**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:**

**CASE NO. 11809**

**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**

# BURLINGTON RESOURCES OIL & GAS COMPANY'S PROPOSED ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on July 10, 1997 at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this _____ day of August, 1997, the Division Director, having considered the testimony, the record and the recommendations of the Examiner, and being fully advised in the premises,

FINDS THAT:

(1) Due public notice having been given as required by law, the Division has jurisdiction over the parties, of this cause and the subject matter thereof.

(2) On June 5, 1997, the New Mexico Oil Conservation Commission as a result of a rule making proceeding entered Order R-10815 and adopted a provision in the Division's General Rule 104 to establish gas spacing units consisting of 640-acres for gas production below the base of the Dakota formation (deep gas") for the San Juan Basin. (OCD Case 11745).

(3) The applicant, Burlington Resources Oil & Gas Company ("Burlington"), has attempted to consolidate on a voluntarily basis all of the mineral interests within Irregular Section 8, Township 31 North, Range 10 West, NMPM. San Juan County, New Mexico for the drilling of its Marcotte Well No. 2 as the first "deep gas" wildcat well to be attempted in the San Juan Basin in more than 14 years.

(4) Despite its efforts, Burlington has not been able to obtain the voluntarily agreement of certain mineral owners and therefore, Burlington seeks an order from the Division pooling uncommitted mineral interest owners who have failed to agree to voluntarily commit their interests from the base of the Dakota formation to the base of the Pre-Cambrian aged formation underlying all of Irregular Section 8, Township 31 North, Range 10 West, NMPM, San Juan County, New Mexico, forming a non-standard 639.78-acre gas spacing and proration unit for any and all formations and/or pools developed on 640-acre gas spacing within said vertical extent.

(5) Said unit is to be dedicated to Burlington's Marcotte Well No. 2 **(API No. 30-015-29660)** which applicant originally requests be approved at an unorthodox gas well location 1540 feet from the South line and 935 feet from the East line (Unit I) of said Section 8.

(6) Burlington has the right to develop the subject unit and produce any hydrocarbons underlying the same, however, as of June 11, 1997, the date this application was filed, the working interest owners set forth on Exhibit "A" and royalty interest owners set forth on Exhibit "B" in the above described spacing and proration unit have not agreed to pool their interests.

(7) Section 70-2-17.C NMSA (1978) provides, in part that:

> "Where, however, such owner or owners have not agreed to pool their interests,....the Division, to avoid the drilling of unnecessary wells or to protect correlative rights, or to prevent waste shall pool all or any part of such lands or interest or both in the spacing unit or proration unit as a unit."

**Relevant issues**

(8) The relevant issues before the Division in this compulsory pooling case are:

(a) pre-hearing negotiations between Burlington and Moore-Minatome.

(b) interest ownership in spacing unit.

(c) information concerning dates wells proposed.

(d) overhead rates for supervision.

(e) proposed risk penalty.

**Irrelevant issues**

(9) The issues not relevant to the Division's decision in this compulsory pooling case as follows:

(a) The fact that Moore-Minatome are upset that Burlington selected Section 8 and 9 to located high risk deep gas well tests is not relevant to a compulsory pooling case because the Division has never denied an application the right to chose which spacing unit to drill.

(b) Geologic data only if there is a geologic dispute about where to locate the well in the spacing unit which is not an issue in dispute in this case.

(c) significant differences in AFE when there are competing pooling applications which is not the situation in this case.

(d) designation of an operator when there are competing pooling applications which is not the situation in this case.

**Notice**

(10) Burlington submitted a sworn affidavit verifying that each and every compulsory pooled party was sent notice of this hearing in accordance with Division Rule 1207 and the Division finds that each said party has been afforded a fair and reasonable opportunity to appear and participate.

(11) Among the offset operators and/or mineral interest owners in Sections 9 and 16, Township 31 North, Range 10 West, NMPM, San Juan County, New Mexico towards whom this unorthodox location encroaches, none of whom appeared at the hearing.

