STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION COMMISSION

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

CASE NO. 8900
Order No. R-8262

APPLICATION OF MALLON OIL COMPANY
FOR COMPULSORY POOLING, RIO ARRIBA
COUNTY, NEW MEXICO.

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing at 9:00 a.m. on May 20, 1986, 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 August, 1986, the Commission, having considered the testimony, the record, and the briefs submitted by counsel for the parties appearing at the 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) The applicant, Mallon Oil Company, seeks an order pooling all mineral interests from the top of the Mancos formation to the base of the Dakota formation underlying the W/2 of Section 12, Township 25 North, Range 2 West, NMPM, Rio Arriba County, New Mexico.

(3) The applicant, having the right to drill a well, drilled its Johnson Federal 12 Well No. 5 at a standard location thereon to a depth adequate to penetrate the Dakota formation, and, subsequently, completed the well as an oil well in the Mancos formation.

(4) As of the dates on which the well was drilled and completed, the Mancos formation underlying the lands which are the subject of this Order was not contained within the boundaries of any oil or gas pool established by the New Mexico Oil Conservation Division (Division) and was subject to statewide 40-acre oil spacing rules.

(5) On January 3, 1986, the Division issued its Order No. R-8063 in Case No. 8713, effective January 1, 1986, extending the horizontal boundaries of the Gavilan-Mancos Oil Pool to include the lands which are the subject of this Case.

(6) As a result of the extension of the horizontal boundaries of the Gavilan-Mancos Oil Pool and the special rules therefor, the spacing requirement applicable to the applicant's Johnson Federal 12 Well No. 5 was increased from 40 acres to 320 acres.

(7) The applicant controlled all of the leasehold operating rights applicable to the Mancos and Dakota formations underlying the 40 acre tract established as the spacing unit for the subject well prior to the extension of the horizontal boundaries of the Gavilan-Mancos Oil Pool.

(8) The applicant controls all of the leasehold operating rights applicable to the Mancos and Dakota formations underlying 240 acres of the 320 acre tract established as the appropriate spacing unit for the subject well subsequent to the extension of the horizontal boundaries of the Gavilan Mancos Oil Pool and which 320 acre tract constitutes the lands which are the subject of this Case.

(9) Mesa Grande Resources, Inc. controls all of the leasehold operating rights applicable to the Mancos and Dakota formations underlying 80 acres being the E/2 NE/4 of said Section 12 and within the 320 acre tract established as the appropriate spacing unit for the subject well subsequent to the extension of the horizontal boundaries of the Gavilan Mancos Oil Pool.

(10) The applicant and Mesa Grande Resources, Inc. have been unable to agree as to terms, conditions and provisions for the pooling of their interests in the lands which are the subject of this Case.

(11) The applicant expended the sum of $565,840.00 to drill and complete said Johnson Federal 12 Well No. 5; of the total costs incurred in drilling and completing the well, $255,016.00 are attributable to intangible drilling costs; and all of said costs were necessarily incurred and are reasonable in amount.

(12) The applicant has expended the sum of $24,700.00 in operating the subject well through March 31, 1986; such costs were necessarily incurred and are reasonable in amount; the applicant has incurred operating expenses attributable to the subject well from April 1, 1986 through the date of this Order

and can be expected to incur operating expenses attributable to the subject well subsequent to the date of this Order.

(13) The applicant assumed and paid for 100 percent of the risk associated with the drilling and completion of the subject well.

(14) The applicant proposed that under the foregoing conditions, it is appropriate that the risk assumed solely by it be quantified, and that the value of the risk assumed be considered an expense of drilling and completion and be included as an element of the actual costs incurred in the drilling and completion of the subject well.

(15) The applicant proposed that a value of the risk assumed solely by the applicant in the drilling and completion of the subject well equal to 100 percent of the actual intangible drilling costs incurred in the drilling of the well be established as a reasonable amount for the sharing of the risk by Mesa Grande.

(16) The authority for the Commission to compulsorily pool the subject acreage is derived from Section 70-2-17 C, NMSA 1978.

