



**NEW MEXICO ENERGY, MINERALS
& NATURAL RESOURCES DEPARTMENT**

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

October 29, 1999

Mr. James Bruce
P. O. Box 1056
Santa Fe, New Mexico 87504-1056

Mr. William F. Carr
Campbell, Carr, Berge & Sheridan, P.A.
P. O. Box 2208
Santa Fe, New Mexico 87504-2208

Re: Division Order No. R-11255
St. Mary Land & Exploration Company
Statutory Unitization
East Shugart Delaware Unit

Dear Messrs. Bruce and Carr:

Reference is made to Mr. Bruce's and Mr. Carr's correspondence to the Division dated October 20, 1999 and October 22, 1999, respectively, regarding the interpretation of Decretory Paragraph (6) of Division Order No. R-11255. Further clarification of Decretory Paragraph (6) is summarized as follows:

St. Mary Land & Exploration Company shall utilize the cumulative production data that it presented at the hearing, and shall not be allowed to utilize corrected cumulative production data that it has re-calculated for Tract No. (6), to calculate tract participation within the East Shugart Delaware Unit; and,

St. Mary Land & Exploration Company shall utilize the current oil rate data that it presented at the hearing (average barrels of oil produced each month from January through May, 1998 divided by the total rate of oil production from the Unitized Formation within the Unit Area for the same period of time), and shall not be allowed to utilize current oil rate as determined by well tests conducted in March and April, 1999, to calculate tract participation within the East Shugart Delaware Unit.

I trust that the clarification described above will eliminate any confusion with regards to the intent of Decretory Paragraph (6) of Division Order No. R-11255. If I can be of further assistance, please advise.

Sincerely,

A handwritten signature in black ink that reads "David Catanach". The signature is fluid and cursive, with a long horizontal stroke at the end.

David Catanach
Hearing Examiner

Xc: Case File No. 12207

CAMPBELL, CARR, BERGE
& SHERIDAN, P.A.
LAWYERS

MICHAEL B. CAMPBELL
WILLIAM F. CARR
BRADFORD C. BERGE
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October 22, 1999

HAND DELIVERED

David R. Catanach
Hearing Examiner
Oil Conservation Division
New Mexico Department of Energy,
Minerals and Natural Resources
2040 South Pacheco Street
Santa Fe, New Mexico 87505

50 OCT 25 PM 11:34
OIL CONSERVATION DIV.

Re: Case No. 12207 Application of St. Mary Land & Exploration Company for
Statutory Unitization, Eddy and Lea Counties, New Mexico.
Order No R-11255

Dear Mr. Catanach:

Having presented its case and having received an adverse order, St. Mary Land & Exploration Company now seeks to have the Division ignore the conclusive effect of that order. In its October 20, 1999 letter to you, St. Mary appears to accept the participation formula approved by the Division but asks that it be allowed to change the data it previously used to allocate production proceeds from the East Shugart Delaware Unit. St. Mary cannot change the case and keep the order.

St. Mary contends there are errors in the production data from 1992 through mid-1999 which it used to calculate cumulative production for Tract 6. This is the data used by St. Mary in this unitization effort and Intoil believes is the data which should be used in this

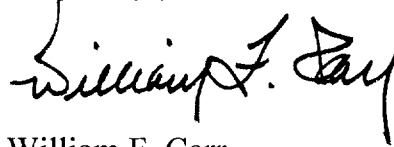
Mr. David R. Catanach
October 22, 1999
Page 2

unit participation formula. It is the most reliable production information now available. It is more reliable than a recalculation of the production information for this seven year time period.

St. Mary now wants to use a different base period than the time period it has utilized in the development of its unitization proposal. It contends the data they have previously utilized is now "outdated." If St. Mary's participation formula had been accepted by the Division instead of Intoil's formula, St. Mary would not now be contending that the underlying data is outdated. St. Mary's request to now use new data is nothing more than an after the fact attempt by St. Mary to avoid the effect of Order R-11255.

St. Mary's choices are simple. They can proceed with the formation of the East Shugart Delaware Unit pursuant to the provisions of Order No. R-11255. This requires the use of Intoil Formula No. 1 and the data contained in Exhibit A to their proposed unit agreement. Its other option is a de novo appeal. No "written administrative directive from you" can now change this order or authorize the substitution of a new case for the one presented by St. Mary on August 5, 1999.

Very truly yours,

A handwritten signature in black ink, appearing to read "William F. Carr". The signature is fluid and cursive, with a large initial "W" and a stylized "C".

William F. Carr
Attorney for Intoil, Inc.

WFC/md

cc: James Bruce
Joe Mazzola
Roy Williamson

JAMES BRUCE

ATTORNEY AT LAW

POST OFFICE BOX 1056
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(505) 982-2043
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OCT 21 1999

October 20, 1999

Via Fax and U.S. Mail

David R. Catanach
Oil Conservation Division
2040 South Pacheco Street
Santa Fe, New Mexico 87505

Re: Order No. R-11255
East Shugart Delaware Unit

Dear Mr. Catanach:

The above order, in Decretory Paragraph (6), provides that Intoil's Formula No. 1 shall be used for tract allocation purposes, but that "the applicant shall utilize its data to recalculate tract participation in accordance with this formula." See also Finding Paragraph (24).

As recited in Finding Paragraph (22)(a), there were errors in the data used to calculate cumulative production for Tract No. 6 which were not discovered until after Intoil began questioning the formula. In addition, new well tests performed in March and April 1999 provided new information with regard to the producing rate related to Tract No. 6. See Finding Paragraph (22)(c).

St. Mary Land & Exploration Company (St. Mary) first submitted its unitization application to the Division in May 1999. Prior to that time, it had been working with the numerous Unit interest owners for ten months to finalize its formula and garner support and the required percentage of ratifications. Although ninety (90) percent of the Working Interest Owners approved formation of the Unit using the formula submitted by St. Mary, that formula has now been rejected by the Division. The data used in calculating interests for the current Exhibits to the Unit Agreement and Unit Operating Agreement were related to the period between January 1, 1998 and May 31, 1998. These data are now outdated.


For these reasons, St. Mary's believes that it should use the correct and most current data available when it recalculates unit interests using the formula determined to be equitable pursuant to

the Order. In fact, on closely reading the Order, it appears that the use of new data, at least as to the two factors recited in Finding Paragraphs (22)(a) and (c), may have been indicated by the Order. However, before it proceeds in recalculating the tract participation factors and Unit interests utilizing corrected and current data, and obtaining approval of the unit interest owners, St. Mary would appreciate your advice as to whether this interpretation of the Order is correct.

If you concur with utilizing the new data to recalculate tract participation factors and Unit interests, please advise whether a written administrative directive from you will be sufficient, or whether it will be necessary to amend the Order to specify the use of the corrected and current data.

Please let me know your determination in these matters as soon as possible. Thank you.

Very truly yours,

A handwritten signature in cursive script, appearing to read "James Bruce".

James Bruce

Attorney for St. Mary Land
& Exploration Company

cc: William F. Carr (via fax)

JAMES BRUCE
Attorney at Law
Post Office Box 1056
Santa Fe, New Mexico 87504
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FAX COVER SHEET

DELIVER TO: David Catanach
COMPANY: Oil Conservation Division
CITY: Santa Fe, New Mexico
FAX NUMBER: 827-8177
NUMBER OF PAGES: 3 (Including Cover Sheet)
DATE SENT: 10/20/99
MEMO:

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JAMES BRUCE

ATTORNEY AT LAW

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SANTA FE, NEW MEXICO 87501(505) 982-2043
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October 20, 1999

Via Fax and U.S. MailDavid R. Catanach
Oil Conservation Division
2040 South Pacheco Street
Santa Fe, New Mexico 87505Re: Order No. R-11255
East Shugart Delaware Unit

Dear Mr. Catanach:

The above order, in Decretory Paragraph (6), provides that Intoil's Formula No. 1 shall be used for tract allocation purposes, but that "the applicant shall utilize its data to recalculate tract participation in accordance with this formula." See also Finding Paragraph (24).

