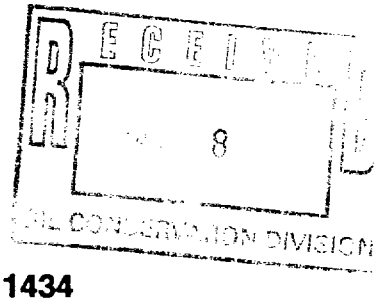
STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION DIVISION



IN THE MATTER OF THE APPLICATION OF MERIDIAN OIL INC. FOR COMPULSORY POOLING AND AN UNORTHODOX GAS WELL LOCATION, SAN JUAN COUNTY, NEW MEXICO - PROPOSED SEYMOUR WELL NO. 7A

CASE NO. 11434

MOTION FOR REHEARING OF COMMISSION'S ORDER OF MARCH 19, 1996

Doyle and Margaret Hartman, d/b/a Doyle Hartman, Oil Operator ("Hartman"), by their undersigned attorneys, and pursuant to NMSA 1978 §§ 70-2-13 and 25(A) (1995 Repl.) and pursuant to Rules 1220 and 1222 of the OCD Rules and Regulations, hereby request that the Oil Conservation Commission reconsider its Order issued March 19, 1996. The Order denied Hartman's Application for De Novo Hearing on and Denial of Meridian's Application and for Withdrawal of Division Order of February 22, 1996.[1] A copy of the Commission's Order is attached as Exhibit A.

Hartman is entitled to de novo review of the Division's February 22, 1996 Order as an adversely affected party of record. Section 70-2-13. The Division, by its February 22 Order, found that it had authority to modify a private pooling agreement between Hartman, Four Star Oil & Gas Co. ("Four Star") and Meridian Oil, Inc. ("Meridian"). The Division held that it had jurisdiction to consider Meridian's application for force pooling under NMSA 1978 § 70-2-17(E) notwithstanding the private pooling

[1] Four Star filed its Application for Hearing de Novo on March 22, 1996 seeking de novo hearing before the Commission. The Four Star Application has not been ruled on.

agreement. A copy of the Division's Order is attached as Exhibit B.

Alternatively, Hartman requests that the Commission withdraw that portion of the Division's February 22, 1996 Order by which the Division found that it may modify the 1953 Operating Agreement between the parties to the extent necessary to prevent waste, and withdraw the Division's holding that it has jurisdiction over the issue presented by the original application of Meridian Oil Inc. ("Meridian") for force pooling as to its proposed Seymour No. 7A well in San Juan County, New Mexico.

As grounds for this Motion, Hartman states as follows:

1. On November 8, 1995, Meridian Oil Inc. ("Meridian") filed its application for compulsory pooling in an unorthodox gas well location. The matter was assigned Case No. 11434. The application sought an order pooling all mineral interests in the Blanco Mesaverde gas pool underlying the E/2 of Section 23, T31 N, R9 W, NMPM, San Juan County, New Mexico. Meridian sought the formation of a standard 320-acre spacing and proration unit, which unit was to be dedicated to Meridian's proposed No. 7A Well to be drilled at an unorthodox gas well location, to test for production from the Mesaverde formation.

2. Meridian, Hartman and Four-Star Oil and Gas Company ("Four-Star") are working interest owners in the E/2 of Section 23. Meridian is the designated operator. Hartman and Four-Star are nonoperating working interest owners.

3. All mineral interests in the Blanco Mesaverde gas pool underlying the E/2 of Section 23 are already voluntarily pooled by virtue of the March 30, 1953

Communitization Agreement as to the E/2 of Section 23. A copy of that agreement was attached to Hartman's Application as Exhibit B. Under the Communitization Agreement, all interest owners pooled their interests in the two separately owned tracts insofar as the Mesaverde formation underlying those lands. The parties also entered into an Operating Agreement on or about April 10, 1953. A copy of that Agreement was attached to Hartman's Application as Exhibit C.

