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OIL CONSERVATION DIV.

June 27, 2000

HAND DELIVERED

Michael E. Stogner
Hearing Examiner
Oil Conservation Division
New Mexico Department of Energy,
Minerals and Natural Resources
2040 South Pacheco Street
Santa Fe, New Mexico 87505

Re: Case 12407: Application of Southwestern Energy Production Company for
compulsory pooling, Lea County, New Mexico.

Dear Mr. Stogner,

Enclosed is BTA Oil Producers' Reply to Santa Fe Snyder Corporation's Response to Motion
to Dismiss Pooling Application. As you will note, this Reply specifically addresses the
request of Santa Fe to proceed to hearing on the merits on its application on June 29, 2000.

Your attention to this matter is appreciated.

Very truly yours,



William F. Carr

cc: Marilyn Herbert, Esq.
Legal Counsel
Oil Conservation Division
2040 South Pacheco Street
Santa Fe, New Mexico 87505

Letter to Oil Conservation Division
June 27, 2000
Page 2

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

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OIL CONSERVATION DIV.

**APPLICATION OF SOUTHWESTERN ENERGY
PRODUCTION COMPANY FOR COMPULSORY
POOLING, LEA COUNTY, NEW MEXICO.**

CASE NO. 12407

**BTA OIL PRODUCERS'
REPLY TO SANTA FE SNYDER CORPORATION'S
RESPONSE TO MOTION TO DISMISS POOLING APPLICATION**

BTA Oil Producers ("BTA") hereby files this reply in support of its motion to dismiss the application of the Southwestern Energy Production Company ("Southwestern") for a compulsory pooling order.

**Southwestern And Santa Fe Have Pending Competing Applications
Which Seek To Pool Multiple Leases And Nullify BTA's Permit To Drill
Issued By The BLM For A Standard Spacing Unit Comprised Of Only
Federal Acreage And A Single Working Interest Owner.**

Santa Fe Snyder Corporation ("Santa Fe") and Southwestern Energy Production Company ("Southwestern") each desire to drill a well at the same location in the NE/4 of Section 18, Township 23 South, Range 34 East, NMPM, Lea County, New Mexico. Each company has filed an application with the Division to form a standup E/2 spacing and proration unit in Section 18.

BTA Oil Producers ("BTA") has a permit from the Bureau of Land Management to drill a well in the SE/4 of Section 18 and has dedicated thereto a standard 320-acre spacing

unit comprised of the S/2 of Section 18. *See* Attachment 1 to BTA's Motion. The S/2 of Section 18 is all federal acreage with 100% of the working interest owned by BTA and its partners.

The N/2 of Section 18 is not affected by BTA's permit to drill and a standard 320-acre spacing unit is available for the well which Southwestern and Santa Fe seek to drill. Despite the availability of a laydown, N/2 spacing unit, Southwestern and Santa Fe desire an order from the Division to form a standup E/2 spacing and proration unit comprised of at least five working interests owners and multiple fee and federal leases.

Southwestern and Santa Fe's applications in essence seek to nullify BTA's approved BLM permit to drill and impair BTA's correlative right to develop the federal acreage comprising the S/2 of Section 18 in which it and its partners own 100% of the working interest.

The S/2 consists of only federal leases with a single working interest owner and the N/2 consists of fee leases with multiple working interest owners.

Santa Fe and Southwestern have available to them a standard spacing unit upon which they can drill the well which they propose. BTA therefore requests that the Division honor the BTA's permit to drill on its acreage in the S/2 of this Section and dismiss the applications of Southwestern and Santa Fe to form a E/2 standup spacing and proration unit in Section 18. If Santa Fe and Southwestern dedicate the N/2 to their well, BTA will then be afforded the opportunity to produce the reserves under its tract with the well it has proposed which it

will drill within the term of its approved application for permit to drill.

