NMOCC CASE NO. 9694
JULY 12, 1989
SECTION 12 T25N R2W
COMPULSORY POOLING

EXHIBIT NO. 38

CONCLUSIONS FROM PREVIOUS POOLINGS

- PREVIOUS POOLINGS OCCURRED EARLIER IN THE PRODUCING LIFE OF THE EXISTING WELLS

- COMPENSATION TO THE ORIGINAL WORKING INTEREST OWNERS OF A POOLED WELL INCLUDES CONSIDERATION OF THE POTENTIAL FUTURE RECOVERY FROM THE WELL

- WHEN A WELL IS POOLED EARLY IN ITS LIFE, A POOLING COST RELATIVELY NEAR THE ACTUAL WELL COSTS MAY BE APPROPRIATE

- BASED ON EXPECTED RETURN, POOLING COSTS FOR A WELL RELATIVELY LATE IN ITS LIFE SHOULD BE ADJUSTED DOWNWARD ACCORDINGLY

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

IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
COMMISSION OF NEW MEXICO FOR
THE PURPOSE OF CONSIDERING:

CASE NO. 9225
Order No. R-8639

APPLICATION OF MESA GRANDE, LTD. FOR AN ORDER FORCE-POOLING AND REFORMING AN EXISTING NON-STANDARD PRORATION UNIT TO A STANDARD PRORATION UNIT IN THE GAVILAN-MANCOS OIL POOL, RIO ARRIBA COUNTY, NEW MEXICO.

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing at 9:00 a.m. on January 21, 1988, at Santa Fe, New Mexico, before the Oil Conservation Commission of New Mexico, hereinafter referred to as the "Commission."

NOW, on this 7th day of April, 1988, the Commission, a quorum being present, having considered the testimony presented and the exhibits received at said hearing, and being fully advised in the premises,

FINDS THAT:

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

(2) Applicant Mesa Grande, Ltd. is majority interest owner in the E/2 of Section 20, Township 25 North, Range 2 West, NMPM, Rio Arriba County, New Mexico, and is joined in this application by one minority owner, Arriba Corporation, to establish a standard 640-acre oil spacing and proration unit in the Gavilan-Mancos Oil Pool consisting of said Section 20, and to pool all oil and gas mineral interests in said unit.

(3) Protestant, Sun Exploration and Production Company is the majority interest owner and operator of a producing oil well, Loddy No. 1 drilled and completed in the Gavilan-Mancos Oil Pool, at a standard location in the SE/4 NW/4 of said Section 20 to which the W/2 of Section 20 was dedicated as a standard unit under Order R-7407.

(4) Order R-7407-E entered June 8, 1987 enlarged the standard proration unit to 640 acres, consisting of a governmental section but provided exception for proration units formed prior to the date of the order.

(5) Section 70-2-18 NMSA 1978, provides in Paragraph (a) that when a division order increases the size of a standard proration unit, operators shall, from the effective date of the order, account to and pay each owner in the enlarged unit "either the amount to which each interest would be entitled if pooling had occurred or the amount to which each interest is entitled in the absence of pooling, whichever is greater". However, Paragraph (C) of this section authorizes the Division to establish non-standard proration units and for interest owners to share in production from the non-standard unit from the date of its formation.

(6) The language of Rule 2(a) of the Gavilan pool rules, as amended by Order R-7407-E, exempted all existing 320-acre proration units so that operators of those standard proration units under the former rules would not be required to file applications for non-standard proration units, nor pool such units into a standard 640-acre unit under the current rules.

(7) Applicant demonstrated that reserves underlying Section 20 are insufficient to justify the drilling of a second well and that the Loddy Well No. 1 will adequately drain the entire section so that approval of this application would prevent waste from drilling an unnecessary well and would protect the correlative rights of the owners in both the E/2 and W/2 of the section.

(8) To avoid the drilling of unnecessary wells, to protect correlative rights, to prevent waste, and to afford to the owner of each interest in Section 20 the opportunity to recover without unnecessary expense his just and fair share of the hydrocarbons in the Gavilan-Mancos Oil Pool, the subject application should be approved by establishing a standard 640-acre oil spacing and proration unit consisting of Section 20, Township 25 North, Range 2 West, NMPM, Rio Arriba County, New Mexico, and pooling all oil and gas mineral interests in said unit.

(9) All parties appearing at the hearing agreed Section 20 should be pooled as of June 8, 1987, the effective date of the order enlarging the standard proration unit and the applicant parties present agreed to pay their pro rata share of the cost of drilling, completing and operating the well; however, the language and intent of the order as described in Finding (6) hereinabove requires an effective date be set no

earlier than February 1, 1988, the first day of the month following the hearing.

