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PLEASE REPLY TO SANTA FE

June 15, 2000

**BY HAND DELIVERY**

Lori Wrotenberg, Director  
New Mexico Oil Conservation Commission  
2040 South Pacheco  
Santa Fe, New Mexico 87505

Re: NMOCC Case #s 12276 and 12277 consolidated; Applications of Burlington  
Resources Oil & Gas Company for Compulsory Pooling, San Juan County,  
New Mexico *De Novo*

Dear Ms. Wrotenberg:

Enclosed is Energen's Motion to Stay in the above-referenced matter.

Very truly yours,

MILLER, STRATVERT & TORGERSON, P.A.



J. Scott Hall

JSH/ao

Enclosure(s) – as stated

Cc: W. Thomas Kellahin  
Steve Ross

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OIL CONSERVATION DIV.  
00 JUN 15 PM 1:50

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

IN THE MATTER OF THE APPLICATION OF  
BURLINGTON RESOURCES OIL & GAS COMPANY  
FOR COMPULSORY POOLING, SAN JUAN COUNTY,  
NEW MEXICO

CASE No.s 12276 and 12277  
consolidated

**MOTION TO STAY**

Energen Resources Corporation, ("Energen"), and Westport Oil and Gas, Inc., ("Westport") by and through their counsel, Miller, Stratvert & Torgerson, P.A. (J. Scott Hall), move the Commission enter its order staying the de novo proceeding pending judicial resolution of certain matters. In support, Energen and Westport state:

1. Energen and Westport are the applicants for hearing de novo in these consolidated cases whereby Burlington Resources Oil and Gas Company, ("Burlington"), seeks to force pool certain working interests owned by Energen and Westport.
2. Throughout these proceedings, Energen and Westport have contended that their interests were previously committed under a voluntary agreement with Burlington, (the "GLA-46" Agreement), and consequently, their interests were not subject to compulsory pooling. Burlington, on the other hand, contended that the terms of the GLA-46 no longer applied. Burlington also contended, alternatively, that should GLA-46 be found to apply, the terms of that agreement should be modified by the Division pursuant to the authority found at NMSA 1978 Section 70-2-17(E).
3. On March 10, 2000, after hearing, the Division issued Orders No. R-11340 (Case No. 12276) and R-11341 (Case No. 12277). Both Orders contained virtually identical provisions as follows:

\_\_\_\_. Determining whether or not the GLA-46 Agreement applies is a matter of contract interpretation. The interpretation of GLA-46 should be deferred to the courts.

\_\_\_\_. Unless a court determines there is an agreement among the parties to this proceeding, Burlington's compulsory pooling case against the GLA-46 Group is appropriate, and in order to consolidate all of the interest[s] within the proposed spacing units, the interest of [the] GLA-46 Group should be pooled by this order.


4. Pursuant to the above findings, Energen filed a declaratory judgment action with the 11<sup>th</sup> Judicial District Court seeking judicial resolution of the applicability of the GLA-46 Agreement among the parties. A copy of the Complaint for Declaratory Judgment is attached hereto as Exhibit A. Westport will join as a party to the declaratory judgment proceeding.
5. In view of the pendency of the judicial proceeding on the central issue to be brought before the Commission, it is appropriate the hearing de novo on the consolidated Applications be stayed. Holding the Commission hearing in abeyance until the 11<sup>th</sup> Judicial District Court has determined the applicability of the GLA-46 Agreement will avoid potentially unnecessary and duplicative proceedings and, further, the possibility of inconsistent results. Further, no prejudice to any party results from a temporary stay.
6. Counsel for Energen and Westport have sought Burlington's concurrence to this motion through Burlington's counsel, but Burlington, itself, has not yet responded to the request.

WHEREFORE, Energen and Westport request the Commission enter its order staying these consolidated cases pending the final determination of the declaratory judgment proceeding by the 11<sup>th</sup> Judicial District Court.

Respectfully submitted,

MILLER, STRATVERT & TORGERSON, P.A.

By



J. Scott Hall  
Post Office Box 1986  
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Attorneys for Energen Resources Corp.

**Certificate of Mailing**

I hereby certify that a true and correct copy of the foregoing was forwarded to counsel of record on the 15 day of June, 2000, as follows:

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Kellahin & Kellahin  
117 North Guadalupe Street  
Santa Fe, New Mexico 87501

Steve Ross  
New Mexico Oil Conservation Commission  
2040 South Pacheco  
Santa Fe, New Mexico 87505

*T. J. Scott Hall*

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J. Scott Hall