As recited in Finding Paragraph (22)(a), there were errors in the data used to calculate cumulative production for Tract No. 6 which were not discovered until after Intoil began questioning the formula. In addition, new well tests performed in March and April 1999 provided new information with regard to the producing rate related to Tract No. 6. See Finding Paragraph (22)(c).

St. Mary Land & Exploration Company (St. Mary) first submitted its unitization application to the Division in May 1999. Prior to that time, it had been working with the numerous Unit interest owners for ten months to finalize its formula and garner support and the required percentage of ratifications. Although ninety (90) percent of the Working Interest Owners approved formation of the Unit using the formula submitted by St. Mary, that formula has now been rejected by the Division. The data used in calculating interests for the current Exhibits to the Unit Agreement and Unit Operating Agreement were related to the period between January 1, 1998 and May 31, 1998. These data are now outdated.

For these reasons, St. Mary's believes that it should use the correct and most current data available when it recalculates unit interests using the formula determined to be equitable pursuant to

the Order. In fact, on closely reading the Order, it appears that the use of new data, at least as to the two factors recited in Finding Paragraphs (22)(a) and (c), may have been indicated by the Order. However, before it proceeds in recalculating the tract participation factors and Unit interests utilizing corrected and current data, and obtaining approval of the unit interest owners, St. Mary would appreciate your advice as to whether this interpretation of the Order is correct.

If you concur with utilizing the new data to recalculate tract participation factors and Unit interests, please advise whether a written administrative directive from you will be sufficient, or whether it will be necessary to amend the Order to specify the use of the corrected and current data.

Please let me know your determination in these matters as soon as possible. Thank you.

Very truly yours,



James Bruce

Attorney for St. Mary Land
& Exploration Company

cc: William F. Carr (via fax)



**NEW MEXICO ENERGY, MINERALS
& NATURAL RESOURCES DEPARTMENT**

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

MEMORANDUM

TO: All Producers, Purchasers and Transporters of Gas For All Prorated Gas Pools in New Mexico

FROM: Lori Wrotenbery, Division Director *[Signature]*
Oil Conservation Division

SUBJECT: Commission Hearing on August 12, 1999, Concerning Prorated Gas Allowables for the October, 1999 Through March, 2000 Period

DATE: July 22, 1999

Since 1991, allowables for the prorated gas pools in New Mexico have been established for six month allocation periods beginning in April and October of each year. Allowables have been determined using prior year allocation period production volumes with adjustments where appropriate based on evidence and recommendations from operators, purchasers, and transporters.

For the past several allocation periods, non-marginal allocation factors and well allowables have remained almost constant in most pools. Declining pool production and increased demand for New Mexico gas have resulted in a large reduction in the number of non-marginal wells and the assignment of marginal allowables to most wells in prorated pools.

At its February 11, 1999 proration hearing, the allowable factors used in the previous allocation period were recommended by the Division for the next proration period. There were no requests to modify those recommended allowables. The recommended allowables were adopted by order of the Commission.

The Commission will follow this procedure for the current and future allocation periods and until such time as it is determined that changes are needed. The enclosed allocation factors, being the previous 6 month allowable factors, will be used for allowable purposes for the period October, 1999 through March, 2000 unless there is evidence received at the August 12, 1999 Commission hearing indicating that these factors should be modified.

**Oil Conservation Division
Proposed Allowable Allocation Factors
New Mexico Prorated Pools
October, 1999 through March, 2000**

Southeast New Mexico

Pool	Monthly Allocation Factor (F.)
Atoka Penn	24,000
Blinebry Oil and Gas	70,200
Buffalo Valley Penn	33,000
Eumont Yates 7 Rivers Queen	38,000
Indian Basin Upper Penn	200,000
Jalmat Tansill Yates 7 Rivers	18,300
Justis Glorieta	18,300
Tubb Oil and Gas	18,425

Northwest New Mexico

Pool	Monthly Allocation Factor (F1)	Monthly Acreage x Deliverability Factor (F2)
Basin Dakota	11,163	14.04
Blanco Mesaverde	5,771	26.14
Blanco P. C. South	440	28.18
Tapacito Pictured Cliffs	467	19.79

DOCKET: EXAMINER HEARING - THURSDAY - AUGUST 5, 1999

8:15 A.M. - 2040 South Pacheco

Santa Fe, New Mexico

Dockets Nos. 26-99 and 27-99 are tentatively set for August 19 and September 2, 1999. Applications for hearing must be filed at least 23 days in advance of hearing date. The following cases will be heard by an Examiner:

CASE 12209: **Readvertised**

Application of Falcon Creek Resources, Inc. to amend Division Order No. R-11165 for surface commingling, off-lease measurement and storage, Lea County, New Mexico. Applicant seeks to amend Division Order No. R-11165 to add an additional 40-acre spacing unit and its well to the previously approved centralized facility for the surface commingling, off-lease measurement and storage of West Teas Yates-Seven Rivers Pool production from its BF State Lease (E-3441) being the Arco State 886 Well No. 1 located in Unit F of Section 16, Township 20 South, Range 33 East, which shall be stored and measured at its centralized facility located in Unit G of this section. This facility is located approximately 4 miles northeast of the intersection of Federal Secondary Highway Number FAS 1217 and US Highway 180, New Mexico. **IN THE ABSENCE OF OBJECTION, THIS MATTER WILL BE TAKEN UNDER ADVISEMENT.**

CASE 12181: **Continued from July 8, 1999, Examiner Hearing.**

Application of David H. Arrington Oil and Gas, Inc. for an unorthodox location and for an exception to Division Rule 104.D(3) for simultaneous dedication, Lea County, New Mexico. Applicant seeks an exception to all applicable well location set-back requirements governing any and all formations and/or pools from the surface to the base of the Mississippian formation for its Mayfly "14" State Com. Well No. 1 to be drilled 330 feet from the North and West lines (Unit D) of Section 14, Township 16 South, Range 35 East, to be dedicated to the following described spacing and proration units: (i) the W/2 to form a standard 320-acre gas spacing and proration unit for any and all formations and/or pools developed on 320-acre spacing, which presently include the Undesignated North Shoe Bar-Atoka Gas Pool, Undesignated Shoe Bar-Atoka Gas Pool, Townsend-Morrow Gas Pool, and Undesignated North Townsend-Mississippian Gas Pool; and (ii) the NW/4 to form a standard 160-acre spacing and proration unit for any and all formations and/or pools developed on 160-acre spacing, which presently include the Undesignated North Shoe Bar-Wolfcamp Pool and the Undesignated Shoe Bar-Strawn Pool. The applicant further seeks an exception to Division Rule 104.D(3) to continuously and concurrently produce gas from the Townsend-Morrow Gas Pool from the above-described Mayfly "14" State Com. Well No. 1 and from the existing Mark L. Shidler, Inc. operated Monsanto State Com. Well No. 1 (API No. 30-025-24895) located at a standard gas well location 1980 feet from the South and West lines (Unit K) of Section 14, and for the simultaneous dedication of both wells to the existing 320-acre gas spacing and proration unit comprising the W/2 of Section 14. **Further, the applicant at the time of the hearing shall designate a common operator for both of these Morrow gas wells and this 320-acre unit within the Townsend-Morrow Gas Pool.** The proposed well location is approximately five miles south of Lovington, New Mexico.

