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April 30, 2007

## HAND-DELIVERED

Ms. Florene Davidson  
New Mexico Oil Conservation Division  
1220 South St. Francis  
Santa Fe, New Mexico 87504

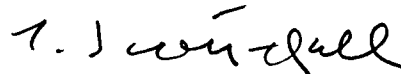
Re: NMOCD Case No. 13957; In the Matter of the Application of Engen Resources Corporation to Amend the Cost Recovery Provisions of Compulsory Pooling Order No. R-1960, Rio Arriba County, New Mexico

Dear Florene:

Enclosed is an Amended Application and a proposed advertisement in hard copy and on disk for the referenced matter. Please schedule the examiner hearing in this matter for July 26, 2007. Thank you for your assistance.

Very truly yours,

MILLER STRATVERT P.A.



J. Scott Hall

JSH/glb  
Enclosures

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2007 APR 30 PM 3 28

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

IN THE MATTER OF THE APPLICATION OF ENERGEN RESOURCES CORPORATION TO AMEND THE COST RECOVERY PROVISIONS OF COMPULSORY POOLING ORDER NO. R-1960, TO DETERMINE REASONABLE COSTS, AND FOR AUTHORIZATION TO RECOVER COSTS FROM PRODUCTION OF POOLED MINERAL INTERESTS, RIO ARRIBA COUNTY, NEW MEXICO

CASE NO. 13957

2007 APR 30 PM 3:03

**AMENDED APPLICATION**

ENERGEN RESOURCES CORPORATION, by its undersigned attorneys, Miller, Stratvert, P.A., (J. Scott Hall) hereby makes application pursuant to NMSA 1978 §70-2-17 (1995) for an order amending the cost recovery provisions of Order No. R-1960 pooling all interests in the Pictured Cliffs formation, (Tapacito-Pictured Cliffs Gas Pool) underlying the SW/4 of Section 2, Township 25 North, Range 3 West, NMPM, Rio Arriba County, New Mexico, forming a standard 160-acre spacing and proration unit. Applicant also seeks authorization to sell a portion or all of the pooled working interest share of production of a non-selling mineral interest owner and to obtain reimbursement of costs therefrom. In support thereof, Applicant would show the Division:

1. On May 5, 1961, pursuant to a hearing held on April 19, 1961 in Case No. 2249<sup>1</sup>, the Division issued Order No. R-1960 pooling certain uncommitted interests in the SW/4 of Section 2 preparatory to the drilling by Southern Union Production Company, ("Supron"), of its Martinez No. 1 well at a standard location in the N/2 SW/4 of said Section 2 to a depth sufficient to test the Pictured Cliffs formation. (*Exhibit 1*, attached.)

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<sup>1</sup> Application of Southern Union Production Company For An Order Force-Pooling A Standard 160-Acre Gas Proration Unit In The Tapacito-Pictured Cliffs Gas Pool, Rio Arriba County, New Mexico.

2. The evidence at the hearing established that the Applicant in that case owned or controlled 100 percent of the available working interest in the N/2 SW/4 of Section 2 and that Applicant sought to pool the remaining interests, including unleased mineral interests, whose owners did not agree to participate in the drilling of the well. The quantum of non-participating interests constituted a relatively small percentage of the interests in the unit. The Commission accordingly granted Supron's request to pool those interests.

3. Subsequent to the hearing and the issuance of Order No. R-1960, Supron drilled and successfully completed the Martinez No. 1 well in the Pictured Cliffs formation. Supron continued to operate the Martinez No. 1 well until approximately July 23, 1982 when Union Texas Petroleum Company acquired the property and became operator of the well. On approximately June 23, 1990, Meridian Oil, Inc. acquired the well and became operator. Meridian was then succeeded as operator by Burlington Resources Oil and Gas Company on July 11, 1996. Taurus Exploration USA, Inc. subsequently acquired the lease and well from Burlington and became operator on August 1, 1997. On October 1, 1998, through a change of name, Taurus became Energen Resources Corporation. Applicant is the current operator of the well.

4. The unnumbered decretal portions of Order No. R-1960 contained the following provisions authorizing the operator to recover the costs of development and operation:

*"PROVIDED FURTHER, That the proportionate share of the costs of development of the pooled unit, including a reasonable charge for supervision, shall be paid out of production by each non-consenting working interest owner and shall be 110 per cent of the same proportion to the total costs of drilling and completing the well that his acreage bears to the total acreage in the pooled unit."*

5. In its compulsory pooling orders, the Division is required by statute to include provisions allowing the operator to be reimbursed for operating expenses and a reasonable charge for supervision:

*“Such pooling order of the division 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...”* NMSA 1978 Section 70-2-17(C).

