



July 27, 2004

**BY HAND DELIVERY**

Mark E. Fesmire, P.E.  
Director - Oil Conservation Division  
New Mexico Department of Energy,  
Minerals and Natural Resources  
1220 South Saint Francis Drive  
Santa Fe, New Mexico 87505

*Case 13325*

2004 JUL 27 PM 3 15

Re: Application of Myco Industries, Inc. for Compulsory Pooling and Non-Standard Atoka Spacing Unit, Eddy County, New Mexico.

Dear Mr. Fesmire:

Enclosed in triplicate is the Application of Myco Industries, Inc., in the above-referenced case, as well as a copy of the docket advertisement. Myco requests that this matter be placed on the docket for the August 19, 2004, Examiner hearings.

Sincerely,

Michael H. Feldewert

MHF:keh

Enclosures

cc: Shari Darr Hodges - Myco Industries, Inc.

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

2009 JUL 27 PM 3 15

**IN THE MATTER OF THE APPLICATION OF MYCO  
INDUSTRIES, INC., FOR COMPULSORY POOLING  
AND A NON-STANDARD ATOKA SPACING UNIT,  
EDDY COUNTY, NEW MEXICO.**

**CASE NO. 1332515**

**APPLICATION**

Myco Industries Inc. ("Myco"), through its undersigned attorneys, hereby makes application for an order pooling all mineral interests from the surface to the base of the Morrow formation under the following acreage in Section 14, Township 21 South, Range 27 East, NMPM, Eddy County, New Mexico:

- the E/2 to form a standard 320-acre gas spacing and proration unit for all formations or pools spaced on 320 acres within this vertical extent, which presently include but are not necessarily limited to the Undesignated East Carlsbad-Wolfcamp, Undesignated Cedar Hills-Upper Pennsylvanian, Undesignated Burton Flat-Strawn, and the Burton Flat-Morrow Gas Pools;
- the SE/4 to form a standard 160-acre spacing and proration unit for all formations or pools spaced on 160 acres within this vertical extent, which presently includes but is not necessarily limited to the East Avalon-Bone Spring Gas Pool; and
- the SW/4 SE/4 to form a standard 40-acre spacing and proration unit for all formations or pools spaced on 40 acres within this vertical extent.

Myco also seeks an exception to the well spacing requirements of Rule 104.C(2) of the General Rules and Regulations of the Oil Conservation Division for the creation of a 160-acre non-standard gas spacing and proration unit for the Atoka formation comprised of the SE/4 of Section 14, which presently includes but is not necessarily limited to the South Burton Flat - Atoka Gas Pool. These spacing and proration units are to be dedicated to the existing Lonetree "14" State Com Well No. 1 which Myco proposes to re-enter and re-complete at a standard location in Section 14. In support of its application Myco states:

1. Myco is a working interest owner in the SE/4 of Section 13 and has the right to drill thereon.
2. Myco proposes to dedicate the above-referenced standard and non-standard spacing units to the existing Lonetree "14" State Com Well No. 1, located 660 feet from the South line and 1980 feet from the East Line (Unit O) of said Section 14.
3. Myco has attempted but has been unable to locate certain interest owners in the E/2 of Section 14 identified on Exhibit A to this application for this re-entry project.
4. There are existing state communitization agreements covering Section 14 that prevent the applicant from forming a standard 320-acre spacing unit that can include both the Atoka and Morrow formations.
5. Approval of this application will avoid the drilling of unnecessary wells, will prevent waste and will protect correlative rights.

6. In order to permit the applicant to obtain its just and fair share of the oil and gas underlying the subject lands, all mineral interests should be pooled and the non-standard spacing unit in the Atoka formation approved.

WHEREFORE, Myco requests that this application be set for hearing before an Examiner of the Oil Conservation Division on August 19, 2004, and that after notice and hearing as required by law the Division enter its order:

- A. pooling all mineral interests in the subject spacing and proration units;
- B. designating Myco operator of the unit and the well;
- C. authorizing Myco to recover its costs of re-entering, equipping and re-completing this well;
- D. approving the actual operating charges and costs of supervision while re-entering this well and after re-completion, together with a provision adjusting the rates pursuant to the COPAS accounting procedures;
- E. imposing the 200% risk penalty provided by Division Rule 19.15.1.35 against any working interest owner who does not voluntarily participate in this re-entry project; and
- F. creating a non-standard spacing unit in the Atoka formation as requested by this application.

Respectfully submitted,

HOLLAND & HART, LLP

By: 

Michael H. Feldewert  
Post Office Box 2208  
Santa Fe, New Mexico 87504  
Telephone: (505) 988-4421

**ATTORNEYS FOR MYCO INDUSTRIES, INC.**

**EXHIBIT A**

**IN THE MATTER OF THE APPLICATION  
OF MYCO INDUSTRIES, INC., FOR COMPULSORY  
POOLING AND NON-STANDARD ATOKA SPACING UNIT  
EDDY COUNTY, NEW MEXICO.  
(Lonetree "14" State Com Well No. 1)**

**For Compulsory Pooling**

J.W. Gendron  
1280 Encino Drive  
San Marino CA 91108

Isaac A. Kawasaki or  
Rube F. Kawasaki  
c/o James M. Narita  
734 Kalanipuer Street  
Honolulu, HI 96825

E.G. Holden Testamentary Trust  
2524 Union Street  
San Francisco, CA 94123

Betsy H. Keller  
2524 Union Street  
San Francisco, CA 94123

Joseph R. Hodges  
Post Office Box 5238  
Austin, TX 78763

**For the Non-Standard Spacing Unit**

Devon Energy Corporation  
20 North Broadway Avenue, Suite 1500  
Oklahoma City, Oklahoma 73102

Mewbourne Oil Company  
500 West Texas  
Suite 1020  
Midland, TX 79701

CASE 13325:

**In The Matter Of The Application Of Myco Industries, Inc. For Compulsory Pooling And Non-Standard Atoka Spacing Unit, Eddy County, New Mexico.** Applicant in the above-styled cause seeks an order pooling all mineral interests from the surface to the base of the Morrow formation under the following acreage in Section 14, Township 21 South, Range 27 East, NMPM, Eddy County, New Mexico: the E/2 to form a standard 320-acre gas spacing and proration unit for all formations or pools spaced on 320 acres within this vertical extent, which presently include but are not necessarily limited to the Undesignated East Carlsbad-Wolfcamp, Undesignated Cedar Hills-Upper Pennsylvanian, Undesignated Burton Flat-Strawn, and the Burton Flat-Morrow Gas Pools; the SE/4 to form a standard 160-acre spacing and proration unit for all formations or pools spaced on 160 acres within this vertical extent, which presently includes but is not necessarily limited to the East Avalon-Bone Spring Gas Pool; and the SW/4 SE/4 to form a standard 40-acre spacing and proration unit for all formations or pools spaced on 40 acres within this vertical extent. Myco also seeks the formation of a 160-acre non-standard gas spacing and proration unit for the Atoka formation comprised of the SE/4 of Section 14, which presently includes but is not necessarily limited to the South Burton Flat - Atoka Pool. These spacing and proration units are to be dedicated to the existing Lonetree "14" State Com Well No. 1 located 660 feet from the South line and 1980 feet from the East line (Unit O) of Section 14, which Myco proposes to re-enter and initially re-complete at a standard location in the Morrow formation. Also to be considered will the cost of re-entry and re-completion of said well and the allocation of the cost thereof, the actual operating costs and charges for supervision, designation of applicant as operator of the well and a charge for risk involved in re-completing said well. Said area is located approximately 12 miles northeast of Carlsbad, New Mexico.