ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION
2040 S. PACHECO
SANTA FE, NEW MEXICO 87505
(505) 827-7131

M E M O R A N D U M

TO: William J. LeMay, Director

FROM: David Catanach, Examiner

DATE: April 5, 1995

RE: Competing Forced Pooling Applications

It has come to our attention that during the next few months the Division will receive numerous competing forced-pooling applications. In an effort to reduce the presentation of unnecessary evidence and testimony, and to clarify the types of criteria that the decisions in these cases should be based upon, I am presenting to you some suggested guidelines to be utilized by Division Examiners in deciding these issues. In addition, I am presenting some criteria that should not be utilized in deciding these issues. It should be noted that these criteria are in no particular order of importance and may be used singly or in any combination thereof.

RELEVANT AND PERTINENT EVIDENCE

a) Any information related to pre-hearing negotiations conducted between the parties;
b) Willingness of operator(s) to negotiate a voluntary agreement;
c) Interest ownership within the particular spacing unit being sought;
d) Geologic evidence and testimony as it relates to proposed well location(s), especially if proposed well locations are different;
e) Information regarding dates prospect was developed, proposed, etc.;
f) Overhead rates for supervision;
g) Proposed risk penalties;
h) Significant differences in AFE's (Well costs);
i) Other information deemed pertinent by Division Examiner.

IRRELEVANT AND UNNECESSARY EVIDENCE

a) Insignificant differences in AFE's (Well costs); overhead rates and risk penalties;
b) Subjective judgement calls on an operator's ability to drill a well;
c) Subjective judgement calls on an operator's ability to produce and/or operate a well;

d) Subjective judgement calls on an operator's ability to market oil and gas from the subject well, or dispose of waste products;
e) Incidence and description of previous disagreements between the parties;

In those cases where the differences in relevant evidence are not sufficient to make a clear and fair determination of operatorship, the Division should institute a policy and/or procedure whereby operatorship is awarded on an alternate basis.

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. 11233
CASE NO. 11234
Order No. R-10358

APPLICATION OF NEARBURG EXPLORATION COMPANY FOR COMPULSORY POOLING, EDDY COUNTY, NEW MEXICO.

APPLICATION OF YATES PETROLEUM CORPORATION FOR COMPULSORY POOLING, EDDY COUNTY, NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on April 6, 1995, at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this 2nd day of May, 1995, 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 of this cause and the subject matter thereof.

(2) Division Case Nos. 11233 and 11234 were consolidated at the time of the hearing for the purpose of testimony, and, inasmuch as approval of one application would necessarily require denial of the other, one order should be entered for both cases.

(3) The applicant in Case No. 11233, Nearburg Exploration Company (Nearburg), seeks an order pooling all mineral interests from the surface to the base of the Canyon formation underlying the SW/4 of Section 13, Township 19 South, Range 25 East, NMPM, Eddy County, New Mexico, forming a standard 160-acre spacing and proration unit for any and all formations and/or pools developed on 160 acre spacing within said vertical extent, which presently includes but is not necessarily limited to the Undesignated North Dagger Draw-Upper Pennsylvanian Pool. Said unit is to be dedicated to the proposed Fairchild "13" Well No. 2 to be drilled at a standard oil well location within the SE/4 SW/4 (Unit N) of Section 13.

(4) The applicant in Case No. 11234, Yates Petroleum Corporation (Yates), seeks an order pooling all mineral interests from the surface to the base of the Canyon formation underlying the SW/4 of Section 13, Township 19 South, Range 25 East, NMPM, Eddy County, New Mexico, forming a standard 160-acre spacing and proration unit for any and all formations and/or pools developed on 160-acre spacing within said vertical extent, which presently includes but is not necessarily limited to the Undesignated North Dagger Draw-Upper Pennsylvanian Pool. Said unit is to be dedicated to the proposed Bert "APB" Well No. 1 to be drilled at a standard oil well location within the SW/4 SW/4 (Unit M) of Section 13.

(5) At the commencement of the hearing in the subject cases, it was brought to the attention of the Division that there is a disputed issue between Yates and Nearburg regarding the ownership of a certain 16 percent interest, more or less, within the proposed spacing unit previously owned by Mr. Walter Bert Holmquist. Both Yates and Nearburg claim ownership of such interest.

(6) The issue of such ownership is currently being litigated by Yates and Nearburg in District Court in Eddy County, New Mexico.

(7) With regards to this issue, the Division Examiner allowed Counsel for both Yates and Nearburg to offer tenders of proof as to why such interest should be credited to each respective party.

(8) Ultimately, the Division Examiner denied both parties' tenders of proof and ordered that for the purpose of deciding this pooling matter, neither Yates nor Nearburg shall be entitled to claim credit for this interest.

(9) Both Yates and Nearburg have the right to drill a well in Section 13, both seek to be designated the operator of the proposed proration unit, and both seek the adoption of drilling and production overhead charges and risk penalties.

(10) Yates and Nearburg have been unable to reach a voluntary agreement as to whom should drill and operate a well within the SW/4 of Section 13.

(11) The proposed wells are located within one mile of the outer boundary of the North Dagger Draw-Upper Pennsylvanian Pool and are therefore subject to the Special Rules and Regulations for said pool as promulgated by Division Order No. R-4691, as amended, which require standard 160-acre spacing and proration units with wells to be located no closer than 660 feet from the outer boundary of the spacing unit nor closer than 330 feet from any quarter-quarter section line or subdivision inner boundary.

(12) Both parties agreed at the hearing that overhead rates of $5400.00 while drilling and $540.00 while producing should be adopted in this case. In addition, both parties proposed that a risk penalty of 200 percent be assessed against non-consenting interest owners.

(13) Excluding the Holmquist interest, ownership within the SW/4 of Section 13 is outlined as follows:

Yates Petroleum Corporation	23.33 %
Yates Drilling Company	3.33 %
Abo Petroleum Corporation	3.33 %
Myco Industries Inc.	3.33 %
SUB TOTAL:	33.32 %
Nearburg Exploration Company	50.0 %
TOTAL:	83.32 %

(14) The issues in dispute in this case include the following:

a) Well Location: Nearburg has proposed drilling its Fairchild "13" Well No. 2 at a standard oil well location 660 feet from the South line and 1980 feet from the West line (Unit N) of Section 13, while Yates has proposed drilling its Bert "APB" Well NO. 1 at a standard oil well location 660 feet from the South and West lines (Unit M) of Section 13;

b) Drilling Costs: Yates and Nearburg submitted AFE's which reflect the following drilling costs for the proposed Fairchild "13" Well No. 2 and the Bert "APB" Well No. 1:

WELL NAME	COMPLETED WELL COST
Fairchild "13" No. 2	$627,680.00
Bert "APB" No. 1	$741,200.00

(15) Yates initially proposed the drilling of the Bert "APB" to Nearburg on or about March 2, 1995. Nearburg proposed the drilling of the Fairchild "13" Well No. 2 to Yates on or about March 7, 1995.

(16) On March 3, 1995, Yates filed a compulsory pooling application for the subject acreage with the Division. On March 13, 1995, Nearburg filed a similar compulsory pooling application.

(17) It appears that very little negotiation has taken place between Yates and Nearburg in this particular dispute.

(18) Nearburg's geologic interpretation of the Canyon dolomite reservoir is based upon limited well control in this area and geophysical data possessed by Nearburg. Nearburg's geophysical data is based upon a seismic shot line running in an east-west direction which passes in close proximity to both of the proposed well locations. Nearburg's geologic evidence and testimony indicates that a well drilled at its proposed location should encounter the Canyon dolomite reservoir approximately 40 feet higher structurally than a well drilled at Yates' proposed location. In addition, Nearburg's geologic evidence indicates that a well drilled at Yates' proposed location will be located at or near the western limit of productive Canyon reservoir.

(19) Yates' geologic interpretation of the Canyon dolomite reservoir is based upon limited well control in this area only. Yates' geologic evidence indicates that a well drilled at its proposed location should encounter the Canyon dolomite reservoir approximately 30-40 feet higher structurally than a well drilled at Nearburg's location. In addition, Yates' geologic evidence indicates that both well locations should have similar dolomite thickness.

(20) Yates contends that the geophysical data utilized by Nearburg is of very limited value in choosing a Cisco/Canyon well location in this area.

(21) Yates submitted as evidence actual drilling costs Yates incurred in drilling fourteen wells in this area jointly owned by both parties. In addition, it presented actual drilling costs Nearburg incurred in drilling four wells in this area jointly owned by both parties.

(22) The actual drilling cost data presented indicates that the average drilling cost for Cisco/Canyon well drilled by Yates in this area is approximately $673,398.00. The average drilling cost for a Cisco/Canyon well drilled by Nearburg in this area is approximately $719,894.00.

(23) This evidence indicates that the AFE's presented by both parties are not necessarily indicative of actual drilling costs which may ultimately be incurred while drilling a Cisco/Canyon well in this area.

(24) Estimated drilling costs and the parties' willingness to negotiate a voluntary settlement should not be critical factors in determining the outcome of this case.

(25) The evidence and testimony presented by both parties in this case does indicate that:

a) excluding the Holmquist interest, Nearburg is the majority interest owner within the SW/4 of Section 13 at the present time;

b) Nearburg is in possession of geophysical data not available to Yates. Although there is some question as to the value of this geophysical data, Nearburg testified that it has successfully utilized seismic data previously in the North Dagger Draw-Upper Pennsylvanian Pool to aid in determining well locations. This suggests that this data is of some value and that Nearburg's geologic interpretation is more accurate than that presented by Yates;

c) Nearburg has recently completed drilling its Fairchild "24" Well No. 1 located in Unit E of Section 24, Township 19 South, Range 25 East, NMPM, which is located directly south of the proposed proration unit. This well, which is located at least three miles from known North Dagger Draw-Upper Pennsylvanian Pool production, has been completed as a Cisco/Canyon producing well.

d) Yates' closest producing well in this pool is located more than three miles away. Nearburg, by virtue of recently drilling the aforesaid Fairchild "24" Well No. 1, has more operations and surface facilities in this newly discovered area of the pool than does Yates;

(26) Nearburg testified and Yates concurred that previous disputes over operatorship of spacing units in the North Dagger Draw-Upper Pennsylvanian Pool have been voluntarily resolved utilizing as criteria majority interest ownership and location of operations and surface facilities relative to the spacing unit.

(27) Based upon interest ownership, geologic interpretation and location of operations and surface facilities, Nearburg should be designated the operator of the Fairchild "13" Well No. 2 and spacing unit.

(28) The application of Yates Petroleum Corporation should be denied.

(29) To avoid the drilling of unnecessary wells, to protect correlative rights, to avoid waste, and to afford to 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 completion resulting from this order, the application of Nearburg Exploration Company should be approved by pooling all mineral interests, whatever they may be, within said unit.

(30) Any non-consenting working interest owner should be afforded the opportunity to pay his share of estimated well costs to the operator in lieu of paying his share of reasonable well costs out of production.

(31) Any non-consenting working interest owner who does not pay his share of estimated well costs should have withheld from production his share of the reasonable well costs plus an additional 200 percent thereof as a reasonable charge for the risk involved in the drilling of the well.

