

**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. 12684
ORDER NO. R-11673**

**APPLICATION OF BEACH EXPLORATION INC. FOR STATUTORY
UNITIZATION, EDDY COUNTY, NEW MEXICO.**

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on July 12, 2001, at Santa Fe, New Mexico before Examiner David R. Catanach.

NOW, on this 19th day of October, 2001, 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. 12684 and 12685 were consolidated at the time of the hearing for the purpose of testimony.
- (3) The applicant, Beach Exploration, Inc. ("Beach"), seeks: (i) the statutory unitization, pursuant to the Statutory Unitization Act, Sections 70-7-1 through 70-7-21, NMSA 1978, of 1156.60 acres, more or less, of state and federal lands, being a portion of the High Lonesome (Queen) Pool, Eddy County, New Mexico, and to be known as the West High Lonesome 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. 2 and 3, respectively, in this case.
- (4) Beach proposes to institute an enhanced oil recovery project for the secondary recovery of oil and gas from the Unitized Formation, hereinafter more specifically defined, within the Unit Area. This secondary recovery project is the subject of companion Case No. 12685.

(5) Mr. Bill Taylor and Mr. Harvey Taylor (“the Taylors”), working interest owners in the SE/4 NW/4 of Section 19, Township 16 South, Range 29 East, NMPM, being Tract No. 11 of the proposed West High Lonesome Unit, appeared at the hearing, cross examined Beach’s witnesses and made a statement at the conclusion of the proceedings.

(6) The High Lonesome (Queen) Pool has been reasonably defined by development.

(7) The proposed West High Lonesome Unit consists of eight federal leases and one state lease, and comprises the following-described area in Eddy County, New Mexico:

Township 16 South, Range 29 East, NMPM

Section 17: S/2 NW/4, SW/4, W/2 SE/4

Section 18: Lots 2 through 4, S/2 NE/4, SE/4, SE/4 NW/4, E/2
SW/4

Section 19: E/2 NW/4, NE/4

Section 20: W/2 NW/4, NE/4 NW/4, NW/4 NE/4

(8) Beach proposed that the Unitized Formation comprise the Penrose Sand member of the Queen formation, as fully described within its West High Lonesome Unit Agreement as follows:

““Unitized Formation” shall mean that interval underlying the Unit Area, the vertical limits of which extend from an upper limit described as 1,570 feet (+2,017 feet) below mean sea level or as the top of the Penrose Sand member of the Queen Formation as found in Beach Exploration, Inc.’s (originally drilled by Rosewood Resources, Inc.) Rosewood “18” State # 1 well (located 1,650 feet FSL and 330 feet FWL of Section 18, T-16-S, R-29-E, Eddy County, New Mexico) as recorded on the Dresser Atlas Densilog/Neutron Gamma Ray Log recorded on March 12, 1987, said log being measured from a kelly drive bushing elevation of 3,587 feet above sea level. The lower limit shall be described as 1,810 feet (+1,839) below mean sea level or at the base of the Penrose Sand member of the Queen Formation as found in Beach Exploration, Inc.’s (originally drilled by Utah Unit Oil Company) Isle Federal # 3 well (located at 330 feet FNL and 2,310 feet FWL of Section 20, T-16-S, R-29-E, Eddy County, New Mexico) as recorded on the Schlumberger Gamma Ray – Neutron Log recorded on August 21, 1955, said log being measured from 1 foot above ground level elevation of 3,649 feet above sea level.”

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(3) The applicant, Beach Exploration, Inc. ("Beach"), seeks: (i) the statutory unitization, pursuant to the Statutory Unitization Act, Sections 70-7-1 through 70-7-21, NMSA 1978, of 1156.60 acres, more or less, of state and federal lands, being a portion of the High Lonesome (Queen) Pool, Eddy County, New Mexico, and to be known as the West High Lonesome 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. 2 and 3, respectively, in this case.

(4) Beach proposes to institute an enhanced oil recovery project for the secondary recovery of oil and gas from the Unitized Formation, hereinafter more specifically defined, within the Unit Area. This secondary recovery project is the subject of companion Case No. 12685.

(9) There are 12 tracts within the West High Lonesome Unit that are owned by 32 working interest owners and 65 royalty and overriding royalty interest owners.

(10) As of the hearing date, 94% of the working interest owners and 96.5% of the royalty and overriding royalty interest owners within the Unit Area have voluntarily agreed to pool their interests by executing a ratification and joinder of the Unit Agreement and Unit Operating Agreement.

(11) Beach has made a reasonable effort to locate all interest owners within the Unit Area, but has been unable to locate certain working and overriding royalty interest owners.

(12) With the exception of the Taylors, no interest owner appeared at the hearing.

(13) The applicant presented evidence indicating that the individual tract participation and allocation of production within the proposed West High Lonesome Unit was determined by dividing the ultimate primary recovery for each tract by the ultimate primary recovery for all tracts within the Unit Area. The ultimate primary recovery for each tract within the Unit Area was determined by adding: i) the cumulative production for that tract as of April, 2000; ii) the remaining primary recovery for that tract; and iii) the proved undeveloped primary reserves for that tract.