**Well proposal**

(12) Burlington has proposed its Marcotte Well No. 2 as a deep gas well test which it estimated to cost:

| | |
|---|---|
| (a) dry hole costs | $1,713,800. |
| (b) completion | 603,173. |
| Total: | $2,316,973. |

(13) In Section 8, (Marcotte Well No. 2) Burlington with approximately 46% working interest has obtained the voluntary agreement of some 13 owners and now has approximately 93% voluntary participation. The only uncommitted working interest owners are as follows:

| **Owner** | **percentage** | **share of total AFE costs** |
|---|---|---|
| (a) Moore[1] | 2.25% | ($52,171.) |
| (b) Minatome (GLA-46) | 4.65% | ($107,790.) |

**The Minatome Interest**

(14) More than ten (10) weeks ago, Burlington sent a formal well proposal to Total Minatome Corporation ("Minatome") for the Marcotte Well No. 2.

[1] By title opinion dated July 23, 1997, Burlington has been advised that Moore's interest is 1.77% rather than 2.25%. Thus Moore's share of the well costs would be $41,012. Correspondingly, Burlington's interest has increased to 93.58%.

(15) In addition, on July 29, 1996, Burlington wrote to Minatome offering to purchase deep gas rights within the area which included Sections 8 and 9, T31N, R10W. Since June, 1996, Burlington has continued its efforts to consolidated Section 8 and 9 into voluntary agreements for the drilling of deep gas well test which is now known at the Marcotte Well No. 2.

(16) On February 7, April 1 and June 16, 1997, Burlington again wrote Minatome requesting participation, farmout or purchase of its interest in Section 8.

(17) On April 22, 1997, Burlington sent Minatome a letter including an AFE and proposed joint operating agreement proposing among other things participation for the Marcotte Well No. 2, a deep gas test to be located within Section 8, T31N, R10W.

(18) On May 22, 1997, Burlington set a follow-up letter to Minatome.

(19) On May 23, 1997, Minatome attempted to qualify its participation in this well by asserting that it was participating pursuant to a November 27, 1951 farmout/operating contracts (collectively the "GLA-46 Agreements") originally between Brookhaven Oil Company and San Juan Production Company.

(20) Minatome contends that GLA-46 applies to the Marcotte Well No. 2 and that Minatome has elected to participate pursuant to this voluntarily agreement. Because of this voluntary agreement, Minatome argues that Burlington cannot resort to compulsory pooling because Minatome has elected to participate under the terms of GLA-46 and any pooling order would improperly "re-write" this 1951 contract.

(21) Minatome wants to participate under the terms of GLA-46 because certain of its provisions are very favorable to Minatome and includes the right for Minatome to be a "carried interest" so that Minatome keeps 50% of its production and Burlington (San Juan) recovers 100% of Minatome's (Brookhaven) share of costs only out of 50% of Minatome's share of production and without any penalty.

(22) Minatome contends that Burlington has violated Section 70-2-17(E) NMSA (1979) because its compulsory pooling application is an attempt to have the Division modify the GLA-46 operating agreement.

(23) Burlington is seeking a compulsory pooling order pursuant to Section 70-7-17(C) NMSA (1978) against Minatome because GLA-46 does not include the "deep gas" in the San Juan Basin. Because there is no voluntarily agreement, Burlington is not seeking to modify an agreement pursuant to Section 70-2-17(E). Contrary to Minatome's

argument, Burlington believes GLA-46 does not apply to the "deep gas" and thus any discussion concerning the applicability of Section 70-2-17(E) is premature and must be disregarded.

(24) Burlington contends GLA-46 was an agreement to drill 18 Mesaverde wells (four per year) and Burlington's predecessor long ago satisfied this obligation. By letter dated May 22, 1997, Burlington advised Minatome that GLA-46 originally covered only the Mesaverde formations with certain other formations/wells added later only upon the mutual agreement of the parties **none** of which included the "deep gas".

(25) Burlington argues that of the six GLA-46 owners, only Minatome has taken the position that GLA-46 covers the "deep gas" while all of the other owners have agreed to either sign a new operating agreement or to farmout their interest for the "deep gas".

