

**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. 10618  
Order No. R-9821**

**APPLICATION OF SIETE OIL AND GAS  
COMPANY FOR STATUTORY UNITIZATION,  
EDDY COUNTY, NEW MEXICO.**

**ORDER OF THE DIVISION**

**BY THE DIVISION:**

This cause came on for hearing at 8:15 a.m. on December 3, 1992, at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this 6th day of January, 1993, 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) Division Case Nos. 10618 and 10619 were consolidated at the time of the hearing for the purpose of testimony.

(3) The applicant, Siete Oil and Gas Company (Siete), seeks the statutory unitization, pursuant to the "Statutory Unitization Act", Sections 70-7-1 through 70-7-21, NMSA, (1978), of all mineral interests underlying 920 acres, more or less, of State and Federal lands comprising portions of Sections 26, 35 and 36, Township 19 South, Range 29 East, NMPM, and a portion of Section 2, Township 20 South, Range 29 East, NMPM, and embracing a substantial portion of the Parkway-Delaware Pool, Eddy County, New Mexico, said unit to be known as the Parkway Delaware Unit Area. The applicant further seeks the approval of the Unit Agreement and the Unit Operating Agreement which were submitted in evidence as applicant's Exhibit No. 1 in this case.

(4) The proposed unit area should be designated the Parkway Delaware Unit Area, and the horizontal limits of said unit area should be comprised of the following described State and Federal lands in Eddy County, New Mexico:

TOWNSHIP 19 SOUTH, RANGE 29 EAST, NMPM

Section 26: SW/4 SE/4

Section 35: N/2, SE/4, E/2 SW/4 and NW/4 SW/4

Section 36: W/2 W/2, SE/4 NW/4 and NE/4 SW/4

TOWNSHIP 20 SOUTH, RANGE 29 EAST, NMPM

Section 2: NW/4 NE/4

(5) Said unit has been approved by the Bureau of Land Management and the Commissioner of Public Lands for the State of New Mexico, subject to the approval of the statutory unitization by the Division.

(6) According to evidence presented, all production within the Parkway-Delaware Pool originates from the Cherry Canyon member.

(7) The vertical limits of the Parkway Delaware Unit Area should comprise that portion of the Delaware formation as found from a depth of 50 feet above 3,914 feet to a depth of 50 feet below 4,288 feet on the electric log run on the Siete Oil and Gas Company Osage Federal Well No. 1 located 1980 feet from the South and East lines (Unit J) of Section 35, Township 19 South, Range 29 East, NMPM, Eddy County, New Mexico.

(8) The unit area contains 11 separate tracts owned by 8 different working interest owners.

(9) As of the date of hearing, the owners of approximately 61 percent of the working interest and owners of approximately 85 percent of the royalty interest were effectively committed to the unit or have balloted to support the unit.

(10) All interested parties who have not agreed to unitization were notified of the hearing by the applicant, but no interest owner appeared at the hearing in opposition to the unitization nor to the vertical limits of the proposed unit area.

(11) The Parkway-Delaware Pool has reasonably been defined by development.

(12) The applicant proposes to institute an enhanced recovery project for the secondary recovery of oil, gas and associated liquefiable hydrocarbons within and to be produced from the proposed unit area (being the subject of Case No. 10619).

(13) Enhanced recovery operations should result in additional recovery from the unit area of approximately 6.4 million barrels of oil.

(14) The unitized management, operation and further development of the Parkway Delaware Unit Area, as proposed, is feasible and reasonably necessary to effectively and efficiently carry on enhanced recovery operations and should substantially increase the ultimate recovery of oil and gas from the Parkway-Delaware Pool.

(15) The proposed unitized method of operation as applied to the unit area is feasible and will result with reasonable probability in the increased recovery of substantially more oil from the unitized portion of the pool than would otherwise be recovered without unitization.

(16) The estimated additional cost of the proposed unitized operations within the unit area will not exceed the estimated value of the additional oil and gas plus a reasonable profit.

(17) The applicant, designated operator of the unit area pursuant to the Unit Agreement and Unit Operating Agreement, has made a good faith effort to secure voluntary unitization within the unit area.

(18) The participation formula contained in the Unitization Agreement allocates the produced and saved unitized substances to the separately owned tracts in the unit area, on a fair, reasonable and equitable basis.

(19) Unitization and the adoption of the proposed unitized methods of operation will benefit the working interest owners and the royalty interest owners of the oil and gas rights within the Parkway Delaware Unit Area.

