

STATE OF NEW MEXICO

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION



BRUCE KING
GOVERNOR

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April 11, 1991

KELLAHIN, KELLAHIN & AUBREY
Attorneys at Law
P. O. Drawer 2265
Santa Fe, New Mexico 87504

RE: CASE NO. 10211 and CASE NO. 10219
ORDER NO. R-9480-A

Dear Sir:

Enclosed herewith are two copies of the above-referenced Division order recently entered in the subject case.

Sincerely,

Florene Davidson

Florene Davidson
OC Staff Specialist

FD/sl

cc: BLM - Carlsbad
J. Bruce
W. Carr

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:

Case 10211

APPLICATION OF SANTA FE ENERGY OPERATING
PARTNERS, L. P., FOR COMPULSORY POOLING,
LEA COUNTY, NEW MEXICO, BEING HEARD BY THE
COMMISSION AS AN INTERLOCUTORY APPEAL FROM AN
ORDER OF THE EXAMINER SUSTAINING CERTAIN PORTIONS
OF A SUBPOENA DUCES TECUM.

RULING OF THE COMMISSION

BY THE COMMISSION:

This matter came before the Oil Conservation Commission of New Mexico hereinafter referred to as the "Commission" at 9:00 a.m. on January 17, 1991, at Santa Fe, New Mexico.

NOW, on this 15th day of February, 1991, the Commission, a quorum being present, having considered the argument of counsel and being fully advised in the premises,

FINDS THAT:

(1) The Commission has jurisdiction of this cause and the subject matter thereof, and no additional notice is required for this interlocutory-type hearing.

(2) Santa Fe Energy Operating Partners, L.P. ("Santa Fe") filed an application with the Division seeking to compulsory pool mineral interests, including those of Hanley Petroleum, Inc., in the W/2 NW/4 of Section 8, Township 18 South, Range 3 East, NMPM, Lea County, New Mexico; said proration unit to be dedicated to the Kachina "8" Federal No. 2 to be drilled at an orthodox location in a separate proration unit.

(3) On January 3, 1991, at the request of Hanley Petroleum, Inc. and pursuant to Division Rule 1211, the Director signed a Subpoena (attached hereto as Exhibit A) directing Santa Fe to produce certain documents, as identified in the separate paragraphs, relating to information on the Kachina "8" Federal Well No. 1, a tight hole, located in

the NE/4 NW/4 of Section 8, Township 18 South, Range 33 East, NMPM, Lea County, New Mexico.

(4) On January 9, 1991, Santa Fe Energy Operating Partners, L.P. filed a motion to quash the aforementioned Subpoena.

(5) On January 10, 1991, the Examiner heard argument of Counsel on the Motion to Quash the Subpoena in Case No. 10211 and ruled orally that Hanley was not entitled to receive those items requested in the Subpoena which were the result of Santa Fe's interpretation of data or information which was available from other sources, including Oil Conservation Division records. The Examiner therefore quashed the request for item no. 6 reserve calculations, item no. 7 reservoir studies, item no. 8 economic studies, and item no. 10 geologic interpretations. The Examiner further ruled that Hanley was entitled to receive and the Subpoena should stand with respect to requests for raw data which include item 1 pressure data, item 2 mechanical and mud logs, item 3 gas-oil ratio tests, item 4 specific gravity information, item 5 production information, and item 9 daily drilling and completion reports, as those items relate to the Kachina "8" Federal Well No. 1. The Examiner further ordered that these items be produced and made available to Hanley under an order of confidentiality and that Hanley be prohibited from disclosing this information to any other person.

(6) On January 14, 1991, Santa Fe requested from the Division, that the Commission consider an appeal of the Examiner's decision, reverse the Examiner and quash the Subpoena in toto. All parties involved concurred with the request for an appeal to the Commission to consider the matter.

(7) There are no expiring leases in Section 8 requiring a well to be drilled expeditiously.

(8) The Division recognizes that it has been industry practice to honor and to hold confidential information which a party has acquired by drilling a well and to allow that party spending their money to acquire that information the opportunity to use it for their competitive advantage.

(9) Rule 1212 of the Rules and Regulations of the Oil Conservation Division states that the rules of evidence normally applicable in court proceedings can be relaxed where the ends of justice can be better served, and the Commission has implemented this concept by limiting the discovery principal in its application to very explicit areas involving waste and correlative rights.

(10) Santa Fe argues that because it has offered to make the information requested available to Hanley if Hanley will commit beforehand to either farm-out or to join in the drilling of the well, that it should not

be required to disclose the information prior to Hanley making that commitment.

(11) Hanley was unwilling to commit its interest to the well in any manner without receiving the information from Santa Fe and Santa Fe therefore filed this forced pooling application pursuant to the Oil & Gas Act asking the Division to use the police powers of the State to force a private property interest to be committed to this drilling venture. As a result, Hanley is forced to decide between accepting Santa Fe's farm-out offer, joining in the drilling of the well by paying its proportionate share of costs in advance or being force pooled and allowing Santa Fe to recover out of production Hanley's proportionate share of drilling and completing and equipping the well, plus a risk penalty established by the Division, without having access to information about a direct offset well operated by Santa Fe which information is now available only to Santa Fe.

