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. 13357
ORDER NO. R-12252

APPLICATION OF MATRIX NEW MEXICO HOLDINGS, L.L.C. FOR COMPULSORY POOLING, LEA COUNTY, NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on November 18, 2004, at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this 3rd day of January, 2005, the Division Director, having considered the testimony, the record and the recommendations of the Examiner,

FINDS THAT:

(1) Due public notice has been given, and the Division has jurisdiction of this case and of the subject matter.

(2) The applicant, Matrix New Mexico Holdings, L.L.C. ("Matrix" or "Applicant") seeks an order pooling all uncommitted mineral interests from the surface to the base of the Wolfcamp formation underlying the E/2 of Section 10, Township 13 South, Range 38 East, NMPM, Lea County, New Mexico, in the following manner:

> the E/2 to form a standard 320-acre spacing and proration unit for any formations and/or pools spaced on 320 acres within this vertical extent;
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> the NE/4 to form a standard 160-acre spacing and proration unit for any formations and/or pools spaced on 160 acres within this vertical extent;

the E/2 NE/4 to form a standard 80-acre spacing and proration unit for any formations and/or pools spaced on 80 acres within this vertical extent, which presently includes the Undesignated East Stallion-Devonian Oil Pool; and

the NE/4 NE/4 to form a standard 40-acre spacing and proration unit for any formations and/or pools spaced on 40 acres within this vertical extent.

(3) The above-described units are to be dedicated to the applicant's Townsend Well No. 1A which is proposed to be drilled at a standard well location within the NE/4 NE/4 of Section 10.

(4) At the hearing, the applicant requested that the portion of its application seeking to pool standard units comprising 320, 160 and 80 acres be dismissed. The applicant now seeks only to pool the NE/4 NE/4 of Section 10 forming a standard 40-acre spacing and proration unit ("the Unit"). The Townsend Well No. 1A is to be drilled at a standard oil well location 530 feet from the North line and 330 feet from the East line (Unit A) of Section 10, with the primary target being the Wolfcamp formation, Undesignated Bronco-Wolfcamp Pool.

(5) Land Services, Inc., Cogent Exploration, Ltd., and Sunlight Exploration, Inc. ("Sunlight"), appeared at the hearing through legal counsel and cross examined applicant's witness. These parties, however, did not testify nor present evidence.

(6) According to applicant's evidence, the working interest ownership within the NE/4 NE/4 of Section 10 is summarized as follows:

Matrix New Mexico Holdings, L.L.C.	9.96960%
Chesapeake Permian, L.P.	6.8750%
Sunlight Exploration, Inc.	82.04430%
Mr. Leroy Townsend	0.55555%
Estate of Calvin D. Townsend	0.55555%

(7) The applicant has secured the voluntary participation of Chesapeake Permian, L.P., however, the interest of Mr. Leroy Townsend, Estate of Calvin D. Townsend, and Sunlight Exploration, Inc., all remain non-committed to the Unit at this time.

(8) The evidence presented in this case demonstrates that Sunlight acquired its interest in the NE/4 NE/4 of Section 10 by virtue of an agreement ("the agreement") dated March 24, 2003 between Sunlight ("buyer") and Cogent Exploration, Ltd., Nelson Engineering Corp, and Land Services, Inc. ("sellers"). The agreement provides that the sellers retain an overriding royalty interest in the acreage, and that the leases and prospect is further subject to a 25% project back-in after payout with the option to convert at any time as specified in the agreement.

(9) It is the position of Cogent Exploration, Ltd. and Land Services, Inc. that its 25% back-in interest in the lease and prospect is a contractual provision that should be interpreted by the courts and not the Division, and therefore they believe that this back-in interest should not be subject to the well cost plus 200% risk penalty provisions that would be contained within a compulsory pooling order issued by the Division.

(10) It is the position of the applicant that:

(a) it recognizes and does not contest the existence of the overriding royalty interest created by the agreement and owned by Cogent Exploration, Ltd., Nelson Engineering Corp., and Land Services, Inc.;

(b) the agreement encompasses an area substantially larger than the 40 acres at issue in this case, consequently, it is not practical for Matrix to monitor and manage this agreement, and, since it is not a party to the agreement, it should not be obligated to do so; and

(c) the 25% back-in provisions contained within the agreement should not pre-empt the well cost and risk penalty provisions of a Division pooling order.

(11) By letter dated September 3, 2003, Sunlight proposed to Matrix a farm-out of its acreage in the NE/4 NE/4 of Section 10. The proposal contained language that, among other things, would grant Sunlight a 25% back-in after well payout.

(12) Matrix has conducted an economic analysis and has determined that the economics of pooling the interest of Sunlight under a Division compulsory pooling order with a 200% risk penalty are superior to the farm-out agreement proposed by Sunlight.

(13) The evidence presented in this case demonstrates that Matrix has made a good faith effort to secure the voluntary agreement of Sunlight and other interest owners within the NE/4 NE/4 of Section 10, but has been unable to do so.

(14) The compulsory pooling of the NE/4 NE/4 of Section 10 will be under terms and conditions that are fair and reasonable to all interest owners in the Unit, will provide Matrix the opportunity to economically drill its proposed Townsend Well No. 1A in order to recover its share of the oil and gas reserves underlying the proposed Unit, and will afford to the owner of each interest in the Unit the opportunity to recover or receive without unnecessary expense its just and fair share of hydrocarbons.