(14) As of the hearing date, the Taylors have not agreed to voluntarily participate in the West High Lonesome Unit. According to statements made at the hearing, the Taylors do not oppose the proposed West High Lonesome Unit or the proposed secondary recovery operations that Beach plans to implement within the Unit Area. The Taylors do oppose, however, certain provisions contained within the Unit Agreement and the Unit Operating Agreement, including the proposed 200% penalty to be assessed against non-consenting working interest owners, and the proposed overhead rates for drilling and producing operations within the Unit Area.

(15) The provisions contained within the West High Lonesome Unit Agreement and the West High Lonesome Unit Operating Agreement stipulating a 200% non-consent penalty and allowing Beach to recover overhead rates of \$3500.00 per month while drilling and \$375.00 per month while producing are not unreasonable. In addition, these provisions have been agreed to by 94% of the working interest owners within the Unit Area.

(16) The unitized management, operation and further development of the Unitized Formation within the Unit Area is reasonably necessary in order to effectively carry on secondary recovery operations and should result in the recovery of an additional 558,000

barrels of secondary reserves that would otherwise not be recovered, thereby preventing waste.

(17) The statutory unitization of the Unitized Formation within the Unit Area in accordance with the plan embodied in the Unit Agreement and the Unit Operating Agreement will prevent waste and protect correlative rights, and the terms and conditions of the Unit Agreement and the Unit Operating Agreement, including, but not limited to, the participation formula contained in the Unit Agreement, are fair, reasonable, equitable and in accordance with the Statutory Unitization Act. All of the conditions necessary for the entry of an order, as provided in NMSA Sec 70-7-6, exist.

(18) 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 without unitization.

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

(20) 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.

(21) Beach has obtained preliminary approval of the West High Lonesome Unit from both the Commissioner of Public Lands for the State of New Mexico and the United States Bureau of Land Management.

(22) The operator has made a good faith effort to secure voluntary unitization of the Unitized Formation within the Unit Area.

(23) The Unit Agreement and the Unit Operating Agreement, applicant's Exhibits No. 2 and 3 in this case, should be incorporated by reference into this order

(24) The West High Lonesome Unit Agreement and the West High Lonesome Unit Operating Agreement provide for unitization and unit operation upon terms and conditions that are fair, reasonable and equitable, and 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 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 operations 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.

(25) The statutory unitization of the West High Lonesome 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 Beach Exploration, Inc. for the statutory unitization of

1156.60 acres, more or less, of state and federal lands, being a portion of the High Lonesome (Queen) Pool, Eddy County, New Mexico, to be known as the West High Lonesome Unit, is hereby approved pursuant to the Statutory Unitization Act, Sections 70-7-1 through 70-7-21, NMSA 1978.

(2) The West High Lonesome Unit shall comprise the following described 1156.60 acres, more or less, of state and federal lands in Eddy County, New Mexico:

Township 16 South, Range 29 East, NMPM

Section 17: S/2 NW/4, SW/4, W/2 SE/4

Section 18: Lots 2 through 4, S/2 NE/4, SE/4, SE/4 NW/4, E/2
SW/4

Section 19: E/2 NW/4, NE/4

Section 20: W/2 NW/4, NE/4 NW/4, NW/4 NE/4

(3) The Unitized Formation shall comprise the “Penrose” Sand member of the Queen formation, as fully described within the West High Lonesome Unit Agreement as follows:

““Unitized Formation” shall mean that interval underlying the Unit Area, the vertical limits of which extend from an upper limit described as 1,570 feet (+2,017 feet) below mean sea level or as the top of the Penrose Sand member of the Queen Formation as found in Beach Exploration, Inc.’s (originally drilled by Rosewood Resources, Inc.) Rosewood “18” State # 1 well (located 1,650 feet FSL and 330 feet FWL of Section 18, T-16-S, R-29-E, Eddy County, New Mexico) as recorded on the Dresser Atlas Densilog/Neutron Gamma Ray Log recorded on March 12, 1987, said log being measured from a kelly drive bushing elevation of 3,587 feet above sea level. The lower limit shall be described as 1,810 feet (+1,839) below mean sea level or at the base of the Penrose Sand member of the Queen Formation as found in Beach Exploration, Inc.’s (originally drilled by Utah Unit Oil Company) Isle Federal # 3 well (located at 330 feet FNL and 2,310 feet FWL of Section 20, T-16-S, R-29-E, Eddy County, New Mexico) as recorded on the Schlumberger Gamma Ray – Neutron Log recorded on August 21, 1955, said log being measured from 1 foot above ground level elevation of 3,649 feet above sea level.”

(4) The West High Lonesome Unit Agreement and the West High Lonesome Unit Operating Agreement, which were submitted to the Division at the time of the hearing as Exhibits No. 2 and 3, 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 gas, condensate and all liquefiable hydrocarbons within the Unit Area, such operations being the subject of companion Case No. 12685.

(6) Since the persons owning the required statutory minimum percentage of interest in the Unit Area have approved or ratified the Unit Agreement and the Unit Operating Agreement, the interests of all persons within the Unit Area are hereby unitized whether or not such persons have approved the Unit Agreement or the Unit Operating Agreement in writing.

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

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

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



STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

Lori Wrotenbery
LORI WROTENBERY
Director

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