(12) When a party asks the Division to use the police power of the State to impose a burden upon a private property interest, minimum due process requires a departure from usual industry practice with respect to the disclosure of the information, and Hanley should be allowed access to the raw data information from the offsetting Kachina "8" Federal No. 1 well which is not otherwise available from public sources, but it should not be allowed to compel Santa Fe to produce Santa Fe's interpretations of this data, whether or not those interpretations are based on information from just this well or from all of the available information.

(13) Rule 1105 of the Rules and Regulations of the Oil Conservation Division requires the filing of Form C-105 which includes all special tests conducted on the well (item 1, 3, 4, and 5 of the Subpoena), one copy of all electrical and radio-activity logs run on the well (part of item 2 of the Subpoena), which information becomes of public record immediately, or if so requested by the operator of the well, after being held confidential for 90 days. Daily drilling and completion reports (item 9 of the Subpoena) could be public record if they contain testing information. Rule 1105 further provides that the data may be introduced in public hearing regardless of the request that it be held confidential.

(14) Santa Fe could keep all information on the Kachina "8" Federal No. 1 well confidential for 90 days from completion if it dismisses the pending application and does not seek to involve the police powers of the State to force pool Hanley.

(15) In order to comply with minimum due process requirements implicated by State action and to protect the correlative rights of Hanley, Santa Fe should be required to provide sufficient information for Hanley to make an informed decision as to which of the alternatives set forth above it elects to follow by having access to data which normally

accompanies Form C-105 but none of the interpretative information from the Kachina "8" Federal No. 1 well which is in the possession of Santa Fe and not normally a part of the public record. The information should be disclosed only to Hanley and subject to prohibition against Hanley revealing that information to any other person, provided however, that such data may be introduced at the hearing and become part of the public hearing record.

(16) The disclosure of information required by this order should only be available to parties to a case where property rights are immediately and directly affected by the imposition of police power on those rights.

IT IS THEREFORE ORDERED THAT:

(1) The order of the Examiner quashing the Subpoena with respect to items 6, 7, 8 and 10 is hereby upheld and the Subpoena is hereby quashed with respect to those items.

(2) The order of the Examiner holding the Subpoena and requiring the documents identified in paragraph (1), (3), (4) and (5) is upheld in its entirety.

(3) The order of the Examiner requiring the production with respect to items no. 2 and no. 9 is modified and Santa Fe must produce these documents requested in those paragraphs as follows:

- (a) mechanical logs (all electrical and radio-activity logs); and
- (b) any testing information contained in daily drilling and completion reports from inception to the latest available data.

(4) Santa Fe is hereby directed and required to produce to the Division within ten days from the date of this order for the use of Hanley Petroleum those documents identified in ordering paragraphs (2) and (3).

(5) This production and discovery shall be for the exclusive use of Hanley Petroleum, Inc. and Hanley shall not reveal any information produced in accordance with this order to any other person for any reason so long as such information is confidential pursuant to the Rules and Regulations of the Division.

Case 10211
Page 5

(6) Done at Santa Fe, New Mexico, on the day and year hereinabove designated.

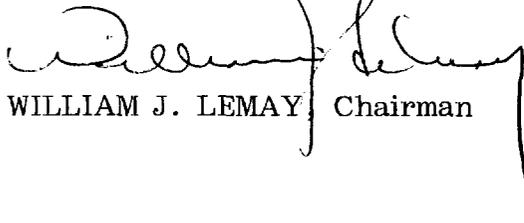
STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION



JAMI BAILEY, Member



WILLIAM W. WEISS, Member



WILLIAM J. LEMAY, Chairman

S E A L

dr/

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:

CASES NOS. 10211 AND 10219
Order No. R-9480

APPLICATION OF SANTA FE ENERGY OPERATING
PARTNERS, L.P. FOR COMPULSORY POOLING,
LEA COUNTY, NEW MEXICO

APPLICATION OF HANLEY PETROLEUM INC. FOR
COMPULSORY POOLING, LEA COUNTY, NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on March 7, 1991, at Santa Fe, New Mexico, before Examiner Jim Morrow.

NOW, on this 29th day of March, 1991, 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 in Case 10211, Santa Fe Energy Operating Partners, L.P., (Santa Fe), seeks an order pooling all mineral interests from the surface to the base of the Wolfcamp formation underlying the following described acreage in Section 8, Township 18 South, Range 33 East, NMPM, Lea County, New Mexico, in the following manner:

- (a) The W/2 NW/4 to form a standard 80-acre oil spacing and proration unit for any and all formations and/or pools developed on 80-acre spacing within said vertical extent, which presently includes but is not necessarily limited to the Undesignated South Corbin-Wolfcamp Pool;

- (b) The SW/4 NW/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 includes but is not necessarily limited to the Undesignated West Corbin-Delaware, Undesignated Central Corbin-Queen, Undesignated West Corbin-San Andres and Undesignated Corbin-Bone Spring Pools.

