

Entered November 17, 1975

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BEFORE THE OIL CONSERVATION COMMISSION  
OF THE STATE OF NEW MEXICO

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

CASE NO. 5493  
Order No. R-5039-B

APPLICATION OF TEXAS WEST OIL &  
GAS CORPORATION FOR COMPULSORY  
POOLING, LEA COUNTY, NEW MEXICO.

ORDER OF THE COMMISSION

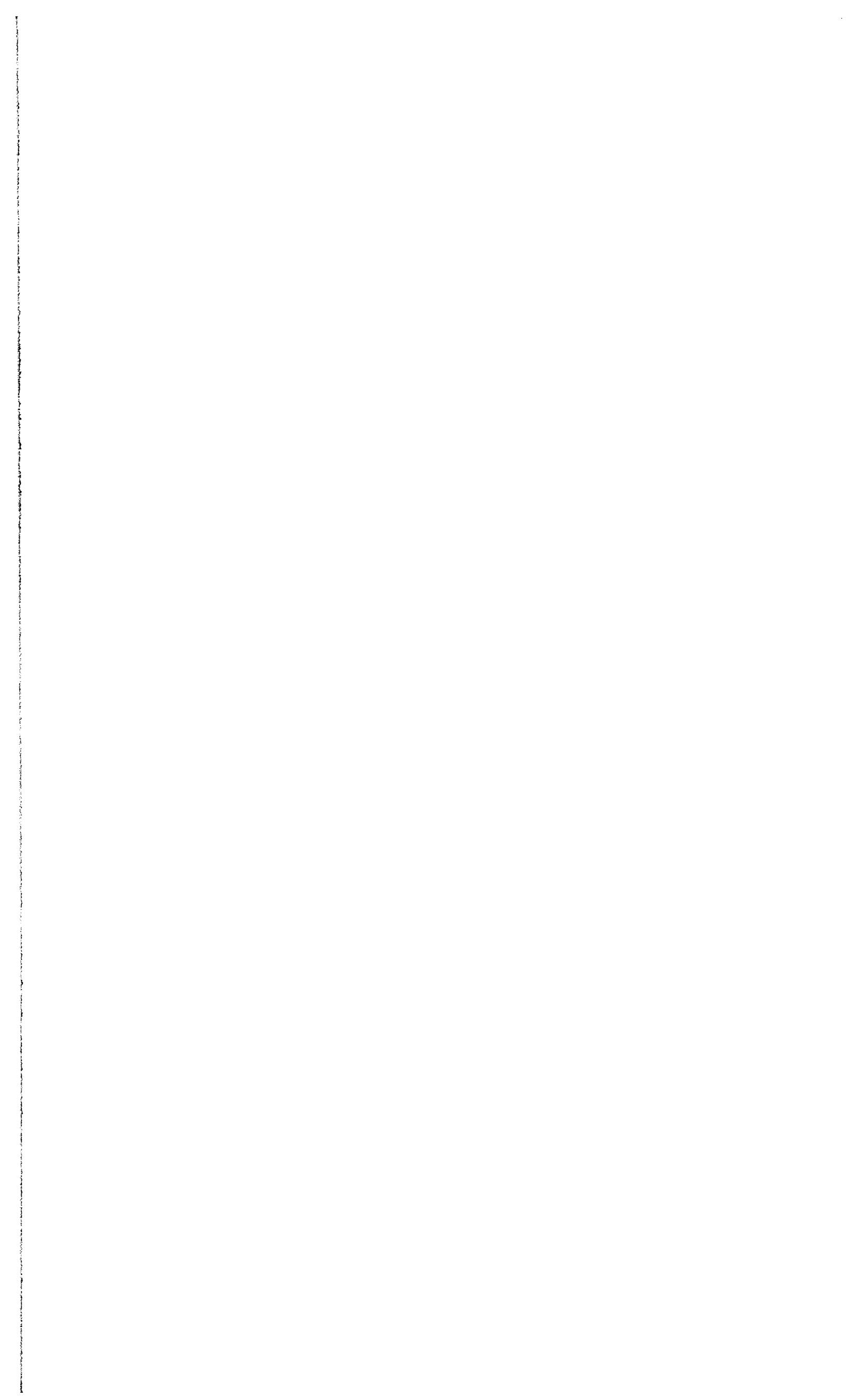
BY THE COMMISSION:

This cause came on for hearing at 9 a.m. on October 23, 1975, at Santa Fe, New Mexico, before the Oil Conservation Commission of New Mexico, hereinafter referred to as the "Commission."