(32) Any non-consenting working interest owner should be afforded the opportunity to object to the actual well costs but actual well costs should be adopted as the reasonable well costs in the absence of such objection.

(33) Following determination of reasonable well costs, any non-consenting working interest owner who has paid his share of estimated costs should pay to the operator any amount that reasonable well costs exceed estimated well costs and should receive from the operator any amount that paid estimated well costs exceed reasonable well costs.

(34) $5400.00 per month while drilling and $540.00 per month while producing should be fixed as reasonable charges for supervision (combined fixed rates); the operator should be authorized to withhold from production the proportionate share of such supervision charges attributable to each non-consenting working interest, and in addition thereto, the operator should be authorized to withhold from production the proportionate share of actual expenditures required for operating the subject well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(35) All proceeds from production from the subject well which are not disbursed for any reason should be placed in escrow to be paid to the true owner thereof upon demand and proof of ownership.

(36) Upon the failure of Nearburg to commence the drilling of the Fairchild "13" Well No. 2 on or before August 1, 1995, the order pooling said unit should become null and void and of no effect whatsoever.

(37) 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.

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

IT IS THEREFORE ORDERED THAT:

(1) The application of Nearburg Exploration Company in Case No. 11233 for an order pooling all mineral interests from the surface to the base of the Canyon formation underlying the SW/4 of Section 13, Township 19 South, Range 25 East, NMPM, Eddy County, New Mexico, forming a standard 160-acre spacing and proration unit for any and all formations and/or pools developed on 160-acre spacing within said vertical extent which presently includes but is not necessarily limited to the Undesignated North Dagger Draw-Upper Pennsylvanian Pool is hereby approved. Said unit shall be dedicated to the Fairchild "13" Well No. 2 to be drilled at a standard oil well location 660 feet from the South line and 1980 feet from the West line (Unit N) of Section 13.

(2) The application of Yates Petroleum Corporation in Case No. 11234 for an order pooling all mineral interests from the surface to the base of the Canyon formation underlying the SW/4 of Section 13, Township 19 South, Range 25 East, NMPM, Eddy County, New Mexico, forming a standard 160-acre spacing and proration unit for any and all formations and/or pools developed on 160-acre spacing within said vertical extent which presently includes but is not necessarily limited to the Undesignated North Dagger Draw-Upper Pennsylvanian Pool is hereby denied.

PROVIDED HOWEVER THAT, the operator of said unit shall commence the drilling of said well on or before the 1st day of August, 1995, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the Cisco/Canyon formation.

PROVIDED FURTHER THAT, in the event said operator does not commence the drilling of said well on or before the 1st day of August, 1995, Ordering Paragraph No. (1) of this order shall be null and void and of no effect whatsoever, unless said operator obtains a time extension from the Division Director for good cause shown.

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. 11263
CASE NO. 11265
Order No. R-10434

APPLICATION OF YATES PETROLEUM CORPORATION FOR COMPULSORY POOLING, EDDY COUNTY, NEW MEXICO.

APPLICATION OF NEARBURG EXPLORATION COMPANY FOR COMPULSORY POOLING, EDDY COUNTY, NEW MEXICO

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on July 27, 1995 at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this 10th day of August, 1995, 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 of this cause and the subject matter thereof.

(2) Division Case Nos. 11263 and 11265 were consolidated at the time of the hearing for the purpose of testimony, and, inasmuch as approval of one application would necessarily require denial of the other, one order should be entered for both cases.

(3) The applicant in Case No. 11263, Yates Petroleum Corporation (Yates), seeks an order pooling all mineral interests from the surface to the base of the Canyon formation underlying the NE/4 of Section 21, Township 19 South, Range 25 East, NMPM, Eddy County, New Mexico, forming a standard 160-acre spacing and proration unit for any and all formations and/or pools developed on 160-acre spacing within said vertical extent, which presently includes but is not necessarily limited to the North Dagger Draw-Upper Pennsylvanian Pool. Said unit is to be dedicated to the applicant's proposed Ross "EG" Federal Com Well No. 14 to be drilled at a standard oil well location within the NW/4 NE/4 (Unit B) of Section 21.

(4) The applicant in Case No. 11265, Nearburg Exploration Company (Nearburg), seeks an order pooling all mineral interests from the surface to the base of the Canyon formation underlying the NE/4 of Section 21, Township 19 South, Range 25 East, NMPM, Eddy County, New Mexico, forming a standard 160-acre spacing and proration unit for any and all formations and/or pools developed on 160-acre spacing within said vertical extent, which presently includes but is not necessarily limited to the North Dagger Draw-Upper Pennsylvanian Pool. Said unit is to be dedicated to the applicant's proposed Alto "21" Well No. 2 to be drilled at a standard oil well location within the NE/4 NE/4 (Unit A) of Section 21.

(5) Both Yates and Nearburg have the right to drill a well in the NE/4 of Section 21, both seek to be designated the operator of the proposed proration unit, and both seek the adoption of drilling and production overhead charges and risk penalties.

(6) Yates and Nearburg have been unable to reach a voluntary agreement as to whom should drill and operate a well within the NE/4 of Section 21.

(7) At the time of the hearing, Nearburg requested that the Division expedite a decision in this case inasmuch as it stands to lose a 4.6875 percent interest committed to it by Kerr-McGee Corporation unless a well is commenced prior to September 14, 1995.

(8) The proposed wells are located within the boundaries of the North Dagger Draw-Upper Pennsylvanian Pool and are therefore subject to the Special Rules and Regulations for said pool as promulgated by Division Order No. R-4691, as amended, which require standard 160-acre spacing and proration units with wells to be located no closer than 660 feet from the outer boundary of the spacing unit nor closer than 330 feet from any quarter-quarter section line or subdivision inner boundary.

(9) Both parties agreed at the hearing that overhead rates of $5400.00 while drilling and $540.00 while producing should be adopted in this case. In addition, both parties proposed that a risk penalty of 200 percent be assessed against non-consenting interest owners.

(10) The ownership within the NE/4 of Section 21 is outlined as follows:

SHALLOW DEPTH—SURFACE-7,704'

Yates Petroleum Corporation————53.125 %
(Includes all Yates affiliates)

Nearburg Exploration Company————43.750%

Conoco Inc.————————3.1250%

INTERMEDIATE DEPTH-7,704'-7,800'

Yates Petroleum Corporation————50.781250%
(Includes all Yates affiliates)

Nearburg Exploration Company————46.093750%

Conoco Inc.————————3.125%

DEEP DEPTH–BELOW 7,800'

Yates Petroleum Corporation————47.656250%
(Includes all Yates affiliates)

Nearburg Exploration Company————46.093750%

Conoco Inc.————————6.250%

(11) At the time of the hearing, Yates testified that Conoco Inc. has signed Yates' AFE (Authority for Expenditure) for the drilling of the Ross "EG" Federal Com Well No. 14 and should therefore be considered a voluntary participant in Yates' proposal.

(12) Subsequent to the hearing, Yates submitted a copy of a signed AFE from Conoco Inc. for the drilling of the Ross "EG" Federal Com Well No. 14.

(13) Although Conoco Inc. has not yet signed Yates' operating agreement for the drilling of the Ross "EG" Federal Com Well No. 14, its interest should be considered to be committed to Yates at this time.

(14) Both Yates and Nearburg presented AFE's for the drilling of their respective wells in the NE/4 of Section 21. These drilling costs are summarized as follows:

PARTY	DRY HOLE COSTS	COMPLETED WELL COSTS
Yates	$238,745	$508,745
Nearburg	$343,895	$722,985

(15) Evidence and testimony presented indicates that certain costs associated with surface equipment were excluded from Yates' AFE, and that Nearburg's AFE contains substantial contingency costs. A more detailed comparison of AFE's indicates that there is not a substantial difference in both parties' proposed well costs.

(16) Evidence submitted by Yates indicates that its average drilling costs for a well in this pool are approximately $665,000. Testimony by Nearburg indicates that it has incurred drilling costs of just under $700,000 for the last two wells it has drilled in this pool.

(17) The optimum location in which to drill the first producing well on the subject proration unit is also at issue in this case.

(18) Yates has proposed drilling its Ross "EG" Federal Com Well No. 14 at a standard oil well location 660 feet from the North line and 1980 feet from the East line (Unit B) of Section 21 while Nearburg has proposed drilling its Alto "21" Well No. 2 at a standard oil well location 660 feet from the North and East lines (Unit A) of Section 21

(19) There are two Cisco-Canyon disposal wells in this area which have a direct bearing on the proposed well locations, these wells are described as follows:

a) Yates Petroleum Corporation Osage SWD Well No. 1 located 1980 feet from the North and East lines (Unit G) of Section 21. Yates received Division approval to commence injection into this well through the perforated interval from approximately 7,672 feet to 7,813 feet by Division Order No. SWD-336 on March 3, 1988; and,

b) Anadarko Petroleum Corporation Dagger Draw SWD Well No. 1 located 1495 feet from the North line and 225 feet from the West line (Unit E) of Section 22, Township 19 South, Range 25 East, NMPM. Anadarko received Division approval to commence injection into this well through the perforated interval from approximately 7,800 feet to 8,040 feet by Division Order No. R-7637 dated August 23, 1984.

(20) The evidence indicates that approximately 6.5 million barrels of water have cumulatively been injected into the Osage SWD Well No. 1. Yates testified that it has voluntarily suspended injection operations into this well as of April, 1995. Approximately 1.5 million barrels of water have cumulatively been injected into the Dagger Draw SWD Well No. 1.

(21) Yates contends that its proposed well location is superior to that of Nearburg's for the following reasons:

a) a well at both proposed locations should encounter approximately 350 feet of dolomite within the North Dagger Draw-Upper Pennsylvanian Pool, however, a well at Yates' proposed location should encounter the top of the dolomite pay section higher structurally than a well at Nearburg's proposed location;

b) the risk associated with drilling the Ross "EG" Federal Com Well No. 14 is less than that of drilling the Alto "21" Well No. 2 inasmuch as Yates' well will be located closer to known production within the pool;

c) due to the fact that the Alto "21" Well No. 2 is located in close proximity to both the Osage SWD Well No. 1 and the Dagger Draw SWD Well No. 1, while the Ross "EG" Federal Com Well No. 14 is located in close proximity only to the Osage SWD Well No. 1, the Yates well location presents less of a risk in terms of encountering water encroachment into the reservoir which may have occurred as a result of injection.

(22) Nearburg contends that its proposed well location is superior to that of Yates' for the following reasons:

a) a well at Nearburg's proposed location should encounter approximately 90 feet more of gross dolomite and should encounter the top of the dolomite pay section approximately 30 feet higher structurally than a well at Yates' proposed location;

b) a well at Nearburg's proposed location should encounter the top of the dolomite pay section at a structurally higher position than both the Osage SWD Well No. 1 and the Dagger Draw SWD Well No. 1, thereby decreasing the risk of encountering water encroachment into the reservoir which may have occurred as a result of injection; and,

c) the Osage SWD Well No. 1 has cumulatively injected some 4.0 million barrels more than the Dagger Draw SWD Well No. 1. Due to the fact that the Ross "EG" Federal Com Well No. 14 is located in closer proximity to the Osage SWD Well No. 1 than is the Alto "21" Well No. 2, the potential for encountering water encroachment into the reservoir which may have occurred as a result of injection are greater at Yates' proposed well location.

