RECEIVED

APR 18 1990

OIL CONSERVATION DIVISION

BEFORE THE

OIL CONSERVATION DIVISION

NEW MEXICO DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES

IN THE MATTER OF THE APPLICATION OF
ENRON OIL & GAS COMPANY FOR
COMPULSORY POOLING, A NON-STANDARD
SPACING OR PRORATION UNIT AND AN
UNORTHODOX GAS WELL LOCATION,
LEA COUNTY, NEW MEXICO.

CASE NO. 9669

APPLICATION

The Applicant, ENRON OIL & GAS COMPANY (hereinafter referred to as "Enron"), through its undersigned attorneys, hereby makes application to the Oil Conservation Division, pursuant to the provisions of N.M.S.A. § 70-2-17, for an order pooling all of the minerals interests in the Morrow formation in and under the S/2 of Section 34, Township 24 South, Range 34 East, N.M.P.M., Lea County, New Mexico, and pooling all of the mineral interests in the Atoka formation in and under the SE/4 of said Section 34. Applicant also seeks approval of a non-standard 160-acre spacing or proration unit in the Atoka formation to be comprised of the SE/4 of Section 34 and approval of an unorthodox well location in the Atoka formation 660 feet from the South line and 1980 feet from the East line of Section 34. In support o this application, Enron states:

1. Applicant owns 62.77% of the working interest in and under the S/2 of Section 34 and 58.67% of the working interest in the SE/4 of Section 34 and Enron has the right to drill thereon.

2. Applicant proposes to dedicate the above-referenced pooled units to a well to be drilled at a point 660 feet from the South line and 1980 feet from the East line of Section 34 to a depth to test all formations to the base of the Morrow formation.

3. Applicant has sought and been able to obtain either voluntary agreement for pooling or farmout from all other interest owners in the acreage to be pooled in Section 34, except those interest owners set out on Exhibit "A" to this application.

4. In order for the Applicant to obtain its just and fair share of the oil and gas underlying the subject lands, the mineral interests should be pooled, and Applicant should be designated operator of the well to be drilled.

5. Enron also seeks the establishment of a 160-acre non-standard spacing or proration unit in the SE/4 of Section 34 for production from the Atoka formation and approval of an unorthodox location for said well in the Atoka.

6. The proposed well will be at a standard location in the Morrow formation but, due to the Atoka non-standard spacing or proration unit, the well's location will be unorthodox in that formation.

7. Said pooling of interests, the creation of a 160-acre non-standard Atoka spacing or proration unit in the Atoka and approval of the proposed well's unorthodox location in the Atoka will be in the best interest of conservation, the prevention of waste and the protection of correlative rights.

WHEREFORE, Applicant requests that this application be set for hearing before a duly appointed Examiner of the Oil Conservation Division on May 10, 1989, and that after notice and hearing as required by law, the Division enter its order (1) pooling the lands, including provisions for Applicant to recover its costs of drilling, equipping and completing the well, its costs of supervision while drilling and after completion, including overhead charges, and imposing a risk factor for the risk assumed by the Applicant in drilling, completing and equipping the well, (2) approving a non-standard 160-acre non-standard spacing or proration unit in the Atoka formation comprised of the SE/4 of Section 34, (3) approving the proposed well's unorthodox location and (4) making such other and further provisions as may be proper.

Respectfully submitted,

CAMPBELL & BLACK, P.A.

By: _____
WILLIAM F. CARR
Post Office Box 2208
Santa Fe, New Mexico 87504
Telephone: (505) 988-4421

ATTORNEYS FOR ENRON OIL
& GAS COMPANY

Richard Lyons Moore
Michael Harrison Moore
Richard L. Moore, Independent
Executor of The Estate of Stephen Scott Moore
P. O. Box 1733
Midland, Texas 79702

J. Hiram Moore, Ltd.
310 W. Wall, Suite 404
Midland, Texas 79701

Willie Margaret Lain Baird,
Louise B. Thompson and Kathy Pearson
P. O. Box 297
Seminole, Texas 79360

Robert E. Landreth and wife, Donna P.
505 N. Big Spring, Suite 507
Midland, Texas 79701

Alan Jochimsen
2402 Cimmaron
Midland, Texas 79705

Shanee Oil Company
Attn: Charles R. Tierce
310 W. Texas, Suite 424
Midland, Texas 79701