NOW, on this 17th day of November, 1975, 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:

- (1) That due public notice having been given as required by law, the Commission has jurisdiction of this cause and the subject matter thereof.
- (2) That the applicant, Texas West Oil & Gas Corporation, seeks an order pooling all mineral interests in the Pennsylvanian formation underlying the E/2 of Section 5, Township 24 South, Range 34 East, NMPM, Bell Lake Field, Lea County, New Mexico.
- (3) That this case was originally heard before a duly appointed examiner of the Commission on May 28, 1975.
- (4) That on June 10, 1975, the Commission entered Order No. R-5039 which pooled the subject acreage and designated the applicant as operator of this unit for the purpose of drilling a well to the Pennsylvanian formation.
- (5) That Continental Oil Company filed for and was granted a hearing de novo which was held on July 25, 1975.
- (6) That on September 2, 1975, the Commission entered Order No. R-5039-A, which reaffirmed its previous order pooling this acreage but reduced the risk factor assessed therein.



(7) That Continental Oil Company made timely application for rehearing.

(8) That said application for rehearing was considered by the Commission on September 30, 1975, and it decided to rehear the case in its entirety on October 23, 1975, and so advised all parties to the case.

(9) That by Commission Order No. R-2707, dated May 25, 1964, Rule 104 of the Commission Rules and Regulations was amended to provide that all gas pools of Pennsylvanian age or older in Southeast New Mexico which were created and defined June 1, 1964, or later shall have 320-acre spacing and proration units, inasmuch as it was found that in Southeast New Mexico "...a gas well completed in the Pennsylvanian formation or a deeper formation will efficiently and economically drain and develop a 320-acre tract."

(10) That by Commission Order No. R-4918, dated November 19, 1974, the South Bell Lake-Morrow Gas Pool and the Morrow formation within one mile thereof, which includes the acreage involved in the subject application, was made subject to the provisions of Rule 104 of the Commission Rules and Regulations notwithstanding the fact said pool, then designated Bell Lake-Pennsylvanian Gas Pool, was created and defined prior to June 1, 1964.

(11) That the standard spacing unit for a well drilled to the Morrow formation in the South Bell Lake-Morrow Gas Pool is 320 acres.

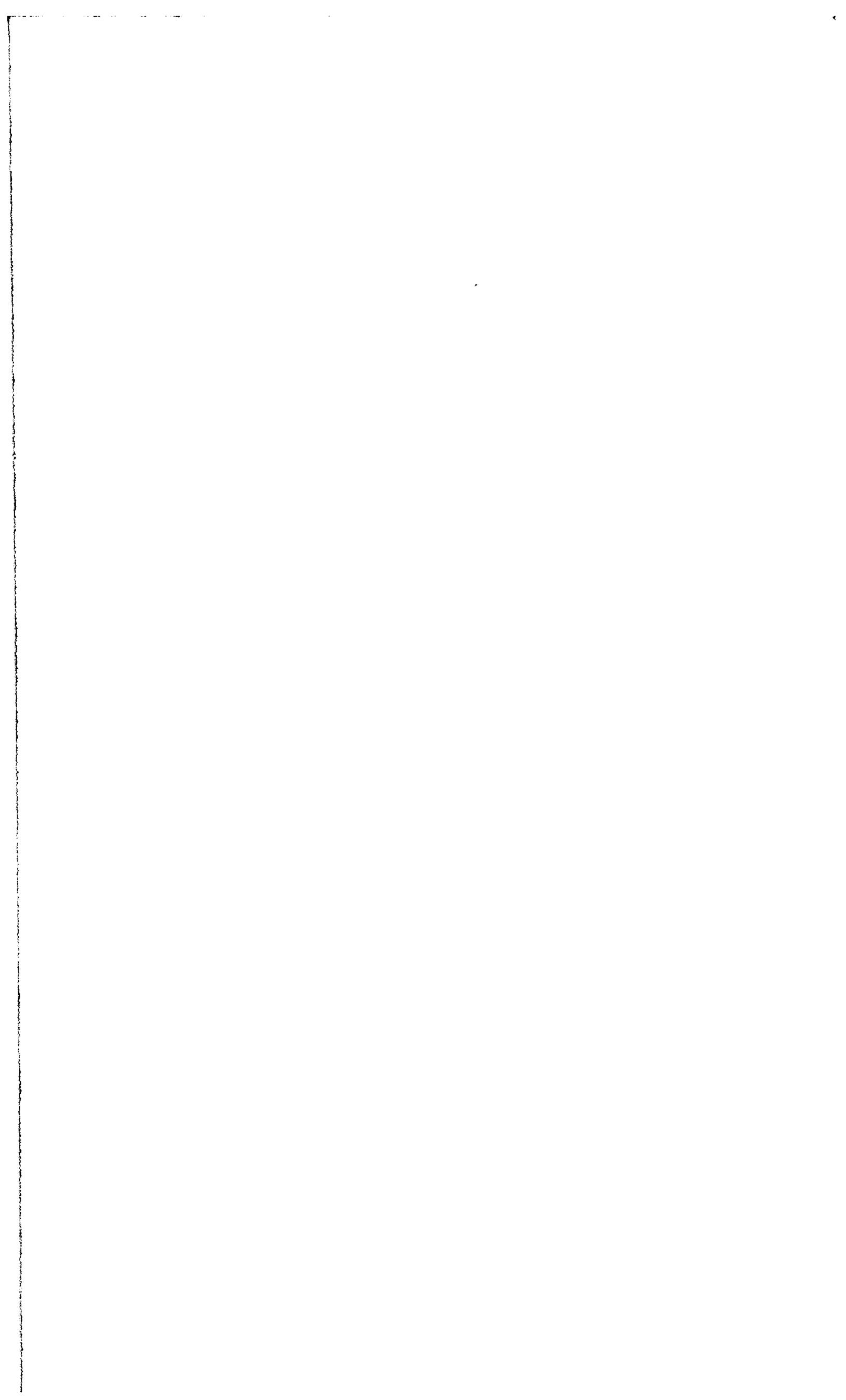
(12) That the E/2 of Section 5, Township 24 South, Range 34 East, the subject matter of this application, contains 320 acres.