(23) The geologic evidence and testimony presented by both parties in this case indicates that:

a) the geologic interpretation of the Cisco-Canyon reservoir provided by Nearburg appears to more accurately honor the well data in this area;

b) the structural differences within the reservoir between the proposed Ross "EG" Federal Com Well No. 14 and the Alto "21" Well No. 2 are not sufficient to preclude one or the other from being a producing well within the pool;

c) the geology in itself cannot predict whether or not injection into the Osage SWD Well No. 1 and the Dagger Draw SWD Well No. 1 has had or will have an adverse affect on a well located at either of the proposed locations.

d) it is likely that both of the proposed well locations will ultimately be drilled to develop the oil and gas reserves underlying the NE/4 of Section 21.

(24) The respective well locations proposed by Yates and Nearburg both represent geologically viable locations in which to initially explore for hydrocarbon production within the North Dagger Draw-Upper Pennsylvanian Pool underlying the NE/4 of Section 21.

(25) Excluding the interest of Conoco Inc., Yates is the majority interest owner within the NE/4 of Section 21 with approximately 51 percent ownership (Intermediate Depth).

(26) Conoco Inc., presented with both the Nearburg and Yates drilling options, has elected to voluntarily participate with Yates in its proposal.

(27) Yates, with the inclusion of the Conoco Inc. interest, currently controls approximately 54 percent of the ownership within the NE/4 of Section 21 compared to Nearburg's 46 percent.

(28) In the absence of other compelling factors, Conoco's willingness to participate with Yates in its drilling proposal and by virtue of Yates controlling the majority of interest within the proposed spacing unit, the application of Yates in Case No. 11263 should be granted.

(29) The application of Nearburg in Case No. 11265 should be denied.

(30) To avoid the drilling of unnecessary wells, to protect correlative rights, to avoid waste, and to afford to 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 completion resulting from this order, the application of Yates Petroleum Corporation in Case No. 11263 should be approved by pooling all mineral interests, whatever they may be, within said unit.

(31) Yates Petroleum Corporation should be designated the operator of the Ross "EG" Federal Com Well No. 14 and unit.

(32) Any non-consenting working interest owner should be afforded the opportunity to pay his share of estimated well costs to the operator in lieu of paying his share of reasonable well costs out of production.

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:

APPLICATION OF YATES PETROLEUM COMPANY FOR COMPULSORY POOLING, EDDY COUNTY, NEW MEXICO. *Case No. 11310*

APPLICATION OF NEARBURG EXPLORATION COMPANY FOR COMPULSORY POOLING, EDDY COUNTY, NEW MEXICO. *Case No. 11311*

Order No. R-10520

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on August 10, 1995 and on October 5, 1995, at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this 20th day of November, 1995, 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 of this cause and the subject matter thereof.

(2) At the time of the hearings both Division Case Nos. 11310 and 11311 were consolidated for the purpose of presenting testimony. Also, inasmuch as both cases encompass the same acreage and the subject matter in both are analogous, the approval of

one application would necessarily require denial of the other, and one order should therefore be entered for both cases.

(3) The applicant in Case No. 11310, Yates Petroleum Corporation ("Yates"), seeks an order pooling all mineral interests from the surface to the base of the Canyon formation underlying the SE/4 of Section 16, Township 19 South, Range 25 East, NMPM, Eddy County, New Mexico, to form a standard 160-acre spacing and proration unit for any and all formations and/or pools developed on 160-acre spacing within said vertical extent which presently includes but is not necessarily limited to the North Dagger Draw-Upper Pennsylvanian Pool.

(4) The applicant in Case No. 11311, Nearburg Exploration Company ("Nearburg"), seeks an order pooling all mineral interests from the surface to the base of the Canyon formation underlying the SE/4 of Section 16, Township 19 South, Range 25 East, NMPM, Eddy County, New Mexico, to form a standard 160-acre spacing and proration unit for any and all formations and/or pools developed on 160-acre spacing within said vertical extent which presently includes but is not necessarily limited to the North Dagger Draw-Upper Pennsylvanian Pool.

(5) The subject 160-acre tract is included within the boundary of the North Dagger Draw-Upper Pennsylvanian Pool, which is governed by "*Special Rules and Regulations*", as promulgated by Division Order No. R-4691, as amended, which require standard 160-acre oil spacing and proration units with wells to be located no closer than 660 feet from the outer boundary of the spacing and proration unit nor closer than 330 feet from any quarter-quarter section line or subdivision inner boundary, an oil allowable of 700 barrels per day per standard 160-acre unit, and a limiting gas/oil ratio of 10,000 cubic feet of gas per barrel of oil.

(6) In Case 11310, Yates originally sought at the August 10th hearing to dedicate the subject 160-acre tract to its proposed Boyd "X" Well No. 9 to be drilled at a standard North Dagger Draw-Upper Pennsylvanian oil well location in the NW/4 SE/4 (Unit J) of said Section 16. Subsequent to the August 10th hearing Yates requested this matter be reopened and amended to reflect a well location move to a standard North Dagger Draw-Upper Pennsylvanian oil well location in the SW/4 SE/4 (Unit O) of said Section 16 and its redesignation to the Boyd "X" Well No. 10.

(7) In Case 11311, Nearburg seeks to dedicate said unit to its Arroyo "16" Well No. 1 to be drilled at a standard North Dagger Draw-Upper Pennsylvanian oil well location in the SE/4 SE/4 (Unit P) of said Section 16.

(8) Each applicant (Yates and Nearburg) has the right to drill and each proposes to drill their respective well to a depth sufficient to test the North Dagger Draw-Upper Pennsylvanian Pool, both seek to be designated the operator of the proposed 160-acre spacing and proration unit, and both seek the adoption of drilling and production overhead charges and the assessment of a 200% risk penalty factor for non-consent.

(9) No voluntary agreement for development of this acreage has been reached by either party as to whom should be the operator.

(10) *Although the standard spacing within the North Dagger Draw-Upper Pennsylvanian Pool is 160 acres, the established practice within this pool is to drill a well on each of the four 40-acre tracts that form a standard 160-acre oil spacing and proration unit. Testimony by both parties indicate that the SE/4 of said Section 16 would most likely be developed in this manner with the operator, whoever is named, drilling wells on each of the four quarter-quarter sections.* ***FURTHER,*** *both parties presented geologic and engineering evidence to support the drilling of the initial well at what each perceives to be the most optimum location within this quarter section.*

FINDING: This point becomes moot since Yates changed its location once and as stated above the SE/4 of said Section 16 could ultimately be developed with four wells, one in each quarter-quarter section.

(11) Nearburg's authorization for expenditure ("AFE") costs for its well was $722,985.00, while Yates' final AFE was for $655,700.00. The difference between the two is $67,285.00.

(12) The significant working interest owners within the SE/4 of said Section 16 are as follows:

Yates Petroleum Corporation	37.500000%
Nearburg Exploration Company	37.500000%
Unit Petroleum Company of Tulsa, Oklahoma	24.443924%

With sixteen various other interest owners owning the remainder.

(13) According to the evidence presented, Yates is supported in its application by a number of the working interest owners, including Unit Petroleum Company, making up a total of 62.158646% of those owning an interest.

(14) Difference between the two requested overhead and administrative costs were somewhat significant, for Yates proposes fixed overhead rates of $4,500.00 per month while drilling and $450.00 per month while producing and Nearburg proposed overhead rates were $5,440.00 per month while drilling and $540.00 per month while producing.

(15) *In summary, Yates: controls 62.158646% of the working interest under the proposed 160-acre spacing and proration unit; has estimated well costs of $67,285.00 less than that of Nearburg; and, has requested a lesser amount for overhead and administrative costs than Nearburg.*

FINDING: The application of Yates Petroleum Corporation in Case No. 11310 should be granted and the application of Nearburg Exploration Company in Case No. 11311 should be denied.

(16) To avoid the drilling of unnecessary wells, to protect correlative rights, to prevent waste, and to afford to 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 completion resulting from this order, the application of Yates Petroleum Corporation in Division Case 11310 should be approved by pooling all mineral interests, whatever they may be, from the surface to the base of the Canyon formation underlying the SE/4 of Section 16, Township 19 South, Range 25 East, NMPM, Eddy County, New Mexico, to form a standard 160-acre spacing and proration unit for any and all formations and/or pools developed on 160-acre spacing within said vertical extent which presently includes but is not necessarily limited to the North Dagger Draw-Upper Pennsylvanian Pool. Said unit is to be dedicated to its proposed Boyd "X" Well No. 10 to be drilled at a standard North Dagger Draw-Upper Pennsylvanian oil well location in the SW/4 SE/4 (Unit P) of said Section 16.

(17) Yates Petroleum Corporation should be designated the operator of the subject well and unit.

(18) Any non-consenting working interest owner should be afforded the opportunity to pay his share of the estimated well costs to the operator in lieu of paying his share of reasonable well costs out of production.

(19) Any non-consenting working interest owner who does not pay his share of estimated well costs should have withheld from production his share of the reasonable well costs plus an additional 200 percent thereof as a reasonable charge for the risk involved in the drilling of the well.

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:

APPLICATION OF NEARBURG EXPLORATION COMPANY FOR COMPULSORY POOLING, EDDY COUNTY, NEW MEXICO. *Case No. 11521*

APPLICATION OF MEWBOURNE OIL COMPANY FOR COMPULSORY POOLING AND AN UNORTHODOX GAS WELL LOCATION, EDDY COUNTY, NEW MEXICO. *Case No. 11533*

Order No. R-10626

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on June 13, 1996, at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this 31st day of July, 1996, 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 of this cause and the subject matter thereof.

(2) Division Case Nos. 11521 and 11533 were consolidated at the time of the hearing for the purpose of testimony, and, in order to provide a comprehensive decision in these cases, one order should be entered for both cases.

(3) In Case No. 11533, the applicant, Mewbourne Oil Company ("Mewbourne"), originally requested from the Division an order pooling all mineral

interests from the surface to the base of the Morrow formation underlying the N/2 (equivalent) for all formations developed on 320-acre spacing, the NW/4 (equivalent) for all formations developed on 160-acre spacing, the S/2 NW/4 for all formations developed on 80-acre spacing, and the SW/4 NW/4 for all formations developed on 40-acre spacing, all in Section 4, Township 18 South, Range 28 East, NMPM, Eddy County, New Mexico. The applicant further proposed to dedicate these pooled units to a well to be drilled at an unorthodox gas well location 1650 feet from the North line and 990 feet from the West line (Unit E) of said Section 4 to test any and all formations from the surface to the base of the Morrow formation, Illinois Camp-Morrow Gas Pool.