Both units are to be dedicated to a single well to be drilled at a standard oil well location 1980 feet from the North line and 660 feet from the West line (Unit E) of said Section 8.

(3) The applicant in Case 10219, Hanley Petroleum Inc. (Hanley), originally sought an order pooling all mineral interests from the surface to the base of the Wolfcamp formation underlying the following described acreage in Section 8, Township 18 South, Range 33 East, NMPM, Lea County, New Mexico, in the following manner:

- (a) The W/2 NW/4 to form a standard 80-acre oil spacing and proration unit for any and all formations and/or pools developed on 80-acre spacing within said vertical extent, which presently includes but is not necessarily limited to the Undesignated South Corbin-Wolfcamp Pool;
- (b) The SW/4 NW/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 includes but is not necessarily limited to the Undesignated West Corbin-Delaware, Undesignated Central Corbin-Queen, Undesignated West Corbin-San Andres, and Undesignated Corbin-Bone Spring Pools.

Both units would have been dedicated to a single well to be drilled at a standard oil well location 1980 feet from the North line and 660 feet from the West line (Unit E) of said Section 8.

(4) Hanley amended its application in Case 10219 and at the hearing requested approval for an 80-acre oil spacing and proration unit as described in Finding No. (3)(a) above with said unit to be dedicated to a well to be drilled at a standard oil well location 660 feet from the North and West lines (Unit D) of said Section 8. A 40-acre oil spacing and proration unit in Unit D would not require compulsory pooling since Hanley's working interest in the NW/4 NW/4 of said Section 8 is 100%.

(5) Each applicant (Santa Fe and Hanley) has the right to drill and each proposes to drill a well on their respective units, as described above in Findings (2) and (4), to a depth sufficient to test the Wolfcamp formation.

(6) Cases Nos. 10211 and 10219 were consolidated for the purpose of hearing and should be consolidated for purpose of issuing an order since the cases involve common acreage and the granting of one application would require the denial of the other.

(7) This matter has been the subject of previous Oil Conservation Division and Oil Conservation Commission actions involving Hanley's subpoena request for certain Santa Fe records.

(8) A representative of the Harvey E. Yates Company appeared at the hearing in support of Santa Fe's application.

(9) There are interest owners in the proposed units who have not agreed to pool their interests.

(10) The primary objective of either proposed well would be a Wolfcamp completion in the Undesignated South Corbin-Wolfcamp Pool to offset Santa Fe's recently completed Kachina "8" Federal Well No. 1 in the NE/4 NW/4 of said Section 8. It flowed 411 barrels of oil, 59 barrels of water and 577 MCF of gas per day on initial potential on January 13, 1991. Santa Fe's Form C-115 production report shows that the well produced 8143 barrels of oil, 213 barrels of water and 9374 MCF of gas during January, 1991.

(11) Pool rules for the South Corbin-Wolfcamp pool provide for 80-acre standard spacing and proration units with wells to be located within 150 feet of the center of a governmental quarter-quarter section or lot.

(12) In support of its application in Case No. 10211, Santa Fe submitted the following information through its exhibits and the testimony of its witnesses:

- (a) Santa Fe's proposed location for its Kachina 8 Federal Well No. 2 in the SW/4 NW/4 of said Section 8 would conform to an 80-acre diagonal spacing pattern. Santa Fe believes this would provide better recovery than Hanley's location which would be a direct West offset to Santa Fe's Kachina 8 Federal Well No. 1.
- (b) Cross-sections, structure maps and isopach maps were submitted to show the favorable conditions at the Santa Fe location. Their geology shows that the proposed location would be approximately 20 feet lower on the Wolfcamp structure than their Kachina 8 Well No. 1 and would have about the same thickness of clean Wolfcamp carbonate. The Santa Fe location is 50 feet lower structurally than

the Hanley location but would encounter a great thickness of clean carbonate in the Wolfcamp according to Santa Fe's testimony.

- (c) Santa Fe's witnesses testified that lower structural position would not necessarily result in increased water production from the Wolfcamp.
- (d) Santa Fe's engineering witness estimated that a well at the Santa Fe location would recover 50,000 to 60,000 barrels more oil than one at the Hanley location.
- (e) Cross-sections, structure maps and porosity maps submitted by Santa Fe indicate that the Bone Spring formation would be productive at the Hanley location but would be water productive at the Santa Fe location. Santa Fe recommended allocation of well costs between the Wolfcamp and the Bone Spring if the Hanley location is approved.
- (f) Santa Fe's estimated well cost is \$721,942. They expect to recover 100,000 barrels of oil from the Wolfcamp. Monthly overhead rates of \$6,260 while drilling and \$626 while producing were requested along with a 200% risk penalty.
- (g) Santa Fe and the Harvey E. Yates Company each have 50% working interest in the SW/4 NW/4 of said Section 8.