(15) The application should be approved and the non-consenting interest owners in the Unit should be subject to the pooling provisions contained herein.

(16) At the request of the applicant, Matrix New Mexico Operating, L.L.C. should be designated the operator of the subject well and of the Unit.

(17) Any pooled working interest owner who does not pay its share of estimated well costs should have withheld from production its share of reasonable well costs plus an additional 200% thereof as a reasonable charge for the risk involved in drilling the well.

(18) Reasonable charges for supervision (combined fixed rates) should be fixed at $7,454.00 per month while drilling and $745.40 per month while producing, provided that these rates should be adjusted annually pursuant to Section III.1.A.3. of the COPAS form titled *"Accounting Procedure-Joint Operations."*

IT IS THEREFORE ORDERED THAT:

(1) Pursuant to the application of Matrix New Mexico Holding, L.L.C., all uncommitted mineral interests from the surface to the base of the Wolfcamp formation underlying the NE/4 NE/4 of Section 10, Township 13 South, Range 38 East, NMPM, Lea County, New Mexico, are hereby pooled to form a standard 40-acre spacing and proration unit for all formations and/or pools spaced on 40 acres within this vertical extent which presently include but are not necessarily limited to the Undesignated Bronco-Wolfcamp Pool.

The above-described Unit shall be dedicated to the applicant's Townsend Well No. 1A to be drilled at a standard well location 530 feet from the North line and 330 feet from the East line (Unit A) of Section 10.

(2) The operator of the Unit shall commence drilling the proposed well on or before April 1, 2005 and shall thereafter continue drilling the well with due diligence to test the Wolfcamp formation.

(3) In the event the operator does not commence drilling the proposed well on or before April 1, 2005, Ordering Paragraph (1) shall be of no effect, unless the operator obtains a time extension from the Division Director for good cause.

(4) Should the subject well not be drilled and completed within 120 days after commencement thereof, Ordering Paragraph (1) shall be of no further effect, and the Unit created by this Order shall terminate unless the operator appears before the Division Director and obtains an extension of time to complete the well for good cause demonstrated by satisfactory evidence.

(5) Upon final plugging and abandonment of the subject well, the pooled Unit created by this Order shall terminate, unless this order has been amended to authorize further operations.

(6) Matrix New Mexico Operating, L.L.C. is hereby designated the operator of the subject well and of the Unit.

(7) After pooling, uncommitted working interest owners are referred to as pooled working interest owners. ("Pooled working interest owners" are owners of working interests in the Unit, including unleased mineral interests, who are not parties to an operating agreement governing the Unit.) After the effective date of this order, the operator shall furnish the Division and each known pooled working interest owner in the Unit an itemized schedule of estimated costs of drilling, completing and equipping the subject well ("well costs").

(8) Within 30 days from the date the schedule of estimated well costs is furnished, any pooled working interest owner shall have the right to pay its share of estimated well costs to the operator in lieu of paying its share of reasonable well costs out of production as hereinafter provided, and any such owner who pays its share of estimated well costs as provided above shall remain liable for operating costs but shall not be liable for risk charges. Pooled working interest owners who elect not to pay their

share of estimated well costs as provided in this paragraph shall thereafter be referred to as "non-consenting working interest owners."

(9) The operator shall furnish the Division and each known pooled working interest owner (including non-consenting working interest owners) an itemized schedule of actual well costs within 90 days following completion of the proposed 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 the schedule, the actual well costs shall be deemed to be the reasonable well costs. If there is an objection to actual well costs within the 45-day period, the Division will determine reasonable well costs after public notice and hearing.

(10) Within 60 days following determination of reasonable well costs, any pooled working interest owner who has paid its share of estimated costs in advance as provided above shall pay to the operator its share of the amount that reasonable well costs exceed estimated well costs and shall receive from the operator the amount, if any, that the estimated well costs it has paid exceed its share of reasonable well costs.

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

(a) the proportionate share of reasonable well costs attributable to each non-consenting working interest owner; and

(b) as a charge for the risk involved in drilling the well, 200% of the above costs.

(12) The operator shall distribute the costs and charges withheld from production, proportionately, to the parties who advanced the well costs.

(13) Reasonable charges for supervision (combined fixed rates) are hereby fixed at $7,454.00 per month while drilling and $745.40 per month while producing, provided that these rates shall be adjusted annually pursuant to Section III.1.A.3. of the COP AS form titled *"Accounting Procedure-Joint Operations."* The operator is authorized to withhold from production the proportionate share of both the supervision charges and the actual expenditures required for operating the well, not in excess of what are reasonable, attributable to pooled working interest owners.

(14) Except as provided in Ordering Paragraphs (11) and (13) above, all proceeds from production from the well that are not disbursed for any reason shall be placed in escrow in Lea 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 the escrow agent within 30 days from the date of first deposit with the escrow agent.

(15) 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 this order. Any well costs or charges that 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.

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

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

(18) That portion of Matrix New Mexico Holdings, L.L.C.'s application seeking to pool standard units consisting of 320, 160 and 80 acres and comprising, respectively, the E/2, NE/4 and E/2 NE/4 of Section 10, Township 13 South, Range 38 East, NMPM, Lea County, New Mexico, is hereby dismissed.

(19) Jurisdiction of this case 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.

SEAL

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

MARK E. FESMIRE, PE
Director