CASE 12215: **Continued from July 22, 1999, Examiner Hearing**

Application of Anadarko Petroleum Corporation For Downhole Commingling, Lea County, New Mexico. Applicant seeks an exception to Division Rule 303.C.(1)(a)(iii) to permit downhole commingling of Penrose Skelly-Grayburg and Southwest Eunice-San Andres Pool production in the E.W. Walden Well No. 12 located 2250 feet from the North line and 1350 feet from the West line (Unit F) of Section 15, Township 22 South, Range 37 East. This well is located approximately 4 miles south of Eunice, New Mexico.

CASE 12217: **Continued from July 22, 199, Examiner Hearing.**

Application of Merrion Oil & Gas Corporation for Compulsory Pooling, San Juan County, New Mexico. Applicant seeks an order pooling all mineral interests in the Basin-Fruitland Coal Gas Pool underlying Lots 1 through 4 and the S/2 N/2 (N/2 equivalent) of Section 2, Township 31 North, Range 8 West, in order to form a standard 320-acre gas spacing and proration unit. This unit is to be dedicated to applicant's proposed U-Da-Well Com. Well No. 1 to be drilled at a previously approved unorthodox coal gas well location in the SE/4 NW/4 (Unit F) of Section 2 (see Division Administrative Order NSL-4281 dated May 13, 1999). Also to be considered will be the cost of drilling and completing the well and the allocation of the cost thereof as well as actual operating costs and charges for supervision, designation of applicant as operator of the well, and a charge for the risk involved in drilling and completing the well. The unit is located approximately nine miles north-northwest of the Navajo Lake Dam.

CASE 12221: **Application of Yates Petroleum Corporation for Compulsory Pooling, Chaves County, New Mexico.** Applicant seeks an order pooling all mineral interests from the surface to the base of the Abo formation, the SE/4 of the SE/4 to form a standard 40-acre spacing unit for any formations and/or pools developed on 40-acre spacing and the SE/4 underlying the following acreage Section 17, Township 6 South, Range 26 East; in order to form a standard 160-acre gas spacing and proration unit for any formations and/or pools developed on 160-acre spacing, including the Pecos Slope-Abo Gas Pool. This unit is to be dedicated to its Getty "PS" 17 Well No. 2 at an orthodox location 1980 feet from the South line and 660 feet from the East line (Unit I) of Section 17. Also to be considered will be the cost of drilling and completing the well and the allocation of the cost thereof as well as actual operating costs and charges for supervision, designation of applicant as operator of the well, and a charge for the risk involved in drilling and completing the well. The unit is located approximately 13 miles north of the intersection of U.S. Highway 70 and the Pecos River.

Examiner Hearing – August 5, 1999
Docket No. 24-99
Page 2 of 4

CASE 12222: **Application of Mewbourne Oil Company for Compulsory Pooling, Eddy County, New Mexico.** Applicant seeks an order pooling all mineral interests from the surface to the base of the Morrow formation underlying the E/2 of Section 18, Township 23 South, Range 27 East, to form a standard 320-acre gas spacing and proration unit for any formations and/or pools developed on 320-acre spacing within that vertical extent, including the South Carlsbad-Canyon Gas Pool, Undesignated South Carlsbad-Strawn Gas Pool, South Carlsbad-Atoka Gas Pool, and South Carlsbad-Morrow Gas Pool. This unit is to be dedicated to applicant's Ranch Hand "18" Fed. Com. Well No. 1, located 1980 feet from the South line and 660 feet from the East line (Unit I) of Section 18. Also to be considered will be the cost of drilling and completing the well and the allocation of the cost thereof as well as actual operating costs and charges for supervision, designation of applicant as operator of the well, and a charge for the risk involved in drilling and completing the well. The unit is located approximately 4 1/2 miles southwest of Otis, New Mexico.

CASE 12223: **Application of Pogo Producing Company for Approval of a Pilot Pressure Maintenance Project and to qualify the Project for the Recovered Oil Tax Rate pursuant to the Enhanced Oil Recovery Act, Eddy County, New Mexico.** Applicant seeks approval to institute a pilot pressure maintenance project in the West Sand Dunes-Delaware Pool on Federal Leases NM 38463, 38464, NM 40859, and NM 0281482-A (comprising all or parts of Sections 20, 21, 28 and 29, Township 23 South, Range 31 East) by the injection of water into the Pure Gold "B" Fed. Well No. 20, located in Unit P of Section 20. Applicant further seeks to qualify the project for the recovered oil tax rate pursuant to the "New Mexico Enhanced Oil Recovery Act" (Sections 7-29A-1 through 7-29A-5, NMSA 1978). This project is located approximately 18 miles east of Loving, New Mexico.

CASE 12202: **Continued from July 22, 1999, Examiner Hearing.**

Application of Nearburg Exploration Company, L.L.C. for compulsory pooling and an unorthodox gas well location, Eddy County, New Mexico. Applicant seeks an order pooling all mineral interests from the surface to the base of the Morrow formation underlying the following described acreage in irregular Section 3, Township 16 South, Range 28 East, in the following manner: the S/2 to form a standard 320-acre gas spacing and proration unit for any formations and/or pools developed on 320-acre spacing within that vertical extent, including the Undesignated Crow Flats-Morrow Gas Pool; the SW/4 to form a standard 160-acre gas spacing and proration unit for any formations and/or pools developed on 160-acre spacing within that vertical extent; and the SW/4 SW/4 to form a standard 40-acre oil spacing and proration unit for any formations and/or pools developed on 40-acre spacing within that vertical extent. These units are to be dedicated to applicant's Crow Flats 3 Fed. Well No. 1, located 960 feet from the South line and 760 feet from the West line (Unit M) of Section 3. Also to be considered will be the cost of drilling and completing the well and the allocation of the cost thereof, as well as actual operating costs and charges for supervision, designation of Nearburg Producing Company as operator of the well, and a charge for the risk involved in drilling and completing the well. The unit is located approximately 15.5 miles northeast of Artesia, New Mexico.

CASE 12203: **Continued from July 22, 1999, Examiner Hearing.**

Application of Nearburg Exploration Company, L.L.C. for compulsory pooling, Lea County, New Mexico. Applicant seeks an order pooling all mineral interests from the surface to the base of the Bone Spring formation underlying the NE/4 SE/4 of Section 3, Township 20 South, Range 33 East, forming a standard 40-acre oil spacing and proration unit for any formations and/or pools developed on 40-acre spacing within that vertical extent, including the Undesignated Teas Yates-Seven Rivers Pool. The unit is to be dedicated to the Python Federal Well No. 3, to be drilled at an orthodox oil well location 1650 feet from the South line and 660 feet from the East line (Unit I) of Section 3. Also to be considered will be the cost of drilling and completing the well and the allocation of the cost thereof as well as actual operating costs and charges for supervision, designation of Nearburg Producing Company as operator of the well, and a charge for risk involved in drilling and completing the well. The unit is located approximately 5.5 miles northeast of the intersection of State Highway 176 and U.S. Highway 62/180.