Boley B. Embrey
303 W. Wall
1200 First Republic Bank Tower
Midland, Texas 79701

David L. Schmidt
P. O. Box 1511
Midland, Texas 79702

David H. Pace
P. O. Box 2136
Midland, Texas 79702

Midland Phoenix Corporation
Hightower Building
600 W. Illinois, Suite 1002
Midland, Texas 79701
ATTN: Mr. Tim Dicey,
President

Exhibit "A"

CAMPBELL & BLACK, P.A.
LAWYERS

JACK M. CAMPBELL
BRUCE D. BLACK
MICHAEL B. CAMPBELL
WILLIAM F. CARR
BRADFORD C. BERGE
MARK F. SHERIDAN
J. SCOTT HALL
JOHN H. BEMIS
WILLIAM P. SLATTERY
MARTE D. LIGHTSTONE
PATRICIA A. MATTHEWS

JEFFERSON PLACE
SUITE I - 110 NORTH GUADALUPE
POST OFFICE BOX 2208
SANTA FE, NEW MEXICO 87504-2208
TELEPHONE: (505) 988-4421
TELECOPIER: (505) 983-6043

June 2, 1989

HAND-DELIVERED

Mr. Michael E. Stogner
Hearing Examiner
Oil Conservation Division
Department of Energy, Minerals
and Natural Resources
State Land Office Building
Santa Fe, New Mexico 87501

Re: Case 9667: Application of Midland-Phoenix Corporation for Unorthodox Gas Well Location and Compulsory Pooling, Lea County, New Mexico

Case 9669: Application of Enron Oil & Gas Company for Compulsory Pooling, Unorthodox Gas Well Location, Non-Standard Gas Proration Unit, Lea County, New Mexico

Dear Mr. Stogner:

Pursuant to your request at the May 24th Examiner hearing on the above-referenced cases, I am enclosing the following documents for your consideration:

(1) Proposed Order of the Division of Enron Oil & Gas Company granting its application in Case 9669;

(2) Proposed Order of the Division of Enron Oil and Gas Company denying the application of Midland-Phoenix Corporation in Case 9667;

(3) Division Order R-8644-A in which non-standard spacing and proration units were approved by the Commission in the South Shoe Bar-Atoka Gas Pool;

(4) Division Orders R-7817-B and R-7817-B-1 which were entered on an application of TXO Production Corporation for the pooling of certain acreage and the allocation of well costs between zones in which the ownership differed.

Also, enclosed are additional copies of Enron Exhibit 21 which was admitted into evidence at the May 24th hearing in these consolidated cases.

If you need any additional information from Enron to proceed with this matter please advise.

Very truly yours,

WILLIAM F. CARR
WFC:mlh
Enclosures
cc w/enclosures: Mr. Frank Estep
Enron Oil & Gas Company
Ernest L. Padilla, Esq.
W. Thomas Kellahin, Esq.

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. 9667
ORDER NO. R-_____

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

ENRON OIL & GAS COMPANY'S
PROPOSED ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on May 10, and May 24, 1989, at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this _____ day of June, 1989, the Division Director, having considered the testimony, 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, Midland Phoenix Corporation ("Midland Phoenix") seeks an order pooling all mineral interests in the Atoka and Morrow formations underlying the E/2 of Section 34, Township 24 South, Range 34 East, N.M.P.M., Undesignated Pitchfork Ranch-Morrow Gas Pool and Undesignated Pitchfork Ranch Atoka Pool, Lea County, New Mexico, to form a standard 320-acre gas spacing and proration unit for said pool to be dedicated to a well to be drilled at a standard location in the Atoka formation 1980 feet from the South line and 1980 feet from the East line (Unit J) of Section 34.

(3) This case was consolidated for purposes of hearing with Case 9669 which is the application of Enron Oil & Gas Company ("Enron") for compulsory pooling, unorthodox gas well location and non-standard gas proration unit, Lea County, New Mexico.

(4) At the time of hearing, Enron appeared and presented testimony in opposition to the application of Midland-Phoenix.

(5) Although Midland-Phoenix formerly proposed a well in March 1989, Midland-Phoenix did not provide an AFE to Enron or take other steps customary in the industry for proposing a well prior to the time Enron filed its application in Case 9669.

(6) Midland-Phoenix testified that its primary objectives in the E/2 of Section 34 are the Atoka Sand, the Morrow "A" Sand and the Morrow "C" Sand.