(10) Protestant claimed, and the Commission concurs, that payment for one-half the cost of the well is inadequate compensation and, considering the commercial quality of the well, represents unjustified oil income for applicants who did not share the risk in drilling the well and a penalty for protestant, or his predecessor, who undertook the risk to drill the well under the existing pool rules which authorized 320 acre spacing units.

(11) The well was completed in 1985 and produced briefly in both 1985 and 1986 due to circumstances beyond the control of the operator so the well had not paid out at the time of hearing.

(12) The well has changed ownership since completion but protestant stipulated the cost of the well was approximately $440,000 and also alleges a well drilled today would cost approximately $625,333 and that applicant should pay his percentage of the estimated current cost under a 640-acre proration unit, or in the alternative, pay interest on the actual well cost from completion to the effective date of the enlarged spacing unit being February 1, 1988, comprising a 28 months time period.

(13) No party at the hearing suggested a change of operator or suggested a reasonable charge for supervision (combined fixed rate).

(14) Applicant's witness stated that "a couple of weeks is a reasonable time to elect to advance the actual payment" -- representing well costs plus penalty if one is assessed, and to forward payment to the operator.

(15) The reasonable cost to working interest operators of the E/2 of Section 20, Township 25 North, Range 2 West, for their pro rata share of the drilling, completing and equipping the well should be $220,000 plus simple interest at 12% per annum, which is standard industry rate for compensation for unpaid balances in the Copas - 1974 Accounting Procedures in A.A.P.L. Form 610 - 1977 Model Operating Agreement, until the effective date establishing the enlarged unit (28 months), or $281,600; however, in the event any such working interest owner chooses not to pay his pro rata share of such cost within thirty days after receipt of a copy of this order together with invoice for amount due, operator should be authorized to take out of production the pro rata share of such amount attributable to non-paying working interest owners plus a risk

penalty equal to 100 percent of their pro rata share of the $281,600.

(16) A reasonable charge for supervision (combined fixed rate) of the well and unit is $450 per month.

(17) Should the parties hereto subsequently enter into an operating agreement the order should become void and of no further effect regarding those items covered in the operating agreement.

(18) Sun Exploration and Production Company should remain as operator of the well.

IT IS THEREFORE ORDERED THAT:

(1) A standard 640 acre oil spacing and proration unit is hereby established consisting of Section 20, Township 25 North, Range 2 West, NMPM, Gavilan-Mancos Oil Pool, Rio Arriba County, New Mexico, and all oil and gas mineral interests in said unit are hereby pooled and dedicated to Sun Exploration and Production Company's (Sun's) Loddy Well No. 1 located 1750 feet from the North and West lines of said Section 20, and Sun is designated as the operator of said well and standard proration unit, all of which is to be effective February 1, 1988.

(2) The operator is to account to and pay each owner in said enlarged unit his pro rata share of production from the enlarged unit from the effective date of this order; provided said owners of working interests in the E/2 of said Section 20 shall within 30 days after receipt of a copy of this order together with an invoice for the amount due, pay their pro rata share of the cost of said well plus 12% per annum interest for 28 months, or $281,600, as described in Finding (15) hereinabove; or in the event of failure to make such payment shall have taken out of production by the operator said amount plus 100 percent of their pro rata share of the $281,600, as described in said Finding (15) until operator has been paid the monies required by this order.

(3) A reasonable supervision charge (combined fixed rate) is hereby determined to be $450 per month for said well and the operator is hereby authorized to withhold from production the proportionate share of such supervision charge attributable to each non-paying working interest as well as the proportionate share of actual expenditures for operating said well.

(4) Any unsevered mineral interest shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8)

royalty interest for the purpose of allocating costs and charges under the terms of this order.

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

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

(7) Should all the parties to this forced pooling reach voluntary agreement subsequent to entry of this order, this order shall hereafter be of no further effect.

(8) 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.

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

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

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION

WILLIAM R. HUMPHRIES, Member

ERLING A. BROSTUEN, Member

WILLIAM J. LEMAY, Chairman
and Secretary

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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. 9327
Order No. R-8641

APPLICATION OF DUGAN PRODUCTION CORPORATION FOR AN ORDER POOLING ALL MINERAL INTERESTS IN THE GAVILAN-MANCOS OIL POOL UNDERLYING A CERTAIN 640-ACRE TRACT OF LAND OR, IN THE ALTERNATIVE, FOR A NON-STANDARD 320-ACRE OIL PRORATION UNIT IN SAID POOL AND COMPULSORY POOLING THEREIN, RIO ARRIBA COUNTY, NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on March 16, 1988, at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this 21st day of April, 1988, 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) The applicant, Dugan Production Corporation, seeks an order pooling all mineral interests in the Gavilan-Mancos Oil Pool underlying all of Section 22, Township 26 North, Range 2 West, NMPM, Rio Arriba County, New Mexico, to form a standard 640-acre oil spacing and proration unit for said pool. Said unit is to be dedicated to the existing Amoco Production Company Seifert Gas Com "A" Well No. 1 located