(26) Burlington argues the GLA-46 agreement does not apply to any well drilled after the 18-well obligation was satisfied, unless an amendment was mutually agreed upon by the parties to this agreement. Thus far, there has been no agreement by Minatome and Burlington to modify or amend GLA-46 to include any formations below the base of the Dakota formations - "the deep gas".

(27) Deborah Gilchrist of Minatome argued that James Strickler of Burlington has not negotiated in "good faith" and attempted to characterize a discussion with James Strickler concerning maintaining business relations as being a threat and that Burlington's pooling application had a chilling effect on negotiations.

(28) In addition, Ms. Gilchrist objected to various items in Burlington's proposed Joint Operating Agreement including the 400% penalty for failure to participate in subsequent operations.

(29) Mr. Stickler of Burlington argued that he had exhausted all reasonable efforts at reaching a voluntary agreement because:

> (a) Minatome has refused to sign a new operating agreement or farmout despite the representations by Deborah Gilchrist of Minatome that Minatome liked to participate and would at the very least farmout its interest in this case to Burlington;
>
> (b) He cautioned Ms. Gilchrist that the Marcotte Well No. 2 was "very speculative and expensive.."

(c) However, Ms. Gilchrist represented that Minatome had "deep pockets" being a large multinational French based Company, partly owned by the French Government and that it liked to invest in risky and expensive wells and had done so in Louisiana.

(d) Minatome had the ability to "bring down this project" in May, 1997 because it wanted to be carried risk free at a time when 160-acres was still the spacing unit size for the deep gas and Minatome's share of the well costs was estimated to be $434,432.00.

(e) Minatome was being unreasonable and Burlington rejected Minatome's attempt to be carried by Burlington for 100% of Minatome's share of the well costs with no non-consent penalty and recovery from only 50% of Minatome's production.

(f) Burlington had no choice but to institute compulsory pooling as a precautionary procedure, but also continued to negotiate with Minatome until Minatome discontinued the negotiations.

**Division findings**
**concerning Minatome interest**

(30) The Division finds that:

(a) Burlington has provided Minatome with reasonable opportunities to farmout, sell or participate.

(b) on July 29, 1996, more than a year ago, Burlington wrote to Minatome offering to purchase deep gas rights within the area which included Sections 8 and 9, T31N, R10W. Since July, 1996, Burlington has continued its efforts to consolidated Section 8 into voluntary agreements for the drilling of deep gas well test which is now known as the Marcotte Well No. 2.

(c) that Section 70-2-17(E) does not apply: Minatome is attempting to induce the Division into reading into this pooling hearing a contractual dispute which is outside of its jurisdiction to resolve.

(d) Minatome's argument that Section 70-2-17(E) applies in this case incorrectly assumes that the GLA-46 contract covers the "deep gas" formations. Only if the Division chooses to adjudicate the terms of this private contract and concludes GLA-46 does include the "deep gas" can the Division then consider if Section 70-2-17(E) is applicable.

(e) as a result of this contractual dispute over the GLA-46 contracts, neither Burlington nor Minatome has been able to reach a voluntary agreement and it would serve no purpose to require the parties to continue to attempt to reach such an agreement.

(f) Burlington complied with Section 70-2-17(c) NMSA.

(g) it is common knowledge to the Division that voluntarily committed working interest owners will agree to a Joint Operating Agreements currently being used in New Mexico commonly provide for risk factor penalties in excess of 200 % for subsequent operations and that such practice is not contrary to the Division's statutory authority to apply a maximum of 200 % to uncommitted interest owners who are compelled to participate pursuant to a compulsory pooling order.

(g) The Division need not attempt to engage in such an adjudication. Burlington's compulsory pooling case against Minatome is appropriate and the Division can decide this pooling case despite this contractual dispute because:

(i) If Burlington is correct about GLA-46, and if Minatome is dismissed from the pooling case, then Minatome's interest will not have been voluntarily or involuntarily pooled and Minatome will have induced the Division into making a mistake. Burlington will then have to file another pooling case after the fact and certainly after the results of the Marcotte Well No. 2 are known.