4. Meridian's application was set for hearing and heard on January 11, 1996. Michael Stogner was the hearing examiner for the OCD. The hearing examiner took evidence on land and ownership matters only, and heard argument on the motions to dismiss filed by Hartman and Four-Star. The hearing examiner also heard evidence on the issue of whether Meridian made a reasonable effort to obtain voluntary joinder of all working interest owners for further development in the E/2 of Section 23.

5. On February 22, 1996, the Division entered Order No. R-10545, finding, in pertinent part, as follows:

> Pursuant to Section 70-2-17.E. of said Act [New Mexico Oil & Gas Act] the Division may modify the 1953 Operating Agreement to the extent necessary to prevent waste. The Division therefore has jurisdiction over this matter.

6. The Division also found that Meridian had "failed to make reasonable efforts to adequately obtain voluntary joinder" and dismissed Meridian's application on those grounds. Hartman does not contest this portion of the Order.

7. On March 11, 1996, Hartman filed an Application to the Commission

requesting a de novo hearing regarding the Division's finding that it had authority to modify a private agreement under the force pooling statute and jurisdiction under NMSA 1978 § 70-2-17(E) to force pool the interest owners in the affected proration unit in Section 23. Hartman incorporates the arguments set out in the Application herein by reference, and will not repeat them in detail here. The Division has no authority to force pool interests under § 70-2-17(E) which are already pooled by private agreement. The jurisdictional determination by the Division was inconsistent with established OCD precedent and gives Meridian preferential treatment.

8. Since the original hearing in January, 1996, Meridian has given notice of its intention to refile its application and seek force pooling of the interest owners in Section 23. Meridian has relied upon the Division's finding that it has jurisdiction and authority to force pool in ongoing negotiations with Hartman. See letter attached hereto as Exhibit C.[2]

9. On March 19, 1996, the Commission entered a ruling denying Hartman's request for a de novo hearing as follows:

> The New Mexico Oil Conservation Commission does not set for de novo hearing cases that were dismissed unless requested by the party whose case was dismissed. Hartman and Four Star both moved to dismiss Meridian's application which motion was granted based upon Meridian's failure to undertake reasonable

[2] Hartman has consistently stated that Meridian can drill its proposed Seymour Well No. 7A, it simply must do so under the terms of the parties' pooling agreement. Hartman has proposed a property trade designed to resolve a number of matters pending between Hartman and Meridian but has received no response. See letters attached as Exhibit D.

> efforts to obtain voluntary joinder of their respective interests in drilling the proposed infill well. With the dismissal of Case No. 11434, there is no case before the Division in which the Division has asserted jurisdiction. Therefore your application for a de novo hearing regarding this matter is denied.

10. NMSA 1978 § 70-2-13 provides, in pertinent part, as follows:

> When any matter or proceeding is referred to an examiner and a decision is rendered thereon, any party of record adversely affected shall have the right to have the matter heard de novo before the Commission upon application filed with the Division within thirty days from the time any such decision is rendered. (Emphasis added).

11. The Commission is a creature of statute and has only such authority as is granted it by the Legislature. Continental Oil Company v. Oil Conservation Commission, 70 N.M. 310, 373 P.2d 809 (1962). Section 70-2-13 does not give the Commission discretion to determine whether it will or will not entertain an application for de novo review by a party adversely affected by a Division examiner's decision. The statute does not limit the right to request a de novo hearing to a party whose case was dismissed. The statute mandates that the Commission hold a de novo hearing on Hartman's Application.

12. The Commission's March 19, 1996 ruling does not include any determination as to Hartman's status as a party adversely affected by the Division's February 22, 1996 Order. By its ruling, the Commission has allowed to stand the Division's determination that it has jurisdiction and authority to consider Meridian's original

force pooling application. Thus, the Commission's denial of Hartman's Application is not neutral but effectively affirms the Division's erroneous jurisdictional determination.

13. Hartman is a party adversely affected by the Division's February 22, 1996 Order. The Order has resolved an issue that was presented to the Division, briefed by the parties, and argued at the hearing on the Division's jurisdiction and authority to force pool under the circumstances presented by Meridian's application. The Division's determination was adverse to Hartman. Meridian has relied upon that determination in ongoing negotiations with Hartman, and has indicated its intention to refile its application in reliance on the Division's finding that it has jurisdiction and authority to consider a force pooling application under the facts presented here.