940 feet from the South line and 990 feet from the East line (Unit P) of said Section 22 which is presently completed in and producing from the Gavilan-Mancos Oil Pool and dedicated to a previously approved 320-acre non-standard oil spacing and proration unit (as per Rule 2(a) of Division Order No. R-7407-E) consisting of the E/2 of said Section 22. In the alternative, the applicant seeks an order pooling all mineral interests in the Gavilan-Mancos Oil Pool underlying the W/2 of said Section 22, thereby forming a non-standard 320-acre oil spacing and proration unit for said pool, to be dedicated to a well to be drilled at a standard location thereon.

(3) Amoco Production Company, the current owner and operator of the above described Seifert Gas Com "A" Well No. 1 appeared at the hearing in support of the proposed development of said Section 22 on a standard 640-acre spacing and proration unit and opposing the proposal for a non-standard 320-acre oil spacing and proration unit consisting of the W/2 of said Section 22.

(4) The evidence in this case indicates that said Seifert Gas Com "A" Well No. 1 was drilled during October and November, 1986, and was completed in the Gavilan-Mancos Oil Pool in June, 1987 on a standard 320-acre oil spacing and proration unit consisting of the E/2 of said Section 22 in accordance with the Temporary Rules and Regulations for said pool as promulgated by Division Order No. R-7407 dated March 1, 1984.

(5) By Order No. R-7407-E entered June 8, 1987, the Division amended the Special Rules and Regulations for the Gavilan-Mancos Oil Pool enlarging the standard spacing and proration units within said pool to 640 acres.

(6) By virtue of it being in existence prior to the issuance of said Division Order No. R-7407-E, a 320-acre non-standard oil spacing and proration unit consisting of the E/2 of said Section 22 and dedicated to said Seifert Gas Com "A" Well No. 1 was approved pursuant to Rule 2 (a) of said order.

(7) The evidence in this case indicates that the applicant, who owns a 50% working interest in the W/2 of said Section 22, has negotiated an agreement with Amoco Production Company to voluntarily include its acreage in the proposed 640-acre spacing and proration unit.

(8) The applicant testified Dugan Production Corporation has been in contact with the remaining working interest owners in the W/2 of Section 22 and has verbal commitment from each of said owners to voluntarily contribute their acreage in accordance with the aforesaid agreement with Amoco to a standard 640-acre spacing and proration unit.

(9) Evidence in this case further indicates that Meridian Oil Inc., a 6.25% working interest owner in the E/2 of said Section 22, is the only interest owner in Section 22 who has not verbally or otherwise agreed to participate in the voluntary pooling of a standard 640-acre spacing and proration unit. Meridian Oil Inc., however, did not appear at the hearing in opposition to the application.

(10) The applicant, through a general description of the reservoir characteristics of the Gavilan-Mancos Oil Pool and through data presented which indicates that the subject well is located within a highly fractured portion of the reservoir, adequately demonstrated that the subject well will be capable of draining all of said Section 22 and that an additional well drilled in said Section 22 would be unnecessary and therefore wasteful.

(11) To avoid the drilling of unnecessary wells, to protect the correlative rights of various working, royalty, and overriding royalty interest owners, to prevent waste, and to afford to the owner of each interest in Section 22 the opportunity to recover without unnecessary expense his just and fair share of the hydrocarbons in the Gavilan-Mancos Oil Pool, the application for an order pooling all mineral interests in said pool underlying all of said Section 22 forming a standard 640-acre spacing and proration unit should be approved.

(12) Amoco Production Company should be designated the operator of the subject well and unit.

(13) That portion of the application requesting the pooling of all mineral interests in the Gavilan-Mancos Pool underlying the W/2 of said Section 22 is unnecessary due to the approval of the requested pooling of a standard 640-acre spacing and proration unit in this case and should be dismissed.

(14) The applicant presented evidence and testimony which outlined the terms of the agreement with Amoco as follows:

1. Each interest owner in the W/2 of said Section 22 should have the opportunity to voluntarily participate in a standard 640-acre spacing and proration unit contingent upon payment of the following charges:

a) 100% of each interest owner's pro rata share of the actual drilling and completion costs plus an additional 25% thereof as compensation to the interest owners in the E/2 of said Section 22 who initially undertook all the risk in the drilling of the well.

b) 100% of each interest owner's pro rata share of surface production equipment costs.

2. The new communitization and joint operating agreements to be executed by the interest owners in Section 22 shall contain the same terms and agreements, except for the enlarged unit, as the original agreement executed by the working interest owners in the E/2 of Section 22.

