

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

**IN THE MATTER OF THE APPLICATION
OF BURLINGTON RESOURCES OIL & GAS
COMPANY FOR COMPULSORY POOLING
AND A NON-STANDARD GAS PRORATION
AND SPACING UNIT FOR ITS
SCOTT WELL NO. 24 (SECTION 9, T31N, R10W)
SAN JUAN COUNTY, NEW MEXICO**

**CASE NO. 11808
Order R-10877**

**IN THE MATTER OF THE APPLICATION
OF BURLINGTON RESOURCES OIL & GAS
COMPANY FOR COMPULSORY POOLING,
AN UNORTHODOX GAS WELL LOCATION AND
NON-STANDARD GAS PRORATION AND
SPACING UNIT FOR ITS MARCOTTE WELL NO. 2
(SECTION 8, T31N, R10W)
SAN JUAN COUNTY, NEW MEXICO**

**CASE NO. 11809
Order R-10878**

**BURLINGTON RESOURCES OIL & GAS COMPANY'S
RESPONSE IN OPPOSITION
TO
TOTAL MINATOME CORPORATION, TIMOTHY B.
JOHNSON, TRUSTEE, ET AL AND LEE WAYNE
MOORE & JOANN MONTGOMERY MOORE
TRUSTEES' MOTIONS TO STAY**

BURLINGTON RESOURCES OIL & GAS COMPANY ("Burlington") by its attorneys, Kellahin & Kellahin, hereby replies to Total Minatome Corporation's ("Minatome") motion for a stay filed on October 3, 1997, replies to Timothy B. Johnson, Trustee, et al ("the GLA-66 Group") motion to stay filed on October 6, 1997, and replies to Lee Wayne Moore and Joann Montgomery Moore,



In addition, there is no conflict as to the other compulsory pooling order (Order R-10877). That order pooled a 640-acre spacing unit in Section 9 where only the GLA-66 Group has preserved a right to complain about spacing. GLA-66 Group has no interest in the NW/4 of Section 9 where Burlington intends to drill the Scott Well No 24.⁵ Minatome and Moore's only interest in Section 9 is in the NW/4 of that section.⁶ When Burlington proceeds with the Scott Well No. 24, the well will be physically located on a 160-acre tract (NW/4). Minatome-Moore should want to make their elections under this order because their share of the costs is significantly less under 640-acre well spacing than under 160-acre well spacing.

Burlington will be proceeding on the basis of 640-acre well spacing as to Minatome-Moore and will be "carrying" the uncommitted interests of the GLA-66 Group. The GLA-66 Group would be required to make their election under the subject compulsory pooling order. Such instances require "dual accounting" and, while sometimes cumbersome, are not unmanageable and certainly are equitable. In the unlikely event that the GLA-66 Group prevails and Section 9 is ultimately spaced on 160-acres and not 640-acres, then the GLA-66 Group

⁵ the GLA-66 Group has approximately 82.5% working interest in the E/2 and SW/4 of Section 9.

⁶ Minatome's interest in the NW/4 of Section 9 is 14.2% which means it has 3.55% interest in a 640-acre spacing unit. Moore's interest in the NW/4 is 1.18% which means it has a 0.295% interest in a 640-acre spacing unit.

RECOMMENDATIONS

A: Order R-10878: The Marcotte Well No. 2 (Section 8)

Burlington recommends that the Minatome and Moore's motions to stay this order be denied so that Moore and Minatome will have to make their elections to pay their share and avoid the 200% risk factor penalty under the pooling order by October 18 and October 19, 1997, respectively.

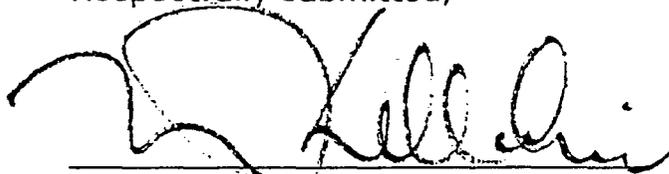
Minatome and Moore have stood on the side lines and have waived their opportunity to complain about the Commission's change in spacing. Their only remedy at this point is to ask the Commission to conduct a DeNovo hearing of the compulsory pooling cases. Minatome and Moore have failed to demonstrate that they will be irreparably harmed unless the order is stayed. To the contrary, the party to be harmed will be Burlington who is testing the Marcotte well and for which Minatome and Moore want to know the results before it must make an election. Minatome and Moore have failed to justify their request for a stay which leaves the Commission with no alternative but to deny their requests.

B: Order R-10877: The Scott Well No. 24 (Section 9)

An alternative for the owners in Section 9, is to temporarily stay part of Order R-10877 (Scott Well No. 24) until the 640-acre spacing of Section 9 is resolved. Moore, Minatome and the GLA-66 Group would still be required to make their elections under that pooling order within thirty (30) days of receiving the estimated well cost as provided for in paragraph (4) of this order. The

estimated well costs would be furnished to Moore, Minatome and the GLA-66 Group on or after the date order R-10877 is temporarily stayed by the Commission. The elections made by Moore, Minatome and the GLA-66 Group would be held in abeyance until the spacing matter is resolved at which time the election would be binding upon the parties, assuming that 640-acre spacing in Section 9 is upheld by the court as to the GLA-66 Group. Minatome-Moore should want to make their elections under this order because their share of the costs is significantly less under 640-acre well spacing than under 160-acre well spacing. In the unlikely event that 640-acre spacing in Section 9 is not upheld and spacing reverts to 160-acres as to the GLA-66 Group, then the pooling order would be invalid and the appropriate parties would then either join in the Scott Well No. 24 or be compulsory pooled based upon 160-acre well spacing. In the event that Burlington elects to proceed with the drilling of the Scott Well No. 24 during the pendency of this spacing matter, all costs would be carried by Burlington and the revenues attributable to Moore, Minatome and the GLA-66 Group would be placed in escrow.

Respectfully submitted,



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