

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. 10193  
Order No. R-9454

APPLICATION OF BEACH EXPLORATION  
INC. FOR STATUTORY UNITIZATION,  
EDDY COUNTY, NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on January 10, 1991, at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this 12th day of March, 1991, 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. 10192 and 10193 were consolidated at the time of the hearing for the purpose of testimony.

(3) The applicant, Beach Exploration Inc., seeks the statutory unitization, pursuant to the "Statutory Unitization Act", Sections 70-7-1 through 70-7-21, of all mineral interests in the Penrose Sand member of the Queen formation underlying 1182.17 acres, more or less, being a portion of the East Red Lake-Queen-Grayburg Pool, Eddy County, New Mexico, said portion to be known as the Red Lake Unit; the applicant further seeks approval of the Unit Agreement and the Unit Operating Agreement which were submitted in evidence as applicant's Exhibit Nos. B and C, respectively, in this case.

(4) The proposed unit area should be designated the Red Lake Unit Area; the horizontal limits of said unit area should be comprised of the following described Federal, State and Fee lands in Eddy County, New Mexico:

TOWNSHIP 16 SOUTH, RANGE 28 EAST, NMPM

Section 24: S/2 SE/4 and NE/4 SE/4  
Section 25: E/2, E/2 W/2, and SW/4 SW/4  
Section 35: NE/4 NE/4  
Section 36: N/2 and W/2 SE/4

TOWNSHIP 16 SOUTH, RANGE 29 EAST, NMPM

Section 19: Lots 2 and 3  
Section 30: Lots 2 and 3

(5) At the hearing the applicant requested that Lots 2 and 3, Section 19, Township 16 South, Range 29 East, NMPM, be deleted from the proposed Red Lake Unit. This request is reasonable and should be granted.

(6) Said unit has been approved by the Bureau of Land Management and the Commissioner of Public Lands of the State of New Mexico, subject to the approval of the statutory unitization by the Division.

(7) The proposed Red Lake Unit Area has reasonably been defined by development.

(8) According to applicant's testimony and information obtained from Division records, virtually all production within the East Red Lake-Queen-Grayburg Pool originates from the Penrose Sand member of the Queen formation.

(9) The vertical limits of the Red Lake Unit Area should comprise that portion of the Queen formation commonly known as the Penrose Sand extending from an upper limit described as 1,982 feet above mean sea level to a lower limit described as 1,892 feet above mean sea level, both upper and lower markers having been previously found to occur at 1,630 feet and 1,720 feet, respectively, in the Welex Radioactivity Log run on March 17, 1980, from a Kelly Bushing elevation of 3,612 feet, on the Beach Exploration, Inc. New Mexico "36" State Well No. 4 located 660 feet from the North line and 1980 feet from the West line (Unit C) of Section 36, Township 16 South, Range 28 East, NMPM, Eddy County, New Mexico.

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(10) The unit area contains 11 separate tracts owned by 19 different working interest owners.

(11) The applicant has made a good faith effort to secure voluntary unitization within the Unit Area and at the time of the hearing over 95 percent of the working interest owners and over 77 percent of the royalty interest owners were effectively committed to the unit.

(12) The applicant proposes to institute a waterflood project for the secondary recovery of oil and associated gas, condensate, and all associated liquefiable hydrocarbons within and to be produced from the proposed unit area (being the subject of Division Case No. 10192).

(13) All interested parties who have not agreed to unitization were notified of the hearing by the applicant, but no person entered an appearance or opposed the application at the hearing.

(14) The proposed secondary recovery operations should result in the additional recovery of approximately 565,800 barrels of oil.

(15) The unitized management, operation and further development of the Red Lake Unit Area, as proposed, is reasonably necessary to effectively carry on secondary recovery operations and will substantially increase the ultimate recovery of oil and gas from the unitized portion of the pool.

(16) The proposed unitized method of operation as applied to the Red Lake Unit Area is feasible and will result with reasonable probability in the increased recovery of substantially more oil and gas from the unitized portion of the pool than would otherwise be recovered without unitization.

(17) The estimated additional costs of such operations will not exceed the estimated value of the additional oil so recovered plus a reasonable profit.

(18) Such unitization and adoption of applicant's proposed unitized method of operation will benefit the working interest owners and royalty owners of the oil and gas rights within the Red Lake Unit Area.

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(19) The granting of the application in this case should have no adverse effect upon the East Red Lake Queen-Grayburg Pool and/or the Penrose Sand member of the Queen formation located outside of the proposed Red Lake Unit boundary.

(20) The applicant's Exhibit Nos. B and C in this case, being the Unit Agreement and the Unit Operating Agreement, respectively, should be incorporated by reference into this order.