**Santa Fe's Pooling Application Is Not Noticed To Be Heard Until July 13th
And BTA Understood That If Its Motion To Dismiss Was Not Granted,
Neither Southwestern nor Santa Fe's Pooling Application Would Be Heard
Until July 13th.**

Santa Fe's pooling application for an E/2 standup unit is pending before the Division in Case 12449 and is not noticed to be heard until July 13th.

One June 9th, Santa Fe filed a motion to continue the Southwestern case (pending before the Division as Case 12407) until July 13th so that Southwestern's pooling application could be heard at the same time as Santa Fe's pooling application.

At the same time, BTA moved to dismiss Southwestern's application in part because Southwestern failed to provide proper notice to BTA of its application and the June 15th hearing date.

On June 12th, Examiner Catanach held a prehearing conference to hear BTA's Motion to Dismiss and Santa Fe's motion to continue. At that time, Southwestern's case was continued to June 29th to afford Southwestern and Santa Fe an opportunity to file a response to BTA's Motion to Dismiss.

In their response to BTA's Motion to Dismiss, both Southwestern and Santa Fe not only ask the Division to deny BTA's motion, but to also ask that the hearing date on the merits of their application for an E/2 standup unit be advanced to the Division's June 29th Examiner hearing docket.

BTA understood after the June 12th prehearing conference that the merits of the

competing pooling applications - if heard at all - would not be heard until July 13th. As a result, BTA is not prepared to address the merits of those pooling applications and is only prepared to address its Motion to Dismiss Southwestern's application on June 29th.

The reason for Santa Fe's desire to advance the hearing on its application is simple - by July 13th Santa Fe will no longer be in business or have witnesses employed by the company to support its application. In essence, Santa Fe seeks a hearing in which it seeks to be designated operator of a well and after its operations are taken over by a third party who is not a party to this case. If this application remains important to Santa Fe or its successor on July 13, certainly they can arrange to have witnesses present to present their case.

**A June 29 Hearing on the Merits on Santa Fe's Application
will Impair the Due Process Rights of BTA**

BTA owns valuable oil and gas interests in the S/2 of Section 18. BTA and its partners are the only working interest owner in the S/2 of this section. As a result, BTA's oil and gas interests in the S/2 of this section are subject to all of the protections afforded by the United States Constitution. *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950); *Uhden v. New Mexico Oil Conservation Comm'n*, 112 N.M. 528, 530, 817 P.2d 721, 723 (1991).

Compulsory pooling involves the taking of a property right of one owner in an oil and gas property and giving the right to operate and develop the minerals thereunder to another. At a bare minimum, in order to protect BTA's constitutionally-protected property rights and afford BTA due process of law, the Division must ensure that BTA had adequate notice of

the proposed Division action, and an opportunity to be prepared to act to protect its property interest. *Id.*

As Santa Fe informed the Division in its Motion to Continue filed in the Southwestern case:

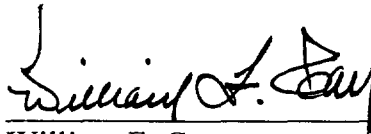
Because a decision approving one case will correspondingly involve a denial in the other, it is in the best interests of the Division and the parties to hearing this matter at one hearing held at the same time. Because a decision cannot be made until after proper notice of the Santa Fe case, the Southwestern case should be continued.

Santa Fe Snyder Corporation's Motion to Continue at p. 4.

Santa Fe's application is not noticed to be heard until July 13th. As a result, the merits of these competing pooling applications cannot be heard in a fashion consistent with BTA's due process rights until July 13th.

Respectfully submitted,

CAMPBELL, CARR, BERGE
& SHERIDAN, P.A.

A handwritten signature in black ink, appearing to read "William F. Carr", is written over a horizontal line.

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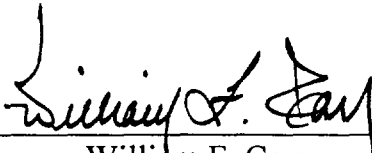
CERTIFICATE OF SERVICE

THIS WILL CERTIFY that a true and correct copy of the forgoing pleading was hand delivered or delivered by facsimile this 27th day of June to the following:

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