(15) The proposed 25% compensation, which is based upon actual turnkey drilling risk charges and interest compensation, is reasonable in this case and should be adopted.

(16) Any compensation received by the interest owners in the E/2 of Section 22 from the interest owners in the W/2 of Section 22, whether it be from voluntary participation in the well or from the non-consenting interest owners' share

of well costs plus a penalty withheld from production, should be shared among those parties in the proportion in which they originally participated in the drilling of the subject well.

(17) All parties at the hearing agreed that thirty days from the effective date of this order is a reasonable time period in which to allow the interest owners in the W/2 of said Section 22 to pay their share of well costs as outlined in Finding No. (14) above.

(18) Neither the applicant nor Amoco presented actual drilling or surface equipment costs for the subject well but testimony indicates that said costs will not exceed $500,000 and $100,000, respectively.

(19) Any non-consenting working interest owner in the W/2 of said Section 22 who does not pay his share of risk weighted drilling and equipment costs as outlined in Finding No. (14) above should have withheld from production his share of drilling and equipment costs plus an additional 200 percent thereof as a reasonable charge for the risk involved in the drilling of the well.

(20) $3083.00 per month while drilling and $384.00 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.

(21) The applicant further requested in this case, and all parties present agreed, that the effective date of this order should be the date of first production from the Seifert Gas Com "A" Well No. 1, which, through testimony, was determined to be January 12, 1988.

(22) The record in this case indicates that the subject application for compulsory pooling was filed by the applicant in a timely manner on February 9, 1988.

(23) The applicant's request is reasonable and should be granted.

(24) Should all the parties to this forced pooling reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

IT IS THEREFORE ORDERED THAT:

(1) All mineral interests, whatever they may be, within the Mancos formation underlying all of Section 22, Township 26 North, Range 2 West, NMPM, Gavilan-Mancos Oil Pool, Rio Arriba County, New Mexico, are hereby pooled to form a standard 640-acre oil spacing and proration unit to be dedicated to the existing Amoco Production Company Siefert Gas Com "A" Well No. 1 located at a standard location 940 feet from the South line and 990 feet from the East line (Unit P) of said Section 22.

(2) That portion of the application requesting the compulsory pooling of all mineral interests in the W/2 of said Section 22 is hereby dismissed.

(3) The effective date of this order shall be January 12, 1988.

(4) Amoco Production Company is hereby designated the operator of the subject well and unit.

(5) Within 30 days from the date this order is issued, Amoco Production Company shall furnish the Division and each known working interest owner in the W/2 of said Section 22 an itemized schedule of actual well costs (if a schedule of actual well costs is not available at this time, Amoco may submit to said parties a schedule of estimated well costs).

(6) As indicated in Finding No. (19) above, drilling costs and surface equipment costs for the subject well are not to exceed $500,000 and $100,000, respectively.

(7) Within 30 days from the date the schedule of actual or estimated well costs is furnished to him, any working interest owner in the W/2 of said Section 22 shall have the right to pay 125% of its pro rata share of actual drilling costs and 100% of its pro rata share of surface equipment costs in lieu of paying his share of said costs out of production.

(8) The operator is hereby authorized to withhold the following costs and charges from production:

(A) The pro rata share of actual well costs attributable to each non-consenting working interest owner who has not paid his share of actual or estimated well costs within 30 days from the date the schedule of actual or estimated well costs is furnished to him.

(B) As a charge for the risk involved in the drilling of the well, 200 percent of the pro rata share of actual well costs attributable to each non-consenting working interest owner who has not paid his share of costs in accordance with Paragraph No. (7) above.

(9) The operator shall distribute payments received from the participating interest owners or charges withheld from production to the interest owners in the E/2 of said Section 22 in the same proportion in which they participated in the well.

(10) $3083.00 per month while drilling and $384.00 per month while producing are hereby fixed as reasonable charges for supervision (combined fixed rates); the operator is hereby authorized to withhold from production the proportionate share of such supervision charges attributable to each non-consenting working interest, and in addition thereto, the operator is hereby authorized to withhold from

production the proportionate share of actual expenditures required for operating such well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(11) Any unsevered mineral interest shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for the purpose of allocating costs and charges under the terms of this order.

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

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

(14) Should all parties to this forced pooling order reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

(15) 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.

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

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

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

WILLIAM J. LEMAY
Director

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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. 9326
ORDER NO. R-8664

APPLICATION OF SUN EXPLORATION AND PRODUCTION COMPANY FOR COMPULSORY POOLING, RIO ARRIBA COUNTY, NEW MEXICO

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on March 30, 1988, at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this 24th day of June, 1988, 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) The applicant, Sun Exploration and Production Company ("Sun"), seeks an order pooling all mineral interests in the Gavilan-Mancos Oil Pool underlying a 640-acre tract being all of Section 26, Township 26 North, Range 2 West, NMPM, Rio Arriba County, New Mexico, to be dedicated to the Sun Exploration and Production Company Wildfire Well No. 1 located 900 feet from the South line and 1650 feet from the West line (Unit N) of said Section 26, which is presently completed and capable of producing from the Gavilan-Mancos Oil Pool and which is currently dedicated to a previously approved 320-acre non-standard oil spacing and proration unit underlying the W/2 of said Section 26.