(17) This section states in part, that any pooling order "shall make definite provision as to any owner, or owners, who elects not to pay his proportionate share in advance for the prorata reimbursement solely out of production to the parties advancing the costs of the development and operation, which shall be limited to the actual expenditures required for such purpose not in excess of what are reasonable, but which shall include a reasonable charge for supervision and may include a charge for the risk involved in the drilling of such well, which charge for risk shall not exceed two hundred percent of the nonconsenting working interest owner's or owners' prorata share of the cost of drilling and completing the well."

(18) The 100 percent of actual intangible drilling costs proposed by the applicant as an additional cost or charge to Mesa Grande's interest in said well does not represent an actual expenditure and cannot therefore be allowed.

(19) While it may otherwise be reasonable for the applicant to collect some "premium" for its investment which ultimately benefits Mesa Grande, no proposal was made at the hearing on this matter other than the 100 percent of intangible well costs dealt with in Findings Nos. (14) through (18) above.

(20) In the absence of other proposals for a reasonable charge against Mesa Grande for the investment made on its behalf by the applicant, no such charge should be authorized.

(21) As the Dakota interval within the proposed unit is not productive, the pooling provisions of this order should be applicable to the Mancos formation only.

(22) To avoid the drilling of unnecessary wells, to protect correlative rights, to avoid waste, and to afford the owner of each interest in the 320 acre spacing unit the opportunity to recover or receive without unnecessary expense its just and fair share of production from the pooled area, the subject application should be approved by pooling all mineral interests, whatever they may be within the Mancos formation within said spacing unit.

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

(24) Mesa Grande Resources, Inc. should be afforded the opportunity to elect to either pay to the operator its proportionate share of the total actual costs incurred in the drilling and completion of the subject well, or to pay its proportionate share of such costs out of production; such election should be made by Mesa Grande Resources, Inc. within fifteen (15) days after the issuance of an Order in this case by the Commission; and the operator should be entitled to withhold from production Mesa Grande Resources, Inc.'s proportionate share of such costs unless Mesa Grande Resources, Inc. so elects and tenders payment of its proportionate share of such costs to operator within thirty (30) days after the issuance of the Order in this case.

(25) Should Mesa Grande not so elect and pay its share of such well costs within said period, it should have withheld from production its share of the reasonable well costs plus an additional 200 percent thereof as a reasonable charge for the risk involved in the drilling of the well.

(26) $4,000.00 per month while drilling and $400.00 per month while producing should be fixed as reasonable charges for supervision of the subject well (combined fixed rates); that in the event Mesa Grande Resources, Inc. elects to pay its proportionate share of the actual costs incurred in the drilling, completion, and operation of the subject well out of production, then the operator should be authorized to withhold from production the proportionate share of such supervision charges attributable to the interest of Mesa Grande Resources, Inc., 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 the interest of Mesa Grande Resources, Inc.

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

(28) 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.

IT IS THEREFORE ORDERED THAT:

(1) All mineral interests, whatever they may be within the Mancos formation underlying the W/2 of Section 12, Township 25 North, Range 2 West, NMPM, Rio Arriba County, New Mexico, are hereby pooled to form a standard 320 acre oil spacing and proration unit to be dedicated to the Mallon Oil Company Johnson Federal 12 Well No. 5 which has been drilled and completed at a standard location thereon.

(2) Mallon Oil Company is hereby designated the operator of the subject well and unit.

(3) Within 15 days after the issuance of this Order, Mesa Grande Resources, Inc. shall elect to either pay to the operator its proportionate share of the total actual costs incurred in the drilling and completion of the subject well, or to pay its proportionate share of such costs out of production and, if so electing, shall pay such share within 30 days of the date of this order.

(4) 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 well costs as provided in Paragraph (3) of this order.

(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 attributable to each non-consenting

working interest owner who has not paid his share of well costs as provided in Paragraph (3) of this order.

(5) $4,000.00 per month while drilling and $400.00 per month while producing are hereby fixed as reasonable charges for supervision of the subject well (combined fixed rates). The operator is hereby authorized to withhold from production the proportionate share of such supervision charges attributable to the interest of Mesa Grande Resources, Inc., and in addition thereto, the operator is hereby 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 the interest of Mesa Grande Resources, Inc.

(6) 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.

(7) 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.

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

(9) 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.

(10) 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 date and year hereinabove designated.

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION

R. L. STAMETS,
Chairman and Secretary

ED KELLEY, Member

JIM BACA, Member