(4) At the time of the hearing said Case 11533 was revised such that Mewbourne now seeks an order pooling all mineral interests from a depth of 5,000 feet to the base of the Morrow formation, being the primary zone of interest, underlying the following described acreage in Section 4, Township 18 South, Range 28 East, NMPM, Eddy County, New Mexico and in the following manner:

(a) Lots 1, 2, 3, and 4 and the S/2 N/2 (N/2 equivalent) of said Section 4 thereby forming a standard 320.48-acre gas spacing and proration unit for any and all formations and/or pools developed on 320-acre spacing within said vertical extent, which presently includes but is not necessarily limited to the Empire-Pennsylvanian Gas Pool; and,

(b) Lots 3 and 4 and the S/2 NW/4 (NW/4 equivalent) of said Section 4 to form a standard 160.36-acre gas spacing and proration unit for any and all formations and/or pools developed on 160-acre spacing within said vertical extent.

Said units are to be dedicated to Mewbourne's proposed Scoggin Draw "4" State Com Well No. 1 to be drilled 1650 feet from the North line and 990 feet from the West line (Unit E) of said Section 4. Said well location is considered to be "standard" for the proposed 160.36-acre unit but is "unorthodox" for the proposed 320.48-acre gas spacing and proration unit. By Division Administrative Order NSL-3679, dated June 11, 1996, this location was approved for the Empire-Pennsylvanian Gas Pool in the subject 320.48-acre unit.

(5) Similarly, in Case No. 11521 the applicant, Nearburg Exploration Company ("Nearburg"), seeks an order pooling all mineral interests from the surface to the base of the Morrow formation underlying Lots 1, 2, 3, and 4 and the S/2 N/2 (N/2 equivalent) of Section 4, Township 18 South, Range 28 East, NMPM, Eddy County, New Mexico thereby forming a standard 320.48-acre gas spacing and proration unit for any and all

formations and/or pools developed on 320-acre spacing within said vertical extent, which presently includes but is not necessarily limited to the Empire-Pennsylvanian Gas Pool, said unit to be dedicated to Nearburg's proposed Hummer State "4" Com Well No. 1 to be drilled at a location 1310 feet from the North line and 1650 feet from the East line (Lot 2/Unit B) of said Section 4.

(6) *The ownership within the N/2 equivalent of said Section 4 as to the relevant potential producing depth is outlined as follows:*

(a) Nearburg Exploration Company	*14.06250%*
(b) Mewbourne Oil Company	*37.50000%*
(c) Arco Permian Corporation	*6.25000%*
(d) Amoco Production Company	*6.25000%*
(e) OXY USA Inc.	*25.00000%*
(f) Fina Oil and Chemicals	*09.37500%*
(g) Earl R. Bruno, Jr.	*00.78125%*
(h) Robert H. Marshall	*00.78125%*

FINDING: In that Mewbourne and Nearburg each own an interest in the N/2 equivalent of said Section 4 and, as such, both have the right to drill for and develop the minerals underlying the proposed spacing unit(s).

(7) Mewbourne and Nearburg have been negotiating and have both attempted to reach a mutually acceptable agreement in this matter; however, they have been unable to voluntarily reach an agreement as to which location should be drilled within the N/2 equivalent of said Section 4.

(8) Both parties agreed at the hearing that overhead rates of $6,000.00 while drilling and $600.00 while producing should be adopted in this case. In addition, both parties proposed that a risk penalty of 200 percent be assessed against any non-consenting interest owners.

(9) Nearburg has proposed that Mewbourne be allowed the first opportunity to drill its preferred location because in excess of 70% of the working interest owners have agreed to the Mewbourne location with only 14% agreeing to the Nearburg location, and that if Mewbourne fails to timely commence such a well or in the event it is not commercially productive in the Morrow formation, that Nearburg then be given the opportunity to commence its well at its preferred location.

(10) Mewbourne is in agreement with Nearburg's proposal with the exception that Mewbourne wants the ability to extend its commencement date for spudding its well

beyond the normal 90-day commencement period provided in standard compulsory pooling orders issued by the Division.

(11) Mewbourne's technical witnesses testified at the hearing that Mewbourne had represented to Nearburg that Mewbourne can commence the drilling of the subject well within the normal 90-day period following the issuance of a compulsory pooling order and was unaware of any reason it could not do so.

(12) The Division finds that Nearburg's proposal is fair and reasonable and should be adopted by the Division in order to provide a comprehensive solution for the exploration of this section with the parties owning the overwhelming majority being provided the opportunity to drill their preferred location first.

(13) Both applications for compulsory pooling should be granted with Mewbourne being granted the first opportunity to commence a well at its specified location and then, if said well is not timely commenced or if commenced should fail to be completed in the Morrow formation as a commercial well, then Nearburg should be granted its opportunity to drill a Morrow well at its preferred location without the necessity of again pooling the N/2 of Section 4.

(14) Since the location proposed by Mewbourne was previously approved by an administrative order (NSL-3679) with no objections being filed during that process, no production penalty will be imposed on Mewbourne's Scoggin Draw "4" State Com Well No. 1.

(15) *Nearburg's proposed gas well location (1310 feet from the North line and 1650 feet from the East line (Lot 2/Unit B) of said Section 4) is considered to be "unorthodox", pursuant to Division General Rules 104.B(1)(a) and 104.C(2)(b).*

FINDING: In that the unorthodox location for the Nearburg well is internal within its proposed standard 320.48-acre gas spacing and proration unit and not encroaching on any offsetting deep gas units and it appearing that Nearburg's presentation of this case at the hearing has served to meet the notification requirements for an administrative application pursuant to Division General Rule 104.F, the subject location should also be approved at this time and without any further administrative action by Nearburg.

(16) Mewbourne should be required to commence its well within 90 days following the issuance of an order in this case but in no event later than November 1, 1996.

(17) To avoid the drilling of unnecessary wells, to protect correlative rights, to prevent waste and to afford to the owner of each interest in said unit(s) the opportunity to recover or receive without unnecessary expense his just and fair share of hydrocarbon production in any pool resulting from this order, the applications of Mewbourne and Nearburg should be approved by pooling all mineral interests, whatever they may be, within said unit(s), subject to the terms and conditions set forth below.

(18) Any non-consenting working interest owner should be afforded the opportunity to pay his share of estimated well costs first to Mewbourne and then to Nearburg, as the operator, respectively, in lieu of paying his share of reasonable well costs out of production.

(19) Any non-consenting working interest owner who does not pay his share of estimated well costs should have withheld from production his share of reasonable well costs plus an additional 200 percent thereof as a reasonable charge for the risk involved in the drilling of the well(s).

(20) Any non-consenting interest owner should be afforded the opportunity to object to the actual well costs but actual well costs should be adopted as the reasonable well costs in the absence of such objection.

(21) Following determination of reasonable well costs, any non-consenting working interest owner who has paid his share of estimated costs should pay to the operator any amount that reasonable well costs exceed estimated well costs and should receive from the operator any amount that paid estimated well costs exceed reasonable well costs.

(22) $6,000.00 per month while drilling and $600.00 per month while producing should be fixed as reasonable charges for supervision (combined fixed rates); the operator should be authorized to withhold from production the proportionate share of such supervision charges attributable to each non-consenting working interest, and in addition thereto, the operator should be authorized to withhold from production the proportionate share of actual expenditures required for operating the subject well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(23) All proceeds from production from the applicable well which are not disbursed for any reason should be placed in escrow to be paid to the true owner thereof upon demand and proof of ownership.

(24) Upon the failure of Mewbourne to commence drilling of its Scoggin Draw "4" State Com Well No. 1 on or before the expiration of the 90-day period following

issuance of this order, or November 1, 1996, whichever comes sooner, then Nearburg shall commence the drilling of its proposed Hummer State "4" Com Well No. 1 on or before January 20, 1997, and if neither party timely commences their respective well then this order pooling said unit(s) should become null and void and of no further effect whatsoever.

(25) Should all the parties to this force-pooling reach voluntary agreement subsequent to entry of this order, this order should thereafter be of no further effect.

(26) The operator of its applicable well and unit(s) should notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the force-pooling provisions of this order.

IT IS THEREFORE ORDERED THAT:

(1) The application of Mewbourne Oil Company ("Mewbourne") in Case No. 11533 for an order pooling all mineral interests from a depth of 5,000 feet to the base of the Morrow formation, being the primary zone of interest, underlying the following described acreage in Section 4, Township 18 South, Range 28 East, NMPM, Eddy County, New Mexico and in the following manner:

(a) Lots 1, 2, 3, and 4 and the S/2 N/2 (N/2 equivalent) of said Section 4 thereby forming a standard 320.48-acre gas spacing and proration unit for any and all formations and/or pools developed on 320-acre spacing within said vertical extent, which presently includes but is not necessarily limited to the Empire-Pennsylvanian Gas Pool; and,

(b) Lots 3 and 4 and the S/2 NW/4 (NW/4 equivalent) of said Section 4 to form a standard 160.36-acre gas spacing and proration unit for any and all formations and/or pools developed on 160-acre spacing within said vertical extent;

is hereby approved.

Said units are to be dedicated to Mewbourne's proposed Scoggin Draw "4" State Com Well No. 1 to be drilled 1650 feet from the North line and 990 feet from the West line (Unit E) of said Section 4. Said well location is considered to be "standard" for the proposed 160.36-acre unit but is "unorthodox" for the proposed 320.48-acre gas spacing and proration unit. By Division Administrative Order NSL-3679, dated June 11, 1996, this location was approved for the Empire-Pennsylvanian Gas Pool in the subject 320.48-acre unit.

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:

APPLICATION OF BURLINGTON RESOURCES OIL & GAS COMPANY FOR COMPULSORY POOLING, LEA COUNTY, NEW MEXICO. *Case No. 11613*

APPLICATION OF PENWELL ENERGY, INC. FOR COMPULSORY POOLING, LEA COUNTY, NEW MEXICO. *Case No. 11622*

Order No. R-10709

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on October 3, 1996, at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this 26th day of November, 1996, 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 of this cause and the subject matter thereof.

(2) Division Case Nos. 11613 and 11622 were consolidated at the time of the hearing for the purpose of testimony because the approval of one case will correspondingly require the denial of the other and in order to provide a comprehensive decision in these cases, one order should be entered for both cases.

(3) On August 26, 1996, the applicant in Case 11613, Burlington Resources Oil & Gas Company, formerly Meridian Oil Inc., henceforth to be referred to as "Burlington", filed its application seeking an order pooling all mineral interests from the surface to the

base of the Bone Spring formation underlying the NW/4 SE/4 (Unit J) of Section 24, Township 22 South, Range 32 East, NMPM, Lea County, New Mexico, to form a standard 40-acre oil spacing and proration unit for any and all formations and/or pools developed on 40-acre spacing within said vertical extent, which presently includes but is not necessarily limited to the Undesignated West Red Tank-Delaware Pool and the Undesignated Red Tank-Bone Spring Pool. Said unit is to be dedicated to Burlington's proposed Checkmate "24" Federal Well No. 1 (**API No. 30-025-32945**) to be drilled at a standard oil well location 1980 feet from the South and East lines of said Section 24.

(4) On September 10, 1996, the applicant in companion Case No. 11622, Penwell Energy, Inc. ("Penwell"), filed a competing pooling application in which Penwell seeks to be designated operator of the aforementioned 40-acre unit and its proposed Checkers "24" Federal Well No. 1 to be drilled at a standard oil well location 1980 feet from the South and East lines (Unit J) of said Section 24.

