STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION DIVISION

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

DE NOVO
CASE NOS. 9667 and 9669
ORDER NO. R-8959-A

APPLICATION OF MIDLAND PHOENIX
CORPORATION FOR AN UNORTHODOX GAS
WELL LOCATION AND COMPULSORY
POOLING, LEA COUNTY, NEW MEXICO

APPLICATION OF ENRON OIL AND GAS
COMPANY FOR COMPULSORY POOLING,
UNORTHODOX GAS WELL LOCATION AND
NON-STANDARD GAS PRORATION UNIT,
LEA COUNTY, NEW MEXICO

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing at 9:00 a.m. on August 17, 1989, at Santa Fe, New Mexico, before the Oil Conservation Commission of New Mexico ("Commission").

NOW, on this 11th day of October, 1989, the Commission having considered the testimony presented, exhibits presented 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) The applicant in Case 9667, Midland Phoenix Corporation, seeks an order pooling all mineral interests in the Undesignated Pitchfork Ranch-Atoka Gas Pool and the Undesignated Pitchfork Ranch-Morrow Gas Pool underlying the E/2 of Section 34, Township 24 South, Range 34 East, NMPM, Lea County, New Mexico, to form a standard 320-acre gas spacing and proration unit for both pools. Said unit is proposed to be dedicated to a well to be drilled at a standard gas well location 1980 feet from the South line and 1980 feet from the East line (Unit J) of said Section 34.

(3) The applicant in Case 9669, Enron Oil & Gas Company, seeks an order pooling all mineral interests in the Undesignated Pitchfork Ranch-Morrow Gas Pool underlying the S/2 of Section 34, Township 24 South, Range 34 East, NMPM, Lea County, New Mexico, forming a standard 320-acre gas spacing and proration unit for said pool. The applicant in this matter further seeks an order pooling all mineral interests in the Undesignated Pitchfork Ranch-Atoka Gas Pool underlying the SE/4 of said Section 34 forming a non-standard 160-acre gas spacing and proration unit for said pool. Both aforementioned units are to be dedicated to a single well to be drilled at a location which is standard for the Morrow zone and unorthodox for the Atoka zone, 660 feet from the South line and 1980 feet from the East line (Unit O) of said Section 34.

(4) The applications were docketed for hearing on May 10, 1989 and on May 24, 1989, and were consolidated before Examiner Michael E. Stogner and, pursuant to these hearings, Order No. R-8959 was issued on July 17, 1989, denying the application of Enron Oil and Gas Company in Case No. 9669 and granting the application of Midland-Phoenix Corporation in Case No. 9667. Midland Phoenix Corporation was designated the operator of the subject well and unit.

(5) A timely application for hearing De Novo was made by Enron Oil and Gas Company in this case and the matter was set for hearing before the Commission.

(6) The matter came on for hearing De Novo before the Commission on August 17, 1989.

(7) During the pendency of this action Order No. R-8959 has not been stayed and is in full force and effect.

(8) The record in Case Nos. 9667 and 9669 made before the Division Examiner is made a part of the record in this de novo case. The parties before the Commission have stipulated to the well costs, administrative overhead charges and penalty provisions in the Division Orders.

(9) Each applicant, Midland Phoenix Corporation and Enron Oil and Gas Company, seeks to be named operator of the unit each seeks to have pooled. Also each applicant has the right to drill and proposes to drill a well upon their respective units, as described above, to a depth sufficient to test the Atoka and Morrow formations.

(10) Case Nos. 9667 and 9669 were consolidated for purpose of hearing and should be consolidated for purpose of issuing an order inasmuch as the cases involve certain common acreage and the granting of one application would necessarily require the concomitant denial of the other.

(11) Enron Oil and Gas Company presently owns and operates the Pitchfork 34 Federal Com Well No. 1 located 1980 feet from the South line and 660 feet from the West line (Unit L) of said Section 34 which has produced from the Pitchfork Ranch-Atoka Gas Pool since September 1983 and had dedicated to it the W/2 of said Section 34.

(12) Approval of the Enron application would dedicate the SE/4 of said Section 34 in the Atoka zone and the entire section would have two wells with only 480 acres participating in the Atoka zone, whereas the Midland Phoenix application would fully develop the section for the Atoka.

(13) Order No. R-8959 should be affirmed and made an order of the Commission in this proceeding.

(14) Where there are competing forced-pooling applications, there is a presumption that the application which seeks to consolidate lands into a standard proration unit to be produced from a well at a standard location will be more in the interest of prevention of waste and protection of correlative rights than an application for a non-standard proration unit and unorthodox location. That presumption is rebuttable but can only be overcome by substantial evidence.

(15) The geological evidence presented at the hearing by both applicants was in conflict as to whether the NE/4 of said Section 34 was potentially productive of hydrocarbons in both the Atoka and Morrow formations.

(16) The geological evidence presented by the Midland Phoenix Corporation indicates that a gas well drilled at a standard location 1980 feet from the South and East lines of said Section 34 and dedicated to a standard 320-acre gas spacing and proration unit comprised of the E/2 and said Section 34 could have a reasonable probability of encountering commercial hydrocarbon production from certain intervals within the Atoka and Morrow formations.

(17) Enron did not overcome the presumption in Finding Paragraph No. (14) which favors a standard proration unit and orthodox location because Enron failed to adequately demonstrate that the NE/4 of Section 34 was not potentially productive of natural gas or that its proposed location would more effectively drain the remaining gas reserves underlying Section 34.