CASE 12204: **Continued from July 22, 1999, Examiner Hearing.**

Application of Nearburg Exploration Company, L.L.C. for compulsory pooling, Lea County, New Mexico. Applicant seeks an order pooling all mineral interests from the surface to the base of the Bone Spring formation underlying the SW/4 SE/4 of Section 3, Township 20 South, Range 33 East, forming a standard 40-acre oil spacing and proration unit for any formations and/or pools developed on 40-acre spacing within that vertical extent, including the Undesignated Teas Yates-Seven Rivers Pool. The unit is to be dedicated to the Python Federal Well No. 2, to be drilled at an orthodox oil well location 660 feet from the South line and 1650 feet from the East line (Unit O) of Section 3. Also to be considered will be the cost of drilling and completing the well and the allocation of the cost thereof as well as actual operating costs and charges for supervision, designation of Nearburg Producing Company as operator of the well, and a charge for risk involved in drilling and completing the well. The unit is located approximately 5 miles northeast of the intersection of State Highway 176 and U.S. Highway 62/180.

CASE 12205: Continued from July 22, 1999, Examiner Hearing.

Application of Nearburg Exploration Company, L.L.C. for compulsory pooling, Lea County, New Mexico. Applicant seeks an order pooling all mineral interests from the surface to the base of the Morrow formation underlying the following described acreage in Section 3, Township 20 South, Range 33 East, in the following manner: the S/2 to form a standard 320-acre gas spacing and proration unit for any formations and/or pools developed on 320-acre spacing within that vertical extent, including the Undesignated East Gem-Morrow Gas Pool; the SE/4 to form a standard 160-acre gas spacing and proration unit for any formations and/or pools developed on 160-acre spacing within that vertical extent; and the NW/4 SE/4 to form a standard 40-acre oil spacing and proration unit for any formations and/or pools developed on 40-acre spacing within that vertical extent, including the Undesignated Teas Yates-Seven Rivers Pool. These units are to be dedicated to applicant's Viper 3 Fed. Well No. 2, located 1650 feet from the South line and 1980 feet from the East line (Unit J) of Section 3. Also to be considered will be the cost of drilling and completing the well and the allocation of the cost thereof, as well as actual operating costs and charges for supervision, designation of Nearburg Producing Company as operator of the well, and a charge for the risk involved in drilling and completing the well. The unit is located approximately 4.5 miles northeast of Loco Hills, New Mexico.

CASE 12103: Continued from July 22, 1999, Examiner Hearing.

Application of Nearburg Exploration Company, L.L.C. and E.G.L. Resources, Inc. to reopen Case No. 12103 and for compulsory pooling, Lea County, New Mexico. Applicant seeks an order reopening Case No. 12103 and pooling all mineral interests from the surface to the base of the Bone Spring formation underlying the SE/4 SE/4 of Section 3, Township 20 South, Range 33 East, to form a standard 40-acre oil spacing and proration unit for any formations and/or pools developed on 40-acre spacing within that vertical extent, including the Undesignated Teas-Yates-Seven Rivers Pool. The unit is to be dedicated to a well to be drilled at an orthodox oil well location in the SE/4 SE/4 (Unit P) of Section 3. Also to be considered will be the cost of drilling and completing the well and the allocation of the cost thereof, as well as actual operating costs and charges for supervision, designation of Nearburg Producing Company as operator of the well, and a charge for risk involved in drilling and completing the well. The unit is located approximately 5.5 miles northeast of the intersection of State Highway 176 and U.S. Highway 62/180.

CASE 12224: **Application of McElvain Oil & Gas Properties, Inc. for Compulsory Pooling, Rio Arriba County, New Mexico.** Applicant seeks an order pooling all mineral interests in all formations developed on 320-acre spacing from the base of the Pictured Cliffs formation to the base of the Mesaverde formation in the N/2 of Section 10, Township 25 North, Range 2 West. These units are to be dedicated to its Elk Com. Well No. 10-8 to be drilled to a depth sufficient to test all formations to the base of the Mesaverde formation, Blanco-Mesaverde Gas Pool, at a standard location in the NE/4 of Section 10. Also to be considered will be the cost of drilling and completing the well and the allocation of the cost thereof as well as actual operating costs and charges for supervision, designation of applicant as operator of the well and a charge for the risk involved in drilling and completing the well. The unit is located approximately 7 1/2 miles north-northeast of Lindreth, New Mexico.

CASE 12207: *De Novo*
~~Continued from July 22, 1999, Examiner Hearing.~~

Application of St. Mary Land & Exploration Company for statutory unitization, Eddy and Lea Counties, New Mexico. Applicant seeks an order unitizing, for the purpose of establishing an enhanced recovery project, all mineral interests in the Brushy Canyon formation of the Delaware Mountain Group, East Shugart-Delaware Pool, underlying 604.12 acres, more or less, of federal lands in the following described area:

Township 18 South, Range 31 East, NMPM

Section 13: S/2 SE/4

Section 24: NE/4, N/2 SE/4

Township 18 South, Range 32 East, NMPM

Section 18: Lot 4

Section 19: Lots 1-3, E/2 NW/4, NE/4 SW/4

The unit is to be designated the East Shugart (Delaware) Unit. Among the matters to be considered at the hearing, pursuant to the New Mexico Statutory Unitization Act, NMSA 1978 Sections 70-7-1 et seq., will be: The necessity of unit operations; the designation of a unit operator; the determination of the horizontal and vertical limits of the unit area; the determination of the fair, reasonable, and equitable allocation of production and costs of production, including capital investments, to each of the tracts in the unit area; the determination of credits and charges to be made among the various owners in the unit area for their investment in wells and equipment; and such other matters as may be necessary and appropriate for carrying on efficient unit operations, including unit voting procedures, selection, removal, or substitution of the unit operator, and time of commencement and termination of unit operations. Applicant also requests that the order issued in this case include a provision for carrying any non-consenting working interest owner within the unit area upon such terms and conditions to be determined by the Division to be just and reasonable. The unit area is located approximately 11.5 miles southeast of Loco Hills, New Mexico.

Upon application of St. Mary Land & Exploration Company, this case will be heard De Novo pursuant to the provisions of Rule 12207.

Examiner Hearing – August 5, 1999

Docket No. 24-99

Page 4 of 4

CASE 12208: Continued from July 22, 1999, Examiner Hearing.

Application of St. Mary Land & Exploration Company for approval of a waterflood project and to qualify the project for the recovered oil tax rate pursuant to the Enhanced Oil Recovery Act, Eddy and Lea Counties, New Mexico. Applicant seeks approval of its East Shugart (Delaware) Unit Waterflood Project by the injection of water into the Brushy Canyon formation of the Delaware Mountain Group through 9 wells located in the following area:

Township 18 South, Range 31 East, NMPM

Section 13: S/2 SE/4

Section 24: NE/4, N/2 SE/4

Township 18 South, Range 32 East, NMPM

Section 18: Lot 4

Section 19: Lots 1-3, E/2 NW/4, NE/4 SW/4

Applicant further seeks to qualify the project for the recovered oil tax rate pursuant to the "New Mexico Enhanced Oil Recovery Act" (Sections 7-29A-1 through 7-29A-2 NMSA 1978). This project is located approximately 11.5 miles southeast of Loco Hills, New Mexico.

CASE 12220: Continued from July 22, 1999, Examiner Hearing.

Application of Cross Timbers Operating Company for an Unorthodox Coal Gas Well Location, San Juan County, New Mexico. Applicant seeks approval to drill its proposed Brown Well No. 3 (API No. 30-045-29900) at an off-pattern non-standard coal gas well location 1775 feet from the South line and 1090 feet from the East line (Unit I) of Section 29, Township 30 North, Range 12 West, which is located approximately 6 miles northeast of Farmington, New Mexico. The S/2 of Section 29 is to be dedicated to this well in order to form a standard 320-acre gas spacing and proration unit for the Basin-Fruitland Coal (Gas) Pool.

