Vidmar  
Seth V. Bingham  
Timothy R. Briggs  
Rudolph Lucero  
Deborah A. Solove  
Gary L. Gordon  
Lawrence R. White  
Sharon P. Gross  
Virginia Anderman  
Marte D. Lightstone

J. Scott Hall\*  
Thomas R. Mack  
Thomas M. Domme  
Ruth O. Pregenzer  
Jeffrey E. Jones  
James J. Widland  
Bradley D. Tepper\*\*  
Robin A. Goble  
James R. Wood  
Dana M. Kyle  
Kirk R. Allen  
Ruth Fuess  
H. Brook Laskey

Paula G. Maynes  
Michael C. Ross  
Carla Prando  
Jennifer L. Stone  
Gary Risley  
M. Dylan O'Reilly  
Jennifer D. Hall  
Jennifer L. Olson  
Todd A. Schwarz  
Nell Graham Sale  
Scott P. Hatcher  
Leonard D. Sanchez  
Michelle K. Ostrye

Kelsey D. Green  
Marcy Baysinger  
David J. Martin  
Caroline Blankenship  
Matthew S. Rappaport  
Karen E. Wootton  
Somer K. Chyz

## Counsel

William K. Stratvert  
James B. Collins  
Robert D. Taichert

## Reply to Santa Fe

150 Washington Ave., Suite 300  
Santa Fe, NM 87501

Mailing Address:  
P.O. Box 1986  
Santa Fe, NM 87504-1986

Telephone: (505) 989-9614  
Facsimile: (505) 989-9857

\* New Mexico Board of Specialization Recognized Specialist in Natural Resources - Oil & Gas Law  
\*\* New Mexico Board of Specialization Recognized Specialist in Real Estate Law

December 17, 2003

RECEIVED

DEC 17 2003

## HAND-DELIVERED

Lori Wrotenbery, Director  
New Mexico Oil Conservation Division  
1220 South St. Francis Drive  
Santa Fe, New Mexico 87505

Oil Conservation Division  
1220 S. St. Francis Drive  
Santa Fe, NM 87505

Re: NMOCD Case No. 13262; Application of Energen Resources Corporation to Amend the Cost Recovery Provisions of Order No. R-1960, Rio Arriba County, New Mexico

Dear Ms. Wrotenbery:

Enclosed for filing are an original and two copies of the above-referenced Application. On behalf of the Applicant, we request this matter be set for hearing on the *May 13, 2004* Examiner hearing docket.

Very truly yours,

MILLER STRATVERT P.A.

*J. Scott Hall*

J. Scott Hall

JSH/glb

Enclosure

cc: Rusty Cook, Energen Resources Corporation

## LAW OFFICES

ALBUQUERQUE  
(505) 842-1950

FARMINGTON  
(505) 326-4521

LAS CRUCES  
(505) 523-2481

SANTA FE  
(505) 989-9614

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

RECEIVED

DEC 17 2003

IN THE MATTER OF THE APPLICATION OF ENERGEN RESOURCES  
CORPORATION TO AMEND THE COST RECOVERY PROVISIONS  
OF COMPULSORY POOLING ORDER NO. R-1960,  
RIO ARRIBA COUNTY, NEW MEXICO

Oil Conservation Division  
1220 S. St. Francis Drive  
Santa Fe, NM 87505

CASE NO. 13262

**APPLICATION**

ENERGEN RESOURCES CORPORATION, by its undersigned attorneys, Miller, Stratvert, P.A., (J. Scott Hall) hereby makes application pursuant to NMSA 1978 Section 70-2-17 (1995) for an order amending the cost recovery provisions of Order No. R-1960 pooling all interests in the Pictured Cliffs formation, (Tapacito-Pictured Cliffs Gas Pool) underlying the SW/4 of Section 2, Township 25 North, Range 3 West, NMPM, Rio Arriba County, New Mexico, forming a standard 160-acre spacing and proration unit. In support thereof, Applicant would show the Division:

1. On May 5, 1961, pursuant to a hearing held on April 19, 1961, the Division issued Order No. R-1960 pooling certain uncommitted interests in the SW/4 of Section 2 preparatory to the drilling by Southern Union Production Company, ("Supron"), of its Martinez No. 1 well at a standard location in the N/2 SW/4 of said Section 2 to a depth sufficient to test the Pictured Cliffs formation.

2. The evidence at the hearing established that the Applicant in that case owned or controlled 100 percent of the available working interest in the N/2 SW/4 of Section 2 and that Applicant sought to pool the remaining interests, including unleased mineral interests, whose owners did not agree to participate in the drilling of the well. The quantum of non-participating interests constituted a relatively small percentage of

the interests in the unit. The Commission accordingly granted Supron's request to pool those interests.