14. Had the Division simply dismissed Meridian's application for failure to undertake reasonable efforts to negotiate an agreement with Hartman and Four-Star, the Commission's decision denying the application for de novo hearing would be correct. In that event, there would be no adverse finding of record. However, given the Division's decision to enter a finding on and resolve the jurisdictional and authority issue, Hartman is a party adversely affected by the Division's February 22, 1996 ruling and is entitled to a de novo hearing by statute.

15. In allowing the Division's jurisdictional determination to stand without affording Hartman a de novo hearing and an opportunity to be heard, the Commission has violated NMSA 1978 § 70-2-13 (1995 Repl.) and has deprived Hartman of due process rights. Uhden v. New Mexico Oil Conservation Commission, 112 N.M. 528, 817

P.2d 721 (1991).

16. Even if the Commission had discretion under the statute to determine whether or not to grant a hearing under these circumstances, which is denied, the Commission should grant a de novo hearing so that the jurisdictional issue can be resolved at an early stage in these proceedings.

17. The jurisdictional issue presented by Hartman's Application has policy implications not only for this case, but for other OCD proceedings. Resolution of the jurisdictional issue now by the Commission in Hartman's favor would save administrative resources as well as the resources of the private parties involved in this proceeding. If the Commission determines that the Division has no authority or jurisdiction to force pool under the facts presented by Meridian's original application, there would be no basis for Meridian to refile its application. The Division would not need to hold an unnecessary examiner hearing on the application Meridian has promised to refile.

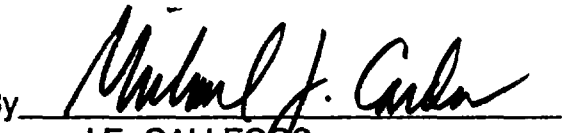
18. The Commission could avoid the statutory violations and constitutional infirmities resulting from its March 19, 1996 Order by simply withdrawing that part of the February 22, 1996 Order which (a) finds that the Division has the authority to modify private parties' private pooling agreement, and (b) holds that the Division has jurisdiction to entertain Meridian's application for force pooling under the facts of this particular case. The Division should be ordered to reconsider the issue when Meridian refiles its application.

WHEREFORE, Hartman respectfully requests that the Commission

reconsider its March 19, 1996 decision and schedule this matter for de novo hearing before the Commission at the Commission's earliest convenience. Alternatively, at a minimum, Hartman requests that the Commission withdraw that portion of the Division's February 22, 1996 Order which found that the Division has authority and jurisdiction under Section 70-2-17(E) to entertain Meridian's force pooling application as to the proposed Seymour No. 7A well in Section 23 and order that the Division reconsider the issue when Meridian refiles its application.

Respectfully submitted,

GALLEGOS LAW FIRM, P.C.

By 

J.E. GALLEGOS
MICHAEL J. CONDON
460 St. Michael's Drive, Bldg. 300
Santa Fe, New Mexico 87505
(505) 983-6686
Attorneys for Hartman

CERTIFICATE OF SERVICE

I hereby certify that I have caused a true and correct copy of the foregoing to be hand-delivered on this 28th day of March, 1996 to the following:

Tom Kellahin
117 N. Guadalupe
Santa Fe, NM 87501

William F. Carr
Post Office Box 2208
Santa Fe, NM 87504-2208

MICHAEL J. CONDON

NEW MEXICO ENERGY, MINERALS
& NATURAL RESOURCES DEPARTMENT

2040 South Pacheco Street
Santa Fe, New Mexico 87505
(505) 827-7131

March 19, 1996

J. E. Gallegos
Michael J. Condon
Gallegos Law Firm
460 St. Michael's Drive-Building 300
Santa Fe, NM 87505

RE: Application of Doyle Hartman and Margaret Hartman dba Doyle Hartman, Oil Operator, for de novo hearing and partial withdrawal of Division Order R-10545 entered in Case No. 11434

Dear Messrs. Gallegos and Condon:

Reference is made to the above-described application. The New Mexico Oil Conservation Commission does not set for de novo hearing cases that were dismissed unless requested by the party whose case was dismissed. Hartman and Four Star both moved to dismiss Meridian's application which motion was granted based upon Meridian's failure to undertake reasonable efforts to obtain voluntary joinder of their respective interests in drilling the proposed infill well. With the dismissal of Case No.11434, there is no case before the Division in which the Division has asserted jurisdiction. Therefore your application for a de novo hearing regarding this matter is denied.