(ii) If Burlington is wrong about GLA-46, then Minatome will have been voluntarily committed by GLA-46 and will simply be dropped from the pooling order and is not prejudiced by being pooled. (Division pooling orders always contained such a provision, For Example; "Should all the parties to this

forced pooling order reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.").

**Moore's interest**

(31) On July 29, 1996, Burlington wrote to Moore offering to purchase deep gas rights within the area which included Sections 8 and 9, T31N, R10W. Since June, 1996, Burlington has continued its efforts to consolidated Section 8 and 9 into voluntary agreements for the drilling of deep gas well test which is now known at the Marcotte Well No. 2.

(32) On April 22, 1997, Burlington sent Moore a letter including an AFE and proposed joint operating agreement proposing among other things participation for the Marcotte Well No. 2, a deep gas test to be located within Section 8, T31N, R10W.

(33) From May 5-9, 1997, James Strickler of Burlington had telephone conversation with Tom Moore representing Wayne & JoAnn Moore (Moore Loyal Trust) concerning the Marcotte Well No. 2.

(34) About May 5-9, 1997, Burlington sent to Tom Moore representing Moore a copy of Burlington's hearing exhibits in Commission Case 11745 which dealt with 640-acre deep gas spacing in the San Juan Basin.

(35) On June 11, 1997, Burlington filed a compulsory pooling application with the Division for pooling Section 8 as a spacing unit for the Marcotte Well No. 2.

(36) On July 1, 1997, Moore proposed that he retain a 27.5% overriding royalty and would deliver to Burlington a 60% net revenue interest in Section 8 which Burlington rejected as being unreasonable.

(37) Except for his July 1, 1997 offer, Moore has thus far rejected all of Burlington's proposals because Moore insist that he needs to see all of Burlington's proprietary seismic data before he can decide whether he will voluntarily participate in this well.

**Division findings concerning Moore interest**

(38) The Division finds that:

(a) Moore has in his own possession and control, communications with Burlington which demonstrate Burlington's willingness to negotiate a voluntary agreement.

(b) ownership records for Moore are within their own control or are matters of public record.

(c) information concerning dates each well was proposed are a matter of record already known to Moore.

(d) Moore has not disputed the proposed overhead rates for supervision.

(e) Moore admitted that this well was very risky.

(f) Moore did not dispute the AFE costs.

(g) Burlington complied with Section 70-2-17(c) NMSA.

**Pooling uncommitted royalty owners**

(39) Burlington has determined that certain leases in Section 8 contain pooling provisions limiting the size of spacing units to less than 640-acres. Because such provisions are inconsistent with 640-acre gas spacing Burlington has asked the Division to set aside such provisions so that proceeds can be paid based upon the percentage of a lease acreage contained in the 640-acre unit.

(40) There are some 33 royalty or overriding royalty owners with such lease provisions all of whom have been sent notice as provided by Division rules of which 22 have voluntarily agreed to commit their interest to this spacing unit leaving some 11 royalty interest owners who have failed to agree to commit their leases to a 640-acre spacing unit.

(41) Such uncommitted royalty owners should have their interests pooled by the Division pursuant to Section 70-2-17 NMSA (1979).

**Risk factor penalty**

(42) The Division finds that:

(a) Burlington seeks a pooling order providing options to participate or to be a carried interest subject to a non-consent penalty.

(b) The Division is authorized to approve a maximum 200% risk factor penalty in pooling cases. Burlington seeks the adoption of the maximum penalty.

(c) publicly available geologic data conclusively demonstrates at this time that the "deep gas" in the San Juan Basin is, with few exceptions, unexplored, untested, and not yet proven to be commercially productive.

(d) The nearest commercial Pennsylvanian gas production is more than twenty (20) miles from Sections 8 and 9.

(e) Burlington contends and Moore-Bard must concede that the 200% risk factor penalty is appropriate based upon the simple fact that there is no proven production in the Pennsylvanian formation which could be used to lower the risk factor penalty.

(f) It is an undisputed fact that this is a very risky exploratory well entitled to the maximum penalty.