(3) Sun Exploration and Production Company is the operator of the subject well and is an interest owner in the W/2 of said Section 26.

(4) Hixon Development Company ("Hixon"), as a working interest owner in the E/2 of said Section 26, appeared at the hearing in support of the application as more fully set forth in Finding Paragraph No. (10) below.

(5) On December 23, 1983, the Division adopted Order No. R-7407 which established temporary special rules and regulations for the Gavilan-Mancos Oil Pool, effective as of March 1, 1984, including a provision for 320-acre spacing and provided:

> "Rule 2: No more than one well shall be completed or recompleted on a standard unit containing 320 acres, more or less, consisting of the N/2, S/2, E/2, or W/2 of any governmental section."

and further required:

> "(2) That any well presently producing from the Gavilan-Mancos Oil Pool which does not have a standard 320-acre proration unit, an approved non-standard proration unit, or which does not have a pending application for a hearing for a standard or non-standard proration unit by March, 1984, shall be shut-in until a standard or non-standard unit is assigned the well."

(6) On April 10, 1987, Jerome P. McHugh (now operated by Sun) completed the Wildfire Well No. 1 to which was dedicated 320 acres being the W/2 of said Section 26.

(7) In accordance with Section 70-2-18(a) NMSA-1978 which provides in part "...any division order that increases the size of a standard spacing or proration unit for a pool, or extends the boundaries for such a pool, shall require dedication of acreage to existing wells in the pool in accordance with the acreage dedication requirements for said pool, and all interests in the spacing or proration units that are dedicated to the affected wells shall share in production from the effective date of said order," the Commission, after notice and hearing, effective as of June 8, 1987, adopted permanent special rules and regulations for the Gavilan-Mancos Oil Pool by Division Order No. R-7407-E which, among other things, increased the spacing from 320 acres to 640 acres and amended the original Rule 2 substituting the following:

> "(3) Rule 2 of the temporary special rules and regulations for the Gavilan-Mancos Oil Pool as promulgated by Order No. R-7407 is hereby amended as follows:
>
> Rule 2(a). A standard proration unit shall consist of between 632 and 648 acres consisting of a governmental section with at least one and not more than two wells drilled or recompleted thereon; provided that if the second well is drilled or recompleted on a standard unit it shall not be located in the same quarter section, nor closer that 1650 feet to the first well drilled on the unit; and provided further that proration units formed prior to

the date of this order are hereby granted exception to this rule."

(8) On February 9, 1988, Sun as the owner, filed an application with the Division for a compulsory pooling order to pool the E/2 of said Section 26 with the W/2 of Section 26 which is already dedicated to the Wildfire Well No. 1 thereby forming a 640-acre proration unit not withstanding the exemption of the original 320-acre spacing unit from Rule 2(a) of said Order No. R-7407-E.

(9) In addition, Sun seeks provisions to allow the E/2 working interest owners an opportunity to participate in the production from said Wildfire Well No. 1 from June 8, 1987, by paying their proportionate share of the calculated average costs of drilling, completing and equipping of the well.

(10) Sun and Hixon have been able to agree upon the following terms and conditions that would apply to the compulsory pooling order to be entered in this case.

(a) Sun shall continue as operator of the subject well and the 640-acre spacing unit;

(b) The subject spacing and proration unit should be made effective April 1, 1988 being the first day of the month immediately following the hearing in this case;

(c) Except for the modification of the necessary terms to increase the size of the unit from 320 acres to 640 acres, the new communitization and joint operating agreements shall contain the same terms and conditions as the original agreements that applied to the 320-acre unit and the working interest owners in the E/2 shall be given a thirty day election period to sign the new communitization and joint operating agreements;

(d) It is agreed that $511,000.00 represents a reasonable sum for drilling and completing the said Wildfire Well No. 1 and the working interest owners in the E/2 shall be given a thirty-day election period to pay their proportionate share of that sum;

(e) In addition, Sun shall be entitled to recover anticipated future costs, estimated to be $115,000, for the installation of a gathering line and the purchase and installation of surface equipment for artificial lift and associated expenditures either on a joint billing basis from participating working interest owners as such costs are incurred or out of production from non-consenting working interest owners;

(f) The sums and methods set forth in this subsection represent a reasonable and fair method to reimburse the original owners and to afford to the new owners a fair and reasonable means of participation;

(g) In the event any working interest owner in the E/2 fails to execute the revised operating agreement and communitization agreement and who also fails to make timely payment within the period required, that interest shall be deemed to have elected not to participate and Sun shall have the right to recover out of production that parties' share of the reimbursement, plus an additional 200%; and,

(h) The overhead charge should be $3,500 per month while drilling and $350 per month while operating.