3. Subsequent to the hearing and the issuance of Order No. R-1960, Supron drilled and successfully completed the Martinez No. 1 well in the Pictured Cliffs formation. Supron continued to operate the Martinez No. 1 well, until approximately July 23, 1982 when Union Texas Petroleum Company acquired the property and became operator of the well. On approximately June 23, 1990, Meridian Oil, Inc. acquired the well and became operator, and was succeeded by Burlington Resources Oil and Gas Company on July 11, 1996. Taurus Exploration USA, Inc. subsequently acquired the well and became operator on August 1, 1997. On October 1, 1998, through a change of name, Taurus became Energen Resources Corporation. Applicant is the current operator of the well.

4. The unnumbered decretal portions of Order No. R-1960 contained the following provisions authorizing the operator to recover the costs of development and operation:

*"PROVIDED FURTHER, That the proportionate share of the costs of development of the pooled unit, including a reasonable charge for supervision, shall be paid out of production by each non-consenting working interest owner and shall be 110 per cent of the same proportion to the total costs of drilling and completing the well that his acreage bears to the total acreage in the pooled unit."*

5. In its compulsory pooling orders, the Division is required by statute to include provisions allowing the operator to be reimbursed for operating expenses and a reasonable charge for supervision:

*"Such pooling order of the division shall make definite provision as to any owner, or owners who elects not to pay his proportionate share in advance for the prorata reimbursement solely out of production to the*

*parties advancing the costs of the development and operation, which shall be limited to the actual expenditures required for such purpose not in excess of what are reasonable, but which shall include a reasonable charge for supervision...*" NMSA 1978 Section 70-2-17(C).

6. It has been the practice of the Division to retain jurisdiction over its compulsory pooling orders to, among other things, resolve disputes over development and operating costs: *"In the event of any dispute relative to such costs, the division shall determine the proper costs after due notice to the interested parties and a hearing thereon."* *Id.*

7. One of the owner's whose interests were pooled under Order No. R-1960 has disputed the operator's entitlement to reimbursement for reasonable operating costs, as wells as supervision costs, and the method for reimbursing such costs.

8. The relevant terms of the 1961 compulsory pooling order does not reflect the cost recovery provisions found in contemporary pooling orders, which typically provide as follows:

( ) *Reasonable charges for supervision (combined fixed rates) are hereby fixed at \$5000 per month while drilling and \$500 per month while producing, provided that these rates shall be adjusted annually pursuant to Section III.1.A.3. of the COPAS form titled "Accounting Procedure-Joint Operations." The operator is authorized to withhold from production the proportionate share of both the supervision charges and the actual expenditures required for operating the well, not in excess of what are reasonable, attributable to each non-consenting working interest.*

9. Applicant proposes the amendment of the cost recovery provisions under the original version of Order No. R-1961 to reflect the current custom and practice of the industry and the Division which allows well operators to recover the costs of operations and supervision.

10. Applicant seeks an order amending Order No. R-1961 retroactively by substituting the unnumbered decretal portions of the Order set forth in Paragraph 4,

above, with contemporary compulsory pooling cost recovery provisions in substantially the same form as reflected in Paragraph 8, above.

11. The amendment of Order No. R-1961 to provide for the revision of the well cost provisions will promote the efficient and orderly operation of the subject well, will protect the rights of the pooled interest owners, will serve to prevent waste and is otherwise in the interests of conservation.

WHEREFORE Applicant requests that this Application be set for hearing before a duly appointed examiner of the Oil Conservation Division on May 13, 2004 and that after notice and hearing as required by law, the Division enter its Order amending Order No. R-1961 to include new provisions reflecting the current custom and practice of the industry and the Division allowing for the prorata reimbursement of the operator's costs of operations and supervision, and making such other provisions as may be proper.

MILLER, STRATVERT, P.A.

By J. Scott Hall

J. Scott Hall  
Attorneys for  
Energen Resources Corporation  
Post Office Box 1986  
Santa Fe, New Mexico 87504-1986  
(505) 989-9614

**Stogner, Michael**

---

**From:** J. Scott Hall [shall@mstLAW.com]  
**Sent:** Tuesday, April 20, 2004 4:11 PM  
**To:** 'semartinez@state.nm.us'  
**Cc:** Michael Stogner (E-mail)  
**Subject:** proposed advertisement

*Case 13262*

Sally: As we discussed, attached is a proposed advertisement for the Energen application.

Let me know if you need anything more.



energen  
advertisement\_.doc  
Scott

---

This email has been scanned by the MessageLabs Email Security System.  
For more information please visit <http://www.messagelabs.com/email>

---

**CASE 13262 : Application of Energen Resources Corporation to Amend the Cost Recovery Provisions of Order No. R-1960, Rio Arriba County, New Mexico.** Applicant seeks an order amending the cost recovery provisions of Order No. R-1960 pooling all interests in the Pictured Cliffs formation, (Tapacito-Pictured Cliffs Gas Pool) underlying the SW/4 of Section 2, Township 25 North, Range 3 West, NMPM, Rio Arriba County, New Mexico, forming a standard 160-acre spacing and proration unit. Applicant proposes the retroactive amendment of the cost recovery provisions under the original version of Order No. R-1961 to reflect the current custom and practice of the industry and the Division which allows well operators to recover the reasonable costs of operations and supervision. The lands that are the subject of this Application are located approximately one mile west of Ojito, New Mexico.