(5) Evidence presented at the time of the hearing indicates that from April 21, 1995 to September 27, 1996, working interest ownership within the NW/4 SE/4 of said Section 24 was as follows:

F. Prince, IV, a/k/a Frederick H. Prince, IV of Washington, DC	50.251%
C. W. Trainer et ux Jackie Trainer of Scottsdale, Arizona	31.324%
Burlington of Midland, Texas	13.401%
Ann Ransome Losee of Albuquerque, New Mexico	2.512%
Elizabeth Losee of Albuquerque, New Mexico	2.521%.

(6) In their efforts to obtain a voluntary agreement, Burlington provided testimony which indicates that:

a. on February 16, 1995, Burlington filed an Application for Permit to Drill ("APD") which was approved by the U. S. Bureau of Land Management on May 4, 1995 and at this time remains in full force and effect;

b. on April 21, 1995, Burlington formally proposed to the other working interest owners the voluntary formation of a 40-acre oil spacing unit consisting of the NW/4 SE/4 (Unit J) of said Section 24 to be dedicated to the subject well to be drilled and operated by Burlington;

c. on May 4, 1995, C. W. Trainer ("Trainer") rejected Burlington's proposal and counter proposed that he operate

this well which Burlington agreed to by signing Trainer's authority for expenditure ("AFE");

(d) from April, 1995 to August 14, 1996, Burlington had numerous discussions with Trainer concerning the subject well and repeatedly requested Trainer to commence the well;

(e) during these discussions in 1996, Trainer stated that he would sell his interest to Burlington for $4,000.00 per acre;

(f) on August 14, 1996, Burlington having determined that Trainer probably had no intentions of commencing this well, again proposed the subject well with Burlington as operator to these same interest owners and requested their voluntary joinder in this well within 30 days of their receipt of the proposal;

(g) as of August 23, 1996, Burlington had been advised by Trainer that he would not voluntarily agree to Burlington's proposal;

(h) on August 26, 1996, Burlington filed its pooling case and requested that this matter be set for a hearing before the Division on the next available Examiner's docket then scheduled for September 19, 1996; and,

(i) on August 30, 1996 Trainer signed a certified mail-return receipt card showing acceptance of Burlington's pooling application, however, because of a conflict with the New Mexico Oil Conservation Commission's hearing schedule, the Division postponed its September 19, 1996 docket until September 26, 1996.

(7) Evidence and testimony presented by Penwell in support of its request and to counter Burlington's application indicates that:

(a) after August 30, 1996, Trainer and F. Prince, IV, a/k/a Frederick H. Prince, IV ("Prince") had contacted Penwell, informed Penwell that both the Trainer and Prince interests

were to be pooled by Burlington, and entered into a verbal agreement with Penwell to sell their interests to Penwell for $100.00 per acre plus an overriding royalty, provided Penwell could obtain the right to operate the well originally proposed by Burlington and commence drilling the well by November 15, 1996;

(b) under this verbal agreement with Trainer and Prince, Penwell had the option to withdraw from purchasing Trainer and Prince's interest if they were not successful in obtaining the right to operate the well;

(c) on September 10, 1996, as stated previously in Finding Paragraph No. (4), above, Penwell filed with the Division a competing pooling case against Burlington seeking to operate this well and requested its case be set for hearing on the October 3, 1996 docket;

(d) also on September 10, 1996, the same date as filing its pooling application, Penwell sent its written proposal to Burlington;

(e) on September 12, 1996, legal counsel for Penwell, formally advised Burlington that Penwell had filed a compulsory pooling application and provided a copy of said application; and,

(f) as of the date of the subject hearing, Penwell had obtained the voluntary agreement of Trainer, Prince, Ann Ransome Losee, and Elizabeth Losee and had assigned part of its interest to CoEnergy Central of Detroit, Michigan such that the parties would pay for the costs of the well as follows:

Burlington	13.40100%
Penwell Energy, Inc.	12.23625%
CoEnergy Central	69.33875%
Ann Ransome Losee	2.52100%
Elizabeth Losee	2.52100%.

(8) For more than 17 months, Burlington has sought to drill a well on and operate the subject acreage only to be frustrated by tactics that can be interpreted as actions taken by both Trainer and Prince to avoid being pooled and to delay this matter.

(9) It would only serve to circumvent the purposes of the New Mexico Oil and Gas Act to allow a record owner of a working interest (Trainer and Prince) in the spacing unit at the time said party was served with a compulsory pooling application to avoid or delay having that entire percentage interest pooled by assigning, conveying, selling or otherwise burdening or reducing that interest.

(10) Burlington having: (i) first proposed a well within the subject 40 acres (ii) an approved APD for its proposed well (iii) afforded an opportunity to Trainer for more than 15 months for Trainer to drill its well and Trainer failing to do so and, (iv) a proposal that is fair and reasonable and provides for an equitable solution for the exploration of this 40-acre oil spacing and proration unit with the parties owning the majority having already been provided the opportunity to drill but having failed to drill should be named the operator of the proposed standard 40-acre oil spacing and proration unit comprising the NW/4 SE/4 (Unit J) of said Section 24 in which its Checkmate "24" Federal Well No. 1 is to be dedicated and, in order to avoid the drilling of unnecessary wells, to protect correlative rights, to avoid waste, and to afford to 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 completion resulting from this order, the application of Burlington in Division Case 11613 should be approved by pooling all mineral interests, whatever they may be, within said unit. Correspondingly, the application of Penwell in Case 11622 should therefore be denied.

(11) Any non-consenting working interest owner should be afforded the opportunity to pay his share of the estimated well costs to the operator in lieu of paying his share of reasonable well costs out of production.

(12) Any non-consenting working interest owner who does not pay his share of estimated well costs should have withheld from production his share of the reasonable well costs plus an additional 200 percent thereof as a reasonable charge for the risk involved in the drilling of the well.

(13) Any non-consenting interest owner should be afforded the opportunity to object to the actual well costs but actual well costs should be adopted as the reasonable well costs in the absence of such objection.

(14) Following determination of reasonable well costs, any non-consenting working interest owner who has paid his share of estimated well costs should pay to the operator any amount that reasonable well costs exceed estimated well costs and should receive from the operator any amount that paid estimated well costs exceed reasonable well costs.

(15) Burlington's proposed fixed overhead and administrative costs for its Checkmate "24" Federal Well No. 1 are $5,000.00 per month while drilling and $500.00 per month while producing. Penwell in its attempt to operate the subject 40-acre tract proposed fixed rates of $4,178.00 per month while drilling and $400.00 while producing for its Checkers "24" Federal Well No. 1. Burlington cited the "*1995 - Fixed Rate Overhead Survey*", published by Ernst & Young, LLP of Houston, Texas as the source for its amounts. Burlington further testified that its proposed rates reflect those that are currently being charged by both Burlington as operator and by others on Delaware and Bone Spring producing oil wells within the immediate area.

FINDING: Such overhead and administrative charges are deemed to be fair and reasonable.

(16) $5,000.00 per month while drilling and $500.00 per month while producing should be fixed as reasonable charges for supervision (combined fixed rates); the operator should be authorized to withhold from production the proportionate share of such supervision charges attributable to each non-consenting working interest, and in addition thereto, the operator should be authorized to withhold from production the proportionate share of actual expenditures required for operating the subject well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(17) All proceeds from production from the subject well which are not disbursed for any reason should be placed in escrow to be paid to the true owner thereof upon demand and proof of ownership.

(18) Upon the failure of the operator of said pooled unit to commence drilling of the subject well to which said unit is dedicated on or before December 31, 1996, the order pooling said unit should become null and void and of no effect whatsoever.

(19) Should all the parties to this force-pooling reach voluntary agreement subsequent to entry of this order, this order should thereafter be of no further effect.

(20) The operator of the well and unit should notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the force-pooling provisions of this order.

IT IS THEREFORE ORDERED THAT:

(1) The application of Penwell Energy, Inc. in Division Case 11622 for an order pooling all mineral interests from the surface to the base of the Bone Spring formation underlying the NW/4 SE/4 (Unit J) of Section 24, Township 22 South, Range

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. 11666
CASE NO. 11677
Order No. R-10731

APPLICATION OF INTERCOAST OIL AND GAS COMPANY FOR COMPULSORY POOLING AND UNORTHODOX GAS WELL LOCATION, EDDY COUNTY, NEW MEXICO.

APPLICATION OF YATES PETROLEUM CORPORATION FOR COMPULSORY POOLING AND AN UNORTHODOX GAS WELL LOCATION, EDDY COUNTY, NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on December 19, 1996, at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this 13th day of January, 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 of this cause and the subject matter thereof.

(2) Division Case Nos. 11666 and 11677 were consolidated at the time of the hearing for the purpose of testimony, and, inasmuch as approval of one application would necessarily require denial of the other, one order should be entered for both cases.

(3) The applicant in Case No. 11666, InterCoast Oil and Gas Company (InterCoast), seeks an order pooling all mineral interests from the surface to the base of the Morrow formation underlying the E/2 of Section 20, Township 20 South, Range 28 East, NMPM, Eddy County, New Mexico, thereby forming a standard 320-acre gas spacing and proration unit for any and all formations and/or pools spaced on 320 acres within said vertical extent, which presently includes but is not necessarily limited to the Burton Flat-Morrow Gas Pool and the Undesignated West Burton Flat-Atoka Gas Pool. Said unit is to be dedicated to the applicant's proposed InterCoast State "20" Well No. 1 to be drilled at an unorthodox gas well location 990 feet from the North and East lines (Unit A) of Section 20.

(4) The applicant in Case No. 11677, Yates Petroleum Corporation (Yates), seeks an order pooling all mineral interests from the surface to the base of the Morrow formation underlying the E/2 of Section 20, Township 20 South, Range 28 East, NMPM, Eddy County, New Mexico, thereby forming a standard 320-acre gas spacing and proration unit for any and all formations and/or pools spaced on 320 acres within said vertical extent, which presently includes but is not necessarily limited to the Burton Flat-Morrow Gas Pool and the Undesignated West Burton Flat-Atoka Gas Pool. Said unit is to be dedicated to the applicant's proposed Stonewall "AQK" State Com Well No. 1 to be drilled at an unorthodox gas well location 990 feet from the North and East lines (Unit A) of Section 20.

(5) The subject wells and proration unit are located within the Burton Flat-Morrow Gas Pool and within one mile of the West Burton Flat-Atoka Gas Pool, both of which are currently governed by Rule No. 104.C. of the Division General Rules and Regulations which require standard 320-acre gas spacing and proration units with wells to be located no closer than 1650 feet from the end boundary nor closer than 660 feet from the side boundary of the proration unit nor closer than 330 feet from any quarter-quarter section line or subdivision inner boundary.

(6) Both Yates and InterCoast have the right to drill within the proposed spacing unit and both seek to be named operator of their respective wells and the subject proration unit.

(7) Yates and InterCoast have conducted negotiations prior to the hearing but have been unable to reach a voluntary agreement as to which company will drill and operate the well within the spacing unit.