(7) Geologic evidence established that no formation under the NE/4 of Section 34 could reasonably be expected to contain commercial reserves,

(8) The HNG Moore "34" Com. #1 Well in the NE/4 of Section 34 (Unit G) had no porosity and no productive potential in the Atoka formation and was production tested and was found to be tight in both the Morrow "A" and "C" zones.

(9) The NE/4 of said Section 34 has been condemned by the HNG Moore 34 Com. #1 Well and cannot reasonably be expected to contribute reserves to the well Midland-Phoenix proposes to drill in the SE/4 of Section 34 on acreage owned by Enron.

(10) Inclusion of the NE/4 of Section 34 in an E/2 spacing unit for either Atoka or Morrow production will result in the dedication of non-productive acreage to the well to be drilled in the SE/4 of said Section 34, and a dilution of the interests of the owners of productive acreage in the SE/4 of Section 34 thereby denying those owners an opportunity to produce their just and equitable share of the reserves under the SE/4 which would impair their correlative rights and should be denied.

IT IS THEREFORE ORDERED THAT:

(1) The application of Midland-Phoenix Corporation for unorthodox gas well location and compulsory pooling, Lea County, New Mexico is hereby denied.

(2) Jurisdiction of this cause is retained for entry of such further orders as the Division may deem necessary.

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

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

WILLIAM J. LeMAY
Director

S E A L

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. 9669
ORDER NO. R-_____

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

ENRON OIL & GAS COMPANY'S
PROPOSED ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on May 10, and May 24, 1989, at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this _____ day of June, 1989, the Division Director, having considered the testimony, 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, Enron Oil & Gas Company ("Enron") seeks an order pooling all mineral interests in the Morrow formation underlying the S/2 of Section 34, Township 24 South, Range 34 East, N.M.P.M., Undesignated Pitchfork Ranch-Morrow Gas Pool, Lea County, New Mexico, to form a standard 320-acre gas spacing and proration unit for said pool, and pooling all mineral interests in the Atoka formation underlying the SE/4 of Section 34, Undesignated Pitchfork Ranch Atoka Gas Pool, Lea County, New Mexico, to form a non-standard 160-acre gas spacing and proration unit for said pool, to be dedicated to a well to be drilled at an unorthodox location in the Atoka formation 660 feet from the South line and 1980 feet from the East line (Unit O) of Section 34.

(3) The applicant has the right to drill and proposes to drill its well at the location described above.

(4) This case was consolidated for purposes of hearing with Case 9667 which is the application of Midland-Phoenix Corporation ("Midland Phoenix") for an unorthodox gas well location and compulsory pooling of the E/2 of said Section 34 and on the motion of Robert E. Landreth, a working interest owner in Section 34, these cases were continued until May 24, 1989 to enable the parties to attempt to negotiate a voluntary agreement for the development of this acreage.

(5) At the time of the hearing, Midland-Phoenix appeared and dismissed its application for an unorthodox well location and presented testimony in opposition to Enron's application.

(6) It cannot be established which party first proposed to develop these formations in Section 34, for although Midland-Phoenix formerly proposed a well in March 1989, Midland-Phoenix did not provide an AFE to Enron or take other steps customary in the industry for proposing the drilling of a well until after Enron filed its application in this case.

(7) Enron testified that its primary objectives in the S/2 of Section 34 are the Morrow Sinatra Sand, the Atoka Reef and the Atoka Sand.

(8) Midland-Phoenix testified that its primary objectives in the E/2 of Section 34 are the Atoka Sand, the Morrow "A" Sand and the Morrow "C" Sand.

(9) The HNG Moore "34" Com. #1 Well in the NE/4 of Section 34 (Unit G) had no porosity and no productive potential in the Atoka formation and was production tested and was found to be tight in both the Morrow "A" and "C" zones.

(10) The NE/4 of said Section 34 has been condemned by the HNG Moore 34 Com. #1 Well and cannot reasonably be expected to contribute reserves to a well to be drilled in the SE/4 of Section 34 at either the location proposed by Enron or by Midland-Phoenix.

(11) The geologic evidence presented by Enron established that no formation in the NE/4 of Section 34 could reasonably be expected to contain commercial reserves in any formation that is the subject of either the Enron or Midland-Phoenix application.

