

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.

RECEIVED
APR 12 1988
OIL CONSERVATION COMMISSION

(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.

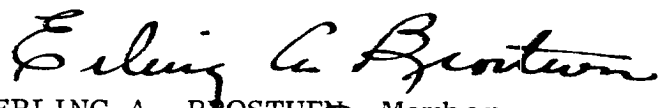
(8) The operator of the well and unit shall notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the forced pooling provisions of this order.

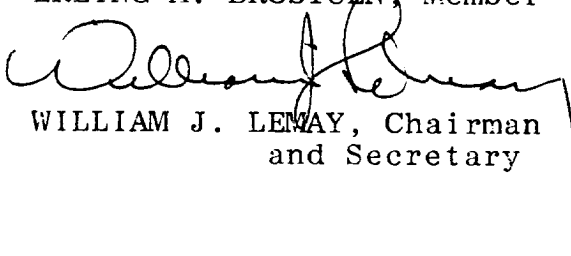
(9) Jurisdiction of this cause is retained for the entry of such further orders as the Commission may deem necessary.

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

S E A L

dr/