(8) According to evidence and testimony presented by both parties, the primary objective within the wellbore is the Morrow formation.

(9) Both Yates and InterCoast are in agreement that the well which will ultimately develop the subject proration unit should be located at the unorthodox gas well location requested by both parties. In support of this request, both parties presented geologic evidence and testimony which indicates that a well at the proposed unorthodox location should penetrate the Upper and Lower Morrow sand intervals in an area of greater net sand thickness than a well drilled at a standard gas well location thereon, thereby increasing the likelihood of obtaining commercial gas production.

(10) Oxy U.S.A. Inc., the affected offset operator to the north of the proposed location, did not appear at the hearing in opposition or otherwise object to the proposed unorthodox gas well location. No other offset operator and/or interest owner appeared at the hearing in opposition to the proposed unorthodox gas well location.

(11) Approval of the proposed unorthodox gas well location will afford the operator within the E/2 of Section 20 the opportunity to produce its just and equitable share of the gas in the Burton Flat-Morrow Gas Pool, 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.

(12) Both Yates and InterCoast submitted AFE's for the drilling of their respective wells within the subject spacing unit. The AFE's are not substantially different and should not be a factor in deciding these cases.

(13) The overhead rates proposed by Yates and InterCoast are not substantially different and also should not be a factor in deciding these cases.

(14) Both parties proposed that a risk penalty of 200 percent be assessed against those interest owners who do not participate in the drilling of a well within the subject spacing unit.

(15) A brief description of the chronology of events leading up to the hearing in these cases is summarized as follows:

By letter dated August 30, 1996, InterCoast seeks a farmout from Yates in Section 20 in order to drill an 11,250 foot Morrow test at a location 990 feet from the North and East lines (Unit A). The proposal does not specify which spacing unit will be utilized;

September 17, 1996--By phone conversation Yates informs InterCoast of its desire <u>not</u> to farmout the subject acreage;

September 26, 1996--InterCoast files compulsory pooling application seeking a N/2 spacing unit in Section 20 for a well to be drilled in Unit A. Yates receives notice of InterCoast's compulsory pooling application on September 30, 1996. A hearing is set for October 17, 1996;

By letter dated October 1, 1996, complete with operating agreement and AFE, InterCoast formally proposes the drilling of its well in Unit A of Section 20. Yates receives InterCoast's letter October 9, 1996. InterCoast's hearing is postponed until November 7, 1996, to allow Yates the opportunity to review the proposal;

October 24, 1996--Yates informs InterCoast that it prefers a different well location in the N/2 of Section 20;

By letter dated October 29, 1996, complete with operating agreement and AFE, Yates proposes the drilling of the Stonewall "DD" State Com Well No. 3 at a location 990 feet from the North and West lines (Unit D) of Section 20 to the interest owners in the Stonewall Unit. The proposed spacing unit is the N/2. By letter dated October 31, 1996, Yates makes the same proposal to InterCoast;

November 7, 1996--Yates and InterCoast meet in Artesia to discuss development of Section 20. Each company insists on drilling its respective well location. Both companies agree that developing Section 20 with stand-up E/2 and W/2 spacing units would allow both wells to be drilled and agree to pursue management approval of this option;

By letter dated November 11, 1996, InterCoast formally proposes to drill a well within Unit A (990 feet from the North and East lines) within a stand-up proration unit comprising the E/2 of Section 20;

November 12, 1996--InterCoast files a compulsory pooling application for proposed E/2 spacing unit;

November 13, 1996--By phone conversation, Yates informs InterCoast that it agrees to develop Section 20 with stand up proration units but proposes that it be allowed to drill both wells. InterCoast responds that it desires to drill and operate the well in the E/2;

By letter dated November 14, 1996, Yates formally proposes the drilling of the Stonewall "DD" State Com Well No. 3 on a W/2 spacing unit to the "Stonewall Unit" interest owners;

By letter dated November 22, 1996, Yates formally proposes to InterCoast the drilling of the Stonewall "AQK" State Com Well No. 1 at a location 990 feet from the North and East lines (Unit A) of Section 20. The proposed spacing unit is the E/2;

November 26, 1996—Yates files an application for the compulsory pooling of the E/2 of Section 20;

December 2-13, 1996--Ongoing discussions between the parties.

(16) Land testimony presented by both parties in this case, which is generally in agreement, indicates that:

a) 100 percent of the SE/4 and 5 percent of the NE/4 of Section 20 are subject to an existing unit agreement, the Stonewall Unit Agreement, in which Yates is the operator;

b) Yates Petroleum Corporation, Yates Drilling Company, Abo Petroleum Corporation and Myco Industries, Inc., (the "Yates Group") collectively own 37.7 percent of the proposed spacing unit. In addition, Yates testified that by virtue of the Stonewall Unit Agreement, it controls an additional 14.765 percent of the proposed spacing unit;

c) the 95 percent working interest in the NE/4 of Section 20 which is not subject to the Stonewall Unit Agreement is owned approximately as follows:

Kerr-McGee Corporation----------48 percent
Diamond Head Properties, L.P.------47 percent

d) by virtue of a farmout agreement with Kerr-McGee Corporation, InterCoast will "earn" approximately 24.101 percent of the proposed spacing unit. Under the terms of the farmout agreement, a well must be commenced by February 17, 1997, or the farmout agreement will expire. Land testimony by InterCoast further indicates that the subject farmout agreement will remain in effect even if Yates is named operator of the well and unit, provided however, such well must be commenced by the drilling deadline described above.

(17) Diamond Head Properties, L.P. submitted correspondence to the Division in these cases on December 12, 1996, in which it stated that it will remain neutral as to its preference of operator and that it will most likely join in the drilling of the well in the E/2 of Section 20 regardless of who operates.

(18) Interest ownership within the spacing unit is summarized as follows:

Yates Petroleum Corporation	19.635%
Yates Drilling Company	7.742%
Abo Petroleum Corporation	2.581%
Myco Industries, Inc.	7.742%
Stonewall Unit Owners (Other than the Yates Group)	14.765%
InterCoast Oil and Gas Company	24.101%
Diamond Head Properties, L.P.	23.416%

(19) Yates and the Yates Group own approximately 19.635 percent and 37.7 percent, respectively, within the spacing unit. InterCoast, by virtue of the farmout agreement with Kerr McGee, will earn 24.101 percent of the spacing unit upon the drilling of a well in the E/2 of Section 20.

(20) Yates testified that if named operator of the subject spacing unit, it will commence drilling the Stonewall "AQK" State Com Well No. 1 by the drilling deadline in order to preserve InterCoast's farmout agreement.

(21) Yates contends it should be allowed to drill its Stonewall "AQK" State Com Well No. 1 and operate the E/2 of Section 20 for the following reasons:

a) collectively, the Yates Group owns a larger percentage of the spacing unit than InterCoast--37.7 percent to 24.101 percent;

b) Yates has the support of several of the interest owners in the Stonewall Unit, while InterCoast has been unable to secure the support of any of these interest owners;

c) Yates has drilled and operated twenty-one wells in the Stonewall Unit since 1973;

d) the Stonewall Unit area is very complex and as operator, Yates is the most familiar with it and best able to deal with the land, accounting and distribution of production proceeds.

(22) InterCoast contends that due to the fact that it developed the prospect, it should be allowed to drill its InterCoast State "20" Well No. 1 and operate the E/2 of Section 20.

(23) The evidence, testimony and information obtained from Division records indicates that:

a) within the Stonewall Unit area, which encompasses all or portions of Sections 19, 20, 29 and 30, Yates has drilled five wells to a depth sufficient to produce the Morrow formation. Most of the drilling and production from the Burton Flat-Morrow Gas Pool within the Stonewall Unit area occurred during the period from approximately 1973 to 1987, and, with the exception of the Stonewall "EP" State Well No. 1, located in Unit N of Section 19, which is currently an active producing well in the Morrow formation, all of the other wells have been plugged and abandoned;

b) even though Yates has had the opportunity to develop the N/2 or E/2 of Section 20 in the Burton Flat-Morrow Gas Pool since 1973, it apparently chose not to do so until such time as InterCoast, on September 3, 1996, sought a farmout of its acreage in Section 20;

c) as a result of the agreement reached with InterCoast to develop Section 20 with stand-up proration units, Yates will have the opportunity to develop the W/2 of this section by drilling its Stonewall "DD" State Com Well No. 3 in Unit D;

d) although there is a fairly significant difference in interest ownership in the E/2 of Section 20 between the "Yates Group" and InterCoast, this criteria should not be the deciding factor in this case. InterCoast does have a substantial stake in the proposed well;

e) Yates' land witness testified under cross examination that in the event InterCoast is named operator of the E/2 of Section 20, accounting and distribution of production proceeds should not be a problem for InterCoast.

(24) In the absence of other compelling factors, the operatorship of the E/2 of Section 20 should be awarded to the operator who originally developed the prospect, developed the geologic data necessary to determine the optimum well location, and initially sought to obtain farmout or voluntary agreement to drill its well.

(25) InterCoast should be designated operator of its proposed well and the proposed spacing unit.

(26) The application of Yates Petroleum Corporation in this case should be denied.

(27) To avoid the drilling of unnecessary wells, to protect correlative rights, to avoid waste, and to afford to 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 completion resulting from this order, the application of InterCoast Oil and Gas Company should be approved by pooling all mineral interests, whatever they may be, within the E/2 of Section 20.

(28) Any non-consenting working interest owner should be afforded the opportunity to pay his share of estimated well costs to the operator in lieu of paying his share of reasonable well costs out of production.

(29) Any non-consenting working interest owner who does not pay his share of estimated well costs should have withheld from production his share of the reasonable well costs plus an additional 200 percent thereof as a reasonable charge for the risk involved in the drilling of the well.

(30) Any non-consenting working interest owner should be afforded the opportunity to object to the actual well costs but actual well costs should be adopted as the reasonable well costs in the absence of such objection.

(31) Following determination of reasonable well costs, any non-consenting working interest owner who has paid his share of estimated costs should pay to the operator any amount that reasonable well costs exceed estimated well costs and should receive from the operator any amount that paid estimated well costs exceed reasonable well costs.

(32) $5819.00 per month while drilling and $564.00 per month while producing should be fixed as reasonable charges for supervision (combined fixed rates); the operator should be authorized to withhold from production the proportionate share of such supervision charges attributable to each non-consenting working interest, and in addition thereto, the operator should be authorized to withhold from production the proportionate share of actual expenditures required for operating the subject well, not in excess of what are reasonable, attributable to each non-consenting working interest.

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. 11660
CASE NO. 11667
Order No. R-10742

APPLICATION OF SANTA FE ENERGY RESOURCES INC. FOR COMPULSORY POOLING, EDDY COUNTY, NEW MEXICO.

APPLICATION OF PENWELL ENERGY INC. FOR COMPULSORY POOLING, EDDY COUNTY, NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on November 21 and December 19, 1996, at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this 16th day of January, 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 of this cause and the subject matter thereof.

(2) Division Case Nos. 11660 and 11667 were consolidated at the time of the hearing for the purpose of testimony, and, inasmuch as the approval of one application would necessarily require denial of the other, one order should be entered for both cases.

