



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

GARREY CARRUTHERS  
GOVERNOR

POST OFFICE BOX 2068  
STATE LAND OFFICE BUILDING  
SANTA FE, NEW MEXICO 87504  
(505) 827-5800

August 6, 1990

Kellahin, Kellahin & Aubrey  
P.O. Box 2265  
Santa Fe, NM 87504-2265

Attention: W. Thomas Kellahin

Dear Mr. Kellahin:

Based upon your letter of August 3, 1990, and in accordance with the provisions of Division Order No. R-9207, Bird Creek Resources, Inc. is hereby granted an extension of time in which to begin the well on the unit pooled by said order until October 31, 1990.

Sincerely,

*William J. LeMay by David Caton*

William J. LeMay  
Director

WJL/ag

cc: Case No. 9960  
Bird Creek Resources, Inc.  
Oil Conservation Division - Artesia

**KELLAHIN, KELLAHIN AND AUBREY**

ATTORNEYS AT LAW

EL PATIO BUILDING

117 NORTH GUADALUPE

POST OFFICE BOX 2265

SANTA FE, NEW MEXICO 87504-2265

TELEPHONE (505) 982-4285  
TELEFAX (505) 982-2047

W. THOMAS KELLAHIN  
KAREN AUBREY

CANDACE HAMANN CALLAHAN

JASON KELLAHIN  
OF COUNSEL

August 3, 1990

**RECEIVED**

AUG 03 1990

OIL CONSERVATION DIV.  
SANTA FE

Mr. William J. LeMay  
Oil Conservation Division  
Post Office Box 2088  
Santa Fe, New Mexico 87501

Re: Bird Creek Resources, Inc.  
Compulsory Pooling Order  
R-9206, NMOCD Case 9959 and 9206  
SE/4SE/4 15-23S-28E  
Eddy County, New Mexico

Bird Creek Resources, Inc.  
Compulsory Pooling order  
R-9207, NMOCD Case 9960  
NW/4NE/4 15-23S-28E  
Eddy County, New Mexico

Dear Mr. LeMay:

On behalf of Bird Creek Resources, Inc., we obtained from the Division the referenced compulsory pooling orders issued effective June 28, 1990 which provide for the commencement of the subject wells on or before September 15, 1990.

Pursuant to the provisions of Ordering Paragraph (1) of R-9026 and R-9207, Bird Creek Resources, Inc. requests that the commencement date of the orders be extended an additional 45 days to October 31, 1990 for the following reasons.

Bird Creek is still completing and evaluating its other Delaware tests in the area and before commencing either or both of these subject wells, wants the opportunity to assess the performance of those wells prior to commencing the next well.

William J. LeMay  
August 3, 1990  
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In the absence of other possible factors that may cause further delays in commencement, it is anticipated that an additional 45 day period should provide sufficient time to commence the wells and comply with the pooling election requirements of the order.

Very truly yours,

A handwritten signature in dark ink, appearing to read 'W. Thomas Kellahan', with a long, sweeping horizontal stroke extending to the right.

W. Thomas Kellahan

WTK/tic

cc: Lawrence W. Robinette  
Bird Creek Resources, Inc.  
1412 South Boston, Suite 550  
Tulsa, Oklahoma 74119

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. 9960  
ORDER NO. R-9207

APPLICATION OF BIRD CREEK RESOURCES, 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 June 13, 1990, at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this 28th day of June, 1990, 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 hearing this case was consolidated with Division Case No. 9959 for the purpose of testimony.

(3) The applicant, Bird Creek Resources, Inc., seeks an order pooling all mineral interests from the surface to the base of the Delaware formation, underlying the NW/4 NE/4 (Unit B) of Section 15, Township 23 South, Range 28 East, NMPM, Eddy County, New Mexico, forming a standard 40-acre oil spacing and proration unit for any and all formations and/or pools developed on statewide 40-acre oil spacing within said vertical extent, which includes but is not necessarily limited to the Undesignated Loving-Cherry Canyon Pool and Undesignated South Loving-Delaware Pool.

(4) The applicant has the right to drill and proposes to drill a well at a standard oil well location thereon.

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Order No. R-9207  
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(5) There are interest owners in the proposed proration unit who have not agreed to pool their interests.

(6) 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 oil in any pool completion resulting from this order, the subject application should be approved by pooling all mineral interests, whatever they may be, within said unit.

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

(8) 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.

(9) 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.

(10) 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.

(11) 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.

(12) \$4539.00 per month while drilling and \$438.00 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.

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(13) 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.

(14) Upon the failure of the operator of said pooled unit to commence drilling of the well to which said unit is dedicated on or before September 15, 1990, the order pooling said unit should become null and void and of no further effect whatsoever.

(15) 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.

(16) 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) All mineral interests, whatever they may be, from the surface to the base of the Delaware formation, underlying the NW/4 NE/4 (Unit B) of Section 15, Township 23 South, Range 28 East, NMPM, Eddy County, New Mexico, are hereby pooled to form a 40-acre oil spacing and proration unit to be dedicated to a well to be drilled at a standard oil well location thereon.

**PROVIDED HOWEVER THAT,** the operator of said unit shall commence the drilling of said well on or before the 15th day of September, 1990, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test from the surface to the base of the Delaware formation.

**PROVIDED FURTHER THAT,** in the event said operator does not commence the drilling of said well on or before the 15th day of September, 1990, Decretory 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 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 Decretory Paragraph No. (1) of this order should not be rescinded.

(2) Bird Creek Resources, Inc. is hereby designated the operator of the subject well and unit.

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(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 unit an itemized schedule of estimated well costs.

(4) Within 30 days from the date the schedule of estimated well costs is furnished to him, any non-consenting working interest owner shall have the right to pay his share of estimated well costs to the operator in lieu of paying his share of reasonable well costs out of production, and any such owner who pays his share of estimated well costs as provided above shall remain liable for operating costs but shall not be liable for risk charges.

(5) The operator shall furnish the Division and each known working interest owner an itemized schedule of actual well costs within 90 days following completion of the well; if no objection to the actual well costs is received by the Division and the Division has not objected within 45 days following receipt of said schedule, the actual well costs shall be the reasonable well costs; provided however, if there is an objection to actual well costs within said 45-day period the Division will determine reasonable well costs after public notice and hearing.

(6) Within 60 days following determination of reasonable well costs, any non-consenting working interest owner who has paid his share of estimated costs in advance as provided above shall pay to the operator his pro rata share of the amount that reasonable well costs exceed estimated well costs and shall receive from the operator his pro rata share of the amount that estimated well costs exceed reasonable well costs.

(7) 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 estimated well costs within 30 days from the date the schedule of estimated well costs is furnished to him; and
- (B) As a charge for the risk involved in the drilling of the well, 200 percent of the pro rata share of reasonable well costs

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attributable to each non-consenting working interest owner who has not paid his share of estimated well costs within 30 days from the date the schedule of estimated well costs is furnished to him.

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

(9) \$4539.00 per month while drilling and \$438.00 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.

(10) Any unleased 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.

(11) 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.

(12) All proceeds from production from the subject well which are not disbursed for any reason shall be placed in escrow in Eddy 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.

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

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


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



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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

## OIL CONSERVATION DIVISION

POST OFFICE BOX 2088  
STATE LAND OFFICE BUILDING  
SANTA FE, NEW MEXICO 87504  
(505) 827-5800

Bird Creek Resources, Inc.

FLORENE DAVIDSON  
OC Staff Specialist

Other \_\_\_\_\_