(11) Based upon the pressure interference analysis presented by Sun which shows that said well is subject to pressure depletion by Gavilan-Mancos wells more than one mile away, the drilling of a well in the E/2 of said Section 26 does not appear to be necessary.

(12) Based upon the reservoir economic analysis presented by Sun for both the W/2 and E/2 of Section 26, the correlative rights of the working interest, royalty interest and overriding royalty interest owners in both the W/2 and E/2 of Section 26 will be protected by approval of this application.

(13) To avoid the drilling of unnecessary wells, to protect correlative rights, to avoid waste and to afford the owners of each interest in the 640-acre unit the opportunity to recover or receive without unnecessary expense its just and fair share of production from the Gavilan-Mancos Oil Pool, the exemption for the original 320-acre unit should be withdrawn and 640-acre spacing made effective as of April 1, 1988.

(14) To avoid the drilling of unnecessary wells, to protect correlative rights, to avoid waste and to afford the owners of each interest in the 640-acre unit the opportunity to recover or receive without unnecessary expense its just and fair share of production from the pooled area, all mineral interests in said Section 26 should be pooled as a single 640-acre unit for the Gavilan-Mancos Oil Pool and dedicated to the Wildfire Well No. 1.

(15) Sun should be designated the operator of the subject well and spacing unit.

(16) The Division finds that the method of cost allocation proposed by Sun is reasonable and adequately compensates the original owners for the investment made on behalf of the new owners,

which sum is found to be one half of $511,000.00 plus anticipated future costs attributed to the new owners.

(17) Hixon and Dugan should be afforded the opportunity to elect to either pay to the operator its proportionate share of the sum of $511,000.00 for participation in the subject well or to pay its proportionate share of such costs out of production. Such election should be made by Hixon and any other working interest owner in the E/2 of Section 26 within thirty (30) days after notice is received by them after the issuance of an Order in this case by the Division; and upon execution of the operating agreement and communitization agreement and payment, then and in that event Hixon and Dugan shall be deemed participating working interest owners and shall be billed for future costs on a joint interest billing basis, as such costs are incurred.

(18) Should Hixon or any working interest owner in the E/2 of Section 26 not so elect to participate as set forth in Finding Paragraph (17) above, is should be deemed a non-consenting party and should have withheld from production its share of $511,000.00, plus its share of future costs, plus an additional 200 percent thereof as a reasonable charge for the risk involved in the well.

(19) $3,500.00 per month while drilling and $350.00 per month while producing should be fixed as reasonable charges for supervision of the subject well (combined fixed rates); in the event a working interest owner does not elect to pay its proportionate share of the costs identified in Finding Paragraph (10) (d) and (e) above, the operator should be authorized to withhold from production the proportionate share of actual expenses required for operating the subject well and for such supervision charges attributable to the interest of said owner 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 or attributable to that interest.

(20) 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) All mineral interests, whatever they may be within the Gavilan-Mancos Oil Pool underlying all of Section 26, Township 26 North, Range 2 West, NMPM, Rio Arriba County, New Mexico, are hereby pooled to form a standard 640-acre oil spacing and proration unit to be dedicated to the Sun Exploration and Production Company Wildfire Well No. 1 which has been drilled and completed at a standard location 900 feet from the South line and 1650 feet from the West line (Unit N) of said Section 26.

(2) Sun Exploration and Production Company is hereby designated the operator of the subject well and unit.

(3) Within 30 days after receipt of this order, any working interest owner in the E/2 of said Section 26 shall have the right to execute the joint operating agreement, communitization agreement and pay his share of the $511,000.00 to the operator in lieu of paying his share out of production. Any such owner who so elects as provided shall share in production from April 1, 1988, but shall remain liable for future costs, including gathering lines and artificial lift equipment, and for operating costs from April 1, 1988 forward, but shall not be liable for risk charges.

(4) Should any working interest owner fail to timely elect to participate as provided in Ordering Paragraph No. (3) above, then that owner shall be a non-consenting owner and the operator is hereby authorized to withhold the following costs and charges from production:

(a) The pro rata share of said $511,000.00 sum attributable to each non-consenting working interest owner;

(b) The pro rata share of future costs of gathering lines and lift equipment estimated to be $115,000.00 attributable to each non-consenting working interest owner; and

(c) As a charge for the risk involved in the drilling of this well, 200 percent of the pro rata share of reasonable well costs attributable to each non-consenting working interest owner.