(13) That no question was properly raised before the Commission challenging the spacing rules for the South Bell Lake-Morrow Gas Pool.

(14) That Section 65-3-14(c) NMSA, 1953 Compilation, sets out those factors the Commission must consider when an application for compulsory pooling comes before it.

(15) That said Section 65-3-14(c) provides that the Commission shall pool lands embraced within a single spacing unit "...to avoid the drilling of unnecessary wells or to protect correlative rights, or to prevent waste...." (emphasis added) whenever the following factors exist:

- a. multiple ownership, either working interest or royalty interest, within a single spacing or proration unit,



- b. interest owners in the proposed unit who have not agreed to pool their interests, and
- c. one owner who has the right to drill, has drilled or proposes to drill a well.

(16) That the applicant, Texas West Oil and Gas Corporation, has the operating rights to a 7/32 undivided working interest in the Pennsylvanian formation underlying the E/2 of Section 5, Township 24 South, Range 34 East, NMPM, not committed to the Bell Lake Unit Agreement, and by virtue thereof has the right to drill and proposes to drill a well at an orthodox location for the development of said 320-acre spacing unit.

(17) That the protestant in this case, Continental Oil Company, as operator of the Bell Lake Unit, has the operating rights to a 25/32 undivided working interest in said 320-acre spacing unit, as well as to the working interest in all acreage off-setting the proposed unit to the north, south, and west.

(18) That there are interest owners in the proposed pro-ration unit who have not agreed to pool their interests.

(19) That Continental has objected to the proposed compulsory pooling on two grounds:

- a. That the Morrow zone of the Pennsylvanian formation underlying the proposed spacing unit is being adequately drained by offsetting wells in its Bell Lake Unit; and
- b. That the applicant can protect its correlative rights by committing its interest in the E/2 of Section 5, Township 24 South, Range 34 East, NMPM, to the Bell Lake Unit and sharing in unit production.

(20) That Continental's objections summarized in Finding No. (19)a. above constitute a collateral attack upon the spacing established for the South Bell Lake-Morrow Gas Pool by Order No. R-4918, which issue is not properly before the Commission in this case.

(21) That the Commission in Order No. R-4918 found that waste will not result from developing the South Bell Lake-Morrow Gas Pool and the Morrow formation within one mile thereof by drilling one well on each 320-acre spacing unit.

(22) That Continental's objections summarized in Finding No. (19)b. above are tantamount to an attempt to compulsorily include applicant's interest in the E/2 of the aforesaid Section 5 in the Bell Lake Unit.

(23) That the State of New Mexico has no statute permitting compulsory unitization for natural gas exploration or development.

(24) That in the absence of compulsory unitization, the unit plan of development, including unit well spacing, cannot be imposed upon non-consenting working interest owners within the unit boundaries who wish to develop their acreage according to the rules of the Commission.