CASE 12194: Continued from July 22, 1999, Examiner Hearing.

Application of Shackelford Oil Company for compulsory pooling, Lea County, New Mexico. Applicant seeks an order pooling all mineral interests from the surface to the base of the Delaware formation underlying the NW/4 SE/4 (Unit J) of Section 3, Township 20 South, Range 33 East, thereby forming a standard 40-acre oil spacing and proration unit for any and all formations and/or pools developed on 40-acre spacing within that vertical extent, which presently includes the Undesignated Teas-Yates-Seven Rivers Pool and the Undesignated West Teas-Yates-Seven Rivers Pool. The unit is to be dedicated to a well to be drilled at a standard oil well location thereon. Also to be considered will be the cost of drilling and completing the well and the allocation of the cost thereof as well as actual operating costs and charges for supervision, designation of applicant as operator of the well and a charge for risk involved in drilling the well. The proposed 40-acre unit is located approximately 1.25 miles north of U. S. Highway 62-180 at mile marker No. 77.

CASE 12196: Continued from July 22, 1999, Examiner Hearing.

Application of Shackelford Oil Company for compulsory pooling, Lea County, New Mexico. Applicant seeks an order pooling all mineral interests from the surface to the base of the Delaware formation underlying the SW/4 SE/4 (Unit O) of Section 3, Township 20 South, Range 33 East, thereby forming a standard 40-acre oil spacing and proration unit for any and all formations and/or pools developed on 40-acre spacing within that vertical extent, which presently includes the Undesignated Teas-Yates-Seven Rivers Pool and the Undesignated West Teas-Yates-Seven Rivers Pool. This unit is to be dedicated to a well to be drilled at a standard oil well location thereon. Also to be considered will be the cost of drilling and completing the well and the allocation of the cost thereof as well as actual operating costs and charges for supervision, designation of applicant as operator of the well and a charge for risk involved in drilling the well. The proposed 40-acre unit is located approximately 1 mile north of U. S. Highway 62-180 at mile marker No. 77.

DOCKET: COMMISSION HEARING - THURSDAY – AUGUST 12, 13, 19, 20, 26, and 27, 1999

9:00 A.M. - 2040 South Pacheco

Santa Fe, New Mexico

The Land Commissioner's designee for this hearing will be Jami Bailey or Gary Carlson

The minutes of the July 15, 1999, Commission hearing will be adopted.

The Oil Conservation Commission may vote to close the open meeting to deliberate any De Novo cases heard at this hearing.

**NOTE: The Commission hearing scheduled for August 19th will begin at 1:00 pm.
Case 12033 will be heard on August 26 & 27, 1999**

CASE 12225: The Oil Conservation Division is calling a hearing to consider proposed October, 1999 – March, 2000 gas allowables for the prorated gas pools in New Mexico. Allowable assignment factors are being distributed with an OCD Memorandum dated July 22, 1999. If requests for changes are not received at the August 12, 1999 hearing, these factors will be used to assign allowables for the October - March period.

CASE 12119: Continued from July 15, 1999, Commission Hearing.

Application of the Oil Conservation Division to amend Rule 104 (19 NMAC 15.C.104) pertaining to well spacing. The proposed amendments may be accessed on the internet on the Division homepage at: www.emnrd.state.nm.us/ocd. Written comments on this proposed rule amendment will be accepted until August 4, 1999.

CASE 12161: De Novo - Continued from July 15, 1999, Commission Hearing.

Application of Ridgeway Arizona Oil Corporation for a unit agreement, Catron County, New Mexico. Applicant seeks approval of the Cottonwood Canyon Carbon Dioxide Gas Unit Agreement, and exploratory unit comprising 109,309.33 acres, more or less, of federal, state, and fee lands in Catron County, New Mexico, and certain lands in Apache County, Arizona, covering all or parts of the following sections.

A. State of Arizona

Township 12 North, Range 29 East, G.&S.R.M.

Section 24

Township 12 North, Range 30 East, G.&S.R.M.

Sections 9, 10, 11, 13, 14, 19-21, 23-29, 34 and 35

Township 12 North, Range 31 East, G.&S.R.M.

Sections: 18-21, 27-31, 33, and 34

Township 10 North, Range 31 East, G.&S.R.M.

Sections: 3 and 10

Township 9 North, Range 31 East, G.&S.R.M.

Sections: 3, 10, 15, 22, and 27

B. State of New Mexico

Township 2 North, Range 20 West, NMPM

Sections: 30, 31, and 32

Township 2 North, Range 21 West, NMPM

Sections: 9, 14-16, 21-28, and 33-36

Township 1 North, Range 20 West, NMPM

Sections: 4-9, 16-21, 26, 27, and 28-35

Township 1 North, Range 21 West, NMPM

Sections: 1-4, 9-16, 21-28, and 33-36

Township 1 South, Range 20 West, NMPM

Sections: 2-10, 16-21, and 28-33

Township 1 South, Range 21 West, NMPM

Sections: 1-4, 9-16, 21-28, and 33-36

Township 2 South, Range 20 West, NMPM

Sections: 5-6, 18, and 19

Township 2 South, Range 21 West, NMPM

Sections: 1-4, 9-16, 21-28, and 33-36

Township 3 South, Range 21 West, NMPM

Sections: 3 and 4

The unit area is centered approximately where US Highway 60 intersects the Arizona – New Mexico state line. Upon application of Gary L. Kiehne, this case will be heard De Novo pursuant to the provisions of Rule 1220.

Commission Hearings in August
Docket No. 25-99
Page Two

CASE 12186:

De Novo

Application of Chesapeake Operating Inc. for compulsory pooling, Lea County, New Mexico. Applicant seeks an order pooling all mineral interests from the surface to the base of the Morrow formation underlying the following described acreage in Section 15, Township 16 South, Range 35 East, in the following manner: (a) the E/2 to form a standard 320-acre gas spacing and proration unit for any formations and/or pools developed on 320-acre gas spacing within that vertical extent, including the Townsend-Morrow Gas Pool and the North Shoe Bar-Atoka Gas Pool; (b) the NE/4 to form a standard 160-acre gas spacing and proration for any formations and/or pools developed on 160-acre gas spacing within that vertical extent, including the North Shoe Bar-Wolfcamp Gas Pool; (c) the E/2 NE/4 to form a standard 80-acre oil spacing and proration unit for any formations and/or pools developed on 80-acre oil spacing within that vertical extent; and (d) the SE/4 NE/4 to form a standard 40-acre oil spacing and proration unit for any formations and/or pools developed on 40-acre oil spacing within that vertical extent, including the Townsend-Permo Upper Pennsylvanian Pool. These units are to be dedicated to its Boyce "15" Well No. 1 which will be located at a standard location within Unit H of the section. Also to be considered will be the costs of drilling and completing this well and the allocation of the costs thereof as well as actual operating costs and charges for supervision, designation of applicant as operator of the well and a charge for risk involved in this well. This unit is located approximately 5 1/2 miles southwest of the center of the City of Lovington, New Mexico. Upon application of Ameristate Oil & Gas, Inc., this case will be heard De Novo pursuant to the provisions of Rule 1220.