(5) $3,500.00 per month while drilling and $350.00 per month while producing are hereby fixed as reasonable charges for supervision of the subject well (combined fixed rates). The operator is hereby authorized to withhold from production the proportionate share of such supervision charges attributable to each non-consenting working interest owner and in addition thereto, the operator is hereby authorized to withhold from production the proportionate share of actual expenditures required for operating the subject well, not in excess of what are reasonable or attributable to that interest of each non-consenting working interest.

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

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

(8) 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.

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

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

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

WILLIAM J. LEMAY
Director

S E A L

STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION COMMISSION

IN THE MATTER OF THE HEARING CALLED BY THE OIL CONSERVATION COMMISSION FOR THE PURPOSE OF CONSIDERING:

CASE NO. 8900
Order No. R-8262

APPLICATION OF MALLON OIL COMPANY FOR COMPULSORY POOLING, RIO ARRIBA COUNTY, NEW MEXICO.

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing at 9:00 a.m. on May 20, 1986, at Santa Fe, New Mexico, before the Oil Conservation Commission of New Mexico, hereinafter referred to as the "Commission".

NOW, on this 7th day of August, 1986, the Commission, having considered the testimony, the record, and the briefs submitted by counsel for the parties appearing at the hearing, and being fully advised in the premises,

FINDS THAT:

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

(2) The applicant, Mallon Oil Company, seeks an order pooling all mineral interests from the top of the Mancos formation to the base of the Dakota formation underlying the W/2 of Section 12, Township 25 North, Range 2 West, NMPM, Rio Arriba County, New Mexico.

(3) The applicant, having the right to drill a well, drilled its Johnson Federal 12 Well No. 5 at a standard location thereon to a depth adequate to penetrate the Dakota formation, and, subsequently, completed the well as an oil well in the Mancos formation.

(4) As of the dates on which the well was drilled and completed, the Mancos formation underlying the lands which are the subject of this Order was not contained within the boundaries of any oil or gas pool established by the New Mexico Oil Conservation Division (Division) and was subject to statewide 40-acre oil spacing rules.

(5) On January 3, 1986, the Division issued its Order No. R-8063 in Case No. 8713, effective January 1, 1986, extending the horizontal boundaries of the Gavilan-Mancos Oil Pool to include the lands which are the subject of this Case.

(6) As a result of the extension of the horizontal boundaries of the Gavilan-Mancos Oil Pool and the special rules therefor, the spacing requirement applicable to the applicant's Johnson Federal 12 Well No. 5 was increased from 40 acres to 320 acres.

(7) The applicant controlled all of the leasehold operating rights applicable to the Mancos and Dakota formations underlying the 40 acre tract established as the spacing unit for the subject well prior to the extension of the horizontal boundaries of the Gavilan-Mancos Oil Pool.

(8) The applicant controls all of the leasehold operating rights applicable to the Mancos and Dakota formations underlying 240 acres of the 320 acre tract established as the appropriate spacing unit for the subject well subsequent to the extension of the horizontal boundaries of the Gavilan Mancos Oil Pool and which 320 acre tract constitutes the lands which are the subject of this Case.

(9) Mesa Grande Resources, Inc. controls all of the leasehold operating rights applicable to the Mancos and Dakota formations underlying 80 acres being the E/2 NE/4 of said Section 12 and within the 320 acre tract established as the appropriate spacing unit for the subject well subsequent to the extension of the horizontal boundaries of the Gavilan Mancos Oil Pool.

(10) The applicant and Mesa Grande Resources, Inc. have been unable to agree as to terms, conditions and provisions for the pooling of their interests in the lands which are the subject of this Case.

(11) The applicant expended the sum of $565,840.00 to drill and complete said Johnson Federal 12 Well No. 5; of the total costs incurred in drilling and completing the well, $255,016.00 are attributable to intangible drilling costs; and all of said costs were necessarily incurred and are reasonable in amount.

(12) The applicant has expended the sum of $24,700.00 in operating the subject well through March 31, 1986; such costs were necessarily incurred and are reasonable in amount; the applicant has incurred operating expenses attributable to the subject well from April 1, 1986 through the date of this Order

and can be expected to incur operating expenses attributable to the subject well subsequent to the date of this Order.

(13) The applicant assumed and paid for 100 percent of the risk associated with the drilling and completion of the subject well.

(14) The applicant proposed that under the foregoing conditions, it is appropriate that the risk assumed solely by it be quantified, and that the value of the risk assumed be considered an expense of drilling and completion and be included as an element of the actual costs incurred in the drilling and completion of the subject well.

(15) The applicant proposed that a value of the risk assumed solely by the applicant in the drilling and completion of the subject well equal to 100 percent of the actual intangible drilling costs incurred in the drilling of the well be established as a reasonable amount for the sharing of the risk by Mesa Grande.