(25) That if Continental's objections summarized in Finding No. (19) b. above were adopted by the Commission as a realistic alternative to compulsory pooling of the E/2 of Section 5, the applicant, Texas West Oil & Gas Corporation, would be left with the choice of either joining the Bell Lake Unit, an action which it considers economically unwise, or staying out of said unit and being drained, which would impair its correlative rights.

(26) That the evidence clearly showed that the applicant's correlative rights could be protected by the granting of this application.

(27) That the evidence presented at the rehearing showed that the drilling of a well on the E/2 of said Section 5 could encounter other gas producing zones not being produced from other wells offsetting the proposed well and, therefore, could recover gas that would otherwise be left in the ground and never recovered.

(28) That the evidence clearly showed that two wells will drain more gas from a reservoir than one well and will, therefore, produce gas that would otherwise be left in the ground.

(29) That when natural gas is left in the ground and not produced, this reduces the total quantity of natural gas ultimately recovered and constitutes underground waste.

(30) That a well drilled on the E/2 of said Section 5 would not be an unnecessary well for it would prevent waste, protect correlative rights and develop this acreage in a fashion consistent with the spacing rules for the South Bell Lake-Morrow Gas Pool.

(31) That the drilling of the proposed well will enable the mineral interest owners in the E/2 of said Section 5 to produce their just and fair share of the hydrocarbons in the Morrow formation underlying their tract.

(32) That to protect correlative rights, 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 gas in said pool, the subject application should be approved by pooling all mineral interests, whatever they may be, within said unit.

(33) That the applicant should be designated the operator of the subject well and unit.

(34) That 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.

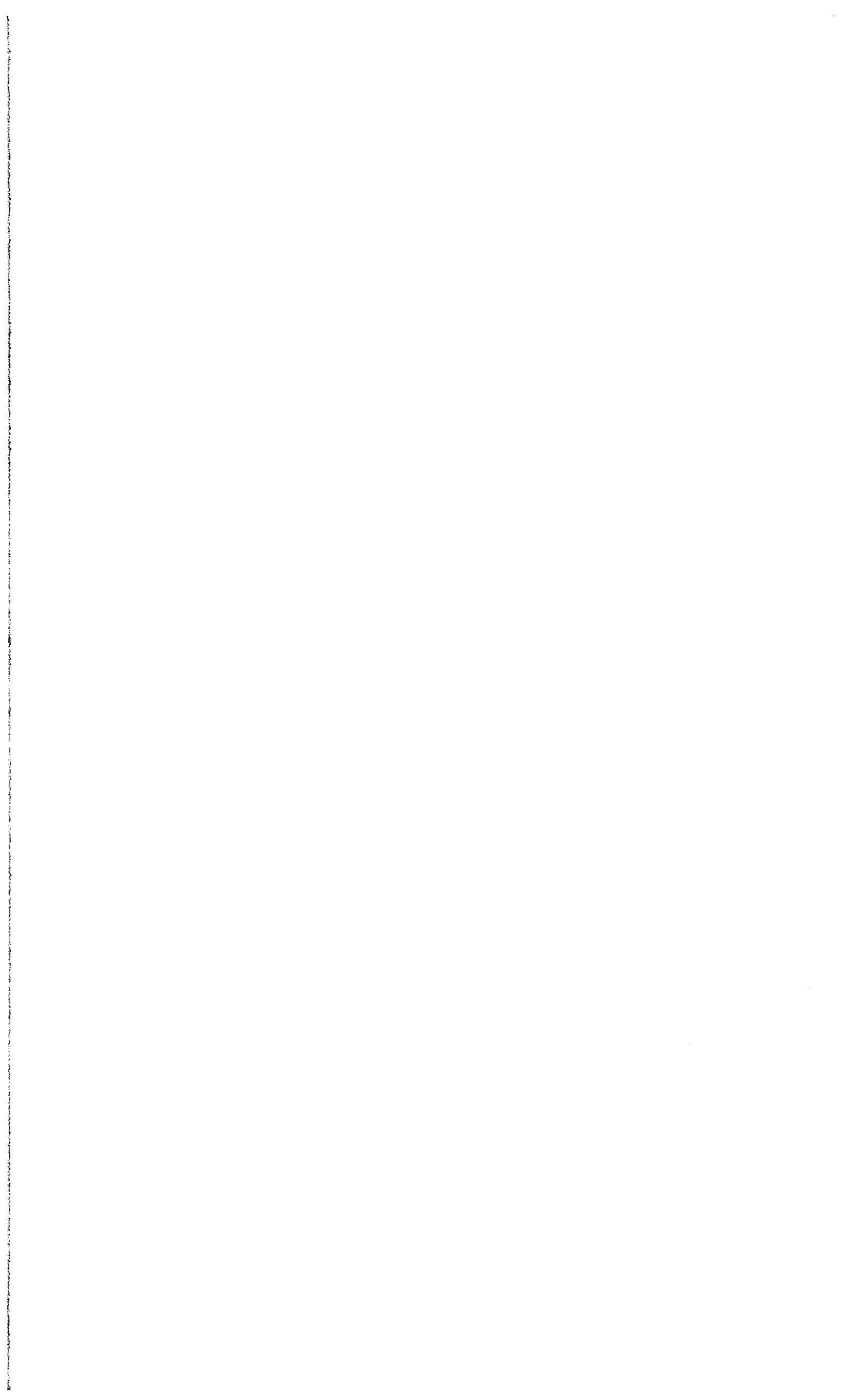
(35) That any non-consenting working interest owner that does not pay his share of estimated well costs should have withheld from production his share of the reasonable well costs plus an additional 150 percent thereof as a reasonable charge for the risk involved in the drilling of the well.