6. It has been the practice of the Division to retain jurisdiction over its compulsory pooling orders to, among other things, resolve disputes over development and operating costs:

*“In the event of any dispute relative to such costs, the division shall determine the proper costs after due notice to the interested parties and a hearing thereon.”*

*Id.*

7. JAS Oil and Gas Co., LLC, the successor to one of the owner’s whose unleased mineral interests were pooled under Order No. R-1960 has disputed the operator’s entitlement to reimbursement for reasonable operating costs, as wells as supervision costs, and the method for reimbursing such costs.

8. The relevant terms of the 1961 compulsory pooling order do not reflect the cost recovery provisions found in contemporary pooling orders, which typically provide as follows:

*( ) Reasonable charges for supervision (combined fixed rates) are hereby fixed at \$5000 per month while drilling and \$500 per month while producing, provided that these rates shall be adjusted annually pursuant to Section III.1.A.3. of the COPAS form titled “Accounting Procedure-Joint Operations”. The operator is authorized to withhold from production the proportionate share of both the supervision charges and*

*the actual expenditures required for operating the well, not in excess of what are reasonable, attributable to each non-consenting working interest*

9. Applicant proposes the amendment of the cost recovery provisions under the original version of Order No. R-1961 to reflect the current custom and practice of the industry and the Division which allows well operators to recover the costs of operations and supervision and which may be periodically adjustable.

10. Applicant seeks an order amending Order No. R-1961 retroactively by substituting the unnumbered decretal portions of the Order set forth in Paragraph 4, above, with contemporary compulsory pooling cost recovery provisions in substantially the same form as reflected in Paragraph 8, above, and at reasonable rates.

11. In addition to disputing the operator's entitlement to reimbursement for reasonable operating costs and charges, the interest owner referenced in paragraph 7, above, and its predecessors, has failed to take its share of production in-kind or otherwise market or dispose of its working interest share of gas production, and has further refused to permit Applicant and other third parties from marketing or disposing its share. When a party's gas is not sold, the well may be continued to be produced for the benefit of the other interest owners. Gas balancing is then implemented and the account of the non-selling party is deemed to be under-produced.

12. As a consequence of the referenced interest owner's failure and refusal to market its gas, there have been no sales proceeds attributable to its seven-eighths working interest and Applicant has been prevented from deducting that interest owner's share of costs and expenses from production.

13. Simultaneous with its failure and refusal to arrange or permit the sale or disposition of its seven-eighths working interest share of production, the referenced interest

owner has simultaneously demanded payment for eight-eighths. Under circumstances such as these, NMSA 1978 §70-2-17 C does not require that more than one-eighth be paid to an unleased mineral interest owner whose interest is pooled.

14. The failures and refusals of the interest owner to sell its gas, its demands for payment and the inability of the operator to obtain reimbursement for monthly operating expenses frustrate the operation of the agency's compulsory pooling order and circumvent the Oil and Gas Act.

15. Applicant seeks authorization to sell a portion of JAS Oil & Gas Co. LLC's pooled working interest in sufficient amounts to permit Applicant to obtain the prorata reimbursement for such costs and charges the Division determines are proper. Alternatively, Applicant seeks authorization to sell all of the working interest share of production attributable to the JAS working interest and seek appropriate reimbursement from a portion of the proceeds therefrom.

16. The Division has ongoing jurisdiction over its compulsory pooling orders by virtue of the express terms thereof, and pursuant to, *inter alia*, NMSA 1978 §70-2-17 C. The Division also has authority to accord appropriate relief under Rule 414 (NMAC 19.15.6.414: **Gas Sales By Less Than One Hundred Percent Of The Owners In A Well.**)

17. Granting the relief requested will promote the efficient and orderly operation of the subject well, will protect the rights of the operator and the interest owners, will serve to protect correlative rights, prevent waste and is otherwise in the interests of conservation.

WHEREFORE Applicant requests that this Application be set for hearing before a duly appointed examiner of the Oil Conservation Division on July 26, 2007 and that after

notice and hearing as required by law, the Division enter its Order (1) amending Order No. R-1960 to include new provisions reflecting the current custom and practice of the industry and the Division allowing for the prorata reimbursement of the operator's costs of operations and supervision, (2) further authorizing Applicant to sell a portion or all of the production attributable to the pooled working interest of the non-selling mineral interest owner, and (3) making such other provisions as may be proper.

MILLER STRATVERT P.A.