CASE 11996:

De Novo

Application of Pendragon Energy Partners, Inc. and J. K. Edwards Associates, Inc. to confirm production from the appropriate common source of supply, San Juan County, New Mexico. The applicants, pursuant to Rule 3 of the "*Special Rules and Regulations for the Basin-Fruitland Coal Gas Pool*," as promulgated by Division Order No. R-8768, as amended, seeks an order confirming that the following described wells completed within the vertical limits of the WAW-Fruitland Sand-Pictured Cliffs Pool and the Basin-Fruitland Coal (Gas) Pool are producing from the appropriate common source of supply and providing further relief as the Division deems necessary: (i) the Pendragon Energy Partners, Inc. operated Chaco Well Nos. 1, 2-R, 4, and 5 and Chaco Ltd. Well Nos. 1-J and 2-J located in Sections 7 and 18, Township 26 North, Range 12 West and Section 1, Township 26 North, Range 13 West, and (ii) the Whiting Petroleum Corporation operated Gallegos Federal "26-12-6" Well No. 2, Gallegos Federal "26-12-7" Well No. 1, Gallegos Federal "26-13-" Well Nos. 1 and 2, and Gallegos Federal "26-13-12" Well No. 1 located in Sections 6 and 7, Township 26 North, Range 12 West and Sections 1 and 12, Township 26 North, Range 13 West. The area in which these wells are located is approximately 15 miles south-southeast of Farmington, New Mexico. Upon application of Pendragon Energy Partners, Inc., Pendragon Resources, L. P., and J. R. Edwards Associates, Inc.; and Whiting Petroleum Corporation and Maralex Resources, Inc., this case will be heard De Novo pursuant to the provisions of Rule 1220.

CASE 12033:

De Novo

Application of Public Service Company of New Mexico for review of Oil Conservation Division directive dated March 13, 1998 directing applicant to perform additional remediation for hydrocarbon contamination, San Juan County, New Mexico. Applicant seeks review of a Division directive dated March 13, 1998 directing applicant to perform additional remediation for hydrocarbon contamination located in the area of the Burlington Resources Hampton Well No. 4M located in Unit N, Section 13, Township 30 North, Range 11 West, and a determination by the division that applicant is not a responsible person for purposes of further investigation or remediation of the contamination. Applicant further seeks a stay of the March 13, 1998 directive pending an order in this matter. The subject area is located approximately 3 miles east-southeast of Aztec, New Mexico. Upon application of Burlington Resources Oil and Gas Company, this case will be heard De Novo pursuant to the provisions of Rule 1220.

**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. 12207
Order No. R-11255*

**APPLICATION OF ST. MARY LAND & EXPLORATION COMPANY FOR
STATUTORY UNITIZATION, EDDY AND LEA COUNTIES, NEW MEXICO**

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on August 5, 1999, at Santa Fe, New Mexico before Examiner David R. Catanach.

NOW, on this 14th day of October, 1999, the Division Director, having considered the testimony, the record and the recommendations of the Examiner.

FINDS THAT:

(1) Due public notice has been given and the Division has jurisdiction of this case and its subject matter.

(2) Division Cases No. 12207 and 12208 were consolidated at the time of the hearing for the purpose of testimony.

(3) The applicant, St. Mary Land & Exploration Company, seeks: (i) the statutory unitization, pursuant to the Statutory Unitization Act, Sections 70-7-1 through 70-7-21, NMSA 1978, of 604.12 acres, more or less, being a portion of the East Shugart-Delaware Pool, Eddy and Lea Counties, New Mexico, and to be known as the East Shugart Delaware Unit, hereinafter sometimes referred to as the "Unit Area"; and (ii) approval of the Unit Agreement and the Unit Operating Agreement, which were submitted in evidence as applicant's Exhibits No. 3 and 4, respectively, in this case.

(4) St. Mary Land & Exploration Company proposes to institute an enhanced oil recovery project for the secondary recovery of oil and gas from the Unitized Formation within the Unit Area (the subject of companion Case No. 12208).

(5) Intoil, Inc. ("Intoil"), an interest owner in the proposed East Shugart Delaware Unit, appeared at the hearing in support of the proposed unitization and secondary recovery project, but in opposition to the applicant's proposed allocation formula.

(6) The applicant notified all interest owners in the proposed East Shugart Delaware Unit of its application in this case. No other interest owner appeared at the hearing.

(7) The East Shugart-Delaware Pool has been reasonably defined by development.

(8) The proposed East Shugart Delaware Unit consists of six Federal oil and gas leases located in Eddy and Lea Counties, New Mexico, and comprises 604.12 acres, more or less, described as follows:

EDDY COUNTY, NEW MEXICO
TOWNSHIP 18 SOUTH, RANGE 31 EAST, NMPM

Section 13: S/2 SE/4
Section 24: NE/4, N/2 SE/4

LEA COUNTY, NEW MEXICO
TOWNSHIP 18 SOUTH, RANGE 32 EAST, NMPM

Section 18: Lot 4
Section 19: Lots 1 through 3, E/2 NW/4, NE/4 SW/4

(9) The proposed Unitized Formation is that interval underlying the Unit Area, the vertical limits of which extend from an upper limit described as the top of the Brushy Canyon formation of the Delaware Mountain Group to the stratigraphic equivalent of 5600 feet within the Delaware Brushy Canyon formation, the geologic markers having been previously found to occur at 5007 feet and 5600 feet, respectively, in the Geronimo Federal Well No. 3 located 890 feet from the North line and 990 feet from the East line (Unit A) of Section 24, Township 18 South, Range 31 East, NMPM, Eddy County, New Mexico, as recorded on the Compensated Neutron Litho Density Log taken on September 21, 1985.

(10) By letter dated February 16, 1999, the Bureau of Land Management approved the East Shugart Delaware Unit as a logical unit area.

(11) The proposed Unit Area contains 14 separate tracts owned by 46 working interest owners and 103 royalty and overriding royalty interest owners.

(12) The applicant has made a good faith effort to secure voluntary unitization within the Unit Area and as of the date of the hearing has obtained voluntary ratification from 89.098% of the working interest owners and from 93.217% of the royalty and overriding royalty interest owners.

(13) St. Mary Land & Exploration Company is the largest interest owner within the proposed East Shugart Delaware Unit, owning more than 58% of the working interest. Intoil is the third largest owner of interest, owning approximately 4.5% of the working interest.

(14) The applicant presented evidence indicating that the individual tract participation and allocation of production within the proposed East Shugart Delaware Unit was determined in accordance with the following formula:

- Factor A: 5% of Total Tract Participation
Total number of acres attributable to the tract divided by the total number of acres in the Unit Area.
- Factor B: 15% of Total Tract Participation
Total cumulative oil production from the Unitized Formation in each tract as of June 1, 1998 divided by the total cumulative oil production from the Unitized Formation within the Unit Area as of June 1, 1998.
- Factor C: 25% of Total Tract Participation
Rate of oil production from the Unitized Formation in each tract as determined by average barrels of oil produced each month from January through May, 1998 divided by the total rate of oil production from the Unitized Formation within the Unit Area for the same period of time.
- Factor D: 40% of Total Tract Participation
Original oil in place ("OOIP") in the Unitized Formation in each tract as determined by the reservoir simulation study, East Shugart (Delaware) Field, June 8, 1998, Petroleum Consulting & Engineering, Inc., divided by the original oil in place in the Unitized Formation within the Unit Area as determined by said study.
- Factor E: 15% of Total Tract Participation
Remaining primary oil reserves from the Unitized Formation in each tract beginning July 1, 1998, as determined by decline curve analysis, divided by the remaining primary oil reserves from the Unitized Formation within the Unit Area beginning July 1, 1998, as determined by decline curve analysis.

(15) Intoil owns a 45.452% interest in Tract No. 6 of the proposed East Shugart Delaware Unit. This tract is currently dedicated to the Jade Federal Well No. 1 (API No. 30-025-29939) located 1650 feet from the North and West lines (Unit F) of Section 19.