(12) Inclusion of the NE/4 of Section 34 in an E/2 spacing unit for either Atoka or Morrow production will result in the dedication of non-productive acreage to the well to be drilled in the SE/4 of said Section 34, and a dilution of the interests of the owners of productive acreage in the SE/4 of Section 34 thereby denying those owners an opportunity to produce their just and equitable share of the reserves under the SE/4 which would impair their correlative rights.

(13) Creation of a non-standard spacing unit in the Atoka will not impair the correlative rights of the owners in the NE/4 of said Section 34 for the evidence established that there were no producible reserves under that acreage.

(14) There is potential for commercial reserves from the Atoka formation under the SE/4 of Section 34 in the Atoka Sand and the Atoka Reef and a 160-acre non-standard spacing unit in the SE/4 of Section 34 in the Atoka formation should be approved.

(15) Enron has made a reasonable attempt to secure voluntary agreement with the other interest owners in the S/2 of Section 34 for the development of this acreage and the owners of more than 87% of the interests in this acreage have voluntarily agreed to Enron's plan for development.

(16) To avoid the drilling of unnecessary wells, to protect correlative rights, to avoid waste and to afford to the owner of each interest in the S/2 of said Section 34 the opportunity to recover or receive without its just and fair reserves in any formation covered by this order, the subject application of Enron Oil & Gas Company should be approved by pooling all mineral interests, whatever they may be, in the Morrow formation under the S/2 of Section 34 and in the Atoka formation under the SE/4 of Section 34, Township 24 South, Range 34 East, N.M.P.M., Lea County, New Mexico.

(17) Both Enron and Midland Phoenix propose wells on acreage owned by Enron and the geologic evidence presented by Enron at the hearing indicates the well drilled at the location proposed by Enron (1980 feet from the East line and 660 feet from the South line of Section 34) should encounter a greater amount of net pay and porosity within the Morrow and Atoka formations than a well drilled at the location proposed by Midland-Phoenix (1980 feet from the South and East lines of Section 34), thereby increasing the likelihood of obtaining a commercial producing well at Enron's proposed location, and the location proposed by Enron should therefore be approved.

(18) The evidence in this case further shows that Enron is the offset operator in the E/2 of Section 34 and the N/2 of Section 3, Township 25 South, Range 34 East, N.M.P.M., which is the acreage affected by the proposed Atoka location and proration unit.

(19) A well at the proposed location is at a standard set back from the South line of Section 34 (660 feet) and is offset to the South by an Atoka Well 660 feet from the North line of Section 3.

(20) No penalty should be assessed against the production from this well in the Atoka formation for a penalty would authorize drainage from the South which could not be offset with counter drainage thereby impairing the correlative rights of the Atoka interest owners in the SE/4 of Section 34.

(21) The applicant should be designated the operator of the subject well and unit.

(22) Any nonconsenting 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.

(23) Since the interests of the parties are different in each formation, it will be necessary to estimate well costs on the basis of a well to the Atoka formation drilled to 14,250 feet and a well drilled on to 15,800 feet to the Morrow formation.

(24) When the ownership varies between completion formation of a well, the owners in each interval derive some benefit from the drilling of the well.

(25) Looking at only the lower interval, those benefits, exclusive of special equipment or drilling cost attributable to either individual interval, may be defined and quantified by the following logic:

(a) If no hole to a shallower interval would be drilled, the value would be zero.

(b) If the depth to the shallower interval would be an absolute minimum distance above the lower interval, the value would be essentially 50 percent of the well costs.

(c) This concept may be restated that the value of the costs of drilling to the shallower interval to the owners in the lower interval should be a percentage of the costs equal to one-half the percentage derived by dividing the depth to the upper interval by the total depth.

(d) The owners of interest in the deeper interval should be responsible for 100 percent of the costs of drilling from the shallower interval to total depth.

(26) The depth to the shallower interval and the total depth in the well in question in this case are 14,250 feet and 15,800 feet respectively.

(27) Based upon Finding Nos. 24 and 25 above, the allocation of original tangible and intangible well costs, exclusive of any costs attributable and chargeable solely to either individual zone, should be as follows:

(a) owners of interests in the shallow interval should pay for 55% percent of the costs of drilling to the depth of 14,250 feet; and

(b) owners of interests in the deeper interval should pay for 45% percent of the costs of drilling to the depth of 14,250 feet and 100 percent of the costs for drilling from 15,800 feet to total depth.

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

(29) Any non-consenting working 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.

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

(31) $5992.00 per month while drilling and $599.00 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, and 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.