(16) The authority for the Commission to compulsorily pool the subject acreage is derived from Section 70-2-17 C, NMSA 1978.

(17) This section states in part, that any pooling order "shall make definite provision as to any owner, or owners, who elects not to pay his proportionate share in advance for the prorata reimbursement solely out of production to the parties advancing the costs of the development and operation, which shall be limited to the actual expenditures required for such purpose not in excess of what are reasonable, but which shall include a reasonable charge for supervision and may include a charge for the risk involved in the drilling of such well, which charge for risk shall not exceed two hundred percent of the nonconsenting working interest owner's or owners' prorata share of the cost of drilling and completing the well."

(18) The 100 percent of actual intangible drilling costs proposed by the applicant as an additional cost or charge to Mesa Grande's interest in said well does not represent an actual expenditure and cannot therefore be allowed.

(19) While it may otherwise be reasonable for the applicant to collect some "premium" for its investment which ultimately benefits Mesa Grande, no proposal was made at the hearing on this matter other than the 100 percent of intangible well costs dealt with in Findings Nos. (14) through (18) above.

(20) In the absence of other proposals for a reasonable charge against Mesa Grande for the investment made on its behalf by the applicant, no such charge should be authorized.

(21) As the Dakota interval within the proposed unit is not productive, the pooling provisions of this order should be applicable to the Mancos formation only.

(22) To avoid the drilling of unnecessary wells, to protect correlative rights, to avoid waste, and to afford the owner of each interest in the 320 acre spacing unit the opportunity to recover or receive without unnecessary expense its just and fair share of production from the pooled area, the subject application should be approved by pooling all mineral interests, whatever they may be within the Mancos formation within said spacing unit.

(23) The applicant should be designated the operator of the subject well and spacing unit.

(24) Mesa Grande Resources, Inc. should be afforded the opportunity to elect to either pay to the operator its proportionate share of the total actual costs incurred in the drilling and completion of the subject well, or to pay its proportionate share of such costs out of production; such election should be made by Mesa Grande Resources, Inc. within fifteen (15) days after the issuance of an Order in this case by the Commission; and the operator should be entitled to withhold from production Mesa Grande Resources, Inc.'s proportionate share of such costs unless Mesa Grande Resources, Inc. so elects and tenders payment of its proportionate share of such costs to operator within thirty (30) days after the issuance of the Order in this case.

(25) Should Mesa Grande not so elect and pay its share of such well costs within said period, it should have withheld from production its 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.

(26) $4,000.00 per month while drilling and $400.00 per month while producing should be fixed as reasonable charges for supervision of the subject well (combined fixed rates); that in the event Mesa Grande Resources, Inc. elects to pay its proportionate share of the actual costs incurred in the drilling, completion, and operation of the subject well out of production, then the operator should be authorized to withhold from production the proportionate share of such supervision charges attributable to the interest of Mesa Grande Resources, Inc., 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 the interest of Mesa Grande Resources, Inc.

(27) Should all the parties to this forced pooling reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

(28) 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) All mineral interests, whatever they may be within the Mancos formation underlying the W/2 of Section 12, Township 25 North, Range 2 West, NMPM, Rio Arriba County, New Mexico, are hereby pooled to form a standard 320 acre oil spacing and proration unit to be dedicated to the Mallon Oil Company Johnson Federal 12 Well No. 5 which has been drilled and completed at a standard location thereon.

(2) Mallon Oil Company is hereby designated the operator of the subject well and unit.

(3) Within 15 days after the issuance of this Order, Mesa Grande Resources, Inc. shall elect to either pay to the operator its proportionate share of the total actual costs incurred in the drilling and completion of the subject well, or to pay its proportionate share of such costs out of production and, if so electing, shall pay such share within 30 days of the date of this order.

(4) The operator is hereby authorized to withhold the following costs and charges from production:

(A) The pro rata share of reasonable well costs attributable to each non-consenting working interest owner who has not paid his share of well costs as provided in Paragraph (3) of this order.

(B) As a charge for the risk involved in the drilling of the well, 200 percent of the pro rata share of reasonable well costs attributable to each non-consenting

working interest owner who has not paid his share of well costs as provided in Paragraph (3) of this order.

(5) $4,000.00 per month while drilling and $400.00 per month while producing are hereby fixed as reasonable charges for supervision of the subject well (combined fixed rates). The operator is hereby authorized to withhold from production the proportionate share of such supervision charges attributable to the interest of Mesa Grande Resources, Inc., and in addition thereto, the operator is hereby 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 the interest of Mesa Grande Resources, Inc.

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

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

(8) Should all parties to this forced-pooling reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

(9) 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.

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

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

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION

R. L. STAMETS,
Chairman and Secretary

ED KELLEY, Member

JIM BACA, Member