(43) Division finds that since the risk of an unsuccessful completion is very high, the risk penalty to be applied to the compulsory pooled parties who elect to be carried should be set at 200% of their proportionate share of actual total completed well costs.

**Subpoenas**

(44) The Division granted Burlington's Motion to Quash the Moore-Minatome subpoenas which sought massive and extensive production of geologic and engineering data for the San Juan Basin because such data is irrelevant to the issues in this compulsory pooling case.

(45) The Division finds that:

(a) Burlington is the owner of seismic data which is the confidential business information and the trade secrets of Burlington which should be protected as privileged in this case.

(b) Because Moore-Minatome own other mineral interests in the immediate vicinity of Section 8 and 9 the disclosure of Burlington's confidential data would give Moore-Minatome either (a) a competitive advantage in other tracts in which they own interests and/or (b) establish a commercial value for purposes of selling or trading their interest to others.

**Continuances**

(46) The Division has denied Moore-Minatome's motions for continuances which were renewed at the conclusion of the hearing.

(47) The Division hereby denies the motions for continuance because:

(a) Burlington's drilling department could not find a suitable deep drilling rig in the San Juan Basin. A search was initiated to locate a rig capable of drilling a 14,250 foot deep gas well. The best rig available and on a timely basis was located 700 miles away in Ozona, Texas. This rig was contracted with a two-well commitment in order to drill the Marcotte Well No. 2 and a subsequent well during good weather months and drilling windows allowed by the BLM and to avoid any bad winter weather delays.

(b) a continuance will afford Moore-Minatome the opportunity to "ride the well" down and to attempt to learn the results of drilling the Marcotte Well No. 2 prior to the date on which their election to participate would expire.

**Overhead Rates**

(48) Burlington purposes use its COPAS Accounting Procedures attached as Exhibit "C" to its Joint Operating Agreement, dated April 1, 1997 with overhead rates of $5,100/month drilling and $510/month producing which the Division finds to be fair and reasonable.

**Authority For Expenditures**
**"AFE"**

(49) The Division's determination of the reasonableness of an AFE is based upon the undisputed testimony of Burlington's drilling engineer who testified that an estimated total completed well costing $2,316,973.00 was reasonable and accurate.

**Unorthodox Well Location is topographical**

(50) Burlington provided the expert testimony of Neal Edwards, a registered surveying engineer, who testified that the unorthodox well location in the SE/4 of Section 8 was based upon topographical necessities.

(51) The Division finds that the unorthodox well location is reasonable and necessary and should be approved.

**Other findings**

(52) To avoid the drilling of unnecessary wells, to protect correlative rights, to prevent waste and to afford to the owners of each interest in said units the opportunity to recover or receive without unnecessary expense his just and fair share of hydrocarbon production in any pool, the subject application should be approved by compulsory pooling of any working interest owner and/or mineral owner who owned an interest not voluntarily committed to the drilling of this well as of June 11, 1997 (date the application was filed) and any said party's successors, grantees, or assignees.

(53) Approval of the application will afford the applicant the opportunity to produce its just and equitable share of the gas in these formations/pools, will prevent the economic loss caused by the drilling of unnecessary wells, avoid the augmentation of risk arising from the drilling of an excessive number of wells and will otherwise prevent waste and protect correlative rights.

(54) Pursuant to Section 70-2-17(C) NMSA (1978) and in order to obtain its just and equitable share of potential production underlying these spacing units, Burlington Resources Oil & Gas Company should be granted an order by the Division pooling the identified and described mineral and/or working interest owners set forth in Exhibit "A" and "B" attached (hereinafter "compulsory pooled parties") so as to prevent waste and protect correlative rights for the drilling of the subject well at an unorthodox well location upon terms and conditions which include:

(a) Burlington Resources Oil & Gas Company be named operator;

(b) Provisions for all compulsory pooled parties to participate in the costs of drilling, completing, equipping and operating the well;