(13) To support its application in Case No. 10219, Hanley presented the following information through its exhibits and the testimony of its witnesses:

- (a) Structure and isopach maps and cross-sections were submitted to show that their proposed location is the better choice. Their geology shows that the Hanley location would be approximately 25 feet higher on the Wolfcamp structure than Santa Fe's location and would encounter approximately the same thickness of net clean Lower Wolfcamp limestone.
- (b) Decline curves to estimate the reserves for Wolfcamp completions in the area were submitted. This data along with an estimate of the reserves for Santa Fe's Kachina "8" Federal Well No. 1 was used to construct an "Iso-Production" map for use in estimating ultimate recovery. Hanley's Wolfcamp recovery estimates are 260,000 barrels

- for their location and 130,000 barrels for the Santa Fe location.
- (c) Water production data from Wolfcamp completions in the Corbin area was used by Hanley to support their testimony that wells lower on the Wolfcamp structure produce more water.
 - (d) Hanley submitted a Bone Spring structure map indicating their proposed location would be approximately 100 feet higher on the Bone Spring structure than the Santa Fe location.
 - (e) Hanley's estimated cost for a Wolfcamp well is \$667,782. They proposed a method for allocating and amortizing well costs in the event the well is eventually plugged back for a completion attempt in the Bone Spring or other zone in which the ownership differs from that in the Wolfcamp. Monthly overhead rates of \$5,184 while drilling and \$485 while producing were suggested based on the mean rates in the Ernst and Young 1990 survey. A risk penalty of 150% was recommended at the Hanley location. Hanley's witnesses testified that the risk would be higher at the Santa Fe location.
 - (f) Payout calculations prepared by Hanley show that a Wolfcamp well will payout in four months at their location and in eight months at the Santa Fe location.

(14) Santa Fe's compulsory pooling application was received by OCD on December 12, 1990, Hanley's initial application was received by OCD on January 2, 1991, and their amended application was received on February 12, 1991. Hanley began efforts to develop their acreage after Santa Fe filed its application.

(15) Based on the evidence and testimony received in these cases, either the Santa Fe or the Hanley location should result in a successful Wolfcamp completion. Evidence shows that Santa Fe's is the more appropriate location since it conforms to an 80-acre diagonal spacing pattern and should therefore result in better recovery of reserves. Santa Fe's application should be approved and they should be designated as operator. Overhead charges for supervision should be set at \$5,184 while drilling and \$485 while producing. Since risk of an unsuccessful completion is low, the risk penalty should be set at 100%. The 40-acre spacing unit applied for in Santa Fe's application is not required since all of the working interests in

the SW/4 NW/4 of said Section 8 have reached voluntary agreement concerning the pooling of their interests.

(16) Approval as set out in Finding (15) above and in the following order will avoid the drilling of unnecessary wells, protect correlative rights, prevent waste and afford the owner of each interest in said unit the opportunity to recover or receive without unnecessary expense his just and fair share of the production in any pool resulting from this order.

IT IS THEREFORE ORDERED THAT:

(1) The application of Hanley Petroleum Inc. in Case No. 10219 as described in Findings (3) and (4) of this order is hereby denied.

(2) All mineral interests, whatever they may be, from the surface to the base of the Wolfcamp, underlying the W/2 NW/4 of Section 8, Township 18 South, Range 33 East, NMPM, Lea County, New Mexico, are hereby pooled to form an 80-acre oil spacing and proration unit to be dedicated to a well to be drilled at a standard oil well location 1980 feet from the North line and 660 feet from the West line (Unit E) of said Section 8.

PROVIDED HOWEVER THAT, the operator of said unit shall commence the drilling of said well on or before the 15th day of June, 1991, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the Wolfcamp formation.

PROVIDED FURTHER THAT, in the event said operator does not commence the drilling of said well on or before the 15th day of June, 1991, Decretory Paragraph No. (2) 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 Decretory Paragraph No. (2) of this order should not be rescinded.

(3) Santa Fe Energy Operating Partners, L.P. is hereby designated the operator of the subject well and unit.

(4) After the effective date of this order and 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.

(5) 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.

(6) 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, 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.

(7) 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.

(8) 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; and
- B. As a charge for the risk involved in the drilling of the well, 100 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.

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

(10) \$5,184 per month while drilling and \$485 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.

(11) Any unleased 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.

(12) 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.

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

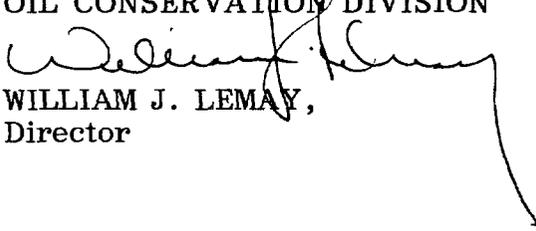
(14) Should all the parties to this force-pooling reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

(15) The operator of the subject 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.

(16) 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


WILLIAM J. LEMAY,
Director

dr/

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:

CASES NOS. 10211 AND 10219
Order No. R-9480-A

APPLICATION OF SANTA FE ENERGY
OPERATING PARTNERS, L.P. FOR COMPULSORY
POOLING, LEA COUNTY, NEW MEXICO.