Sincerely,

William J. LeMay
Director

WJL/sm

cc: W. Thomas Kellahin - Attorney for Meridian Oil Inc.
William F. Carr - Attorney for Four Star Oil and Gas Company
Doyle Hartman, Oil Operator
Michael Stogner - OCD
Rand Carroll - OCD

Exhibit A

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

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

CASE NO. 11434
ORDER NO. R-10545

APPLICATION OF MERIDIAN OIL, INC. FOR COMPULSORY POOLING AND AN UNORTHODOX GAS WELL LOCATION, SAN JUAN COUNTY, NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on January 11, 1996, at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this 22nd day of February, 1996, the Division Director, having considered the record and the recommendations of the Examiner, and being fully advised in the premises,

FINDS THAT:

(1) Due public notice having been given as required by law, the Division has jurisdiction of this cause and the subject matter thereof.

(2) The applicant, Meridian Oil, Inc. ("Meridian"), seeks an order pooling all mineral interests in the Blanco-Mesaverde Pool underlying an existing 313.63-acre gas spacing and proration unit comprising Lots 1, 2, 7, 8, 9, 10, 15, and 16 (the E/2 equivalent) of Section 23, Township 31 North, Range 9 West, NMPM, San Juan County, New Mexico, for the drilling and completion of its proposed Seymour Well No. 7-A to be drilled at an unorthodox infill gas well location 1,615 feet from the South line and 2,200 feet from the East line (Unit J) of said Section 23.

(3) Said unit is currently dedicated to Meridian's Seymour Well No. 7 (API No. 30-045-10597), located at a standard gas well location 1,170 feet from the North line and 970 feet from the East line (Lot 1/Unit A) of said Section 23.

mgc

(4) By New Mexico Oil Conservation Commission ("Commission") Order No. 799, dated February 25, 1949, the Blanco-Mesaverde Pool was created, defined, and 320-acre spacing was established therefor. By Order No. R-128-C, issued on December 16, 1954 the Commission instituted gas prorationing in the Blanco-Mesaverde Pool to be made effective March 1, 1955. By Order No. R-1670-T, dated November 14, 1974, the rules governing the Blanco-Mesaverde Pool were amended to permit the optional "infill drilling" of an additional well on each 320-acre gas spacing and proration unit within the Blanco-Mesaverde Pool.

(5) Prior to the hearing Doyle Hartman and Margaret Hartman, doing business as Doyle Hartman, Oil Operator ("Hartman"), who own a 12.500% working interest in the subject acreage, filed a motion to dismiss this case. By letter dated January 8, 1996 the Division denied Hartman's request and this matter remained on the Division's docket for the immediate hearing.

(6) At the time of the hearing Hartman and Four Star Oil & Gas Company ("Four Star") again requested that this matter be dismissed on the grounds that the subject acreage is currently subject to an Operating Agreement and a Communitization Agreement that have been in effect since 1953 and that Meridian failed to undertake reasonable efforts to obtain voluntary joinder of their respective interests in drilling the proposed infill well.

(7) Meridian was allowed to present testimony on land and ownership matters in this case, which indicates that:

(a) the E/2 equivalent of said Section 23 consists of two separate Federal oil and gas leases, each dated May 1, 1948, with:

(i) tract 1 comprising the NE/4 equivalent of said Section 23 issued to John C. Dawson; and,

(ii) tract 2 comprising the SE/4 equivalent of said Section 23 issued to Claude A. Teel;

(b) on March 30, 1953 a communitization agreement was made for the E/2 equivalent of said Section 23 between Southern Union Gas Company, Meridian's predecessor in interest and as operator of the Seymour Well No. 7, and Skelly Oil Company, Four Star's predecessor in interest;

(c) on April 10, 1953, the working interest owners in the E/2 equivalent of said Section 23 entered into an operating agreement which:

(i) provided for the drilling of the Seymour Well No. 7 in Unit "A" of said Section 23;

(ii) designated Southern Union Gas Company operator of the unit;

(iii) governs operations in the Mesaverde formation in the E/2 equivalent of said Section 23; and,

(iv) binds the successors and assigns of the original parties; and,

(d) on November 10, 1953 Southern Union Gas Company spudded the Seymour Well No. 7 and completed it as a producing Mesaverde gas well to which the E/2 equivalent of said Section 23 was dedicated.