(c) In the event a compulsory pooled party fails to timely elect to voluntarily commit its interest and participate pursuant to this order, then said compulsory pooled party's interest is hereby involuntarily committed to participation pursuant to the terms and conditions of the compulsory pooling provisions of this order and shall be deemed a non-consenting owner whose interest shall be carried so the carrying parties can recover out that compulsory pooled party's share of production, that compulsory pooled party's share of the costs of the drilling, completing, equipping and operating the well, including a risk factor penalty of 200%;

(d) Provisions for a compulsory pooled party who timely elects to join in the Marcotte Well No. 2 to pay his share of overhead rates per month for drilling and operating costs and a provision providing for an adjustment method of the overhead rates as provided by COPAS;

(55) Approval as set forth above and in the following order will avoid the drilling unnecessary wells, protect correlative rights, prevent waste and afford the owner of each interest in said unit the opportunity to recover or receive without unnecessary expense his just and fair share of the production in any pool resulting from this order.

IT IS THEREFORE ORDERED THAT:

(1) The application of Burlington Resources Oil & Gas Company in this case is hereby **GRANTED** and Burlington Resources Oil & Gas Company is hereby designated operator of the subject well and the corresponding spacing unit.

(2) Each and every compulsory pooled party received actual notice of this hearing in accordance with Division Rule 1207 which the Division finds to have afforded each said party a fair and reasonable opportunity to appear and participate they are **hereby compulsory pooled as set forth herein.**

(3) Effective as of the date of the filing of the application[2] in this case, the interests of the working interest and/or mineral owners ("compulsory pooled parties") identified in Exhibits "A" and "B", including, if any, their assignees, successor and grantees, from below the base of the Dakota formation to the top of the Pre-Cambrian aged formation underlying all of Section 8, Township 31 North, Range 10 West, NMPM, San Juan County, New Mexico, **are hereby pooled** for purposes of involuntary commitment to participate in Burlington's Marcotte Well No. 2 and forming a non-standard 639.78-acre gas spacing and proration unit for any and all formations and/or pools developed on 640-acre spacing within said vertical extent

(4) Burlington is hereby authorized to drill its Marcotte Well No. 2 at an unorthodox gas well location 1540 feet from the South and 935 from the East line (Unit I) said Section 8.

**PROVIDED HOWEVER THAT**:

(5) Burlington's proposed drilling-completion program and the corresponding Authority for Expenditures ("AFE") is hereby **APPROVED**.

(6) The terms and conditions of the AAPL Form 610-1982 Model Form Operating Agreement submitted as Burlington's Exhibit 5 are incorporated herein by reference and shall be binding upon all compulsory pooled parties, **subject to the following:**

PROVIDED FURTHER THAT, should said well, having been commenced on June 25, 1997, not be drilled to completion, or abandonment, within 120 days after commencement thereof, said operator shall appear before the Division Director and show cause why Decretory Paragraph No. (2) of this order should not be rescinded.

(7) After the effective date of this order, the operator shall furnish the Division and each compulsory pooled party in the subject unit an itemized schedule of estimated total well costs.

(8) Within 30 days from the date the schedule of estimated well costs is furnished to him, any compulsory pooled party shall have the right to pay his share of estimated well costs to the operator in lieu of paying his share of reasonable total well costs out of production, and any such compulsory pooled party who pays his share of estimated total

[2] Since the date of the application, certain royalty owners have committed their interest to this unit and therefore Exhibit B contains only the 11 remaining royalty owners who have not committed as of August 1, 1997.

completed well costs as provided above shall remain liable for operating costs but shall not be liable for risk factor penalty charges.

(9) The operator shall furnish the Division and each compulsory pooled party with an itemized schedule of actual well costs within 180 days following completion of the well; if no objection to the actual well cost is received by the Division and the Division has not objected within 45 days following receipt of said schedule, the actual well costs shall be the reasonable well costs; provided however, if there is an objection to actual well costs within said 45-day period the Division will determine reasonable well costs after public notice and hearing.

(10) Within 60 days following determination of reasonable well costs, any compulsory pooled party who has paid his share of estimated costs in advance as provided above shall pay to the operator his pro rata share of the amount that reasonable well costs exceed estimated well costs and shall receive from the operator his pro rata share of the amount that estimated well costs exceed reasonable well costs.