APPLICATION OF HANLEY PETROLEUM INC.
FOR COMPULSORY POOLING, LEA COUNTY,
NEW MEXICO.

ORDER OF THE DIVISION
STAYING ORDER NO. R-9480

BY THE DIVISION:

This matter having come before the Division upon the request of Hanley Petroleum Inc. for a Stay of Division Order No. R-9480 and the Division Director having considered the request and being fully advised in the premises,

NOW, on this 10th day of April, 1991, the Division Director:

FINDS THAT:

- (1) Division Order No. R-9480 was entered on March 29, 1991, upon the application of Santa Fe Energy Operating Partners, L.P. for a compulsory pooling order of the Hanley Petroleum Inc. interests.
- (2) On April 8, 1991, Hanley Petroleum Inc. filed with the Division a request for a De Novo Hearing in this matter which will be set for hearing before the New Mexico Oil Conservation Commission on May 9, 1991.
- (3) Pursuant to the terms of Division Order No. R-9480 Santa Fe Energy Operating Partners, L.P. has sent to Hanley Petroleum Inc. a notice by which it must make an election to participate in the subject well on or before May 4, 1991.
- (4) Unless Division Order No. R-9480 is stayed, Hanley Petroleum Inc. will be denied a reasonable opportunity to make an election following the entry of an order by the Commission.

Cases Nos. 10211 and 10219
Order No. R-9480-A
Page 2

(5) Unless Division Order No. R-9480 is stayed the matters in dispute at the De Novo Hearing before the Commission will be moot.

(6) The entry of this order will not adversely affect the correlative rights of any party.

(7) Hanley has complied with the provision of Division Memorandum 3-85 and has filed its request for a stay on April 10, 1991.

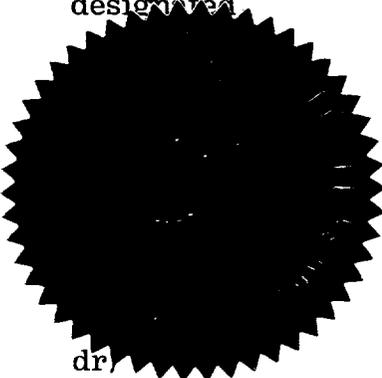
IT IS THEREFORE ORDERED THAT:

(1) Division Order No. R-9480 is hereby stayed in its entirety.

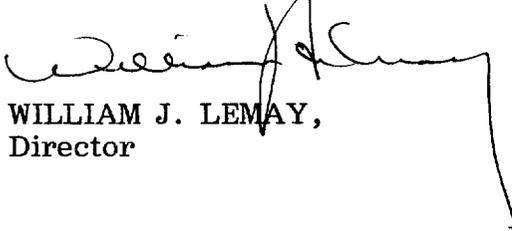
(2) Santa Fe Energy Partners, L.P.'s notification on April 4, 1991 to Hanley Petroleum Inc. of its thirty-day election period pursuant to Order No. R-9480 is void and of no effect.

(3) 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.



OIL CONSERVATION DIVISION


WILLIAM J. LEMAY,
Director

STATE OF NEW MEXICO

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION



BRUCE KING
GOVERNOR

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March 29, 1991

HINKLE, COX, EATON,
COFFIELD & HENSLEY
Attorneys at Law
500 Marquette, NW
Suite 740
Albuquerque, New Mexico 87102

RE: CASE NO. 10211 and CASE NO. 10219
ORDER NO. R-9480

Dear Sir:

Enclosed herewith are two copies of the above-referenced Division order recently entered in the subject case.

Sincerely,

A handwritten signature in cursive script that reads "Florene Davidson".

Florene Davidson
OC Staff Specialist

FD/sl

cc: T. Kellahin
W. Carr
BLM - Carlsbad

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:

CASES NOS. 10211 AND 10219 DE NOVO
Order No. R-9480-B

APPLICATION OF SANTA FE ENERGY OPERATING
PARTNERS, L.P. FOR COMPULSORY POOLING,
LEA COUNTY, NEW MEXICO

APPLICATION OF HANLEY PETROLEUM INC. FOR
COMPULSORY POOLING, LEA COUNTY, NEW MEXICO.

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing at 9:00 a.m. on May 9, 1991, at Santa Fe, New Mexico, before the Oil Conservation Commission of New Mexico, hereinafter referred to as the "Commission."

NOW, on this 12th day of June, 1991, 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) The applicant in Case 10211, Santa Fe Energy Operating Partners, L.P., (Santa Fe), seeks an order pooling all mineral interests from the surface to the base of the Wolfcamp formation underlying the following described acreage in Section 8, Township 18 South, Range 33 East, NMPM, Lea County, New Mexico, in the following manner:

- (a) The W/2 NW/4 to form a standard 80-acre oil spacing and proration unit for any and all formations and/or pools developed on 80-acre spacing within said vertical extent, which presently includes but is not necessarily limited to the Undesignated South Corbin-Wolfcamp Pool;

- (b) The SW/4 NW/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 includes but is not necessarily limited to the Undesignated West Corbin-Delaware, Undesignated Central Corbin-Queen, Undesignated West Corbin-San Andres and Undesignated Corbin-Bone Spring Pools.