(32) 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.

(33) Upon the failure of the operator of said pooled unit to commence the drilling of the well to which said unit is dedicated on or before October 15, 1989, the order pooling said unit should become null and void and of no effect whatsoever.

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

(35) 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 forced pooling provisions of this order.

IT IS THEREFORE ORDERED THAT:

(1) The unorthodox location for a well for the Atoka and Morrow formations at a point 660 feet from the South line and 1980 feet from the East line of Section 34, Township 24 South, Range 34 East, N.M.P.M., Lea County, New Mexico is hereby approved.

(2) A 160-acre non-standard gas spacing and proration unit comprising the SE/4 of said Section 34 for the Atoka formation is hereby approved.

(3) All mineral interests, whatever they may be, in the Morrow formation underlying the S/2 of Section 34, Township 24 South, Range 34 East, N.M.P.M., Lea County, New Mexico, are hereby pooled to form a 320-acre Morrow gas spacing and proration unit to be dedicated to a well to be drilled at a standard location 660 feet from the South line and 1980 feet from the East line of said Section 34.

(4) All mineral interests, whatever they may be, in the Atoka formation underlying the SE/4 of Section 34, Township 24 South, Range 34 East, N.M.P.M., Lea County, New Mexico, are hereby pooled to form a 160-acre non-standard Atoka gas spacing and proration unit to be dedicated to a well to be drilled at an unorthodox location 660 feet from the South line and 1980 feet from the East line of said Section 34.

PROVIDED HOWEVER THAT, the operator of said unit shall commence the drilling of said well on or before the 15th day of October 1989, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the Atoka and Morrow formations.

PROVIDED FURTHER THAT, in the event said operator does not commence the drilling of said well on or before the 15th day of October, 1989 Order Nos. (3) and (4) 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 Order Nos. (3) and (4) of this order should not be rescinded.

(5) Enron Oil & Gas Company is hereby designated the operator of the subject well and units.

(6) 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 prepared in accordance with Finding No. 27 of this order.

(7) 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.

(8) 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, that 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.

(9) 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.

(10) 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.

(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.

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

(12) $5,992.00 per month while drilling and $599.00 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.

(13) Any unserved 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.

(14) 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.

(15) All proceeds from production from the subject well which are not disbursed for any reason shall immediately 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.

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

(17) 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.

(18) Jurisdiction of this cause is retained for entry of such further orders as the Division may deem necessary.

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

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

WILLIAM J. LeMAY
Director

S E A L

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

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

CASES NOS. 9331 (DE NOVO) and 9429
Order No. R-8644-A

APPLICATION OF PHILLIPS PETROLEUM CO. FOR NON-STANDARD UNIT AND NON-STANDARD LOCATION OR, IN THE ALTERNATIVE, FOR COMPULSORY POOLING TO FORM A NEW STANDARD UNIT IN SECTION 22, TOWNSHIP 17 SOUTH, RANGE 35 EAST, LEA COUNTY, NEW MEXICO.

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing at 9:00 a.m. on July 14, 1988, at Santa Fe, New Mexico, before the Oil Conservation Commission of New Mexico, hereinafter referred to as the "Commission."

NOW, on this 19th day of September, 1988, the Commission, a quorum being present, having considered the testimony presented and the exhibits received 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) At the time of hearing Cases 9331, 9429 and 9430, involving the same land and subject matter, were consolidated for purposes of hearing.

(3) Applicant Phillips Petroleum Company (Phillips), in Case 9331 sought, and was denied by Order R-8644, approval of non-standard location 660 feet from the North and West lines of Section 22, Township 17 South, Range 35 East for a well to be drilled to the South Shoe Bar-Atoka Gas Pool and to assign to said well a non-standard proration unit of either 80 acres or 160 acres. Said case was presented at this hearing, de novo.

(4) Applicant Phillips in Case 9429 seeks to force-pool either the N/2 or W/2 of Section 22 to form a standard 320-acre

gas spacing and proration unit and to reform administrative order NSP-1470-(L) covering the NE/4 and E/2 NW/4, which is dedicated to an existing well, the T. H. McElvain New Mexico "AC" State Well No. 1 located 1980 feet from the North and 660 feet from the East line (Unit H) of said Section 22; whereby Phillips would either participate in McElvain's well if the N/2 is force-pooled or would drill a second well in the section if the W/2 is force-pooled.