(3) The applicant in Case No. 11660, Santa Fe Energy Resources, Inc. (Santa Fe), seeks an order pooling all mineral interests from the surface to the base of the Morrow formation underlying the following described acreage in Section 29, Township 23 South, Range 26 East, NMPM, Eddy County, New Mexico, and in the following manner:

the E/2 forming a standard 320-acre gas spacing and proration unit for any and all formations and/or pools spaced on 320 acres within said vertical extent which presently includes but is not necessarily limited to the Undesignated Frontier Hills-Strawn Gas Pool and the Undesignated South Carlsbad-Morrow Gas Pool; and,

the NE/4 forming a standard 160-acre spacing and proration unit for any and all formations and/or pools spaced on 160 acres within said vertical extent.

Said units are to be dedicated to the applicant's proposed Sheep Dip "29" Federal Com Well No. 1 to be drilled at a standard gas well location 1980 feet from the North line and 660 feet from the East line (Unit H) of Section 29.

(4) The applicant in Case No. 11667, Penwell Energy Inc. (Penwell), seeks an order pooling all mineral interests from the surface to the base of the Morrow formation underlying the following described acreage in Section 29, Township 23 South, Range 26 East, NMPM, Eddy County, New Mexico, and in the following manner:

the E/2 forming a standard 320-acre gas spacing and proration unit for any and all formations and/or pools spaced on 320 acres within said vertical extent which presently includes but is not necessarily limited to the Undesignated Frontier Hills-Strawn Gas Pool and the Undesignated South Carlsbad-Morrow Gas Pool; and,

the SE/4 forming a standard 160-acre spacing and proration unit for any and all formations and/or pools spaced on 160 acres within said vertical extent.

Said units are to be dedicated to the applicant's proposed F. H. "29" Federal Com Well No. 1 to be drilled at a standard gas well location 1980 feet from the South line and 660 feet from the East line (Unit I) of Section 29.

(5) Both of the proposed wells are located within one mile of the South Carlsbad-Morrow Gas Pool and the Frontier Hills-Strawn Gas Pool. The South Carlsbad-Morrow Gas Pool is currently a prorated gas pool governed by the General Rules for the Prorated Gas Pools of New Mexico/Special Rules and Regulations for the South Carlsbad-Morrow Gas Pool as contained within Division Order No. R-8170, as amended, which require standard 320-acre gas spacing and proration units with wells to be located no closer than 1980 feet from the end boundary nor closer than 660 feet from the side

boundary of the proration unit nor closer than 330 feet from any quarter-quarter section line or subdivision inner boundary. The Frontier Hills-Strawn Gas Pool is currently governed by Rule No. 104.C. of the Division General Rules and Regulations which require standard 320-acre gas spacing and proration units with well to be located no closer than 1650 feet from the end boundary nor closer than 660 feet from the side boundary of the proration unit nor closer than 330 feet from any quarter-quarter section line or subdivision inner boundary.

(6) By Order No. R-10328 dated March 27, 1995, the Oil Conservation Commission suspended gas proration in the South Carlsbad-Morrow Gas Pool until such time as production data or other information indicates the pool should again be prorated.

(7) Both Santa Fe and Penwell have the right to drill within the proposed spacing units and both seek to be named operator of its respective well and the subject proration units.

(8) Santa Fe and Penwell have conducted limited negotiations prior to the hearing but have been unable to reach a voluntary agreement as to which company will drill and operate the well within the E/2 of Section 29.

(9) According to evidence and testimony presented by both parties, the primary objective within subject wells is the Morrow formation. Although both companies propose to drill at a standard gas well location within the E/2 of Section 29, there is disagreement between the parties with regards to what is the optimum well location.

(10) Both companies proposed overhead rates of $5828.00 while drilling and $546.00 while producing, and both proposed that a risk penalty of 200 percent be assessed against those interest owners who do not participate in the drilling of a well within the subject spacing unit.

(11) A brief description of the chronology of events leading up to the hearing in these cases is summarized as follows:

November, 1995--Penwell acquires an interest in Sections 28 and 29, Township 23 South, Range 26 East, NMPM;

Early 1996--Penwell seeks and obtains a farmout of Santa Fe's and J. M. Huber's interest in the N/2 of Section 28. In August, 1996, Penwell and its partners, Co-Energy Central Exploration Inc. (Co-Energy) and S & P Company, spud its F. H. "28" State Com Well No. 1, located in Unit C of Section 28, as a Morrow test. As of the date of the hearing, completion efforts are underway on this well;

By letter dated September 25, 1996, complete with operating agreement and AFE, Santa Fe formally proposes to Penwell and Co-Energy the drilling of its proposed Sheep Dip "29" Federal Com Well No. 1 at a location 1980 feet from the North line and 660 feet from the East line. The proposed spacing unit is the E/2 of Section 29.
On or about the time Santa Fe proposes drilling its well to Penwell and Co-Energy, it stakes a well location on Penwell's lease in Section 29;

By letter dated October 1, 1996, complete with operating agreement and AFE, Penwell formally proposes to Santa Fe the drilling of its F. H. "29" Federal Com Well No. 1 at a location 1980 feet from the South line and 660 feet from the East line. The proposed spacing unit is the E/2 of Section 29;

October 15, 1996--Penwell files a compulsory pooling application for its proposed F. H. "29" Federal Com Well No. 1. The hearing is set for November 7, 1996. The case is mistakenly dismissed at the November 7th hearing.

October 24, 1996--Santa Fe files a compulsory pooling application for its Sheep Dip "29" Federal Com Well No. 1. The hearing is set for November 21, 1996.

During this time period, Penwell formally proposes to Santa Fe the drilling of its F. H. State "28" Com Well No. 2 in Unit K of Section 28. Santa Fe elects to participate in the drilling of this well and on November 7, 1996, Santa Fe returns a signed AFE to Penwell;

November 12, 1996--Penwell re-files a compulsory pooling application for its proposed F. H. "29" Federal Com Well No. 1. The hearing is set for December 5, 1996;

November 21, 1996--Consolidated hearing for Case Nos. 11660 and 11667 takes place.

(12) Land testimony presented by both parties in these cases, which is generally in agreement, indicates that the interest ownership within the proposed spacing units is as follows:

Co-Energy Central Exploration Inc.	36.125%
Penwell Energy Inc.	8.250%
S & P Company	5.625%
Santa Fe Energy Resources, Inc.	50.000%

(13) Both Co-Energy and S & P Company have signed Penwell's AFE and operating agreement for the drilling of the F. H. "29" Federal Com Well No. 1.

(14) Both Santa Fe and Penwell effectively control 50 percent of the proposed spacing units.

(15) Both Santa Fe and Penwell presented as evidence AFE's for the drilling of their respective wells within the subject spacing unit. The well costs are summarized as follows:

Company	Completed Well Costs	Dry Hole Costs
Penwell	$791,071	$634,000
Santa Fe	$942,000	$628,000

(16) Santa Fe presented evidence which shows that during 1996, it participated in the drilling of two Morrow gas wells drilled by Penwell. This evidence further shows that in these two instances, Penwell under-estimated its well costs by approximately 40 and 75 percent.

(17) Proposed well costs should not be a factor in deciding these cases.

(18) Both Santa Fe and Penwell presented their respective geologic interpretations of the Strawn and Morrow formations within this area.

(19) Santa Fe's geologic interpretation indicates that:

a) a well drilled at its proposed location should encounter a greater amount of gross limestone within the Strawn formation than a well drilled at Penwell's proposed location;

b) a well drilled at its proposed location should encounter ten feet or more of Lower Morrow "A" sand, while a well drilled at Penwell's proposed location should encounter zero feet of Lower Morrow "A" sand; and,

c) Penwell's F. H. "28" State Com Well No. 2, currently being drilled in the S/2 of Section 28, should encounter a minimal amount of gross limestone in the Strawn formation and zero feet of Lower Morrow "A" sand.

(20) Penwell's geologic interpretation indicates that:

a) a well drilled at its proposed location should encounter a greater amount of Strawn carbonate than a well drilled at Santa Fe's proposed location; and,

b) a well drilled at its proposed location should encounter ten feet of the Lower Morrow sand interval, while a well drilled at Santa Fe's proposed location should encounter approximately 3-4 feet of sand in this interval.

(21) The evidence and testimony presented by both parties in these cases indicates that:

a) Penwell initially developed the prospect in the N/2 of Section 28 by first proposing to drill the F. H. "28" State Com Well No. 1;

b) in lieu of participating in the drilling of the aforesaid well, Santa Fe sought to minimize its risk by farming out its interest to Penwell in the N/2 of Section 28;

c) Penwell has recently completed drilling its F. H. "28" State Com Well No. 1. The well was production tested in the Morrow formation at a rate of approximately 2.0 MMCFGD and was DST'd in the Strawn formation at a rate of approximately 7.0 MMCFGD;

d) Penwell is currently drilling its F. H. "28" State Com Well No. 2 in Unit K of Section 28;

e) Santa Fe, an interest owner in the aforesaid F. H. "28" State Com Well No. 2, has elected to voluntarily participate in the drilling of this well even though its geologic interpretation shows that a well at this location has little or no chance of being productive in the Strawn and Morrow intervals; and,

f) Penwell's geologic interpretation of the Strawn formation appears to be more accurate than Santa Fe's when initial reservoir pressure data is integrated into the interpretation.

(22) In the absence of other compelling factors, the operatorship of the E/2 of Section 29 should be awarded to the operator who initially developed the prospect, who initially undertook the risk involved in the drilling of the F. H. "28" State Com Well No. 1, and whose geologic interpretation appears to more accurately depict the Strawn reservoir underlying the subject acreage.

(23) Penwell should be designated operator of its proposed well and the proposed spacing units.

(24) The application of Santa Fe Energy Resources, Inc. in Case No. 11660 should be denied.

(25) To avoid the drilling of unnecessary wells, to protect correlative rights, to avoid waste, and to afford to the owner of each interest in said units the opportunity to recover or receive without unnecessary expense his just and fair share of the production in any pool completion resulting from this order, the application of Penwell Energy Inc. in Case No. 11667 should be approved by pooling all mineral interests, whatever they may be, within the E/2 and SE/4 of Section 29.

(26) Any non-consenting working interest owner should be afforded the opportunity to pay his share of estimated well costs to the operator in lieu of paying his share of reasonable well costs out of production.

(27) Any non-consenting working interest owner who does not pay his share of estimated well costs should have withheld from production his share of the reasonable well costs plus an additional 200 percent thereof as a reasonable charge for the risk involved in the drilling of the well.

(28) Any non-consenting working interest owner should be afforded the opportunity to object to the actual well costs but actual well costs should be adopted as the reasonable well costs in the absence of such objection.

(29) Following determination of reasonable well costs, any non-consenting working interest owner who has paid his share of estimated costs should pay to the operator any amount that reasonable well costs exceed estimated well costs and should receive from the operator any amount that paid estimated well costs exceed reasonable well costs.