(20) The applicant's Exhibit No. 1 in this case, being the Unit Agreement and the Unit Operating Agreement, should be incorporated by reference into this order.

(21) The Parkway Delaware Unit Agreement and Parkway Delaware Unit Operating Agreement, as applied to the unit area, provide for unitization and unit operation of the Parkway Delaware Unit Area upon terms and conditions that are fair, reasonable, equitable, and which 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 which 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 and 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 said costs shall be paid, including a provision providing when, how, and by whom the unit production allocated to an owner who does not pay his share of the costs of unit operations shall be credited to such owner, or the interest of such owner, and how his interest may be sold and the proceeds applied to the payment of his costs;
- (d) a provision for carrying any working owner on a limited, carried or net-profits basis, payable out of production, upon terms and conditions which are just and reasonable, and which 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, and providing that any non-consenting working interest owner being so carried shall be deemed to have relinquished to the unit operator all of his operating rights and working interest in and to the unit until his share of the costs, service charge and interest are repaid to the unit operator;
- (e) a provision designating the unit operator and providing for the supervision and conduct of the unit operations, including the selection, removal or substitution of an operator from among the working interest owners to conduct the unit operations;
- (f) a provision for a voting procedure for the decision of matters to be decided by the working interest owners in respect to which each working interest owner shall have a voting interest equal to his unit participation; and
- (g) the time when the unit operations shall commence and the manner in which, and the circumstances under which, the unit operations shall terminate and for the settlement of accounts upon such termination.

(22) Section 70-7-7.F. NMSA of said "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 any non-consenting working interest owner so carried shall be deemed to have relinquished to the unit operator all of his operating rights and working interest in and to the unit until his share of the costs has been repaid plus an amount not to exceed 200 percent thereof as a non-consent penalty.

(23) Applicant's Exhibit No. 1, Unit Operating Agreement, contains a provision whereby any working interest owner who elects not to pay his share of unit expense shall be liable for his 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.

(24) 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.

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

**IT IS THEREFORE ORDERED THAT:**

(1) The Parkway Delaware Unit Area comprising 920 acres, more or less, of State and Federal lands in the Parkway-Delaware Pool, Eddy County, New Mexico, is hereby approved for statutory unitization pursuant to the Statutory Unitization Act, Sections 70-7-1 through 70-7-21, NMSA, (1978).

(2) The lands included within the Parkway Delaware Unit Area shall comprise:

**TOWNSHIP 19 SOUTH, RANGE 29 EAST, NMPM**

Section 26: SW/4 SE/4

Section 35: N/2, SE/4, E/2 SW/4 and NW/4 SW/4

Section 36: W/2 W/2, SE/4 NW/4 and NE/4 SW/4

**TOWNSHIP 20 SOUTH, RANGE 29 EAST, NMPM**

Section 2: NW/4 NE/4

(3) The vertical limits of the Parkway Delaware Unit Area shall comprise that portion of the Delaware formation as found from a depth of 50 feet above 3,914 feet to a depth of 50 feet below 4,288 feet on the electric log run on the Siete Oil and Gas Company Osage Federal Well No. 1 located 1980 feet from the South and East lines (Unit J) of Section 35, Township 19 South, Range 29 East, NMPM, Eddy County, New Mexico.

(4) The applicant shall institute a secondary recovery project for the secondary recovery of oil, gas and all associated liquefiable hydrocarbons within and produced from the unit area, (said secondary recovery project being the subject of Case No. 10619).

(5) The Parkway Delaware Unit Agreement and the Parkway Delaware Unit Operating Agreement, being applicant's Exhibit No. 1 in this case, are hereby incorporated by reference into this order.

(6) The Unit Agreement and the Unit Operating Agreement for the Parkway Delaware Unit provide for unitization and unit operation of the unit area upon terms and conditions that are fair, reasonable and equitable.

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

(8) If the persons owning the required percentage of interest in the Parkway Delaware Unit Area as set out in Section 70-7-8 NMSA, (1978) Comp., do not approve the plan for unit operations within a period of six (6) months from the date of entry of this order, this order shall cease to be of further force and effect and shall be revoked by the Division, unless the Division shall extend the time for ratification for good cause shown.

(9) When the persons owning the required percentage of interest in the Parkway Delaware Unit Area 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.

(10) The applicant as Unit Operator shall notify in writing the Division Director of any removal or substitution of said Unit Operator by any other working interest owner within the unit area.

(11) 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.

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

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

STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION



WILLIAM J. LeMAY  
Director

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