

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

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**APPLICATION OF ENCANA OIL & GAS (USA) INC.
FOR APPROVAL OF THE PINON UNIT,
CREATION OF A NEW POOL FOR HORIZONTAL
DEVELOPMENT WITHIN THE UNIT AREA, AND
FOR ALLOWANCE OF 330 FOOT SETBACKS
FROM THE EXTERIOR OF THE PROPOSED UNIT,
SAN JUAN COUNTY, NEW MEXICO.**

CASE NO. 15154

**PRONM ENERGY INC., REQUESTED FINDINGS
OF FACT AND CONCLUSIONS OF LAW**

Intervenor ProNM Energy Inc. ("Pro") submits for consideration of the Division in the referenced case the following Findings of Fact and Conclusions of Law and requests their adoption on the issue of setback spacing from the exterior boundaries of the proposed Pinon Unit.

Findings of Fact

1. Encana Oil & Gas (USA), Inc. ("Encana") by its application seeks an order from the Oil Conservation Division approving the 8,005 acres Pinon federal exploratory unit, the creation of a new pool for horizontal wells within the unitized formations of the Unit and specification of a 330 foot well location setback from the exterior boundaries of the Unit.

2. The lands to be included in the proposed Unit consist of the W2 of Section 4, all of Sections 5-10, all of Sections 15-18, Section 21 and W2 Section 22 each in Township 24 North Range 10 West.

3. Pro is an owner of offset lands in Township 25 North Range 10 West and has intervened in this proceeding as concerns the setback issues; it does not oppose formation of the unit or of a pool for horizontal well development.

4. The area of the proposed Unit is governed by Pool Rules for the Mancos Gas Pool and the Bisti Lower Gallup Oil Pool. The Mancos Pool rule was promulgated in 1980 and the Lower Gallup rule in 1957.

5. The Mancos Gas Pool rule specifies a 660' setback from the side boundary of a spacing unit. That is a standard and generally applied set back in San Juan Basin pools.

6. The Bisti Lower Gallup Pool rule as reflected in Oil Conservation Commission Order No. R-1069-B specified 80 acre spacing for oil wells with the well location to be within 100 feet of the center of the spacing unit. That rule remained in place through various subsequent proceedings concerning the pool (Orders R-1069-C, R-1069-D, R-1069-E, R-1068-F). On its own motion in March 1976 the Commission entered Order R-1069-G.

7. The Commission Order R-1069-G provided:

(2) That there is need to amend the Special Pool Rules for the Bisti-Lower Gallup Oil Pool, San Juan County, New Mexico to permit the drilling of a well at any point within a forty acre tract not closer than 330 feet to the outer boundary thereof.

8. The specification of a 40 acre spacing necessarily made unworkable and justified modification of a 660' setback requirement.

9. The circumstances surrounding Order R-1069-G and the 330' setback rule concerning the Bisti-Lower Gallup Pool contemplated vertical wells completed under the techniques that were in common use in 1976.

10. Encana contends that uniformity of setback requirements is desirable for uniformity in operating of the unitized interval and for clarity of reporting production and royalty to the State.

11. Encana provided no technical evidence of the probable impact on offsetting correlative rights by reason of adoption of a decreased 330' setback as opposed to a 660' setback.

12. The record is devoid of any evidence concerning the expected area of drainage by the planned horizontal wells, the expected fracture geometry of the wells, the size and intensity of fracture stimulations of the wells, the permeability and porosity of the Gallup formation, the distance from the exterior boundary of the units where the first of multiple fracture stimulations in the horizontal well laterals will take place, the experience regarding communication with offset acreage and wells with respect to the many existing Gallup horizontal wells developed by Encana, or such other scientific evidence relevant to the probable effect of the limited setback on offsetting, nonunit minerals.

13. The Bisti-Lower Gallup Pool Rule and the circumstances under which a 330' setback was specified for that pool are inapplicable and not analogous to the recently developed horizontal, multiple-stage fracture stimulation completions to be developed by Encana.

14. The uniformity of spacing requirements and ease of reporting advocated by Encana can be achieved by specifying a single 660' setback requirement for the pool sought by the application.

15. Allowance of a 330' setback for Encana's proposed horizontal Gallup formation wells presents a threat of drainage of offsetting minerals and fails to protect correlative rights.

Conclusions of Law

1. One of the primary responsibilities of the Division is "to protect correlative rights . . .". Section 70-2-11, 70-2-17(B), NMSA.

2. The Division is charged with the duty "to determine the limits of any pool producing crude petroleum oil or natural gas of both and from time to time determine the limits." Section 70-2-12(12) NMSA.

3. The Division is charged to "prevent drainage between producing tracts in a pool which is not equalized by counter drainage." Section 70-2-16(C) NMSA.

4. As applicant, Encana had the burden of proof concerning the issue of protection or invasion of correlative rights of other owners and concerning the limits of the proposed oil pool. *Continental Oil Co. v. Oil Conservation Comm.*, 70 N.M. 300, 373 P.2d 809 (1962).

5. Encana not only failed to present any probative evidence on the issues of correlative rights and the pool limits but objected and excluded cross examination of its witnesses on the subjects.

6. The record is devoid of any probative evidence under the statutory standards applicable that supports the reduced setback request.

7. A setback requirement that will protect correlative rights and will satisfy Encana's desire for uniformity of development and reporting is one limiting wells to be located no closer than 660' from the exterior boundaries of the proposed Unit.

8. In the case of oil wells developed on horizontal projects so not dedicated to 40 acres spacing units, the Bisti-Lower Gallup Pool rule should be and by order will be amended to specify that such wells will not be completed closer than 660' to the outer boundary of the Unit.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing ProNM Energy Inc. Requested Findings of Fact and Conclusions of Law was served by electronic service on this 12th day of June, 2014 on the following counsel of record:

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