Both units are to be dedicated to a single well to be drilled at a standard oil well location in the SW/4 NW/4 (Unit E) of said Section 8.

(3) The applicant in Case 10219, Hanley Petroleum Inc. (Hanley), originally sought an order pooling all mineral interests from the surface to the base of the Wolfcamp formation underlying the following described acreage in said Section 8 and in the following manner:

- (a) The W/2 NW/4 to form a standard 80-acre oil spacing and proration unit for any and all formations and/or pools developed on 80-acre spacing within said vertical extent, which presently includes but is not necessarily limited to the Undesignated South Corbin-Wolfcamp Pool;
- (b) The NW/4 NW/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 includes but is not necessarily limited to the Undesignated West Corbin-Delaware, Undesignated Central Corbin-Queen, Undesignated West Corbin-San Andres, and Undesignated Corbin-Bone Spring Pools.

Both units would have been dedicated to a single well to be drilled at a standard oil well location in the NW/4 NW/4 (Unit D) of said Section 8.

(4) On March 7, 1991, the Division held a consolidated hearing of the Hanley pooling case (10219) and the Santa Fe Energy pooling case (10211).

(5) On March 29, 1991, the Division entered Order No. R-9480 granting the Santa Fe Energy application and denying the Hanley Petroleum application.

(6) On April 4, 1991, Santa Fe Energy notified Hanley that it must make an election within 30 days in order to participate in the well to be drilled pursuant to Order No. R-9480. The Director issued a Stay of Order R-9480 with the agreement of the parties on April 10, 1991 by Division Order No. R-9480-A.

(7) On April 8, 1991, Hanley, a party adversely affected by Order No. R-9480, filed its De Novo Application with the Division.

(8) A representative of the Harvey E. Yates Company appeared at the hearing in support of Santa Fe's application.

(9) There are interest owners in the proposed units who have not agreed to pool their interests.

(10) The primary objective of either proposed well would be a Wolfcamp completion in the Undesignated South Corbin-Wolfcamp Pool to offset Santa Fe's recent completion, the Kachina "8" Federal Well No. 1 in the NE/4 NW/4 of said Section 8.

(11) Pool rules for the South Corbin-Wolfcamp pool provide for 80-acre standard spacing and proration units with wells to be located within 150 feet of the center of a governmental quarter-quarter section or lot.

(12) Hanley presented geologic testimony and exhibits which showed a depositional model depicting the Wolfcamp hingeline trending East-West with areas of maximum porosity development aligned North-South at right angles to the projected hingeline. Their preferred location in Unit D of Section 8 would be structurally higher than Santa Fe's location in Unit E and was projected to have similar net pay but higher ultimate oil recovery than a Wolfcamp completion in Unit E.

(13) Santa Fe presented geological testimony and exhibits which showed the Wolfcamp hingeline to be trending northeast-southwest in the vicinity of the Kemnitz-Townsend trend 6 miles northwest with porosity development aligned northeast-southwest roughly parallel to the hingeline. Their preferred location in Unit E was projected to have greater net pay development in a slightly lower structural position than a well located in Unit D.

(14) Santa Fe's interpretation conformed to existing well control and was correct in its placement of the Wolfcamp hingeline while Hanley's interpretation was flawed by improper placement of the Wolfcamp hingeline and its strained isopach interpretation of existing well control.

(15) Santa Fe's interpretation of carbonate zonation within the Wolfcamp presented a more complete analysis of the available data than Hanley's single pay zone concept.

(16) Hanley's contention that a lower structural position, such as the Santa Fe preferred location, would produce significantly higher water recoveries was effectively refuted by Santa Fe who demonstrated very small water recoveries from Wolfcamp completions in the area.

(17) Neither Santa Fe nor Hanley anticipated commercial Bone Springs production although the geology favored Hanley's location in Unit D over Santa Fe's location in Unit E.

(18) Pressure-production information presented by Santa Fe demonstrated that 80-acre drainage occurs in the Wolfcamp in this area and that 40-acre spacing would constitute waste.

(19) Based upon Finding Paragraph Nos. (12), (13), (14), (15), (16), (17) and (18) of this order, the W/2 NW/4 should be the assigned proration unit and the subject well should be a legal location in the SW/4 NW/4 (Unit E) of Section 8, Township 18 South, Range 33 East, NMPM, Lea County, New Mexico.

(20) Hanley and Santa Fe both seek to be and are qualified to be operator. Although Hanley has held its lease in the NW/4 NW/4 for almost five years, it has not been actively involved in development or acquisition and only filed its application after Santa Fe's was filed. Santa Fe has actively pursued interest in acquisition in the area and has drilled or participated in several wells in the area. Therefore Santa Fe should be named operator of the well.