(5) Applicant Mobil Producing Texas and New Mexico Inc. (Mobil), in Case 9430, seeks the force-pooling of the E/2 of Section 22, or alternatively to force pool the S/2 of said section, so as to allow their lease in the SE/4 of said section to participate in a standard gas spacing unit, or to approve a non-standard gas spacing and proration unit comprised of SE/4 and S/2 SW/4 of said section.

(6) T. H. McElvain protests any action of the Commission which would change the size of his present proration unit, penalize his production or force pool interests into his producing well.

(7) All parties agreed that wells completed in the Atoka Sand Reservoir would drain in excess of 320 acres.

(8) Sun Exploration and Production (Sun), owner and operator of the Shoe Bar State Well No. 1 located at a standard location in the SE/4 SW/4 (Unit N) of Section 15, Township 17 South, Range 35 East protests the excess drainage that would occur on their acreage in Section 15 from two additional wells drilled and completed from the Atoka Sand Reservoir in Section 22 caused by the Commission approving unorthodox spacing units without penalizing production rates.

(9) Testimony introduced by all of the parties confirmed the attempts to reach voluntary agreements which have failed.

(10) Unprorated gas pools have rules which establish standard proration unit size and shape with minimum distances a well may be drilled from the boundary of the unit assigned to it. Such rules prevent waste from drilling unnecessary wells and protect correlative rights by limiting encroachment and equalizing the amount of acreage dedicated to a proration unit.

(11) The McElvain well was a re-entry of the Humble State "AC" No. 1 which was located at a standard location for oil production but a non-standard location for Atoka gas. Approval of a 240-acre non-standard unit was granted by Administrative Order NSP-1470(L) after notice was given to both Phillips and Mobil, as offset operators, and neither party objected.

(12) Since McElvain secured approval of his unit and the well location as required by the rules, and has drilled and completed his well, the Commission is reluctant to redistribute equity in that producing gas proration unit; however, the Commission must address the well density issue in Section 22 by applying appropriate penalties to non-standard units and locations in order to protect the correlative rights of all parties.

(13) No party has requested proration be instituted in these pools.

(14) Phillips' reservoir engineer requested a 160-acre non-standard unit with a 50% penalty factor (160/320) assessed against ratable take determinations by the gas purchaser. This is not possible in today's gas marketing environment where there may be purchasers outside the jurisdiction of the Oil Conservation Division and there may not be a common purchaser to implement ratable take penalties.

(15) Under cross examination of the Phillips' reservoir engineer, it was suggested that the penalty be assessed against deliverability. Since operators in non-prorated gas pools have the opportunity to sell maximum deliverability from their gas wells, a penalty assessed against deliverability will protect the correlative rights of all gas producers in the pool.

(16) There was no direct correlation between deliverability and data presented at the hearing. In the absence of such, deliverability must be defined as the maximum recorded flow rate.

(17) During 1986 and 1987 maximum flow rates for the wells on which data was presented at the hearing were approximately 6000 Mcf/day and this is hereby found to be the maximum flow rate for wells subject to being penalized by this order.

(18) Data presented at the hearing did not address declining deliverability but 10% per year decline is considered reasonable and represents average performance in this type of reservoir.

(19) The McElvain well location was not objected to and should not be penalized, however; the spacing unit is non-standard and should be allowed 240/320 or 75% of the maximum flow rate described in Finding No. (18) hereinabove.

(20) Phillips, if unable to negotiate for a standard unit should be permitted a non-standard unit comprised of the W/2

NW/4 and N/2 SW/4 and, if the well is located not less than 660 feet to the outer boundary of the unit should be limited to one-half (160/320) the maximum flow rate as described in Finding No. (18) hereinabove. Further encroachment toward the outer boundary will be cause for an additional penalty which would be the subject of a new hearing.

IT IS THEREFORE ORDERED THAT:

(1) T. H. McElvain's New Mexico "AC" State Well No. 1 located 1980 feet from the North and 660 feet from the East lines of Section 22, Township 17 South, Range 35 East, Lea County, New Mexico is hereby restricted in its daily producing rate to 4,500,000 cubic feet of gas from the South Shoe Bar-Atoka Gas Pool.

(2) Phillips Petroleum Co.'s application for a non-standard gas proration unit in the South Shoe Bar-Atoka Gas Pool consisting of the W/2 NW/4 and N/2 SW/4 of said Section 22 is hereby approved.