By: J. Scott Hall

J. Scott Hall  
Attorneys for  
Energen Resources Corporation  
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**Case No. 13957: Amended Application of Energen Resources Corporation to Amend the Cost Recovery Provisions of Compulsory Pooling Order No. R-1960, To Determine Reasonable Costs, and for Authorization To Recover Costs From Production Of Pooled Mineral Interests, Rio Arriba County, New Mexico.** Applicant seeks an order amending the cost recovery provisions of Order No. R-1960 pooling all interests in the Pictured Cliffs formation, (Tapacito-Pictured Cliffs Gas Pool) underlying the SW/4 of Section 2, Township 25 North, Range 3 West, forming a standard 160-acre spacing and proration unit. Applicant proposes the amendment of the cost recovery provisions under the original version of Order No. R-1960 to reflect the current custom and practice of the industry and the Division which allows well operators to recover the reasonable costs of operations and supervision. Applicant also seeks authorization to sell a portion or all of the pooled working interest share of production of a non-selling mineral interest owner and to obtain reimbursement of costs therefrom. The lands that are the subject of the application are located approximately one mile west of Ojito, New Mexico.

2007 APR 30 PM 3 02



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. 2249  
Order No. R-1960

APPLICATION OF SOUTHERN UNION  
PRODUCTION COMPANY FOR AN ORDER  
FORCE-POOLING A STANDARD 160-  
ACRE GAS PRORATION UNIT IN THE  
TAPACITO-PICTURED CLIFFS GAS  
POOL, RIO ARriba COUNTY, NEW  
MEXICO.

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing at 9 o'clock a.m. on April 19, 1961, at Santa Fe, New Mexico, before A. L. Porter, Jr., Examiner duly appointed by the Oil Conservation Commission of New Mexico, hereinafter referred to as the "Commission," in accordance with Rule 1214 of the Commission Rules and Regulations.

NOW, on this 5th day of May, 1961, the Commission, a quorum being present, having considered the application, the evidence adduced, and the recommendations of the Examiner, A. L. Porter, Jr., 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, Southern Union Production Company, is the owner and operator of Federal Lease No. NM 014856, comprising the N/2 SW/4 of Section 2, Township 25 North, Range 3 West, NMPM, Rio Arriba County, New Mexico.

(3) That the applicant seeks an order force-pooling all mineral interests in the Tapacito-Pictured Cliffs Gas Pool in the SW/4 of said Section 2, in order to form a 160-acre gas proration unit.

(4) That inasmuch as denial of the subject application would deprive, or tend to deprive, the mineral interest owners in the above-described 160-acre tract of the opportunity to recover their just and equitable share of the hydrocarbons in the Tapacito-Pictured Cliffs Gas Pool, all mineral interests therein should be force-pooled.

(5) That the applicant should furnish the Commission with an itemized schedule of well costs upon completion of a well on the subject gas proration unit.

IT IS THEREFORE ORDERED:

That the interests of all persons having the right to drill for, produce, or share in the production of hydrocarbons from the Tapacito-Pictured Cliffs Gas Pool underlying the SW/4 of Section 2, Township 25 North, Range 3 West, NMPM, Rio Arriba County, New Mexico, are hereby force-pooled to form a standard 160-acre gas proration unit comprising all of said acreage. Said unit is to be dedicated to a well to be located at an orthodox location thereon.

PROVIDED HOWEVER, That the proportionate share of the costs of development and operation of the pooled unit shall be borne by each consenting working interest owner in the same proportion to the total costs that his acreage bears to the total acreage in the pooled unit.

PROVIDED FURTHER, That the proportionate share of the costs of development of the pooled unit, including a reasonable charge for supervision, shall be paid out of production by each non-consenting working interest owner and shall be 110 per cent of the same proportion to the total costs of drilling and completing the well that his acreage bears to the total acreage in the pooled unit.

PROVIDED FURTHER, That the share of the costs for development of the pooled unit, as determined above, which is to be paid by the mineral interest owners shall be withheld only from the working interests' share (7/8) of the revenues derived from the sale of the hydrocarbons produced from the well on the pooled unit. Royalty payments are not to be affected by the withholding of any funds for the purpose of paying out a proportionate share of the costs of development and operation of the pooled unit.

PROVIDED FURTHER, That the applicant shall furnish the Commission with an itemized schedule of well costs upon completion of a well on the subject gas proration unit.

IT IS FURTHER ORDERED:

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

-3-  
CASE No. 2249  
Order No. R-1960

DONE at Santa Fe, New Mexico, on the day and year herein-  
above designated.

STATE OF NEW MEXICO  
OIL CONSERVATION COMMISSION



EDWIN L. MECHEM, Chairman



E. S. WALKER, Member



A. L. PORTER, Jr., Member & Secretary

S E A L

esr/