(21) Santa Fe's witness testified that Santa Fe has completed 11 commercial producers out of a total of 12 wells drilled in the area resulting in a 92% commercial success ratio. Since commercial success is so high in the area the risk penalty should be 100%.

(22) The evidence further cited at said de novo hearing indicates that said Division Order No. R-9480 entered March 29, 1991, should be affirmed.

(23) The date by which a well on the pooled unit should be commenced should be changed from June 15, 1991 to September 15, 1991.

IT IS THEREFORE ORDERED THAT:

(1) Division Order No. R-9480, issued in consolidated Case Nos. 10211 and 10219 and dated March 29, 1991, is hereby affirmed and adopted as the order of the Commission.

(2) Decretory Paragraph (2) of said order is amended to read as follows:

All mineral interests, whatever they may be, from the surface to the base of the Wolfcamp, underlying the W/2 NW/4 of Section 8, Township 18 South, Range 33 East, NMPM, Lea County, New Mexico, are hereby pooled to form an 80-acre oil spacing and proration unit to be dedicated to a well to be drilled at a standard oil well location 1980 feet from the North line and 660 feet

from the West line (Unit E) of said Section 8.

PROVIDED HOWEVER THAT, the operator of said unit shall commence the drilling of said well on or before the 15th day of September, 1991, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the Wolfcamp formation.

PROVIDED FURTHER THAT, in the event said operator does not commence the drilling of said well on or before the 15th day of September, 1991, Decretory Paragraph No. (2) 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 Decretory Paragraph No. (2) of this order should not be rescinded.

(3) 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 COMMISSION

Bill Weiss

WILLIAM W. WEISS, Member

Jami Bailey

JAMI BAILEY, Member

William J. Lemay

WILLIAM J. LEMAY, Chairman and
Secretary

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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:

Case 10211

APPLICATION OF SANTA FE ENERGY OPERATING
PARTNERS, L. P., FOR COMPULSORY POOLING,
LEA COUNTY, NEW MEXICO, BEING HEARD BY THE
COMMISSION AS AN INTERLOCUTORY APPEAL FROM AN
ORDER OF THE EXAMINER SUSTAINING CERTAIN PORTIONS
OF A SUBPOENA DUCES TECUM.

RULING OF THE COMMISSION

BY THE COMMISSION:

This matter came before the Oil Conservation Commission of New Mexico hereinafter referred to as the "Commission" at 9:00 a.m. on January 17, 1991, at Santa Fe, New Mexico.

NOW, on this 15th day of February, 1991, the Commission, a quorum being present, having considered the argument of counsel and being fully advised in the premises,

FINDS THAT:

(1) The Commission has jurisdiction of this cause and the subject matter thereof, and no additional notice is required for this interlocutory-type hearing.

(2) Santa Fe Energy Operating Partners, L.P. ("Santa Fe") filed an application with the Division seeking to compulsory pool mineral interests, including those of Hanley Petroleum, Inc., in the W/2 NW/4 of Section 8, Township 18 South, Range 3 East, NMPM, Lea County, New Mexico; said proration unit to be dedicated to the Kachina "8" Federal No. 2 to be drilled at an orthodox location in a separate proration unit.

(3) On January 3, 1991, at the request of Hanley Petroleum, Inc. and pursuant to Division Rule 1211, the Director signed a Subpoena (attached hereto as Exhibit A) directing Santa Fe to produce certain documents, as identified in the separate paragraphs, relating to information on the Kachina "8" Federal Well No. 1, a tight hole, located in

the NE/4 NW/4 of Section 8, Township 18 South, Range 33 East, NMPM, Lea County, New Mexico.

(4) On January 9, 1991, Santa Fe Energy Operating Partners, L.P. filed a motion to quash the aforementioned Subpoena.

(5) On January 10, 1991, the Examiner heard argument of Counsel on the Motion to Quash the Subpoena in Case No. 10211 and ruled orally that Hanley was not entitled to receive those items requested in the Subpoena which were the result of Santa Fe's interpretation of data or information which was available from other sources, including Oil Conservation Division records. The Examiner therefore quashed the request for item no. 6 reserve calculations, item no. 7 reservoir studies, item no. 8 economic studies, and item no. 10 geologic interpretations. The Examiner further ruled that Hanley was entitled to receive and the Subpoena should stand with respect to requests for raw data which include item 1 pressure data, item 2 mechanical and mud logs, item 3 gas-oil ratio tests, item 4 specific gravity information, item 5 production information, and item 9 daily drilling and completion reports, as those items relate to the Kachina "8" Federal Well No. 1. The Examiner further ordered that these items be produced and made available to Hanley under an order of confidentiality and that Hanley be prohibited from disclosing this information to any other person.

(6) On January 14, 1991, Santa Fe requested from the Division, that the Commission consider an appeal of the Examiner's decision, reverse the Examiner and quash the Subpoena in toto. All parties involved concurred with the request for an appeal to the Commission to consider the matter.

(7) There are no expiring leases in Section 8 requiring a well to be drilled expeditiously.