(18) Exclusion of the NE/4 of said Section 34 from participating in the production from the E/2 of said Section 34 would depart from standard 320-acre configuration of proration and spacing units in the area, would violate the correlative rights of mineral interest owners in said NE/4 of said Section 34, and would result in underground waste in that hydrocarbons underlying the NE/4 of said Section 34 may not be recovered.

(19) The application of Enron Oil and Gas Company is not in the best interests of the prevention of waste or the protection of correlative rights and will impair orderly development of the hydrocarbon reserves underlying the E/2 of said Section 34 in the Atoka and Morrow formations.

(20) The application of Enron Oil and Gas Company in Case No. 9669 should therefore be denied.

(21) To avoid the drilling of unnecessary wells, to protect correlative rights, to 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 pools, the application of Midland Phoenix Corporation in Case 9667 should be approved by pooling all mineral interests, whatever they may be, in the Undesignated Pitchfork Ranch-Atoka Gas Pool and the Undesignated Pitchfork Ranch-Morrow Gas Pool underlying the E/2 of Section 34, Township 24 South, Range 34 East, NMPM, Lea County, New Mexico. Said unit should be dedicated to a well to be drilled at a standard gas well location 1980 feet from the South and East lines (Unit J) of said Section 34.

(22) Midland Phoenix Corporation should be designated the operator of the subject well and unit as described above.

(23) 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.

(24) Any non-consenting working interest owner who does not pay his share of estimated well costs should have withheld from production his share of reasonable well costs plus an additional 200 percent thereof as a reasonable charge for the risk involved in drilling the well.

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

(26) Following determination of reasonable well costs, any non-consenting working interest owner who has paid his share of estimated well 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.

(27) $5500.00 per month while drilling and $550.00 per month while producing should be fixed as reasonable charges for supervision (combined fixed rates); the operator should be authorized to withhold from production the proportionate share of such supervision charges attributable to each non-

consenting working interest, an 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.

(28) 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.

(29) 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 1, 1990 the order pooling said unit should become null and void and of no further effect.

(30) Should all the parties to this force-pooling reach voluntary agreement subsequent to entry of this order, this order should therefore be of no further effect.

(31) The operator of the well and unit should notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the force-pooling provisions of this order.

IT IS THEREFORE ORDERED THAT:

(1) The application of Enron Oil and Gas Company in Case No. 9669 for an order pooling all mineral interests in the Undesignated Pitchfork Ranch Morrow Gas Pool underlying the S/2 of Section 34, Township 24 South, Range 34 East, NMPM, Lea County, New Mexico, forming a standard 320-acre gas spacing and proration unit for said pool and the Undesignated Pitchfork Ranch Atoka Gas Pool underlying the SE/4 of said Section 34, forming a non-standard 160-acre gas spacing and proration unit for said pool, both aforementioned units to be dedicated to a single well to be drilled at a location which is standard for the proposed Morrow unit and unorthodox for the proposed Atoka unit, 660 feet from the South line and 1980 feet from the East line (Unit O) of said Section 34, is hereby denied.

(2) All mineral interests, whatever they may be, in the Undesignated Pitchfork Ranch-Atoka Gas Pool and the Undesignated Pitchfork-Morrow Gas Pool underlying the E/2 of Section 34, Township 24 South, Range 34 East, NMPM, Lea County, New Mexico, are hereby pooled to form a standard 320-acre gas spacing and proration unit for both pools, to be dedicated to a well to be drilled at a standard gas well location 1980 feet from the South and East lines (Unit J) of said Section 34.

PROVIDED HOWEVER THAT, the operator of said unit shall commence the drilling of said well on or before the 1st day of January, 1990, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the Undesignated Pitchfork Ranch-Atoka Gas Pool and the Undesignated Pitchfork Ranch-Morrow Gas Pool.

PROVIDED FURTHER THAT, in the event said operator does not commence the drilling of said well on or before the 1st day of January, 1990, Ordering Paragraph No. (2) of this order shall be null and void and of no effect whatsoever, unless said operator obtains a time extension from the Division for good cause shown.

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 Division Director and show cause why Ordering Paragraph No. (2) of this order should not be rescinded.

(3) Midland Phoenix Corporation is hereby designated the operator of the subject well and unit.

(4) After the effective date of this order and within 90 days prior to commencing said well, the operator shall furnish the Division and each known working interest owner in the subject unit an itemized schedule of estimated well costs.

(5) Within 30 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 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.

(6) The operator shall furnish the Division and each known working interest owner an itemized schedule of actual well costs within 90 days following completion of the 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 said schedule, the actual well costs shall be the reasonable well costs; provided however, if there is an objection to actual well costs within said 45-day period the Division will determine reasonable well costs after public notice and hearing.

(7) Within 60 days following determination of reasonable well costs, any non-consenting working interest owner who 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.

(8) 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 30 days from the date the schedule of estimated well costs is furnished to him; and

(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 estimated well costs within 30 days from the date the schedule of estimated well costs is furnished to him.

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

(10) $5500.00 per month while drilling and $550.00 per month while producing are hereby fixed as reasonable charges for supervision (combined fixed rates); the operator is hereby authorized to withhold from production the proportionate share of such supervision charges 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.

(11) 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 the terms of this order.

(12) 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.

(13) 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; 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.

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

(15) 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 force-pooling provisions of this order.

(16) 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

WILLIAM J. LEMAY
Chairman and Secretary

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