(16) The applicant's proposed allocation formula results in a 9.09% unit participation factor for Tract No. 6.

(17) Intoil's objection to the proposed allocation formula is based upon its contention that OOIP (Factor D) is too heavily weighted in the formula and that OOIP is subjective for the following reasons:

- a) the Delaware formation in the Unit Area is highly erratic and comprised of lenticular and often discontinuous sands;
- b) much of the productive reservoir in the Unit Area is still behind pipe and its productive capabilities can only be estimated;
- c) the performance of the wells currently completed in this formation demonstrates uncertain productive capabilities even when the perforated Delaware formation meets assumed porosity and water saturation parameters; and
- d) the unreliability of projecting well performance based on log analysis in the Unit Area makes it difficult to accurately calculate the OOIP in this reservoir on a tract-by-tract basis.

(18) Intoil further contends that St. Mary Land & Exploration Company's reservoir modeling does not accurately determine OOIP for the following reasons:

- a) the reservoir model is based upon the applicant's geologic interpretation of the reservoir, which includes in the productive reservoir all of the Delaware formation with porosity in excess of 17% and with water saturation of 60% or less; and
- b) wells in this reservoir that met the porosity and water saturation requirements for a productive reservoir by log analysis failed to produce or were wet when perforated.

(19) Intoil presented two alternate formulas, which it believes allocate unit production in a more fair, reasonable and equitable basis. Intoil's recommended participation formulas are described as follows:

Intoil's Alternate Formula No. 1

<u>Parameter</u>	<u>Percentage</u>
Acreage	5%
Cumulative Oil Production	20%
Remaining Primary	35%
Oil Rate (January-May, 1998)	35%
Original Oil in Place	5%

Intoil's Alternate Formula No. 2

Remaining Primary	40%
Oil Rate (January-May, 1998)	40%
Primary Ultimate	20%

(20) Intoil's proposed allocation formulas result in a 10.64% (Formula 1) and 11.31% (Formula 2) unit participation factor for Tract No. 6.

(21) Intoil further testified that when the expected recoveries under the applicant's proposed allocation formula are compared to the expected recoveries under primary recovery operations, the ratio for Intoil is 3.4 to 1 compared to the ratio for all other working interest owners in the Unit Area of 4.34 to 1. Under Intoil's proposed allocation formulas, these ratios are compared as follows:

<u>Allocation Formula</u>	<u>Intoil's Ratio</u>	<u>All Other WI's Ratio</u>
Intoil Alternate Formula 1	4.1 to 1	4.29 to 1
Intoil Alternate Formula 2	4.236 to 1	4.285 to 1

(22) The applicant contends that its proposed allocation formula treats Intoil fairly for the following reasons:

- a) certain irregularities in production reporting for Tract No. 6 during the period from 1992 through mid-1996 have resulted in the Jade Federal Well No. 1 being credited for more cumulative production than it actually contributed, thereby effectively increasing its share of unit participation under Factor B of the applicant's proposed participation formula;

- b) in late 1998, after several discussions with Intoil and in an effort to assuage its concerns, the applicant recalculated current rate and remaining primary reserves for Tract No. 6. This adjustment resulted in a 0.5% increase in Intoil's unit participation under the applicant's proposed participation formula; and
 - c) well tests conducted in March and April, 1999 show that the current producing rate of the Jade Well No. 1 is substantially lower than its rate from January to June, 1998, the time period applied to Factor C of the applicant's proposed allocation formula. This affects both the current rate and remaining primary reserves attributable to the Jade Federal Well No. 1, again benefiting Intoil.
- (23) The evidence presented by both parties in this case demonstrates that:
- a) in determining the allocation formula proposed to be utilized within the East Shugart Delaware Unit, the applicant worked independently and without input from any other working interest owner in the Unit Area;
 - b) in January, 1999, the applicant sent Intoil's proposed allocation formulas to all the working interest owners in the Unit Area and solicited their input with regards to Intoil's proposal. The applicant testified that no working interest owner responded, either in support of, or opposition to, the allocation formulas proposed by Intoil;
 - c) the applicant utilized reservoir modeling to determine OOIP for each of the tracts in the Unit Area. Behind-pipe reserves were estimated utilizing log analysis ("i.e.", porosity, net pay and water saturation data). The evidence presented indicates that behind-pipe reserves attributable to wells within the Unit Area may not be producible and may not ultimately contribute to actual unit production;

- d) the geologic evidence further indicates that the Delaware sands are fairly continuous and correlatable across the Unit Area, however, porosity variations exist within these sands which may cause erroneous OOIP estimates;
- e) an examination of similar statutory unitization cases presented before the Division during the last decade reveals that OOIP is rarely used as a factor in allocation formulas;
- f) there is ample production history within the Unit Area with which to reasonably determine cumulative oil production, current producing rate and remaining primary reserves, all factors that provide a greater degree of accuracy than OOIP in determining a fair and reasonable allocation formula;
- g) while it is not unreasonable to utilize OOIP as a factor in allocation formulas, the applicant did not present sufficient evidence to demonstrate the necessity to weight this factor at 40% in its proposed allocation formula;
- h) the allocation formula proposed by the applicant in this case does not allocate unitized hydrocarbons to the separately owned tracts within the Unit Area on a fair, reasonable and equitable basis; and
- i) Intoil's Formula No. 1 allocates unitized hydrocarbons to the separately owned tracts within the Unit Area on a more fair, reasonable and equitable basis.

(24) Intoil's Formula No. 1, described in Finding No. (19) above, should be adopted as the allocation formula to be utilized in the statutory unitization of the East Shugart Delaware Unit; provided, however, the applicant should utilize its data to recalculate tract participation within the unit.

(25) The applicant projects that the unitized management, operation and further development of the Unitized Formation within the Unit Area will result in the recovery of an additional 2.9 million barrels of secondary reserves which would otherwise not be recovered, thereby preventing waste.

(26) The statutory unitization of the Unitized Formation within the Unit Area in accordance with the plan embodied in the Unit Agreement and Unit Operating Agreement, subject to the amendment to the allocation formula, will prevent waste and protect correlative rights and is upon terms and conditions that are fair, reasonable, equitable and in accordance with the Statutory Unitization Act, including all of the elements necessary for the entry of an order.

(27) The proposed unitized method of secondary recovery operations within the Unit Area is feasible and will result with reasonable probability in the recovery of substantially more oil and gas from the unitized portion of the pool than would otherwise be recovered.

(28) The estimated additional costs of such operations will not exceed the estimated value of the additional oil recovered plus a reasonable profit.

(29) Statutory unitization and adoption of applicant's proposed unitized method of operation will benefit the working interest and royalty interest owners within the proposed secondary recovery project area.

(30) The Unit Agreement and Unit Operating Agreement, applicant's Exhibits No. 3 and 4 in this case, should be incorporated by reference into this order

(31) The East Shugart Delaware Unit Agreement and the East Shugart Delaware Unit Operating Agreement, subject to the amended allocation formula, shall provide for unitization and unit operation upon terms and conditions that are fair, reasonable and equitable, and shall include:

- (a) an allocation to the separately owned tracts in the unit area of all oil and gas that is produced from the unit area and that is saved, being the production that is not used in the conduct of unit operations or not unavoidably lost;
- (b) a provision for the credits and charges to be made in the adjustment among the owners in the unit area for their respective investments in wells, tanks, pumps, machinery, materials and equipment contributed to the unit operations;
- (c) a provision governing how the costs of unit operations including capital investments shall be determined and charged to the separately owned tracts and how such costs shall be paid, including a provision specifying when, how and by whom such costs shall be charged to the owners, or the interests of such owners, and how their interests may be sold and the proceeds applied to the payment of their costs;

- (d) a provision for carrying any working interest owner on a limited, carried or net-profits basis, payable out of production, upon terms and conditions that are just and reasonable and that allow an appropriate charge for interest for such service payable out of production, upon such terms and conditions determined by the Division to be just and reasonable;
- (e) a provision designating a Unit Operator and providing for supervision and conduct of unit operations, including the selection, removal and substitution of an operator from among the working interest owners to conduct unit operations;
- (f) a voting procedure for matters to be decided by the working interest owners under which each working interest owner shall have a voting interest equal to its participation; and
- (g) a provision specifying the time when the unit operation shall commence and the manner in which, and the circumstances under which, the operations shall terminate and provision for the settlement of accounts upon such termination.