(8) By letters dated January 27 and April 12, 1993 Meridian advised all working interest owners within this 320-acre unit that the 1953 Operating Agreement did not contain any subsequent well provisions and therefore proposed a new Joint Operating Agreement for the drilling of an "infill" Blanco-Mesaverde well in the SE/4 equivalent of said Section 23.

(9) Meridian by letter dated October 31, 1995 renewed its request for a voluntary agreement of the working interests for the drilling of the proposed infill well. Eight days later by letter dated November 8, 1995 Meridian filed with the Division its application to force pool this acreage for the Seymour Well No. 7-A.

(10) *It is both Four Star's and Hartman's position that pursuant to Section 70-2-17.C of the New Mexico Oil & Gas Act of N.M.S.A. 1978 the owners of Mesaverde rights in the E/2 equivalent of said Section 23 have a voluntary agreement in place and that the Division may not force pool this acreage.*

FINDING: Pursuant to Section 70-2-17.E. of said Act the Division may modify the 1953 Operating Agreement to the extent necessary to prevent waste. The Division therefore has jurisdiction over this matter.

(11) Meridian, however, failed to make reasonable efforts to adequately obtain voluntary joinder of all working interests for further development of this acreage prior to filing its application, see Finding Paragraph (9), above; therefore, this case should be dismissed at this time.

IT IS THEREFORE ORDERED THAT:

Case No. 11434 is hereby dismissed.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

WILLIAM J. LEMAY
Director

SEAL

MERIDIAN OIL
A Subsidiary of BURLINGTON RESOURCES

via Certified Mail

RECEIVED
JAN 30 1996
BY:

January 25, 1996

Mr. Doyle Hartman
3811 Turtle Creek Blvd., Ste. 730
Dallas, TX 75219

RE: Infill Mesaverde Well Proposal
Seymour #7A Well
E/2 Sec. 23, T31N, R9W
San Juan County, New Mexico

Dear Mr Hartman:

On behalf of Meridian Oil Inc., and in accordance with the decision made on January 12, 1996, by Examiner Michael E. Stogner of the New Mexico Oil Conservation Division in Case 11434, I wish to provide you with an additional opportunity to participate on a voluntary basis (either join or non-consent) in the Mesaverde Infill Well for the referenced spacing unit which was proposed by my letter to you dated October 31, 1995.

As your attorney may have told you, the Division rejected your argument that the 1953 Operating Agreement precluded the Division from exercising compulsory pooling authority but accepted your argument that you had not been provided sufficient time to accept Meridian's October 31, 1995 proposal. Examiner Stogner has directed that the parties shall have until March 11, 1996 to reach a voluntary agreement and if not, then the Division will resolve this matter pursuant to its compulsory pooling authority.

If you now agree with our proposal, please execute the JOA submitted by letter dated October 31, 1995 and return to my attention two (2) executed signature pages with acknowledgments, along with your signature on our proposed AFE.

In the alternative, if you disagree with our proposal, we would appreciate receiving your complete response no later than February 15, 1996 so that we will have sufficient time to study your response and to reply before the March 11, 1996 deadline. Your attorney advised the Division that he intended to call Mrs. Dana Delventhal as an expert witness on your behalf concerning Meridian's proposal AFE and the risk involved in this well. While we provided your attorney with a copy of all of our proposed exhibits, we were not provided with any of yours. Accordingly, we would appreciate you providing us with a copy of your proposed exhibits including those of Mrs. Delventhal, so that we may consider and reply to any objections you have to our well proposal.