(8) The Division recognizes that it has been industry practice to honor and to hold confidential information which a party has acquired by drilling a well and to allow that party spending their money to acquire that information the opportunity to use it for their competitive advantage.

(9) Rule 1212 of the Rules and Regulations of the Oil Conservation Division states that the rules of evidence normally applicable in court proceedings can be relaxed where the ends of justice can be better served, and the Commission has implemented this concept by limiting the discovery principal in its application to very explicit areas involving waste and correlative rights.

(10) Santa Fe argues that because it has offered to make the information requested available to Hanley if Hanley will commit beforehand to either farm-out or to join in the drilling of the well, that it should not

be required to disclose the information prior to Hanley making that commitment.

(11) Hanley was unwilling to commit its interest to the well in any manner without receiving the information from Santa Fe and Santa Fe therefore filed this forced pooling application pursuant to the Oil & Gas Act asking the Division to use the police powers of the State to force a private property interest to be committed to this drilling venture. As a result, Hanley is forced to decide between accepting Santa Fe's farm-out offer, joining in the drilling of the well by paying its proportionate share of costs in advance or being force pooled and allowing Santa Fe to recover out of production Hanley's proportionate share of drilling and completing and equipping the well, plus a risk penalty established by the Division, without having access to information about a direct offset well operated by Santa Fe which information is now available only to Santa Fe.

(12) When a party asks the Division to use the police power of the State to impose a burden upon a private property interest, minimum due process requires a departure from usual industry practice with respect to the disclosure of the information, and Hanley should be allowed access to the raw data information from the offsetting Kachina "8" Federal No. 1 well which is not otherwise available from public sources, but it should not be allowed to compel Santa Fe to produce Santa Fe's interpretations of this data, whether or not those interpretations are based on information from just this well or from all of the available information.

(13) Rule 1105 of the Rules and Regulations of the Oil Conservation Division requires the filing of Form C-105 which includes all special tests conducted on the well (item 1, 3, 4, and 5 of the Subpoena), one copy of all electrical and radio-activity logs run on the well (part of item 2 of the Subpoena), which information becomes of public record immediately, or if so requested by the operator of the well, after being held confidential for 90 days. Daily drilling and completion reports (item 9 of the Subpoena) could be public record if they contain testing information. Rule 1105 further provides that the data may be introduced in public hearing regardless of the request that it be held confidential.

(14) Santa Fe could keep all information on the Kachina "8" Federal No. 1 well confidential for 90 days from completion if it dismisses the pending application and does not seek to involve the police powers of the State to force pool Hanley.

(15) In order to comply with minimum due process requirements implicated by State action and to protect the correlative rights of Hanley, Santa Fe should be required to provide sufficient information for Hanley to make an informed decision as to which of the alternatives set forth above it elects to follow by having access to data which normally

accompanies Form C-105 but none of the interpretative information from the Kachina "8" Federal No. 1 well which is in the possession of Santa Fe and not normally a part of the public record. The information should be disclosed only to Hanley and subject to prohibition against Hanley revealing that information to any other person, provided however, that such data may be introduced at the hearing and become part of the public hearing record.

(16) The disclosure of information required by this order should only be available to parties to a case where property rights are immediately and directly affected by the imposition of police power on those rights.

IT IS THEREFORE ORDERED THAT:

(1) The order of the Examiner quashing the Subpoena with respect to items 6, 7, 8 and 10 is hereby upheld and the Subpoena is hereby quashed with respect to those items.

(2) The order of the Examiner holding the Subpoena and requiring the documents identified in paragraph (1), (3), (4) and (5) is upheld in its entirety.

(3) The order of the Examiner requiring the production with respect to items no. 2 and no. 9 is modified and Santa Fe must produce these documents requested in those paragraphs as follows:

(a) mechanical logs (all electrical and radio-activity logs); and

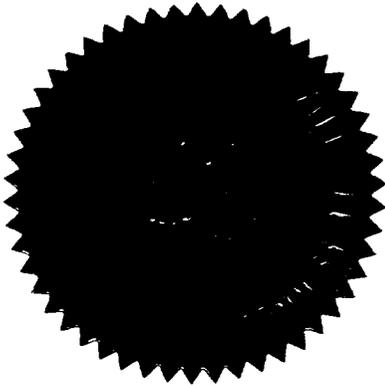
(b) any testing information contained in daily drilling and completion reports from inception to the latest available data.

(4) Santa Fe is hereby directed and required to produce to the Division within ten days from the date of this order for the use of Hanley Petroleum those documents identified in ordering paragraphs (2) and (3).

(5) This production and discovery shall be for the exclusive use of Hanley Petroleum, Inc. and Hanley shall not reveal any information produced in accordance with this order to any other person for any reason so long as such information is confidential pursuant to the Rules and Regulations of the Division.

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(6) Done at Santa Fe, New Mexico, on the day and year hereinabove designated.



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STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION

JAMI BAILEY, Member

WILLIAM W. WEISS, Member

WILLIAM J. LEMAY, Chairman