(36) That any non-consenting interest owner should be afforded the opportunity to object to the actual well costs but that actual well costs should be adopted as the reasonable well costs in the absence of such objection.

(37) That following determination of reasonable well costs, any non-consenting working interest owner that 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.

(38) That \$1600.00 per month should be fixed as a reasonable charge for supervision (combined fixed rates) while drilling, and that \$250.00 per month should be fixed as a reasonable charge for supervision while producing; that the operator should be authorized to withhold from production the proportionate share of such supervision charge 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.

(39) That 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.



(40) That 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 January 15, 1976, the order pooling said unit should become null and void and of no effect whatsoever.

IT IS THEREFORE ORDERED:

(1) That all mineral interests, whatever they may be, in the Pennsylvanian formation underlying the E/2 of Section 5, Township 24 South, Range 34 East, NMPM, Bell Lake Field, Lea County, New Mexico, are hereby pooled to form a standard 320-acre gas spacing and proration unit to be dedicated to a well to be drilled at an orthodox location for said unit.

PROVIDED HOWEVER, that the operator of said unit shall commence the drilling of said well on or before the 15th day of January, 1976, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the Pennsylvanian formation;

PROVIDED FURTHER, that in the event said operator does not commence the drilling of said well on or before the 15th day of January, 1976, Order (1) of this order shall be null and void and of no effect whatsoever;