If you have any questions, please do not hesitate to call me at (505) 326-9757.

Very truly yours,

Alan Alexander
Senior Land Advisor

AA/cj
NM-9435

Exhibit C

P.O. Box 4289, Farmington, New Mexico 87499-4289, Telephone 505-326-9700, Fax 505-326-9833
3535 East 30th St., 87402-8891

DOYLE HARTMAN
Oil Operator
3811 TURTLE CREEK BLVD., SUITE 730
DALLAS, TEXAS 75219

(214) 520-1800
(214) 520-0811 FAX

January 30, 1996

VIA: FEDERAL EXPRESS

Alan Alexander, Senior Land Advisor
Meridian Oil, Inc.
3535 East 30th Street
Farmington, New Mexico 87402-8891

Re: Proposed Infill Well:
Seymour #7A
E/2 Section 23, T-31-N, R-9-W
San Juan County, New Mexico

Gentlemen:

We are in receipt today of Meridian's letter to us dated January 25, 1996 (copy enclosed), regarding Meridian's proposed Seymour No. 7A Mesa Verde infill gas well to be located in the E/2 Section 23, T-31-N, R-9-W, San Juan County, New Mexico.

Although your January 25, 1996 letter to us you made several representations regarding the position of the NMOCD pertaining to the proposed Seymour No. 7A well, your letter contained no actual documentation of what you purport to be the NMOCD's official position on this matter.

So as to set the record straight, it is not our position that the NMOCD cannot authorize the drilling of an infill well on the subject 320 acre tract. We fully recognize that the NMOCD has the authority, through the issuance of infill orders, to authorize the drilling of infill wells, but, contrary to your letter, and absent supporting case law to the contrary, I do not believe that the NMOCD has the authority to modify or nullify, for the benefit of Meridian, a valid existing operating agreement between the various owners of the E/2 Section 23. Therefore, as to any infill well that the NMOCD authorizes Meridian to drill in the E/2 Section 23, such newly authorized well still must be drilled in accordance with the accounting and penalty provisions of the valid and binding 1953 Operating Agreement covering the entire E/2 Section 23.

If Meridian desires to proceed with the drilling of it's proposed infill well in accordance with the terms of the subject 1953 operating agreement covering the E/2 Section 23, we have no objection whatsoever with Meridian immediately proceeding with the drilling of it's proposed Seymour No. 7A infill well.

However, if Meridian does not wish to proceed with the drilling of it's proposed infill well in accordance with the terms of the currently valid 1953 Operating Agreement, we respectfully request that Meridian promptly furnish us with sufficient engineering, geological, and economic information to justify the drilling of the subject well. If, after Meridian has furnished the requested information, we do not desire to participate in the drilling of the subject well, we will be more than willing to attempt to negotiate with Meridian a voluntary agreement that will make Meridian more comfortable about proceeding with the drilling of it's proposed infill well.

Very truly yours,

DOYLE HARTMAN

Doyle Hartman

DH/jb
Enclosure
wd2:ocd1307A-7

Exhibit D

MJC
JEG

cc: Mr. Michael Stogner
New Mexico Oil Conservation Division
2040 South Pacheco
Santa Fe, New Mexico 87505

William J. LeMay, Director
Energy & Minerals Department
Oil Conservation Division
P.O. Box 2088
Santa Fe, New Mexico 87504-2088

Mr. James A. Davidson
P.O. Box 494
Midland, Texas 79702

Mr. Steve Hartman
500 North Main
Midland, Texas 79702

Mr. Gene Gallegos
Gallegos Law Firm
460 St. Michaels Drive
Building 300
Santa Fe, New Mexico 87505

Michael Condon
Gallegos Law Firm
460 St. Michaels Drive
Building 300
Santa Fe, New Mexico 87505

Mr. Don Mashburn
500 North Main
Midland, Texas 79702

DOYLE HARTMAN
Oil Operator

VIA FEDERAL EXPRESS

March 4, 1996

Mr. Alan Alexander
Senior Land Advisor
Meridian Oil, Inc.
3535 East 30th Street
Farmington, NM 87402