(21) The Red Lake Unit Agreement and the Red Lake Unit Operating Agreement provide for unitization and unit operation of the Red Lake Unit Area upon terms and conditions that are fair, reasonable and equitable, and include:

- (a) an allocation to the separately owned tracts of the unit area of all oil and gas that is produced from the unit area and which is saved, being the production that is not used in the conduct of unit operations or not unavoidably lost;
- (b) a provision for the credits and charges to be made in the adjustment among the owners in the unit area for their respective investments in wells, tanks, pumps, machinery, materials and equipment contributed to the unit operators;
- (c) a provision governing how the costs of unit operations including capital investments shall be determined and charged to the separately-owned tracts and how said costs shall be paid, including a provision providing when, how and by whom such costs shall be charged to such owner, or the interest of such owner, and how his interest may be sold and the proceeds applied to the payment of his costs;
- (d) a provision for carrying any working interest owner on a limited, carried or net-profits basis, payable out of production, upon terms and conditions which are just and reasonable, and which allow an appropriate charge for interest for such service payable out of production, upon such terms and conditions determined by the Division to be just and reasonable;

- (e) a provision designating the Unit Operator and providing for supervision and conduct of the unit operations, including the selection, removal and substitution of an operator from among the working interest owners to conduct the unit operations;
- (f) a provision for a voting procedure for decisions on matters to be decided by the working interest owners in respect to which each working interest owner shall have a voting interest equal to his unit participation; and
- (g) the time when the unit operation shall commence and the manner in which, and the circumstances under which, the operations shall terminate and for the settlement of accounts upon such termination.

(21) The applicant requested that a 200 percent penalty be assessed against those working interest owners who do not voluntarily agree to join the proposed unit.

(22) Section 70-7-7.F. NMSA of said "Statutory Unitization Act" provides that the unit plan of operation shall include a provision for carrying any working interest owner subject to limitations set forth in the statute, and any non-consenting working interest owner so carried shall be deemed to have relinquished to the unit operator all of his operating rights and working interest in and to the unit until his share of the costs has been repaid plus an amount not to exceed 200 percent thereof as a non-consent penalty.

(23) Applicant's Exhibit No. C, Unit Operating Agreement, contains a provision whereby any working interest owner who elects not to pay his share of unit expense shall be liable for his share of such unit expense plus an additional 400 percent thereof as a non-consent penalty, and, that such costs and non-consent penalty may be recovered from each non-consenting working interest owner's share of unit production.

(24) A non-consent penalty of 200 percent should be adopted in this case. The applicant should be authorized to recover from unit production each non-consenting working interest owner's share of unit expense plus 200 percent thereof.

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(25) The statutory unitization of the Red Lake Unit Area is in conformity with the above findings, and will prevent waste and protect correlative rights of all interest owners within the proposed unit area, and should be approved.

IT IS THEREFORE ORDERED THAT:

(1) The application of Beach Exploration Inc. for the Red Lake Unit Agreement, covering 1131.24 acres, more or less, of Federal, State and Fee lands in the East Red Lake-Queen-Grayburg Pool, Eddy County, New Mexico, is hereby approved for statutory unitization pursuant to the "Statutory Unitization Act", Sections 70-7-1 through 70-7-21, NMSA (1978).

(2) The lands covered by said Red Lake Unit Agreement shall be designated the Red Lake Unit Area and shall comprise the following described acreage in Eddy County, New Mexico:

TOWNSHIP 16 SOUTH, RANGE 28 EAST, NMPM

Section 24: S/2 SE/4 and NE/4 SE/4  
Section 25: E/2, E/2 W/2, and SW/4 SW/4  
Section 35: NE/4 NE/4  
Section 36: N/2 and W/2 SE/4

TOWNSHIP 16 SOUTH, RANGE 29 EAST, NMPM

Section 30: Lots 2 and 3

(3) The vertical limits of the Red Lake Unit Area shall comprise that portion of the Queen formation commonly known as the Penrose Sand extending from an upper limit described as 1,982 feet above mean sea level to a lower limit described as 1,892 feet above mean sea level, both upper and lower markers having been previously found to occur at 1,630 feet and 1,720 feet, respectively, in the Welex Radioactivity Log run on March 17, 1980, from a Kelly Bushing elevation of 3,612 feet, on the Beach Exploration, Inc. New Mexico "36" State Well No. 4 located 660 feet from the North line and 1980 feet from the West line (Unit C) of Section 36, Township 16 South, Range 28 East, NMPM, Eddy County, New Mexico.

(4) The applicant shall institute a waterflood project for the secondary recovery of oil and associated gas, condensate and all associated liquefiable hydrocarbons within and produced from the unit area, said waterflood project being the subject of Division Case No. 10192.

(5) The Red Lake Unit Agreement and the Red Lake Unit Operating Agreement, being applicant's Exhibit Nos. B and C in this case, respectively, are hereby incorporated by reference into this order.

(6) The Red Lake Unit Agreement and the Red Lake Unit Operating Agreement provide for unitization and unit operation of the East Red Lake-Queen Grayburg Pool upon terms and conditions that are fair, reasonable and equitable.

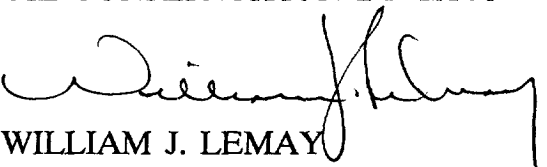
(7) Since the persons owning the required statutory minimum percentage of interest in the unit area have approved or ratified the Unit Agreement and the Unit Operating Agreement, the interests of all persons within the unit area are hereby unitized whether or not such persons have approved the Unit Agreement or the Unit Operating Agreement in writing.

(8) The applicant as Unit Operator shall notify in writing the Division Director of any removal or substitution of said Unit Operator by any other working interest owner within the unit area.

(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

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