(32) Section 70-7-7.F., NMSA 1978, of the Statutory Unitization Act provides that the unit plan of operation shall include a provision for carrying any working interest owner, subject to limitations set forth in the statute, and that any non-consenting working interest owner so carried shall be deemed to have relinquished to the unit operator all of its operating rights and working interest in and to the unit until its share of the costs has been repaid plus an amount not to exceed 200 percent thereof as a non-consent penalty.

(33) The applicant's Exhibit No. 4, Unit Operating Agreement, contains a provision whereby any working interest owner who elects not to pay its share of unit expense shall be liable for its share of such unit expense plus an additional 200 percent thereof as a non-consent penalty, and that such costs and non-consent penalty may be recovered from each non-consenting working interest owner's share of unit production.

(34) A non-consent penalty of 200 percent should be adopted in this case. The applicant should be authorized to recover from unit production each non-consenting working interest owner's share of unit expense plus 200 percent thereof.

(35) The statutory unitization of the East Shugart Delaware Unit Area is in conformity with the above findings, will prevent waste and protect correlative rights of all interest owners within the proposed Unit Area, and should be approved.

IT IS THEREFORE ORDERED:

(1) The application of St. Mary Land & Exploration Company for the statutory unitization of 604.12 acres, more or less, being a portion of the East Shugart-Delaware Pool, Eddy and Lea Counties, New Mexico, to be known as the East Shugart Delaware Unit, is hereby approved pursuant to the Statutory Unitization Act, Sections 70-7-1 through 70-7-21, NMSA 1978.

(2) The East Shugart Delaware Unit shall comprise the following described 604.12 acres, more or less, of Federal lands in Eddy and Lea Counties, New Mexico:

EDDY COUNTY, NEW MEXICO
TOWNSHIP 18 SOUTH, RANGE 31 EAST, NMPM

Section 13: S/2 SE/4
Section 24: NE/4, N/2 SE/4

LEA COUNTY, NEW MEXICO
TOWNSHIP 18 SOUTH, RANGE 32 EAST, NMPM

Section 18: Lot 4
Section 19: Lots 1 through 3, E/2 NW/4, NE/4 SW/4

(3) The "Unitized Formation" shall comprise that interval underlying the Unit Area the vertical limits of which extend from an upper limit described as the top of the Brushy Canyon formation of the Delaware Mountain Group to the stratigraphic equivalent of 5600 feet within the Delaware Brushy Canyon formation, the geologic markers having been previously found to occur at 5007 feet and 5600 feet, respectively, in the Geronimo Federal Well No. 3 located 890 feet from the North line and 990 feet from the East line (Unit A) of Section 24, Township 18 South, Range 31 East, NMP M, Eddy County, New Mexico, as recorded on the Compensated Neutron Litho Density Log taken on September 21, 1985.

(4) The East Shugart Delaware Unit Agreement and East Shugart Delaware Unit Operating Agreement, which were submitted to the Division at the time of the hearing as Exhibits No. 3 and 4, respectively, are hereby incorporated by reference into this order.

(5) The applicant shall institute a water injection program for the secondary recovery of oil and associated gas, condensate and all associated liquefiable hydrocarbons within the Unit Area, such operations being the subject of companion Case No. 12208.

(6) The applicant shall utilize the following described formula to allocate production to each of the tracts within the Unit Area, provided however the applicant shall utilize its data to recalculate tract participation in accordance with this formula:

<u>Parameter</u>	<u>Percentage</u>
Acreage	5%
Cumulative Oil Production	20%
Remaining Primary	35%
Oil Rate (January-May, 1998)	35%
Original Oil in Place	5%

(7) The Unit Agreement and the Unit Operating Agreement for the East Shugart Delaware Unit, subject to the revised tract participation formula, shall provide for unitization and unit operation of the Unit Area upon terms and conditions that are fair, reasonable and equitable.

(8) This order shall not become effective unless and until the owners of 75 percent of the working interest and 75 percent of the royalty interest in the East Shugart Delaware Unit have approved the plan for unit operations as required by Section 70-7-8, NMSA 1978.

(9) If the persons owning the required percentage of interest in the East Shugart Delaware Unit, as set forth in Section 70-7-8, NMSA 1978, do not approve the plan for unit operations within a period of six months from the date of entry of this order, this order shall cease to be effective unless the Division shall extend the time for ratification for good cause.

(10) When the persons owning the required percentage of interest in the East Shugart Delaware Unit have approved the plan for unit operations, the interests of all persons in the Unit Area are unitized whether or not such persons have approved the plan of unitization in writing.

(11) The applicant shall notify the Division Director in writing of any removal or substitution of the applicant as unit operator by any other working interest owner within the Unit Area.

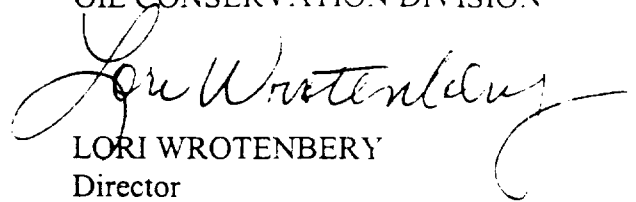
(12) A non-consent penalty of 200 percent is hereby adopted in this case. The applicant shall be authorized to recover from unit production each non-consenting working interest owner's share of unit expense plus 200 percent thereof.

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

CASE NO. 12207
Order No. R-11255
Page 12

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

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION


LORI WROTENBERY
Director

S E A L



NEW MEXICO ENERGY, MINERALS
& NATURAL RESOURCES DEPARTMENT

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

November 16, 1999

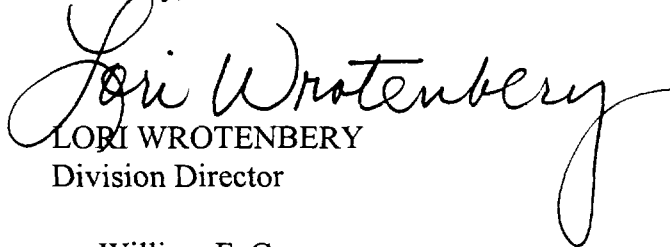
Mr. James Bruce
Attorney-at-Law
3304 Camino Lisa
Santa Fe, New Mexico 87501

Re: De Novo Case No. 12207
Order No. R-11255
Application of St. Mary Land
& Exploration Company for
statutory unitization, Eddy
and Lea Counties, New
Mexico

Dear Mr. Bruce:

The above-mentioned De Novo case, which was scheduled for hearing before the Oil Conservation Commission on November 17, 1999, is hereby dismissed pursuant to the request of the De Novo applicant. Division Order No. R-11255 is hereby continued in full force and effect until further notice.

Sincerely,


LORI WROTENBERY
Division Director

cc: William F. Carr