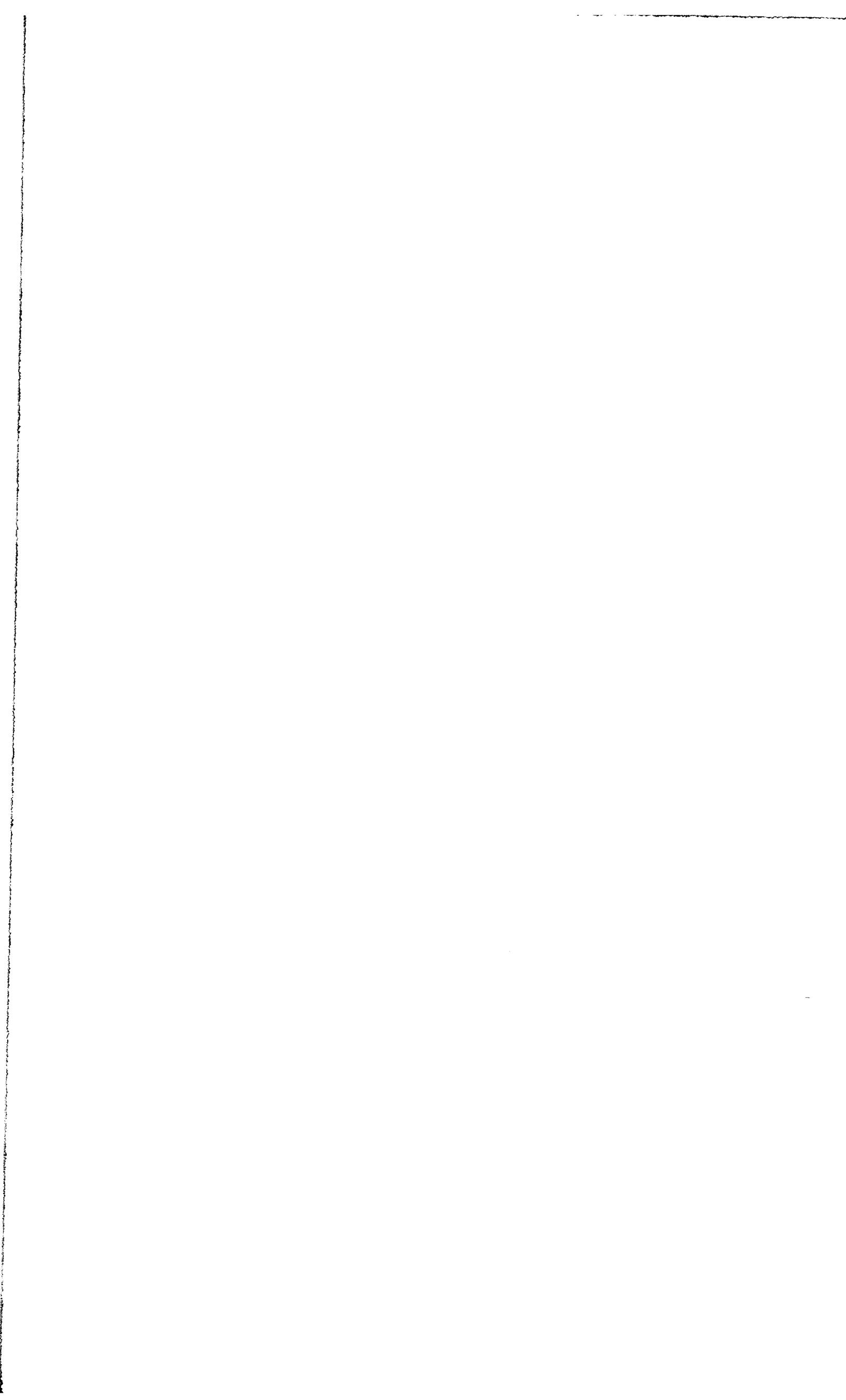
PROVIDED FURTHER, that should said well not be drilled to completion, or abandonment, within 120 days after commencement thereof, said operator shall appear before the Commission and show cause why Order (1) of this order should not be rescinded.

(2) That Texas West Oil & Gas Corporation is hereby designated the operator of the subject well and unit.

(3) That within 15 days after the effective date of this order the operator shall furnish the Commission and each known working interest owner in the subject unit an itemized schedule of estimated well costs.

(4) That within 15 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 that 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) That the operator shall furnish the Commission and each known working interest owner an itemized schedule of actual well costs within 90 days following completion of the well; that if no objection to the actual well costs is received



by the Commission and the Commission has not objected within 45 days following receipt of said schedule, the actual well costs shall be the reasonable well costs; provided however, that if there is an objection to actual well costs within said 45-day period the Commission will determine reasonable well costs after public notice and hearing.

(6) That within 60 days following determination of reasonable well costs, any non-consenting working interest owner that 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) That 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 15 days from the date the schedule of estimated well costs is furnished to him.

(b) As a charge for the risk involved in the drilling of the well, 150 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 estimated well costs within 15 days from the date the schedule of estimated well costs is furnished to him.

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

(9) That \$1600.00 per month is hereby fixed as a reasonable charge for supervision (combined fixed rates) while drilling, and that \$250.00 per month is hereby fixed as a reasonable charge for supervision while producing; that the operator is hereby authorized to withhold from production the proportionate share of such supervision charge 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) That any unsevered mineral interest shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8)

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

(11) That 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.

(12) That all proceeds from production from the subject well which 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; that the operator shall notify the Commission of the name and address of said escrow agent within 90 days from the date of this order.

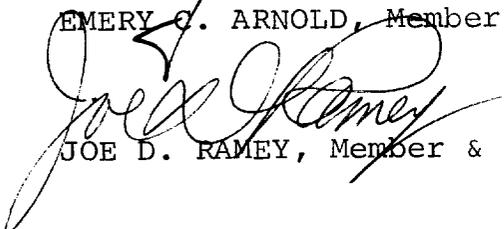
(13) That jurisdiction of this cause is retained for the entry of such further orders as the Commission may deem necessary.

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

STATE OF NEW MEXICO  
OIL CONSERVATION COMMISSION

PHIL R. LUCERO, Chairman

  
EMERY C. ARNOLD, Member

  
JOE D. RAMEY, Member & Secretary

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