PROVIDED, HOWEVER, that said well shall be restricted in its daily producing rate to 3,000,000 cubic feet of gas on condition the well is located no nearer than 660 feet to the outer boundary of the unit. If encroachment toward the outer boundary of the unit is greater, the Commission will impose an additional penalty after notice and hearing.

IT IS FURTHER ORDERED THAT:

(3) In regard to the restrictions imposed in decretory Paragraphs (1) and (2) above, production during any month at a rate less than the limitation described shall not be carried forward as underproduction into succeeding months, but overproduction of such limitation during any month shall be made up in the next succeeding month or months by shut-in or reduced rate as required by the District Supervisor of the Division.

(4) Beginning January 1, 1990, the maximum flow rate for wells subject to being penalized by this order shall be reduced 10% annually on January 1 of each successive year.

(5) 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

ERLING A. BROSTUEN, Member

WILLIAM J. LEMAY, Chairman and Secretary

S E A L

dr/

STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION DIVISION

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

CASE NO. 8699
Order No. R-7817-B

APPLICATION OF TXO PRODUCTION CORPORATION FOR AMENDMENT OF DIVISION ORDER NO. R-7817, AS AMENDED, EDDY COUNTY, NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8 a.m. on September 11, 1985, at Santa Fe, New Mexico, before Examiner Gilbert P. Quintana.

NOW, on this 15th day of November, 1985, the Division Director, having considered the testimony, the record, and the recommendations of the Examiner, and being fully advised in the premises,

FINDS THAT:

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

(2) Division Order No. R-7817, as amended by Order No. R-7817-A, approved an unorthodox gas well location for the Morrow formation 660 feet from the South line and 660 feet from the East line of Section 2, Township 22 South, Range 27 East, Eddy County, New Mexico, for a well to have dedicated thereto the S/2 of said Section 2.

(3) The applicant, TXO Production Corporation, seeks the amendment of said order to provide for a non-standard 160-acre gas spacing and proration unit comprising the SE/4 of said Section 2 for the Wolfcamp formation to be dedicated to said well at the unorthodox location specified in Finding No. (2) above.

(4) The applicant further seeks to compulsorily pool the E/2 of said Section 2 from the base of the Wolfcamp formation to the base of the Morrow formation and dedicate the E/2

of the subject section to any Morrow formation completion in lieu of the S/2 of said section as previously approved.

(5) The applicant has the right to drill and proposes to drill a well at the location described in Finding No. (2) and proposes to dedicate the lands as described in Findings Nos. (3) and (4).

(6) There are interest owners in the proposed 320-acre Morrow gas spacing and proration unit who have not agreed to pool their interests.

(7) To avoid the drilling of unnecessary wells, to protect correlative rights, to avoid 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 oil and gas in any pool completion resulting from this order, the subject application should be approved by pooling all mineral interests, whatever they may be, from the base of the Wolfcamp formation to the base of the Morrow formation within said unit.

(8) The applicant should be designated the operator of the subject well and units.

(9) 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.

(10) Since the interests of the parties are different in each proration unit, it will be necessary to estimate well costs on the basis of a well to the Wolfcamp formation drilled to 10,000 feet and a well drilled on to 11,800 feet to the Morrow formation.

(11) When the ownership varies between completion intervals of a dual completion, the owners in each interval derive some benefit from the drilling of the well.

(12) Looking at only the lower interval, those benefits, exclusive of special equipment or drilling cost attributable to either individual interval, may be defined and quantified by the following logic:

(a) If no hole to a shallower interval would be drilled, the value would be zero.

(b) If the depth to the shallower interval would be an absolute minimum distance above the lower interval, the value would be essentially 50 percent of the well costs.

(c) This concept may be restated that the value of the costs of drilling to the shallower interval to the owners in the lower interval should be a percentage of the costs equal to one-half the percentage derived by dividing the depth to the upper interval by the total depth.

(d) The owners of interest in the deeper interval should be responsible for 100 percent of the costs of drilling from the shallower interval to total depth.

(13) The depth to the shallower interval and the total depth in the well in question in this case are 10,000 feet and 11,800 feet respectively.

(14) Based upon Findings Nos. (11) and (12) above, the allocation of original tangible and intangible well costs, exclusive of any costs attributable and chargeable solely to either individual zone, should be as follows:

(a) owners of interests in the shallow interval should pay for 58 percent of the costs of drilling to the depth of 10,000 feet; and

(b) owners of interests in the deeper interval should pay for 42 percent of the costs of drilling to the depth of 10,000 feet and 100 percent of the costs for drilling from 11,800 feet to total depth.