Re: Meridian Oil, Inc.
Compulsory Pooling Application
Seymour "Com" No. 7A
E/2 Sec. 23, T-31-N, R-9-W
Blanco Mesa Verde Pool
(320 acres)

Gentlemen:

Reference is made to Meridian's application to the NMOCD for the drilling of its proposed Seymour "Com" No. 7A Blanco Mesa Verde infill gas well and to its application to the NMOCD to compulsory pool all interest owners under the already communitized E/2 Section 23, T-31-N, R-9-W, San Juan County, New Mexico. Reference is also made to my letter to Meridian of January 30, 1996 and to your reply to us dated February 20, 1996 (received February 28, 1996), both regarding Meridian's proposed Seymour "Com" No. 7A infill well and compulsory pooling application.

We again acknowledge Meridian's right, if it so insists, to immediately proceed with the drilling of its proposed Seymour "Com" No. 7A infill well, but because such immediate drilling constitutes "waste", as defined in the New Mexico Oil and Gas Act, due to the current soft demand (relative to available supply) for San Juan Basis gas, we must emphasize that any new drilling, as to the already communitized 320-acre tract, be performed under the valid and currently existing terms and provisions of that certain March 30, 1953 Communitization Agreement and April 10, 1953 Operating Agreement, as well as in accordance with the spirit of applicable past orders and precedent of the NMOCD.

200 TURTLE CREEK CENTRE / 3811 TURTLE CREEK BLVD / DALLAS, TEXAS 75219-4421
(214) 520-1800 (214) 520-0811 FAX

As previously documented, the E/2 Section 23, T-31-N, R-9-W was initially communitized almost 43 years ago, as to all minerals in the Blanco Mesa Verde interval, by that certain Communitization Agreement dated March 30, 1953, the terms of which were approved on July16, 1953, by Arthur A. Baker, Acting Director of the United States Geological Survey, acting on behalf of the United States of America as a royalty owner under the two separate 160-acre tracts (NE/4 Section 23 and SE/4 Section 23) making up the subject 320-acre unit. On April 10, 1953, a companion operating agreement was also entered into between the parties so as to "... provide for the economical [unwasteful] and joint operation of said unit..." The "term" of the companion operating agreement was for "... as long as the communitization agreement herein above described shall remain in force and effect..." No subsequently approved termination agreement has been entered into between the separate interest owners under the E/2 Section 23, T-31-N, R-9-W, and the subject Communitization Agreement (BLM Contract No. NM-73195) continues to be recognized by the BLM as an active communitization agreement.

One very important and thoughtful provision of the March 30, 1953 Communitization Agreement reads as follows:

> "...The communitized area shall be developed and operated as an entirety with the understanding and agreement between the parties hereto that all communitized substances produced therefrom shall be allocated among the leaseholds comprising said area in the proportion that the acreage interest of each leasehold bears to the entire acreage interest committed to this agreement (emphasis added)..."

The Communitization Agreement further guarantees:

> ..."There shall be no obligation on the lessees to offset any dry gas well or wells completed in the same formation as covered by this agreement on separate component tracts into which the communitized area is now or may hereafter be divided (emphasis added)..."

In recognition of the foregoing, at this time, due to soft San Juan Basin gas prices, Meridian's proposed infill well and corresponding compulsory pooling application represent a direct violation of the original promise made to the Seymour "Com" working interest owners that the communitized tract would be developed and operated as an entirety in an economical (unwasteful) manner, and that there shall be no "mandatory" requirement placed on the lessees (working interest owners) to drill more than one Blanco Mesa Verde well on the subject 320-acre proration unit, unless unanimously approved by all working interest owners.

In addition to the foregoing, both the Seymour Communitization Agreement and companion Operating Agreement also provide that the communitization and operating agreements ... "shall be subject to all valid and applicable State and Federal laws, rules, regulations and orders, and the operations conducted hereunder shall be performed in accordance with said laws, rules, regulations and orders..." Although the NMOCD's blanket Blanco Mesa Verde infill order (R-1670-T) does permit the drilling of an "optional" or second Mesa Verde gas well on an existing 320-acre proration unit, the blanket order does not require the drilling of a second well, but only allows for the drilling of an "optional" well at the discretion of the unit working interest owners, in accordance with previously agreed-to provisions of applicable communitization and operating agreements. In Order R-1670-T, the NMOCD clearly recognized that there existed numerous long standing Blanco Mesa Verde contractual relationships and found "...that to change the unit size now in said pool would disturb the equities under many of the existing proration units (emphasis added)..."