(11) The operator is hereby authorized to withhold from the compulsory pooled party the following costs and charges from production:

A. The pro rata share of reasonable well costs attributable to each compulsory pooled party who has not paid his share of estimated well costs within 30 days from the date of schedule of estimated well costs is furnished to him; and

B. As a charge for the risk involved in the drilling of the well, 200 percent of the pro rata share of reasonable well costs attributable to each compulsory pooled party who has not paid his share of estimated total completed well costs within 30 days from the date the schedule of estimated costs is furnished to him.

(12) The operator shall distribute said costs and charges withheld from production to the parties who advanced the well costs.

(13) $5,100 per month while drilling and $510 per month while producing are hereby fixed as reasonable charges for supervision (combined fixed rates); the operator is hereby authorized to withhold from production the proportionate share of such supervision charges attributable to each compulsory pooled party, and in addition thereto, the operator is hereby authorized to withhold from production the proportionate share of

actual expenditures required for operating such well, not in excess of what are reasonable, attributable to each compulsory pooled party's interest.

(14) The operator shall furnish the Division and each compulsory pooled party with an itemized schedule of actual **operating** well costs to be charged on a monthly basis in the form of a joint interest billing within 90 days, or as soon thereafter as is practical, following completion of the well; if no objection to the actual operating well cost or the joint interest billing is received by the Division and the Division has not objected within 45 days following receipt of said schedule, the actual well costs shall be the reasonable well costs; provided however, if there is an objection to actual well costs within said 45-day period the Division will determine reasonable well costs after public notice and hearing.

(15) Any unleased mineral interest who is a compulsory pooled party shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for the purpose of allocating costs and charges under the terms of this order.

(16) Any well costs or charges which are to be paid out of production shall be withheld only from the working interest's share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

(17) All proceeds from production from the subject well which are not disbursed for any reason shall be placed in escrow in San Juan County, New Mexico, to be paid to the true owner thereof upon demand and proof of ownership; the operator shall notify the Division of the name and address of said escrow agent within 30 days from the date of first deposit with said escrow agent.

(18) Should all the compulsory pooled parties reach voluntary agreement with the applicant subsequent to the entry of this order, this order shall thereafter be of no further effect.

(19) The operator of the subject well and unit shall notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the compulsory pooling provisions of this order.

(20) Jurisdiction of this cause is retained for the entry of such further orders as the Division may deem necessary.

DONE, at Santa Fe, New Mexico, on the day and year hereinabove designated.

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

WILLIAM J. LEMAY,
Director

**EXHIBIT "A"**

As of June 11, 1997, the date of the filing of the application in this case, the only uncommitted working interest owners are as follows:

| **Owner** | **percentage** | **share of total AFE costs** |
|---|---|---|
| (a) Moore | 1.77% | ($41,012.) |
| (b) Minatome (GLA-46) | 4.65% | ($107,790.) |

**EXHIBIT "B"**

**MINERAL OWNER LIST**
**NON-COMMITTED TO 640 ACRE SPACING**
**SECTION 8, T31N, R10W**
**SAN JUAN COUNTY, NEW MEXICO**

Mary E. Smith
1300 Oakwood
Bloomfield, NM 87413

Mary Maude Harris
15 CR 2470
Aztec, NM 87410

Virginia R. Hadden and
Huedell Hadden
17 CR 2470
Aztec, NM 87410

Estate of Frank J. Welk
c/o Edward O. Foster
4598 Edgeware Road
San Diego, CA 96116

Joe B. Dickie and
Jimmie A. Dickie
2136 Highway 550
Aztec, NM 87410

Erby Dennis Brown
Star Route, Box 3077
Chugiak, AK 99567

Charles E. Brown, Jr.
1209 Kentucky
Silver City, NM 88061

Joe E. Brown
3426 Pima Drive
Flagstaff, AZ 86001

Nina Wichman
3059 Vivian Street
Lakewood, CO 80215

Katharine Caven
812 Kentucky Street, SE
Albuquerque, NM 87108

Harold & Beverly Pepin
P.O. Box 1002
Aztec, NM 87410