(30) $5828.00 per month while drilling and $546.00 per month while producing should be fixed as reasonable charges for supervision (combined fixed rates); the operator should be authorized to withhold from production the proportionate share of such supervision charges attributable to each non-consenting working interest, and in addition thereto, the operator should be authorized to withhold from production the proportionate share of actual expenditures required for operating the subject well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(31) All proceeds from production from the subject well which are not disbursed for any reason should be placed in escrow to be paid to the true owner thereof upon demand and proof of ownership.

(32) Upon the failure of the operator of said pooled units to commence the drilling of the well to which said units are dedicated on or before April 15, 1997, the order pooling said units should become null and void and of no effect whatsoever.

(33) 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.

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

IT IS THEREFORE ORDERED THAT:

(1) The application of Santa Fe Energy Resources, Inc. in Case No. 11660 for an order pooling all mineral interests from the surface to the base of the Morrow formation underlying the E/2 and NE/4 of Section 29, Township 23 South, Range 26 East, NMPM, Eddy County, New Mexico, said units to be dedicated to the applicant's proposed Sheep Dip "29" Federal Com Well No. 1 to be drilled at a standard gas well location 1980 feet from the North line and 660 feet from the East line (Unit H) of Section 29, is hereby denied.

(2) The application of Penwell Energy Inc. in Case No. 11667 for an order pooling all mineral interests from the surface to the base of the Morrow formation underlying the following described acreage in Section 29, Township 23 South, Range 26 East, NMPM, Eddy County, New Mexico, and in the following manner, is hereby approved:

> the E/2 forming a standard 320-acre gas spacing and proration unit for any and all formations and/or pools spaced on 320 acres within said vertical extent which presently includes but is not necessarily limited to the Undesignated Frontier Hills-Strawn Gas Pool and the Undesignated South Carlsbad-Morrow Gas Pool;
>
> the SE/4 forming a standard 160-acre spacing and proration unit for any and all formations and/or pools spaced on 160 acres within said vertical extent.

Said units shall be dedicated to the applicant's proposed F. H. "29" Federal Com Well No. 1 to be drilled at a standard gas well location 1980 feet from the South line and 660 feet from the East line (Unit I) of Section 29.

PROVIDED HOWEVER THAT, the operator of said units shall commence the drilling of said well on or before the 15th day of April, 1997, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the Morrow formation.

PROVIDED FURTHER THAT, in the event said operator does not commence the drilling of said well on or before the 15th day of April, 1997, Ordering Paragraph No. (1) of this order shall be null and void and of no effect whatsoever, unless said operator obtains a time extension from the Division Director for good cause shown.

PROVIDED FURTHER THAT, should said well 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 Ordering Paragraph No. (1) of this order should not be rescinded.

(2) Penwell Energy Inc. is hereby designated the operator of the subject well and units.

(3) After the effective date of this order and within 90 days prior to commencing said well, the operator shall furnish the Division and each known working interest owner in the subject units an itemized schedule of estimated well costs.

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. 11107
Order No. R-10242

APPLICATION OF MARALO INC. FOR COMPULSORY POOLING, EDDY COUNTY, NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on November 10, 1994, at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this 14th day of November, 1994, the Division Director, having considered the record and the recommendations of the Examiner, and being fully advised in the premises,

FINDS THAT:

Pursuant to the Motion to Dismiss and Motion to Compel filed in this case by Bass Enterprises Production Company, the Division has determined that this case should be dismissed.

IT IS THEREFORE ORDERED THAT:

Case No. 11107 is hereby dismissed.

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

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

WILLIAM J. LEMAY
Director

S E A L

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

IN THE MATTER OF THE APPLICATION OF MARALO, INC. FOR COMPULSORY POOLING, EDDY COUNTY, NEW MEXICO

CASE NO. 11107

MOTION TO DISMISS

Comes now BASS ENTERPRISES PRODUCTION COMPANY ("Bass"), by its attorneys, Kellahin and Kellahin, enters its appearance in this case as an interested party in opposition to the applicant and moves the Division to dismiss this case for the following reasons:

(1) On Friday, September 2, 1994, Bass Enterprises Production Company received a letter from Maralo Inc. ("Marazlo") which is referenced a "Farmout Request" and in which Maralo requested Bass to farmout its interest in the NW/4 of Section 30, T23S, R30E, NMPM, Eddy County, New Mexico. See Exhibit "A" attached.

(2) Maralo did not indicate to Bass that there was any urgency to this matter nor did Maralo request a reply to the farmout by any specific date.

(3) Maralo failed to put Bass on notice that Maralo would institute compulsory pooling actions against Bass in the absence of Bass' immediate acquiesces to Maralo's request.

(4) Without waiting for a response from Bass, on Tuesday, September 6, 1994, counsel for Maralo filed a Compulsory Pooling application. See Exhibit "B" attached.

(5) Maralo provided Bass with less than two (2) full regular business days in which to review and respond to Maralo's request for a farmout.

(6) Maralo has not yet afforded to Bass a reasonable opportunity to form on a voluntary basis a spacing unit for the subject well.

(7) Contrary to the custom and practice before the Division and in violation of Section 70-2-17 (c) NMSA (1978), Maralo has prematurely instituted compulsory action against Bass without first undertaking a good faith and reasonable effort to form a spacing unit on a voluntary basis for the drilling of the subject well.

(8) Maralo seeks to use the compulsory pooling statute as a negotiation strategy against Bass rather than as a remedy of last resort when all efforts for obtaining a voluntary agreement have failed.

(9) Maralo has acted in bad faith in instituting this compulsory pooling case.

(10) Maralo's application is premature and must be dismissed.

WHEREFORE Bass Enterprises Production Company requests that the Division Hearing Examiner grant this motion and dismiss Oil Conservation Division Case 11107.

W. Thomas Kellahin
Kellahin & Kellahin
P. O. Box 2265
Santa Fe, New Mexico 87504
(505) 982-4285

CERTIFICATE OF SERVICE

I certify that a copy of this pleading was transmitted by facsimile to counsel for applicant this 25th day of September, 1994.

W. Thomas Kellahin

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. 11434
ORDER NO. R-10545

APPLICATION OF MERIDIAN OIL, INC. FOR COMPULSORY POOLING AND AN UNORTHODOX GAS WELL LOCATION, SAN JUAN COUNTY, NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on January 11, 1996, at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this 22nd day of February, 1996, the Division Director, having considered 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 of this cause and the subject matter thereof.

(2) The applicant, Meridian Oil, Inc. ("Meridian"), seeks an order pooling all mineral interests in the Blanco-Mesaverde Pool underlying an existing 313.63-acre gas spacing and proration unit comprising Lots 1, 2, 7, 8, 9, 10, 15, and 16 (the E/2 equivalent) of Section 23, Township 31 North, Range 9 West, NMPM, San Juan County, New Mexico, for the drilling and completion of its proposed Seymour Well No. 7-A to be drilled at an unorthodox infill gas well location 1,615 feet from the South line and 2,200 feet from the East line (Unit J) of said Section 23.

(3) Said unit is currently dedicated to Meridian's Seymour Well No. 7 (API No. 30-045-10597), located at a standard gas well location 1,170 feet from the North line and 970 feet from the East line (Lot 1/Unit A) of said Section 23.

(4) By New Mexico Oil Conservation Commission ("Commission") Order No. 799, dated February 25, 1949, the Blanco-Mesaverde Pool was created, defined, and 320-acre spacing was established therefor. By Order No. R-128-C, issued on December 1[illegible] 1954 the Commission instituted gas prorationing in the Blanco-Mesaverde Pool to be mad[illegible] effective March 1, 1955. By Order No. R-1670-T, dated November 14, 1974, the rules governing the Blanco-Mesaverde Pool were amended to permit the optional "infill drilling" of an additional well on each 320-acre gas spacing and proration unit within the Blanco-Mesaverde Pool.

(5) Prior to the hearing Doyle Hartman and Margaret Hartman, doing business as Doyle Hartman, Oil Operator ("Hartman"), who own a 12.500% working interest in the subject acreage, filed a motion to dismiss this case. By letter dated January 8, 1996 the Division denied Hartman's request and this matter remained on the Division's docket for the immediate hearing.

(6) At the time of the hearing Hartman and Four Star Oil & Gas Company ("Four Star") again requested that this matter be dismissed on the grounds that the subject acreage is currently subject to an Operating Agreement and a Communitization Agreement that have been in effect since 1953 and that Meridian failed to undertake reasonable efforts to obtain voluntary joinder of their respective interests in drilling the proposed infill well.

(7) Meridian was allowed to present testimony on land and ownership matters in this case, which indicates that:

(a) the E/2 equivalent of said Section 23 consists of two separate Federal oil and gas leases, each dated May 1, 1948, with:

(i) tract 1 comprising the NE/4 equivalent of said Section 23 issued to John C. Dawson; and,

(ii) tract 2 comprising the SE/4 equivalent of said Section 23 issued to Claude A. Teel;

(b) on March 30, 1953 a communitization agreement was made for the E/2 equivalent of said Section 23 between Southern Union Gas Company, Meridian's predecessor in interest and as operator of the Seymour Well No. 7, and Skelly Oil Company, Four Star's predecessor in interest;

(c) on April 10, 1953, the working interest owners in the E/2 equivalent of said Section 23 entered into an operating agreement which:

(i) provided for the drilling of the Seymour Well No. 7 in Unit "A" of said Section 23;

(ii) designated Southern Union Gas Company operator of the unit;

(iii) governs operations in the Mesaverde formation in the E/2 equivalent of said Section 23; and,

(iv) binds the successors and assigns of the original parties; and,

(d) on November 10, 1953 Southern Union Gas Company spudded the Seymour Well No. 7 and completed it as a producing Mesaverde gas well to which the E/2 equivalent of said Section 23 was dedicated.

(8) By letters dated January 27 and April 12, 1993 Meridian advised all working interest owners within this 320-acre unit that the 1953 Operating Agreement did not contain any subsequent well provisions and therefore proposed a new Joint Operating Agreement for the drilling of an "infill" Blanco-Mesaverde well in the SE/4 equivalent of said Section 23.

(9) Meridian by letter dated October 31, 1995 renewed its request for a voluntary agreement of the working interests for the drilling of the proposed infill well. Eight days later by letter dated November 8, 1995 Meridian filed with the Division its application to force pool this acreage for the Seymour Well No. 7-A.

(10) *It is both Four Star's and Hartman's position that pursuant to Section 70-2-17.C of the New Mexico Oil & Gas Act of N.M.S.A. 1978 the owners of Mesaverde rights in the E/2 equivalent of said Section 23 have a voluntary agreement in place and that the Division may not force pool this acreage.*

FINDING: Pursuant to Section 70-2-17.E. of said Act the Division may modify the 1953 Operating Agreement to the extent necessary to prevent waste. The Division therefore has jurisdiction over this matter.

(11) Meridian, however, failed to make reasonable efforts to adequately obtain voluntary joinder of all working interests for further development of this acreage prior to filing its application, see Finding Paragraph (9), above; therefore, this case should be dismissed at this time.

IT IS THEREFORE ORDERED THAT:

Case No. 11434 is hereby dismissed.

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

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

WILLIAM J. LEMAY
Director

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