(15) The evidence presented by the applicant does not justify the application of the maximum 200 percent risk penalty factor.

(16) Any non-consenting working interest owner who does not pay his share of estimated well costs should have withheld from production his share of the reasonable well costs plus an additional 150 percent thereof as a reasonable charge for the risk involved in the drilling of the well.

(17) Any non-consenting working 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.

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

(19) $5,374.00 per month while drilling and $538.00 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, and 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.

(20) 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.

(21) 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 February 1, 1986, the order pooling said unit should become null and void and of no effect whatsoever.

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

(23) 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.

(24) No party objected to the proposed non-standard unit in the Wolfcamp zone and it should be approved.

IT IS THEREFORE ORDERED THAT:

(1) The unorthodox location for a well for the Morrow formation at a point 660 feet from the South line and 660

feet from the East line of Section 2, Township 22 South, Range 27 East, NMPM, Eddy County, New Mexico, as approved by Division Order No. R-7817-A is hereby affirmed.

(2) A 160-acre non-standard gas spacing and proration unit comprising the SE/4 of said Section 2 for the Wolfcamp formation is hereby approved.

(3) Division Orders Nos. R-7817 and R-7817-A are hereby rescinded.

(4) All mineral interests, whatever they may be, from the base of the Wolfcamp formation to the base of the Morrow formation underlying the E/2 of Section 2, Township 22 South, Range 27 East, NMPM, Eddy County, New Mexico, are hereby pooled to form a 320-acre Morrow gas spacing and proration unit to be dedicated to a well to be drilled at an unorthodox location 660 feet from the South line and 660 feet from the East line of said Section 2.

PROVIDED HOWEVER THAT, the operator of said unit shall commence the drilling of said well on or before the 1st day of February, 1986, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the Morrow formation.

PROVIDED FURTHER THAT, in the event said operator does not commence the drilling of said well on or before the 1st day of February, 1986, Order No. (4) 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 Order No. (4) of this order should not be rescinded.

(5) TXO Production Corporation is hereby designated the operator of the subject well and units.

(6) 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 prepared in accordance with Finding No. (14) of this order.

(7) 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.

(8) 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, that 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.

(9) 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.

(10) 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.

(B) As a charge for the risk involved in the drilling of the well, 150 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.

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

(12) $5,374.00 per month while drilling and $538.00 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.

(13) Any unsevered 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.

(14) 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.

(15) All proceeds from production from the subject well which are not disbursed for any reason shall immediately be placed in escrow in Eddy 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.

(16) 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.

(17) 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.

(18) Jurisdiction of this cause is retained for the entry of such further orders as the Division may deem necessary.

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

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

R. L. STAMETS
Director

S E A L

fd/

CASE NO. 8699
Order No. R-7817-B-1

APPLICATION OF TXO PRODUCTION CORPORATION FOR AMENDMENT OF DIVISION ORDER NO. R-7817, AS AMENDED, EDDY COUNTY, NEW MEXICO.

NUNC PRO TUNC ORDER

BY THE COMMISSION:

It appearing to the Commission that Order No. R-7817-B, dated November 15, 1985, does not correctly state the intended order of the Commission,

IT IS THEREFORE ORDERED THAT:

(1) Finding Paragraph No. (14) on page 3 of Commission Order No. R-7817-B, dated November 15, 1985, issued in Case No. 8699, be and the same is hereby amended to read in its entirety as follows:

"(14) Based upon Findings Nos. (11) and (12) above, the allocation of original tangible and intangible well costs, exclusive of any costs attributable and chargeable solely to either individual zone, should be as follows:

(a) owners of interests in the shallow interval should pay for 58 percent of the costs of drilling to the depth of 10,000 feet; and

(b) owners of interests in the deeper interval should pay for 42 percent of the costs of drilling to the depth of 10,000 feet and 100 percent of the costs for drilling from 10,000 feet to total depth."

(2) The corrections set forth in this order be entered nunc pro tunc as of November 15, 1985.

DONE at Santa Fe, New Mexico, on this 7th day of December, 1985.

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION

JIM BACA, Member

ED KELLEY, Member

R. L. STAMETS, Chairman and Secretary

S E A L
fd/