Likewise, Meridian's application to compulsory pool the already communitized 320-acre Seymour "Com" proration unit would disturb long established equities as to the E/2 Section 23, T-31-N, R-9-W and, in addition, would also be contrary to other applicable NMOCD rulings. In one case that is directly on point (Case 8606/Order R-8013 (copy enclosed)), to which case and order Meridian has subsequently become subject, Doyle Hartman (at a time of strong $3.00/MCF wellhead gas pricing) made application to the NMOCD for the compulsory pooling of the working interest owners under the NW/4 Section 8, T-24-S, R-37-E, Lea County, New Mexico, which application was made for the purpose of drilling the badly needed E.E. Jack No. 5 infill Jalmat gas well. In Order R-8013, the NMOCD found:

> 12) Because of a lack of evidence to the contrary, it appears that the "Agreements" are current binding operating agreements for the subject proration unit, having provisions governing those issues to be addressed in compulsory pooling cases obviating the need for a such a hearing in this case.
>
> (13) The compulsory pooling portion of this application should be denied.
>
> (14) The simultaneous dedication portion of this application should be approved, provided the proposed new well is drilled under the provisions of the Agreements."

As successor in interest to Doyle Hartman, Meridian has continued to operate the E.E. Jack No. 5 infill well subject to the provisions of R-8013 and, as a result, should be familiar with the established NMOCD policy that compulsory pooling applications shall be denied in those cases "...where there are current binding operating [communitization] agreements for the subject

proration unit, having provisions governing those issues to be addressed in compulsory pooling cases..." As a result, and in light of the documented current over supply of San Juan Basis gas, Meridian's Seymour compulsory pooling application must be interpreted as a knowing and further attempt to circumvent the provisions of the Seymour communitization and operating agreements since Meridian's Seymour application is clearly contrary to policy previously established by the NMOCD in Order R-8013 and subsequently accepted by and acquiesced to by Meridian.

However, notwithstanding the foregoing, but in an attempt to reach a prompt and amicable resolution of this matter, we again ask that Meridian furnish sufficient economic justification to show why Meridian must promptly proceed with the immediate drilling of its proposed Seymour 7A Mesa Verde infill well, especially when there is no offset drainage problem, but there does exist a soft market for San Juan Basin gas and corresponding unfavorable San Juan net-back wellhead gas pricing, as documented by the enclosed "Albuquerque Journal" article. Therefore, we request that Meridian furnish adequate documentation that economically justifies the immediate drilling of the proposed Seymour No. 7A well, as compared to waiting until a more favorable date when market demand for San Juan gas has improved and San Juan Basin net-back gas pricing has increased thereby justifying the substantial investment required to drill a new infill well.

Furthermore, because the 320-acre Seymour "Com" proration unit does possess future development potential and recognizing that market demand for San Juan gas will undoubtedly increase and pricing will improve, we do not desire to sell or farmout our interest at this time. However, we are willing to seriously entertain a fair exchange of our Seymour interest for an acceptable Meridian interest in Lea County, and if Meridian wishes to pursue such a resolution, please promptly let us know.

In the absence of Meridian's consideration of the foregoing sincere suggestions (postpone drilling until netback prices improve or agree to an exchange of property), we again state our objection to Meridian's attempt to confiscate our Seymour interest by attempting to circumvent the explicit terms of the binding Seymour Communitization Agreement and Operating Agreement and urge that Meridian only proceed with the drilling of its proposed Seymour "Com" No. 7A infill well under the provisions of the Seymour communitization and operating agreements, which course of action also corresponds to NMOCD precedent set forth in NMOCD Order R-8013.

Sincerely,

DOYLE HARTMAN, Oil Operator

Doyle Hartman

Enclosures (4)
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