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W. THOMAS KELLAHIN*

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JASON KELLAHIN (RETIRED 1991)

September 25, 1995

HAND DELIVERED

Mr. Michael E. Stogner
Chief Hearing Examiner
Oil Conservation Division
2040 South Pacheco
Santa Fe, New Mexico 87505

Re: Eubank Well No. 5
NE/4 Section 22, T21S, R37E, NMPM
Application of Zia Energy, Inc.
for Compulsory Pooling,
Lea County, New Mexico

Dear Mr. Stogner:

On behalf of Zia Energy, Inc., please find enclosed our application for compulsory pooling which we request be set for hearing on the Examiner's docket now scheduled for October 19, 1995. Also enclosed is our proposed notice of publication for this case.

By copy of this letter, including the application, to all affected parties, we are notifying them by certified mail-return receipt requested, that they have the right to appear at the hearing, to make a statement to the Division, to present evidence and cross-examine witnesses either in support of or in opposition to the application.

Case 11407

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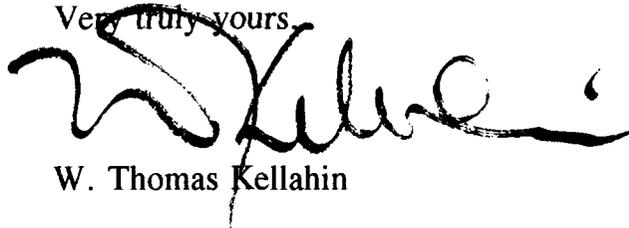
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Oil Conservation Division

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Pursuant to the Division's Memorandum 2-90, all interested parties are hereby informed that if they appear in the case, then they are requested to file a Pre-Hearing Statement with the Division not later than 4:00 pm on Friday, October 13, 1995, with a copy delivered to the undersigned.

Very truly yours,

A handwritten signature in black ink, appearing to read 'W. Thomas Kellahin', written over the typed name below.

W. Thomas Kellahin

Enclosure

cc: Zia Energy, Inc.

BY CERTIFIED MAIL-RETURN RECEIPT REQUESTED

to: parties to be pooled

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SEP 25 1995

Oil Conservation Division

CASE 11407: Application of Zia Energy, Inc. for compulsory pooling, Lea County, New Mexico. Applicant seeks an order pooling all mineral interests from the surface to the base of the San Andres formation underlying the following described acreage in Section 22, T21S, R37E, NMPM, Lea County, New Mexico, and in the following manner: the NW/4NE/4 to form a standard 40-acre oil spacing and proration unit for any and all formations and/or pools developed on 40-acre spacing within said vertical extent, which presently may include but is not necessarily limited to the Undesignated Penrose Skelly-Grayburg Pool; and the NE/4 to form a standard 160-acre gas spacing and proration unit for any and all formations and/or pools within said vertical extent, which presently may include but is not necessarily limited to the Undesignated Hare-San Andres Gas Pool. Said unit(s) is to be dedicated to the plug-back and recompletion of the temporarily abandoned Eubank Well No. 5, located 330 feet from the north line and 2310 feet from the east line of said Section 22. Also to be considered will be the costs of plugging-back and re-completing said well and the allocation of the costs thereof as well as actual operating costs and charges for supervision, designation of applicant as the operator of the well and a charge for risk involved in plugging-back and re-completing said well. Said well is located approximately 1 mile north from Eunice, New Mexico.

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

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SEP 25 1995

Oil Conservation Division

IN THE MATTER OF THE APPLICATION
OF ZIA ENERGY, INC.
FOR COMPULSORY POOLING,
LEA COUNTY, NEW MEXICO.

CASE NO. 11407

APPLICATION

Comes now ZIA ENERGY, INC., by its attorneys, Kellahin & Kellahin, and in accordance with Section 70-2-17(c) (1978) applies to the New Mexico Oil Conservation Division for an order pooling all mineral interests from the surface to the base of the San Andres formation underlying the following described acreage in Section 22, T21S, R37E, NMPM, Lea County, New Mexico, and in the following manner: the NW/4NE/4 to form a standard 40-acre oil spacing and proration unit for any and all formations and/or pools developed on 40-acre spacing within said vertical extent, which presently may include but is not necessarily limited to the Undesignated Penrose Skelly-Grayburg Pool; and the NE/4 to form a standard 160-acre gas spacing and proration unit for any and all formations and/or pools within said vertical extent, which presently may include but is not necessarily limited to the Undesignated Hare-San Andres Gas Pool. Said unit(s) is to be dedicated to the plug-back and recompletion of the temporarily abandoned Eubank Well No. 5, located 330 feet from the north line and 2310 feet from the east line of said Section 22.

In support of its application, Zia Energy, Inc. ("Zia") states:

1. Zia has a working interest ownership in the oil and gas minerals underlying the NE/4 of Section 22, T21S, R37E, NMPM, Lea County, New Mexico including the right to plug-back and recomplete the temporarily abandoned Eubank Well No. 5, located 330 feet from the north line and 2310 feet from the east line of said Section 22 and test for potential production in the San Andres formation and in the Grayburg formation.

2. Zia has proposed to all working interest and unleased mineral owners in the spacing unit(s) a voluntary agreement for their participation in the plug-back and recompletion attempt for the Eubank Well No. 5.

3. Despite its good faith efforts, Zia has been unable to obtain a written voluntary agreement from the interest owners set forth in Exhibit "A" attached.

4. Pursuant to Section 70-2-17(c) NMSA (1978) and in order to obtain its just and equitable share of potential production underlying this spacing unit, Zia needs an order of the Division pooling the identified and described mineral interests involved in order to protect correlative rights and prevent waste.

5. In accordance with the Division's notice requirements, a copy of this application has been sent to the interest party listed in paragraph (8) above notifying it of this case and of the applicant's request for a hearing of this matter before the Division on the next available Examiner's docket now scheduled for October 19, 1995.

WHEREFORE, Zia, as applicant, requests that this application be set for hearing on October 19, 1995 before the Division's duly appointed examiner, and that after notice and hearing as required by law, the Division enter its order pooling the mineral interest described in this spacing unit for the plug-back and recompletion of the subject well at a standard gas well location upon terms and conditions which include:

- (1) Zia Energy, Inc. be named operator;
- (2) The order make provisions for applicant and all working interest owners to participate in the costs of plugging-back, re-completing, equipping and operating the well;
- (3) In the event a working interest owner fails to elect to participate, then provision be made to recover out of

production, the costs of the plug-back, re-completing, equipping and operating the well, including a risk factor penalty of 200 %;

(4) A provision for overhead rates and a method for adjusting those rates in accordance with COPAS accounting procedures;

(5) For such other and further relief as may be proper.

RESPECTFULLY SUBMITTED:

A handwritten signature in black ink, appearing to read 'W. Thomas Kellahin', written in a cursive style.

W. THOMAS KELLAHIN
KELLAHIN & KELLAHIN
P. O. Box 2265
Santa Fe, New Mexico 87501
(505) 982-4285

EXHIBIT "A"

Duer Wagner & Company
3400 City Center, Tower II
301 Commerce Street
Fort Worth, Texas 76102
Attn: Duer Wagner